Final report of Her Majesty's Commissioners appointed to inquire into the operation and administration of the laws relating to the sale of intoxicating liquors.

Contributors

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ROYAL COMMISSION ON LIQUOR LICENSING LAWS.

FINAL REPORT

OF

HER MAJESTY'S COMMISSIONERS

APPOINTED TO INQUIRE INTO THE

OPERATION AND ADMINISTRATION OF THE LAWS

RELATING TO THE

SALE OF INTOXICATING LIQUORS.

Presented to both Houses of Parliament by Command of Her Majesty.

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WARRANT.

VICTORIA R.I.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To Our right trusty and well-beloved Cousin and Councillor Arthur Wellesley, Viscount Peel, Chairman; Our right trusty and right well-beloved Cousin and Councillor Victor Albert George, Earl of Jersey, Knight Grand Cross of Our most Distinguished Order of Saint Michael and Saint George; Our right trusty and well-beloved Cousin John Robert William, Viscount de Vesci; the Right Reverend Father in God, Our right trusty and well-beloved Councillor Frederick, Bishop of London; Our right trusty and well-beloved Councillor Sir Algernon Edward West, Knight Commander of Our Most Honourable Order of the Bath; Our trusty and well-beloved Sir William Henry Houldsworth, Baronet; Our trusty and well-beloved Sir Frederick Seager Hunt, Baronet; Our trusty and well-beloved Sir Charles Cameron, Baronet; Our trusty and well-beloved Hercules Henry Dickinson, Doctor in Divinity, Dean of the Chapel Royal, Dublin Castle; and Our trusty and well-beloved William Allen; William Sproston Caine; Alexander Morison Gordon; William Graham; Henry Grinling; Samuel Hyslop; Andrew Johnston; John Herbert Roberts; Henry Riley Smith; Charles Walker; John Lloyd Wharton; Thomas Palmer Whittaker; Alfred Money Wigram; Samuel Young; and George Younger, Esquires, greeting.

Whereas We have deemed it expedient that a Commission should forthwith issue to inquire into the operation and administration of the Laws relating to the Sale of Intoxicating Liquors, and to examine and report upon the proposals that may be made for amending the aforesaid Laws in the public interest, due regard being had to the rights of individuals.

Now know ye, that We, reposing great trust and confidence in your knowledge and ability, have authorised and appointed, and do by these presents authorise and appoint you, the said Arthur Wellesley, Viscount Peel; Victor Albert George, Earl of Jersey; John Robert William, Viscount de Vesci; Frederick, Bishop of London; Sir Algernon Edward West; Sir William Henry Houldsworth; Sir Frederick Seager Hunt; Sir Charles Cameron; Hercules Henry Dickinson; William Allen; William Sproston Caine; Alexander Morison Gordon; William Graham; Henry Grinling; Samuel Hyslop; Andrew Johnston; John Herbert Roberts; Henry Riley Smith; Charles Walker; John Lloyd Wharton; Thomas Palmer Whittaker; Alfred Money Wigram; Samuel Young; and George Younger to be Our Commissioners for the purposes of the said inquiry.

And for the better effecting the purposes of this Our Commission, We do by these presents give and grant unto you, or any six or more of you, full power to call before you such persons as you shall judge likely to afford you any information upon the subject of this Our Commission; and also to call for, have access to, and examine all such books, documents, registers, and records as may afford you the fullest information on the subject; and to inquire of and concerning the premises by all other lawful ways and means whatsoever.

And We do by these presents authorise and empower you, or any six or more of you, to visit and personally inspect such places as you may deem it expedient so to inspect for the more effectual carrying out of the purposes aforesaid.

And We do by these presents will and ordain that this Our Commission shall continue in full force and virtue, and that you Our said Commissioners, or any six or more of you, may from time to time proceed in the execution thereof and of every matter and thing therein contained, although the same be not continued from time to time by adjournment.

And We do further ordain that you, or any six or more of you, have liberty to report your proceedings under this Our Commission, from time to time, if you shall judge it expedient so to do.

And Our further will and pleasure is, that you do, with as little delay as possible, report to Us under your hands and seals, or under the hands and seals of any six or more of you, your opinion upon the matters herein submitted for your consideration.

Given at Our Court at St. James's, the twenty-fourth day of April One thousand eight hundred and ninety-six, in the fifty-ninth year of Our Reign.

By Her Majesty's Command,
(Signed) M. W. RIDLEY.

Royal Commission to Inquire into the
Operation and Administration of the Laws
relating to the Sale of Intoxicating Liquors.

WARRANT.

VICTORIA R.I.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To Our right trusty and well-beloved Councillor, Robert George, Baron Windsor, greeting.

Whereas We did by Warrant under Our Royal Sign Manual, bearing date the Twenty-fourth day of April 1896, appoint Our right trusty and well-beloved Cousin and Councillor Arthur Wellesley, Viscount Peel, together with the several noblemen and gentlemen therein mentioned, or any six or more of them, to be Our Commissioners to inquire into the administration and operation of the Laws relating to the Sale of Intoxicating Liquors.

And whereas one of Our Commissioners so appointed, namely, Our right trusty and right well-beloved Cousin and Councillor Victor Albert George, Earl of Jersey, Knight Grand Cross of Our most Distinguished Order of Saint Michael and Saint George, hath humbly tendered unto Us his resignation of his appointment as one of Our said Commissioners.

Now know ye, that We, reposing great confidence in you, do by these presents appoint you, the said Robert George, Baron Windsor, to be one of Our Commissioners for the purpose aforesaid in the room of the said Victor Albert George, Earl of Jersey, resigned, in addition to and together with the other Commissioners, whom We have already appointed.

Given at Our Court at St. James's, the seventh day of May one thousand eight hundred and ninety-seven, in the sixtieth year of Our Reign.

By Her Majesty's Command,
(Signed) M. W. RIDLEY.

WARRANT.

VICTORIA R.I.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To Our trusty and well-beloved Edward North Buxton, Esquire, greeting.

Whereas We did by Warrant under Our Royal Sign Manual, bearing date the Twenty-fourth day of April one thousand eight hundred and ninety-six, appoint Our right trusty and well-beloved Cousin and Councillor Arthur Wellesley, Viscount Peel, together with the several noblemen and gentlemen therein mentioned, or any six or more of them, to be Our Commissioners to inquire into the operation and administration of the Laws relating to the Sale of Intoxicating Liquors:

And whereas one of Our Commissioners so appointed, namely, Our trusty and well-beloved Sir Frederick Seager Hunt, Baronet, hath humbly tendered unto Us his resignation of his appointment as one of Our said Commissioners:

Now know ye, that We, reposing great confidence in you, do by these presents appoint you, the said Edward North Buxton, to be one of Our Commissioners for the purpose aforesaid, in the room of the said Sir Frederick Seager Hunt, and in addition to and together with the Commissioners whom We have already appointed.

Given at Our Court at St. James's, the sixteenth day of April one thousand eight hundred and ninety-eight, in the sixty-first year of Our Reign.

By Her Majesty's Command,
(Signed) M. W. RIDLEY.

FINAL REPORT.

(Signed by Lord de Vesci, Lord Windsor, Sir A. West, Dean Dickinson, Mr. Allen, Mr. Buxton, Mr. Gordon, Mr. Graham, Mr. Grinling, Mr. Hyslop, Mr. Johnston Mr. Riley Smith, Mr. Walker, Mr. Wharton, Mr. Wigram, Mr. Young, and Mr. Younger.)

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PART III.—IRELAND.

REPORT.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

MAY IT PLEASE YOUR MAJESTY,

We, the undersigned Commissioners appointed to consider the Operation and Administration of the Laws relating to the Sale of Intoxicating Liquors, desire humbly to submit to Your Majesty this our final Report.

GENERAL.

(i.) *Terms of Reference.*

The terms of our reference were "to inquire into the Operation and Administration "of the Laws relating to the Sale of Intoxicating Liquors, and to examine and report "upon the proposals that may be made for amending the aforesaid laws in the public "interest, due regard being had to the rights of individuals."

(ii.) *Procedure.*

We have held 134 sittings, and have examined 259 witnesses from all parts of the United Kingdom, and have already presented to Your Majesty the evidence, returns, and appendices in nine volumes.

The present state of the law in the three countries was explained to us by official witnesses representing the Home Office and Board of Inland Revenue, by the Solicitors-General for Scotland and Ireland, and by Sir H. Poland, one of Your Majesty's Counsel; and its administration by many police magistrates, justices of the peace, chief constables and inspectors of police, resident magistrates, and others.

We examined into the operation and administration of the laws of England, Wales, Scotland, and Ireland, and heard special schemes that were proposed for the more complete reform of the present system.

At the conclusion of the evidence in July 1898, the Commission adjourned without having discussed the principles which should govern their Report to Your Majesty, but it was understood that the Chairman would prepare a Draft Report for discussion. This was circulated, and the Commission subsequently met to consider it.

The Chairman's Draft Report consisted of five parts, dealing respectively with I. England and Wales. II. Scotland. III. Ireland. IV. Clubs; and V. The Question of reducing the Number of Licenses, Compensation, Local Option or Prohibition, and Municipal Management.

Parts I., II., III., and IV., were considered by the Commission page by page, a method of procedure which, in our opinion, necessitated subsequent revision, but this the Chairman did not see his way to allow.

Moreover, on some important questions the Commissioners were equally divided, and paragraphs were carried by the casting vote of the Chairman.

We found on examination of the Report, as so amended, that there were matters of detail and some of principle from which we dissented, although on many important questions of principle the Commission was practically unanimous.

This difference was further increased by the fact that, in the Draft Report of the Chairman, the selection of witnesses for quotation did not satisfy us as affording a correct impression of the effect of the evidence as a whole.

In a highly contentious question it is difficult for any selection, however judicially intended, to avoid the appearance of bias. For this reason we do not propose to cite any portions of the evidence. Each volume of evidence concludes with a carefully compiled subject index by which the material testimony on the various points can be conveniently consulted, and we are of opinion that the most useful purpose will be

served by presenting our recommendations in as short a form as the complexity of the subjects with which we have to deal will permit.

We cannot but regret that in the consideration of that part which deals with Reduction of Licenses, Compensation, and Local Prohibition, we did not have the assistance of Lord Peel and some of our colleagues who did not attend the later meetings of the Commission.

We cannot conclude these general remarks without expressing to Lord Peel our deep sense of gratitude for his unremitting exertions as Chairman of this Commission during three years; and we also desire to express our satisfaction in the excellent work done and zeal shown by our Secretary, Mr. Sidney Peel, the Assistant Secretary, Mr. H. Delacombe, and the Staff.

PART I.—ENGLAND AND WALES.

CHAPTER I.

INTRODUCTORY.

Most persons who have studied the question are of opinion that actual drunkenness has materially diminished in all classes of society in the last 25 or 30 years. Many causes have contributed to this. The zealous labour of countless workers in the temperance cause counts for much. Education has opened avenues to innumerable studies which interest the rising generation. The taste for reading has multiplied many fold within a comparatively brief period. The passion for games and athletics —such as football and bicycling—which has been so remarkably stimulated during the past quarter of a century, has served as a powerful rival to "boozing," which was at one time almost the only excitement open to working men. Yet it is undeniable that a gigantic evil remains to be remedied, and hardly any sacrifice would be too great which would result in a marked diminution of this national degradation. Nor is Parliament likely to rest satisfied with leaving things as they are, or to trust wholly to the influences we have described.

The habit of needless indulgence in luxuries of all kinds, including superfluous drinking falling short of actual drunkenness, has probably increased, and is due to the general rise in prosperity, often unaccompanied by a corresponding growth of moral responsibility, and leading in too many cases to a selfish neglect of obligations.

It has been our earnest endeavour, with due regard to the right of individuals, to make proposals whereby the administration of the law by the Licensing Authorities and police should be simplified and facilitated, and the temptation inseparable from the trade in intoxicating liquor diminished in all practicable ways.

CHAPTER II.

SKETCH OF THE HISTORY OF THE LIQUOR LAWS.

A history of the liquor laws down to the year 1828, prepared by Mr. E. Bonham Carter, is printed as an Appendix, Vol. III., p. 572, and we need not further refer to that portion of the subject. We proceed to trace out the course of subsequent legislation.

In 1828 the laws relative to the licensing by justices of the peace of persons keeping or about to keep inns, alehouses, or victualling houses, to sell exciseable liquors by retail to be drunk or consumed on the premises, were reduced to one Act (9 Geo. 4. c. 61), which still remains the foundation of the licensing system.

The Act provided that the necessary justices' licenses were to be granted at the general annual licensing meeting to be held in every division of a county, and in every

county of a city or town, and in every town corporate, in the month of March in Middlesex and Surrey, and in the months of August and September elsewhere. Provision was also made for the holding of special sessions not more than eight times or less than four in the year, for the purpose of transferring licenses. The license-holder was no longer bound to enter into recognisances or to find sureties; but he held his license subject to certain conditions expressed on the face of it, for the breach of which he was subject to severe penalties. The conditions were, briefly, that he should not adulterate his liquor or use measures not of the legal standard; that he should not permit drunkenness or disorderly conduct, unlawful games, or any gaming, or the assembling of persons of notoriously bad character on his premises; and that he should keep his house closed, except for the reception of travellers, during the hours of Divine Service on Sundays, Christmas Day, and Good Friday.

Against any summary conviction under the Act, or against any refusal to grant, transfer, or renew a license, there was a right of appeal to the quarter sessions of the county.

In the year 1830 it was deemed expedient, "for the better supplying the public with beer," to give greater facilities for the sale thereof than were afforded by licenses to the keepers of inns, alehouses, and victualling houses. An Act was accordingly passed (1 Will. 4. c. 64) authorising any person being a householder assessed to the poor rates (except sheriffs' officers, &c.) to obtain from the Excise on payment of two guineas a year, a license to sell beer by retail. This license authorised the holder to sell beer by retail in his dwelling-house, whether for consumption on the premises or not; but was issued subject to certain conditions expressed on the face of it, for the breach of any of which he was subject to heavy penalties. These conditions were substantially the same as in the case of the innkeepers' license; but the closing hours were more strictly defined.

In the year 1834 it was found that much evil had arisen from the management and conduct of these beerhouses. An Act was accordingly passed (4 & 5 Will. 4. c. 85) by which a distinction was made between retail beer licenses for consumption on the premises and "off" retail beer licenses. The former were to cost 3*l.* 3*s.* a year, and the latter 1*l.* 1*s.* The latter were to be granted practically in the same way as under the previous Act. The former were to be granted only on the production by the applicant of a certificate that he was of good character signed by six rated inhabitants of the parish.

The licenses, whether "on" or "off," were held subject to the same conditions as under the previous Act, with the same penalties, a slight change being made in the closing regulations.

In the year 1840 in was provided by the 3 & 4 Vict. c. 61, that no retail beer licenses, whether "on" or "off," should be granted to any person who was not the real resident holder and occupier of the dwelling-house in which he should apply to be licensed, or in respect of any house which was not of a specified annual value, that is to say, 15*l.* in places of 10,000 inhabitants, 11*l.* in places of 5,000 inhabitants, and 8*l.* elsewhere. The applicant was to produce a certificate that he and his house fulfilled the required qualifications. But it was provided that anyone holding a retail beer license before the passing of the Act might have his license renewed and continued by the Excise, notwithstanding that his house did not come up to the required valuation. The closing hours were again revised.

The law as settled in 1840 remained substantially unaltered for nearly 30 years, until in 1869 the Wine and Beerhouse Act was passed.

A few slight modifications of the law relating to "on" licenses, and an important extension of the system of granting "off" licenses had grown up in the meantime.

In 1863, by the 1st section of 26 & 27 Vict. c. 33, holders of the beer dealers (wholesale) license were authorised to take out additional retail licenses for the sale of beer not to be consumed on the premises, on payment of the annual duty of 1*l.* 1*s.* and 5 per cent. thereon.

The only change made in the law relating to inns, alehouses, and victualling houses, except provisions as to closing hours and occasional licenses, was in 1842 when an Act was passed (5 & 6 Vict. c. 44) to give greater facilities for the transfer of licenses. In the intervals between the special sessions power was given to justices in petty sessions and to metropolitan police magistrates to endorse on a license which it was intended to transfer an authority to the proposed transferee to carry on the business until the next ensuing special sessions, when the matter of the transfer was to be disposed of in the ordinary way.

But with regard to the retail sale of wine and spirits important changes were made. In 1860 the 23 Vict. c. 27. made provision for the licensing of refreshment houses not already licensed as alehouses or beerhouses. The license to be granted in respect of these was an Excise license, and not under the control of the justices; but the conditions under which it was held were substantially identical with those attached to alehouse and beerhouse licenses, special provision being made as to the hours of closing. The keeper of a licensed refreshment house of not less than a certain annual value was authorised to take out a license for the sale by retail of foreign wine to be consumed on the premises. This license was granted by the Excise, but notice of the application for it had to be served on the justices, who might, after hearing the applicant, enter a caveat against the granting of a license on any of certain specified grounds. They might in the same way, after hearing the license-holder, enter a caveat against the renewal of the license subject to an appeal to quarter sessions. These provisions were slightly amended in 1861 (24 & 25 Vict. c. 91). By the same Act any shopkeeper was authorised to take out a license for the sale by retail of foreign wine, not to be consumed on the premises, in reputed quart or pint bottles only.

In 1861, by the 24 & 25 Vict. c. 21, licensed dealers in spirits were authorised to take out an additional license for the sale of spirits in quantities not less than one reputed quart bottle, or of foreign liqueurs in the bottles in which they were imported.

The law in 1869 stood thus: that the Excise licenses held by alehouse keepers authorising the sale by retail of any kind of intoxicating liquor for consumption on the premises or elsewhere were completely under the control of the justices; the refreshment house-keeper's wine license, authorising the sale of wine for consumption on the premises was to some extent under the control of the justices; but the sale of beer by retail was exempt from their control, as were also the "off" retail sale of wine, and the "off" retail sale of spirits in bottles.

In 1869, by the 32 & 33 Vict. c. 27, it was provided that none of the retail beer or wine licenses (except the publicans licenses) above mentioned should be granted or renewed by the Excise except upon the production of a certificate of the justices assembled at the general annual licensing meeting, or some adjournment thereof, to be granted in the same manner and upon the same terms as the innkeepers' or alehouse keepers' license. This new requirement was in substitution for all other preliminaries to the obtaining of the several licenses affected, and these were consequently abolished.

But the distinction between "on" and "off" licenses was maintained and emphasised. Subject to the exception presently to be mentioned, certificates for "on" beer and wine licenses were to be granted or refused at the discretion of the justices. But certificates for "off" beer and wine licenses were not to be refused except upon some of the four following grounds:—

1. That the applicant had failed to produce satisfactory evidence of good character.
2. That the house or shop in respect of which the license was sought, or any adjacent house or shop owned or occupied by the person applying for the license was of a disorderly character, or frequented by thieves, prostitutes, or persons of bad character.
3. That the applicant having personally held a license for the sale of wine, spirits, beer, or cider, the same had been forfeited for his misconduct, or that he had through misconduct been at any time previously adjudged disqualified from receiving any such license or from selling any of the said articles.
4. That the applicant or the house in respect of which he applied was not duly qualified as by law was required.

The exception above referred to was made in respect of "on" beer and wine licenses already in existence. Certificates authorising the renewal of these were not to be refused except upon some of the four grounds above mentioned. The beerhouses which were in existence at this time and whose licenses have since been continuously renewed under this provision are the "*ante*-1869 beerhouses," which are generally spoken of as "specially protected." This Act was amended in some particulars in 1870 by the 33 & 34 Vict. c. 29, which also provided that in future beer dealers' additional retail licenses should only be granted in respect of premises of the annual value required for beerhouses under the Act of 1840. But this provision did not apply to licenses already in existence, which might be renewed as before.

In 1871, Mr. Bruce (afterwards Lord Aberdare) introduced his measure for the reform of the licensing system; but it encountered considerable opposition, and had to be dropped, and there was substituted for it what became the Licensing Act of 1872 (35 & 36 Vict. c. 94).

The principal changes made by this Act were the following:—

It brought the spirit dealers additional retail license under the Acts 1869 to 1870, except where it should be held by a person using his premises exclusively for the sale of intoxicating liquor, and it put sweets (*i.e.*, British wines) on the same footing as foreign wines, so far as regarded their retail sale.

It forbade the sale of spirits for consumption on the premises to any person apparently under the age of 16.

The old forms of licenses were abolished, and in place of the conditions which had been expressed on them, there were substituted a series of enactments creating certain offences for which license-holders were subjected to various penalties on summary conviction. Provision was also made for the forfeiture of the license, and the disqualification of the license-holder and the licensed premises after repeated convictions.

The closing hours were altered and the six-day license was introduced. It was enacted that a register of licenses should be kept, and that on it should be entered the name of the owner of any licensed premises, in whose favour certain provisions were made.

New licenses for sale for "on" consumption were made subject to confirmation. In the larger boroughs, after having been granted by a Licensing Committee, they were to be confirmed by the borough justices; and in the counties and smaller boroughs, after having been granted by the justices, they were to be confirmed by a Licensing Committee.

The right of appeal to quarter sessions against the refusal to grant a new license was taken away, and a valuation qualification was imposed in respect of premises not previously licensed.

With regard to the renewal of licenses already existing, it was provided that where a licensed person applied for the renewal of his license, he need not attend in person unless required; that no objection to the renewal should be entertained unless he had notice of it, or unless, after an adjournment, he had been required to attend; and that all evidence must be on oath.

The appeal to quarter sessions in the case of a refusal to renew was preserved, and provision was made for the continuance of the license pending the appeal.

In 1874 an amending Act (37 & 38 Vict. c. 49) was passed. By it the provisions relating to the hours of closing were entirely recast, and an "early closing" license was introduced on the model of the six-day license of the Act of 1872. The exemption from the closing regulations in favour of travellers (now first called *bonâ fide*) and lodgers was defined.

The provisions of the Act of 1872 as to the forfeiture of licenses and the disqualification of persons and premises on repeated convictions were mitigated, and further protection was given to the owner in certain cases of forfeiture.

Power was given to grant a new license for sale for consumption on the premises provisionally, in respect of premises about to be constructed or in course of construction.

Certain amendments were also introduced into the procedure with regard to renewals.

In 1880, by the 43 Vict. c. 6, the limitation imposed by the Act of 1869 on the directions of the justices in respect of "off" licenses was repealed so far as it related to the beer dealers' additional retail licenses grantable under the Act of 1863.

In 1882, by the 45 & 46 Vict. c. 34, there was a similar repeal in respect of all "off" licenses for the sale of beer by retail.

In 1881, by the 44 & 45 Vict. c. 61, it was provided that all licensed houses in Wales should be closed during the whole of Sunday.

In 1886, by the 49 & 50 Vict. c. 56, the sale of any kind of intoxicating liquor to any child under 13 for consumption by such child was forbidden.

CHAPTER III.

THE COMPLEXITY OF THE LAW AND NEED FOR CONSOLIDATION.

The complexity of the law is such as to add materially to the difficulties of those who administer it. It must be remembered that what has led Parliament for the last 70 years to multiply amending Acts without any serious attempt at consolidation, has been the almost insuperable difficulty which is always found in combining the two operations. It is, in our opinion, deserving of serious consideration whether the passing of a Consolidation Act should not precede any attempt to amend the law, the first condition of which seems to be a clear statement of what the law is.

A Bill was prepared by the officers of the Board of Inland Revenue dealing with the Consolidation of the Law relating to Excise Licenses, and introduced into the House of Lords in the Session of 1897. A draft Consolidation Bill, referring to the remainder of the law, was also presented to us by Mr. W. J. Lee, Barrister-at-Law, who has had special experience with Licensing Bills. He was examined by us at considerable length as to the method he had pursued, and while it would be outside our province to pronounce a confident opinion, we see no reason to doubt that the draft presents an accurate statement of the existing law in an immensely simplified form. It was evident that very great care and lengthened consideration had been bestowed on its preparation, and we believe it will be found worthy of the special attention of Your Majesty's Ministers when they come to deal with legislation.

CHAPTER IV.

EXCESSIVE NUMBER OF LICENSED HOUSES AND THE EFFECT.

It is generally admitted that the number of licenses in a great many parts of England and Wales is in excess of the requirements. Parliament itself is in a great measure answerable for this. By the Act of 1830 an experiment was made in the direction of free trade in beer. This measure was opposed by the official representatives of the trade, who objected to the increased competition that would follow. As a matter of fact, 30,000 beer-houses came into existence on the passing of this Act. Parliament, seeing its mistake, passed in 1869 an Act to check the excess in "on" beer-houses, which by that date numbered about 50,000, but it deliberately protected the existing houses. Nor can the Licensing Authorities be held to have been altogether blameless, as in certain districts the grant of more new licenses than were needed caused congestion, which still exists notwithstanding the growth of population. The limitation of licenses in proportion to population was proposed in Mr. Bruce's Bill of 1871, but we are not satisfied on the evidence that there is a necessary connexion between the proportion of licenses to the population and the amount of drunkenness. If the statement made in Volume V., page 31, under the heading "Ratio of all Licensed Premises to Population," as to the counties in which licenses are most thinly distributed is studied in connexion with Map IV. here inserted, "Drunkenness" (Judicial Statistics, 1893, signed by Mr. C. Troup, of the Home Office, a witness before us), it is seen at a glance that there is apparently no relation between the number of licenses and the amount of drunkenness.

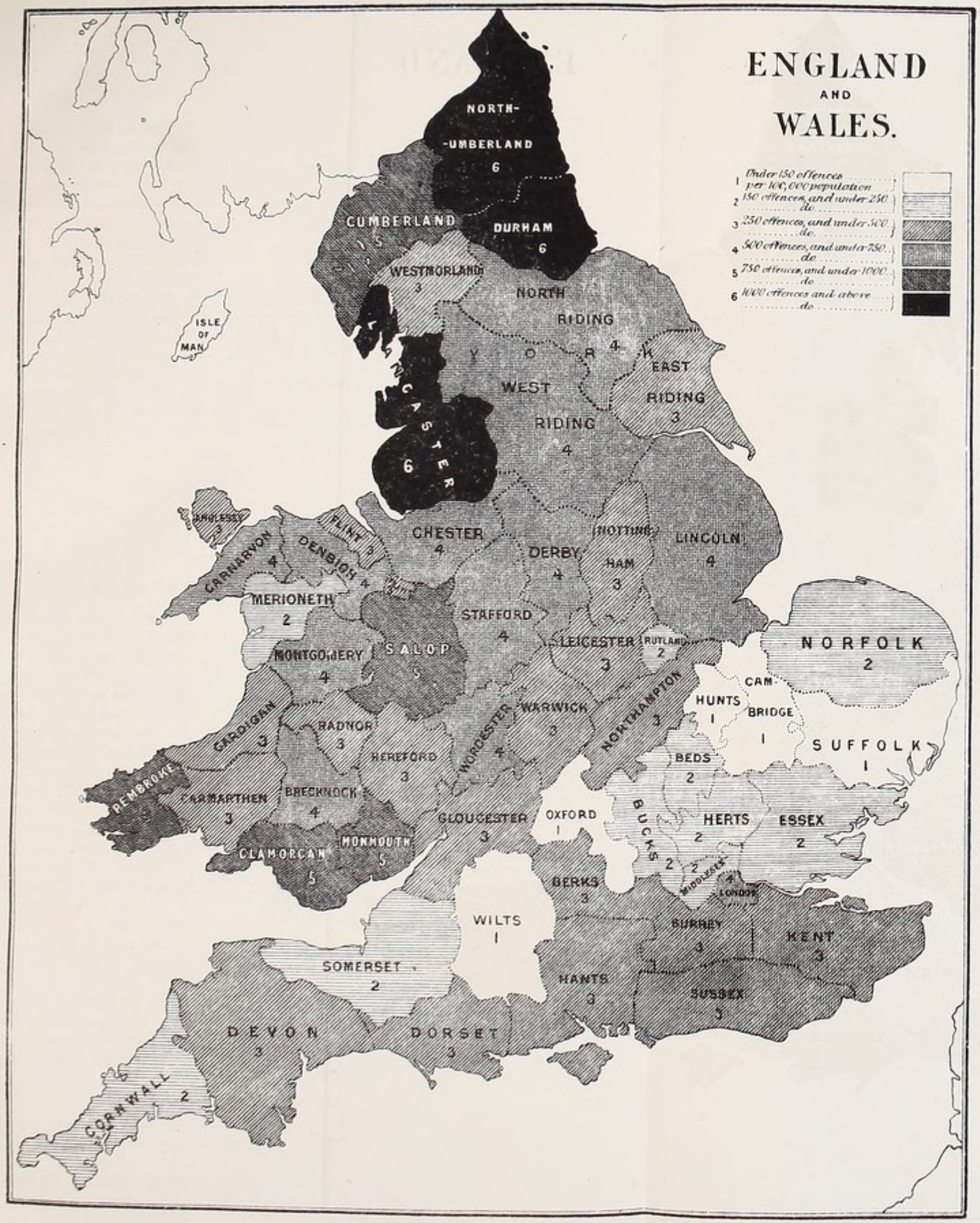
On the other hand, where an excessive and unnecessary number of licensed houses are crowded together in a limited area, more drinking probably does prevail, and a large reduction is much to be desired, because it would facilitate effective supervision by the police, and would diminish competition and improve the status both of the premises and the licensees.

The statement to which we refer is as follows:—

"Licenses are most thickly distributed in Buckinghamshire, Bedfordshire, Cambridgeshire, Isle of Ely, Hertfordshire, Huntingdonshire, Shropshire, and Staffordshire." (Group A.)

"And most thinly in Cheshire, Cornwall, Devonshire, Durham, Northumberland, Lancashire, and Glamorgan." (Group B.)

Map N° 4 Drunkenness. (Reprinted from the Judicial Statistics, England & Wales 1893, Part I, Criminal Statistics)



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Taking these groups as they stand, we have the following results, which have been supplied to us on application to the Royal Statistical Society. The drunkenness and population figures are taken from the Judicial Statistics for 1896, the same year for which the number of licenses is given in Volume V.:—

Group A.

Average licenses - - -	1 to population of 164.
Average drunkenness - -	492 to population of 100,000.

Group B.

Average licenses - - -	1 to population of 276.
Average drunkenness - -	892 to population of 100,000.

If other counties be examined similar discrepancies will be found.

We do not desire to draw hasty conclusions from these figures, but they show that great caution is necessary in connecting drunkenness with the proportion of licensed houses. Such statistics, on whichever side adduced, are of little value. There may be most drunkenness where there are fewest prosecutions or convictions for drunkenness. The number of these depends much more on the degree of strictness with which the law is enforced, whether by the police, or by the courts of summary jurisdiction, and this varies much. On this head we may refer to our recommendation in Chapter XVII.

CHAPTER V.

THE TIED-HOUSE SYSTEM.

(i.) *Prevalence of the System.*

The tied-house system has developed rapidly in the last 20 years. In effect fully three-quarters of the licensed houses are now more or less tied.

This is mainly the result of competition, and the desire of brewing firms to secure their existing trade, in houses which they own or have financed. The system is similar to that adopted in several other trades. For instance, baker's shops are largely financed by millers, and those of grocers are promoted and financed by wine-merchants and tea-dealers.

(ii.) *General Effect.*

The evidence does not justify the statement that the tied-house system leads to more drinking. The free licensee, who is not under obligations to the brewer, has at least equally powerful motives to push the trade as one who is a tied tenant or manager.

(iii.) *Different Systems of Tying.*

In London the usual system is that the brewer holds a mortgage on the premises. In consideration of the loan the tenant of the house gets all his malt liquors from the brewer, but competition between the brewers has brought in the system, prevalent elsewhere, of the brewers owning the freehold or leasehold. The tenant almost invariably receives a long lease, over which he has absolute control, and has a considerable stake in it himself, though a large proportion of the value is generally borrowed money.

Elsewhere all varieties of tying prevail. The stringency of the tie—apart from the managerial system in which the occupier is the servant of the brewer, and that prevalent in the Metropolitan area, in which, as far as the brewer is concerned, the tie is for beer only—varies considerably according to a report on the custom of the trade put in by Mr. Godden, the solicitor to the Country Brewers' Society. In the counties of Northumberland, Durham, Cumberland, and Westmoreland, it is generally for beer Vol. III., App. X.

alone; in Lancashire and Yorkshire the tied-tenant system is a development of the last 20 years, and the tie extends from that for common beer alone to that, in exceptional cases, for all beers, spirits, wines, mineral waters, and tobacco; in the Midlands the majority are tied for beer, wines, and spirits; while in the South, West, and East of England, and in Wales, the tie is for beers only, 50 per cent.; for beer, wines, and spirits, 20 per cent.; and in 10 per cent. it is extended further to mineral waters and tobacco, and in certain counties to cider. Sometimes the tenant pays for the goodwill, sometimes only for fixtures; sometimes he is charged more for his beer than a free tenant, sometimes the same.

Then, again, there is the manager system, when the ostensible licensee is merely a servant in the house, paying no rent, but receiving a wage, and selling his master's goods as directed.

The difference between a manager and a tied tenant is often imperceptible, and the one shades off into the other when the rent is nominal.

(iv.) *Practice of the Justices.*

Witnesses differ very much in their opinion of the system. Some regard it as advantageous from the public point of view, and natural for the man of small capital; others are apprehensive of it, as contrary to the spirit of the licensing laws, which were intended to bring the justices into direct communication with the licensee, and invest them with large powers of control. They fear the effect of minimising the importance of the licensee, and of allowing the substantially interested party, who is not immediately responsible to the licensing authority, to control the business.

In some parts of the country justices have insisted on knowing the terms of agreement between the landlord and tenant, in order to ensure that the latter, without being unduly interfered with by his landlord, has a sufficient interest, and tenure, to enable him to fulfil the obligation laid upon him.

In other parts of the country, the justices do not regard it in the same light, and are indifferent to what may be the business relations of the applicant, or what contracts he may have entered into with others. They only require that the applicant shall appear before them, and that his credentials as to character shall be satisfactory, and that he shall conduct his business in a legal and orderly manner.

With regard to "managers" the opinions and practice of justices differ, as in the case of tied tenants. Some justices refuse to license a manager, and insist upon some proof of the applicant's independence. This has given rise to the production of what have been termed "bogus" agreements, that is a tenancy agreement granted, and entered into, for the purpose of satisfying the justices, though it may be understood that neither party is likely to enforce the conditions against the other.

On the other hand, some justices and many witnesses see no objection to managers so long as they are men of good character, and consider that the guarantees for the good conduct of the licensee are rather increased than otherwise by the fact that he has over him some principal who can be made to suffer the highest penalty, if the license should be endangered by misconduct. A manager is thus a selected man; an ordinary tenant presents himself in the way of business.

(v.) *Summary.*

The extension of the tied-house system lends peculiar importance to the inquiry whether its results are good or bad.

The evidence produced before us, in our judgment, shows that under a good and careful brewer it may operate advantageously, and produce excellent results. On the other hand, it is no doubt true that under less satisfactory conditions the tie may have a contrary effect. Witnesses representative of the retail trade who came before us freely pointed out benefits conferred by the system, as, for example, that it allowed suitable men to enter the trade who would otherwise be debarred by want of capital. The fact also that tied tenants often hold these houses in succession from father to son, and that a satisfactory living is made, proves that it works well as regards the licensee. Still cases of hardship may, and, no doubt, occasionally do occur, and the full tie, namely, that for all articles sold, especially when excessive prices are charged to the publican, is viewed by the retail witnesses with disfavour.

Under the system as it prevails outside the Metropolitan area higher prices are frequently charged for beer to tied tenants than to those who hold free houses; but

while this is so, it is customary for the brewer landlord to take low rents and to bear the cost of executing repairs to the house, and so forth.

The managerial method stands on a different basis. Evidence has been given before us proving that it can be so operated as to be very successful indeed from the point of view of public order. Under a careful brewer it may, owing to the greater power of control and selection of men, produce better results than the tenancy plan, and the limited interest of the manager in the sales commends itself to many.

(vi.) *Suggested Remedies.*

Different suggestions have been laid before us purporting to represent desirable changes.

These include—

(1.) The abolition of the system.

(2.) Dual licenses, *i.e.*, one license to the owner of the house and another to the publican.

(3.) That the brewer or owner should be the licensee.

The first of these we regard as impracticable. Bearing in mind the many forms that the obligation may take, and the possibility of the tie existing without any written contract on the subject, we hold that such a prohibition would be ineffectual, and consequently inexpedient and mischievous. The second suggestion would limit the direct responsibility of the tenant, and might lessen the control of the licensing authority. We accept the third suggestion in the case of managed houses.

(vii.) *Recommendations.*

The licensee should be the only person with whom the authority should deal, and his misbehaviour should entail penalties both upon himself and the house. It is not expedient in our opinion that the Legislature should lay down any positive rule as to whether the authority should or should not take cognisance of the agreement between him and the owner of the house. There is always a *primâ facie* case against any restriction upon freedom of contract. There is also the danger that if restriction is efficient, it may be irksome and may be evaded either by means of a "bogus" agreement, or by substituting a new agreement immediately after the old one has passed muster with the authority.

We think, however, that the agreements should always be produced on applications for transfers and before a new license is granted, and that it should be left to the Licensing Authority to say whether the terms are such as to warrant refusal of the transfer or new license.

When the business is conducted by a manager the license should be held by the employer, who should be the ostensible and responsible person. The names of all managers should be registered on appointment in such manner as the Licensing Authority may direct.

A duplicate copy of all agreements if required should be lodged with the clerk to the Licensing Authority.

CHAPTER VI.

THE JUSTICES AS LICENSING AUTHORITY.

A good many witnesses have given evidence before us on the subject of existing or proposed disqualifications of justices acting on licensing tribunals.

In addition to the principle of the common law which precludes a man from acting as judge in his own cause, and the necessary disqualification of anyone having pecuniary interest in the decision from acting as a judge, the specific provisions of section 60 of the Act of 1872 preclude any justice acting at Brewster Sessions who is, or is in partnership with, or holds any share in any company which is a common

brewer, distiller, maker of malt for sale or retailer of malt or of any intoxicating liquor, in the licensing district, or in the district or districts adjoining to that in which such justice usually acts; and no justice may act in respect of any premises in the profits of which he is interested, or of which he is wholly or partly the owner, lessee, or occupier, or for the owner, lessee, or occupier, of which he is manager or agent, unless his interest in such premises or the profits of them is a legal interest only and not a beneficial interest.

It has been argued before us that while care has been taken to thus guard against any possibility of bias by pecuniary interest on the part of the justice, there is no protection against a man who holds very extreme views on licensing questions acting at Brewster Sessions, and that this is detrimental to the interests of an impartial hearing.

While we are prepared to admit that such instances may occur, we are unable to see any practical remedy in the way of disqualification which would meet the case, except what we shall suggest as to the selection of the licensing tribunals and the courts of appeal, and as we confidently hope that men of extreme views will not be selected to serve on these bodies, we believe that any grievance in this respect will be found to have been met.

There is, however, one existing disqualification which might, in our opinion, with advantage be removed. Under the law as it stands, justices who hold shares in railway companies are unable to act in licensing matters in a district in which the company, owing to its having refreshment rooms or hotels is a retailer of intoxicants. The interest of the justice in this case is so remote, and the inconvenience of a prohibition which, as the evidence tendered before us shows, gravely interferes with the administration of the law, is so great, that we are of opinion that justices should not be precluded from acting in licensing matters merely because they are railway shareholders.

Another question which has been raised before us is that of the position of the justices' clerks in regard to licensing matters, and we are of opinion that such clerks should be subject to the same disqualification as justices connected with the trade; and, further, that it is undesirable that they should take private business connected with licensing from persons in the trade. In the large majority of cases the services of the best men could not be procured if they were precluded from taking other private business, and we do not recommend any such restriction.

The administration of the law by the justices has been frequently brought to our notice by witnesses, with in some cases, hostile criticism. The desire by some witnesses to see the justices take an independent line of action on particular subjects has led to arguments based on the supposition of their having practically unlimited powers. It must, therefore, be remembered that it has been settled by a series of decisions that while they have a discretion, they are bound to exercise it judicially. In the words of the Lord Chancellor when giving judgment in the case of "Sharp *v.* Wakefield" in the House of Lords, "An extensive power is confided to the justices in their capacity "as justices to be exercised judicially; and 'discretion' means, when it is said that "something is to be done within the discretion of the authorities, that that something "is to be done according to the rules of reason and justice, not according to private "opinion (Rooke's case); according to law and not humour. It is not to be arbitrary, "vague and fanciful, but legal and regular. And it must be exercised within the "limit to which an honest man competent to the discharge of his office ought to "confine himself." There are obvious and powerful reasons why the justices should not encroach on the administrative functions of the police. They should not, therefore, privately investigate cases on which they may afterwards be called upon to adjudicate, though it is clear that they should bring their general knowledge of the district to bear upon their licensing functions.

We have noticed a tendency on the part of some witnesses to suggest that the decision in the case of "Boulter *v.* The Justices of Kent" had freed the justices from all obligation to exercise their powers under the Licensing Act judicially. Such a construction of this case we are quite unable to accept. Properly understood, it has only decided that general annual licensing meetings are not "courts of summary jurisdiction" within the meaning of the Summary Jurisdiction Acts, and that consequently courts of quarter sessions could not award costs against a respondent in a licensing appeal who did not appear at the hearing. It does not follow that because justices in licensing sessions are not courts of summary jurisdiction that therefore the justices at Brewster Sessions are not to act judicially. In the judgment

in "Sharp *v.* Wakefield," to which we have already referred, the Lord Chancellor said "The Legislature has given credit to the magistrates for exercising a judicial "discretion—that they will fairly decide the questions submitted to them, and not by "evasion attempt to repeal the law which permits public-houses to exist or evade "it by avoiding a plain exposition of the reasons on which they act."

We are of opinion, therefore, that whatever the reasons for refusal to renew may be, they should be stated in open court, and, if required by the applicant, be given in writing.

CHAPTER VII.

DETAILS OF LICENSING ADMINISTRATION.

1. New Licenses.

(i.) *The Practice of the Justices.*

For the past 15 or 20 years the justices generally in England have abstained from granting new licenses, and most of those granted were "off" licenses, which, so far as they are wine and spirit licenses, they have practically no power to refuse. The practice of granting new licenses with the understanding that one or more old licenses should be surrendered has largely prevailed in recent years, and has led to a considerable reduction of the total number in some of the congested districts. Opinions differ as to this policy, some holding that it approaches dangerously near to granting an implied vested interest. We refer further to this in Part V.

(ii.) *The unearned Increment of a New License.*

The grant of a new license is a gift often equivalent to a very large sum. We draw a clear distinction between such a gift of a new license and the renewal of an old one, which may have for long been bought and sold in the market. There is no reason why the recipient of the former should not pay a fair market value provided he does not thereby acquire any vested interest.

As the licensee, or the owner, will presumably (under our subsequent proposals in Part V.) pay a rackrent for a new license, that is the full value of the license for each year, there is no hardship upon him, even if his house is closed by the Licensing Authority at any Brewster Sessions short of the time which he reasonably expected, provided that he is compensated for his expenditure on the premises.

Many complaints are made of new licenses being granted contrary to the wishes of the inhabitants. We believe that, if this is so, the proposals we make under Part V. for throwing the responsibility of the initiative on the authority instead of leaving it to applicants would be a useful and effective check.

(iii.) *Notice of Application to Licensing Authority.*

It appears to us a grave anomaly that no notice of an application for a new license is required to be given to the Licensing Authority itself. In divisions where there are a large number of applications for new licenses, it is essential that a complete list should be before the licensing meeting, and it is not right that they should be required to gather the information from advertisements in the newspapers.

(iv.) *Confirmation.*

As the law at present stands, the grant of a new "on" license requires confirmation. In county districts the confirming authority is the County Licensing Committee; in boroughs where there are more than 10 justices of the peace it is the whole body of the borough justices, save those disqualified from acting in licensing matters; in the other boroughs the licenses go for confirmation to a joint committee of justices of the county and the borough.

We are of opinion that confirmation should be required as at present in the case of new grants, and that in addition new "off" licenses should in future need to be confirmed. The requirement of confirmation has acted as a check on new licenses, and will do so to a still greater extent when "off" licenses are brought under the same rule. It is, however, obvious that a really distinct process from the grant was contemplated by the law, and some evidence has been given before us showing that this is not always practically observed. We are therefore of opinion that in all cases a sufficient interval (say a month) should take place between the two hearings of the case. This would provide a remedy for serious practical difficulties that have arisen from the rapidity with which under the existing law confirmation sometimes follows grants.

We propose for the sake of convenience and uniformity an alteration by making the new court of appeal also the confirming authority in all cases.

It has been suggested to us that it is an anomaly that while a new license if granted by the Licensing Authority has thus to run the gauntlet of a second inquiry, there is no appeal against the refusal to grant. We are not, however, prepared to advise any such appeal, the change in the law by which it was abolished having been long in operation and generally working well.

2. Renewals.

(i.) *The Law as to Renewals.*

The law as to renewals differs in certain essential features from that as to new grants. What are termed the *ante*-1869 beerhouses have a definite statutory protection which we deal with elsewhere. Apart from these cases, the distinction between the position of an applicant for a renewal and one who seeks a new license is clearly marked in the Licensing Acts. In the case of renewal no notice of application for the license is required, and the attendance of the applicant is not compulsory in the absence of a requisition from the justices to attend. If an objection is to be heard to a renewal seven days' notice must be given to the licensee. An objection may be taken in court and without notice, but the justices are not entitled to hear it unless they adjourn the case, and require the licensee to attend at a subsequent date when the matter is heard in full. All evidence must be given on oath, and in the the event of the renewal being refused, there is an appeal to the county quarter sessions.

In addition, with regard to renewals, there are special provisions for protecting the rights of owners. In the event of a renewal being refused the owner has a right of appeal as a party aggrieved. In section 50 of the Act of 1872 it is enacted that a copy of the notice of an application for an order sanctioning the removal of a license shall be served upon the owner of the premises, whose consent to such a removal is a condition of its being made. Section 56 of the Act of 1872, moreover, provides for the protection of the owners of licensed premises in cases of offences committed by their tenants, and section 15 of the Act of 1874 enables the owner to obtain a temporary authority to carry on the business where the license is in certain cases forfeited by the licensee.

(ii.) *Practice of the Licensing Justices.*

A reference to Appendix XXI., in Volume VIII., will show the number of cases in which renewals of licenses have been refused, and the refusal affirmed or reversed by the quarter sessions on appeal, Table 3, Vol. V., page 93, shows the number of appeals during two periods of five years and the results.

The law on the subject has been clearly recognised for some years; and was considered in the House of Lords in the well-known case of "Sharp *v.* Wakefield." Since the decision in that case there remains no doubt that the non-requirement of a house, however long its tenure of a license may have been, may be ground of objection to be raised before, and to be taken into consideration by the court, although there is no charge against the licensee of that house personally. That is to say, that the existence of a licensed house may be challenged from year to year, independently of any other reason than that it is not required to supply the wants of the community.

While, however, the full discretion to which we have above alluded is beyond question, the Lord Chancellor in his judgment in "Sharp *v.* Wakefield," said: "I am

" very far indeed from saying that, assuming the complete discretion that I have " indicated to exist, it would be likely that the persons exercising it would consider " an original application in the same way as one which was applied for by the person " who had already been licensed for one year. Of course the justices would remember that a year before a license had been granted, and presumably (unless some " change during the year was proved) they start with the fact that the topics to " which I have referred have already been considered, and one would not expect that " those topics would be likely to be re-opened, unless, as I say, some change has " been proved. This would be likely to limit the inquiry to the conduct of the house " and the character of the licensee, and perhaps the condition of the house, but as a " matter of fact and not as a matter of law at all." This was not dissented from by any of the other law lords who were parties to that decision, except Lord Herschell, who thought that it was quite possible that the attention of the licensing justices might not have been called to the condition and wants of the neighbourhood on the previous occasions.

It will be seen by the returns above referred to that the justices very rarely refuse the renewal of a license on the sole ground that it is not required. If compensation could be granted their action would probably be different.

Besides the feeling just referred to, there is the difficulty which arises from determining which house is to be selected for suppression.

(iii.) *Ante*-1869 *Beerhouses.*

It here becomes necessary to refer to a class of houses which, in many instances, stand in urgent need of reform, but over which the justices can exercise but a very limited control. Their renewal, it will be remembered, can only be refused on one of four grounds :—

Failure of the applicant to produce satisfactory evidence of good character ; 32 & 33 Vict. c. 27. s. 8.
The character of the house ;
The character of the applicant ;
Want of qualification in applicant or house.

The restriction of the powers of the justices with regard to these licenses is generally condemned by those whose business it is to administer the licensing laws. There does not seem, therefore, any adequate reason why the general discretion of the justices should not be extended to these licenses.

We are of opinion that, in the absence of misconduct, the legal right to renewal upon the faith of which large sums of money have been invested, ought not to be destroyed without compensation. We recommend, therefore, that where non-renewal of the licenses of any of these houses is desired by the licensing authority upon any ground upon which it might not have been refused under the existing law, this should be done by bringing it within the scheme recommended in Part V. of this Report.

Further, we consider that should there be a valuation under the Lands Clauses Consolidation Acts (as recommended under Part V.) there should be taken into account any value the license may have acquired owing to its Parliamentary title.

3. Transfers.

(i.) *Recommendations as to Transfer.*

We do not think that an application for a transfer of a license should be made the occasion for suppressing it, unless under very exceptional circumstances. The question of suppression, if it arises, should be considered at the annual licensing meeting. We think it is contrary to public policy that a licensee, who desires to transfer his license, possibly in consequence of illness or other incapacity to discharge his duty as the holder of the license, should be deterred from doing so by fear of the loss of his license, and thereby induced to continue nominally responsible for the conduct of the house, while, in fact, he is incapable of exercising proper supervision.

We are of opinion that—

(1.) The transferor should be compelled to attend when possible.
(2.) The transferee should be examined as to his position and interest, and should be prepared to produce his agreement.
(3.) The Licensing Authority should have power to make regulations against repeated applications.

(ii.) *Temporary Transfers.*

Temporary transfers may be liable to abuse, because, owing to the suddenness of the application, the police may be ignorant of the character of the applicant. We therefore suggest that notice to the police should be required. Temporary transfers might be abolished except in case of death, bankruptcy, or illness.

Their effect is to attenuate the investigation into the character of the tranferee by spreading it over two hearings, and also in some divisions practically to make every weekly sitting a transfer sessions. If the special sessions for transfers are too far apart, they might be increased (say to one per month). This, if an evil at all, would be a lesser one than the present system of unlimited temporary transfers.

(4.) Date of Licensing Sessions.

The date of licensing sessions should be March in all cases, as is now the case in Middlesex and Surrey.

CHAPTER VIII.

FURTHER DETAILS OF LICENSING ADMINISTRATION.

We are of opinion that 12*l.* should be the minimum qualification of premises. Time, however, should be given, following the precedents of previous Acts, in which the license-holder might improve his premises so as to make them of sufficient annual value. As to the rebuilding and alteration of premises, the custom of submitting plans should be made statutory.

While we are of opinion that a wide discretion should be allowed to the Licensing Authority, especially in the case of new licenses, we hold that the conditions which they should be empowered to impose should be defined and regulated by Statute, or by Order of a Secretary of State, more especially with regard to the existence of back and side doors opening into back yards, the provision of snugs, long bars, and internal communication with the dwelling of the license-holder or lodgers who may be living on the premises. The limits within which their discretion may be exercised would thus be clearly understood, and reasonable latitude might be granted without materially trenching on that general uniformity of practice, which it is desirable to secure and maintain.

In fairness to those who received their licenses under the existing system, the imposition of conditions should be confined to new licenses, except as to structural alterations considered necessary by the Licensing Authority to secure the observance of the law.

We agree that conditions thus sanctioned and imposed should be recorded on the register, and that there should be power to refuse the license on proof of a breach, subject to an appeal on the question whether a breach had in fact taken place.

CHAPTER IX.

EXTENSION OF THE POWERS OF THE LICENSING AUTHORITY.

(i.) *"Off" Wine and Spirit Licenses, &c.*

We have already indicated that we propose to remove the limitation on the discretion of the justices in regard to the "on" beerhouses licensed prior to and consecutively since the 1st of May 1869. This, however, is not the only instance in which the justices have at present only a limited discretion, their action, whether in

granting for the first time, or in refusing the renewal of certain licenses, being similarly confined to four statutory grounds, namely :—

1. That the applicant has failed to produce satisfactory evidence of good character.
2. That the house or shop in respect of which the license is sought, or any adjacent house or shop owned or occupied by the person applying for the license, is of a disorderly character, or frequented by thieves, prostitutes, or persons of bad character.
3. That the applicant, having personally held a license for the sale of wine, spirits, beer, or cider, the same has been forfeited for his misconduct, or that he has through misconduct been at any time previously adjudged disqualified from receiving any such license, or from selling any of the said articles.
4. That the applicant or the house in respect of which he applies is not duly qualified as by law required.

The cases to which we refer are as follows :—

(*a.*) The sale of wine by retail not to be consumed on the premises by a tradesman dealing also in other articles, *e.g.*, a grocer.
(*b.*) The sale of spirits as above, *e.g.*, by a grocer.
(*c.*) The sale of sweets, *i.e.*, British wines, not to be consumed on the premises.
(*d.*) The sale of cider not to be consumed on the premises.

Of these, the first two—the "off" wine and spirit licenses—are, of course, far the most important, and in all we recommend that full magisterial control and discretion should apply. Beer "off" licenses were so dealt with in 1880 and 1882.

(ii.) *Wholesale Licenses.*

As the law now stands, wholesale licenses for the sale of beer, wine, and spirits do not come within the jurisdiction of the licensing authority, being issued by the Excise alone. Certain evidence has been given before us pointing to abuses of the wholesale beer dealer's license, which has been utilised so as to afford facilities to shebeeners. At the same time, it would be unnecessary and inconvenient to require that all wholesale licenses should need the consent of the justices. In our judgment, any flaws which now exist will be met by the recommendation that all wholesale licenses, excepting those required by brewers, distillers, wine and spirit merchants, and blenders, should come under the control of the Licensing Authority.

(iii.) *Packet Boats.*

We now pass to another subject where the present absence of the justices' jurisdiction is objected to, namely, the case of packet boats. Excursion steamers can cater without restriction of hours, and without any guarantee for proper supervision of the supply of drink at their bars, and we hold that all passenger steamers plying between ports of the United Kingdom should require a license from the justices at the port of departure, and should be fully subject to their jurisdiction in this respect.

(iv.) *Theatres.*

One other exemption from the control of the Licensing Authority remains to be considered. When a theatre is licensed by Royal Patent, or by the county council, or by the justices of the peace, Excise licenses are granted without any justices' license to sell liquor being required. Some doubt has existed as to whether the ordinary closing regulations are binding. But this has been removed by the decision of the Queen's Bench Division in the case of "Gallagher *v.* Rudd," 1898, 1 Q.B., 144. We recommend that theatre licenses should also be brought under the control of the justices in respect of the sale of exciseable liquors.

CHAPTER X.

THE LICENSING AUTHORITY AND THE APPEAL TO COUNTY QUARTER SESSIONS.

Many proposals have been made for a re-constitution of the Licensing Authority and the Appeal Court. By some it is recommended that there should be no appeal from the decision of the Licensing Authority. Others would restrict the appeal to questions of law. Among those who would retain the appeal, some would re-constitute the appellate tribunal in consequence of a proposed change in the Licensing Authority, while others would substantially retain the existing Licensing Authority and create a new court of appeal. From the former came the suggestions that the Licensing Authority should be a committee of the town or county council, and the appeal go to the full council, and that the Licensing Authority should be a board specially elected for that purpose, and the appeal go to the county court judge or the recorder. From the latter came suggestions which may be traced to two principal motives, the one being the dislike entertained by the larger boroughs to the power given to the county quarter sessions to overrule the decisions of borough justices, and the other the desire to improve the constitution of the county quarter sessions as an appellate tribunal. Among these suggestions the most important seem to be that in the large cities, and boroughs, applications for the renewal of licenses should be heard in the first instance by the borough licensing committee, and that the appeal would be to the full body of the borough justices, either including or excluding the members of the committee, and either with or without the recorder as chairman; or that applications for renewals and transfers should be heard as at present, and the appeal go either to the recorder or to a re-constituted court of quarter sessions for the city or borough consisting of the recorder, the mayor, and other selected justices of the city or borough; or, again, to a joint committee of the justices of the city or borough and of the county. It has also been suggested that in the case of small boroughs the appeal should lie to a similar joint committee. A second group of suggestions is to the effect that the county quarter sessions should be specially constituted for the hearing of licensing appeals, either by appointing a committee of its own body, or in some other manner, or that the hearing of appeals should be restricted to the justices of the licensing district in which the matter of the appeal arose. Suggestions have also been made that the appeal should go to the High Court, or to the judge of assize, or to the county court judge, or a court constituted of two county court judges. We do not concur with those who think that the justices, by their action at quarter sessions, have thwarted the due administration of the licensing laws. Witnesses of weight have testified to the contrary. At the same time there is a strong and reasonable objection on the part of the great boroughs to an appeal to county quarter sessions. There have been objectionable instances of the court being packed by justices who do not usually attend. This would be remedied by proposals which we make in the following chapter.

CHAPTER XI.

THE RECONSTITUTION OF THE LICENSING AUTHORITY AND THE APPEAL COURT.

It has been suggested that the licensing court should be a mixed body—that is, composed of justices of the peace and county councillors. The ratepayers are undoubtedly interested in the original granting of licenses, and we think that in the composition of the Licensing Authority there might fairly be associated with the justices a limited number of members of the county council or other representative body; but that the Court of Appeal, which is a more distinctly judicial court, should consist as at present of justices only, and that a select body should be chosen annually to constitute that court.

We recommend that the Licensing Authority and Court of Appeal should be constituted as follows :—

THE LICENSING AUTHORITY.

(*a.*) For divisions of counties and non-county boroughs the number should consist of three, six, or nine, selected triennially; two-thirds of the number to be justices nominated by the justices of the petty sessional division (or in the case of boroughs having a separate commission of the peace, by the borough justices), and the other third to be nominated by the county council out of their own body at the first statutory meeting of the county council after each triennial election; and in the case of boroughs with a separate commission, by the town council out of their own body, and for a similar period.

(*b.*) For county boroughs a fixed number of three, six, or nine selected triennially; two-thirds to be justices nominated by the borough justices, and one-third by the town council out of their respective bodies.

The number in each case should be fixed by the Secretary of State.

COURT OF APPEAL.

(*a.*) For each county and the non-county boroughs therein, a body consisting of justices nominated triennially by the county and borough justices, the number for each county to be determined by the Secretary of State, and apportioned by him between the counties and boroughs, having regard to the relative population of the areas concerned. Such body would, according to our recommendation in Chapter VII., become the confirming authority in the case of new licenses.

(*b.*) For each county borough, a body consisting of justices nominated triennially by the borough justices, the number for each county borough being determined by the Secretary of State. Where a county borough has a separate quarter sessions, the recorder to be *ex officio* member and chairman of such body.

The licensing authority and the Court of Appeal should have power to administer oaths, and should be guided by the ordinary rules of evidence and procedure generally; and the chairman should have no casting vote. Each tribunal should have power to state questions of law in the form of a special case for the opinion of the superior courts.

In our opinion, the licensing authority should in no case be liable for the costs of an appeal.

CHAPTER XII.

HOURS OF OPENING AND CLOSING.

1. Statutory Regulation of Hours.

The convenience of the public and the maintenance of order are the points that should be primarily considered in dealing with the subject of closing regulations. Many temperance reformers advocate that the question of hours should be placed within the discretion of the Licensing Authorities, but it would lead to public inconvenience, and is in other respects objectionable, that the regulations as to the hours of closing should vary according to the views of each Licensing Authority, in some cases exercising their powers within small areas. For instance, within the Metropolitan Police area there might be twelve or more different sets of regulations as to hours. We, therefore, recommend that all such regulations should be laid down by statute as heretofore.

2. Sunday Closing in Wales.

We see no reason to dissent from the general conclusions of the Royal Commission which inquired into this subject in 1890. We are of opinion that in Wales, as a whole, Sunday closing has been a success, especially in rural Wales, and that if in some

places, as in Cardiff, success has not been so fully maintained, improvement is discernible.

It appears to us that the decision in Williams *v.* Macdonald ("Times," 3rd May 1899, p. 16), renders an amendment of the law absolutely necessary, unless it is to be a dead letter wherever there is a railway station within reach. A person has only to spend a few pence on a return ticket in order to be served when he starts, again when he arrives, and once more when he returns.

3. Extension to Monmouthshire.

There is a strong local desire in Monmouthshire to be associated with Wales in the matter of Sunday closing. We consider that this wish should be acceded to, especially as regards urban districts situated near the border. An important object is to get a border line where there is a sparse population, so that the special difficulties inseparable from the existence of different laws in adjoining localities may be reduced to the smallest compass.

4. Six-day Licenses.

At present, a six-day license, which allows sale on Sundays to persons staying in the house, but not to travellers, can only be granted when application is made. Greater advantage would be taken of this form of license were it not for the fact that when an application has once been made and granted, it is almost impossible for the license-holder to regain a full license for his premises, should he subsequently so desire. If this were not the case we have reason to believe that many license-holders would make the experiment of trading under a six-day license only.

We consider that if power were given to the Licensing Authority to grant six-day licenses in certain cases, it would be used with discretion, and for the benefit of the community, and not unfrequently of the license-holders themselves.

We recommend that in the case of new licenses entire Sunday closing should be one of the statutory conditions which may be imposed by the Licensing Authority. The justices in some divisions have been deterred from granting six-day licenses by being advised by their clerks that there is a conflict between the statutory provision and the common law obligation to supply travellers, and that a six-day licensee might be liable under the common law for not opening his house on a Sunday to travellers. It would be well to make the matter quite clear in any legislation that takes place.

5. Sunday Hours of Opening in England.

Licensed houses may now be open in the Metropolis from 1 p.m to 3 p.m., and from 6 p.m. to 11 p.m., and elsewhere from 12.30 p.m. to 2.30 p.m., and from 6 p.m. to 10 p.m.

To enact complete Sunday closing throughout England would be, in our judgment at the present time, a step too far in advance of public opinion. We are, however, prepared to recommend the further curtailment of the hours of opening to two hours at mid-day and two hours in the evening as a maximum. It would be advisable to leave London and the principal cities outside of the operation, at least for a time.

6. The Bonâ Fide Traveller.

We do not think it necessary to maintain the right of the *bonâ fide* traveller to be served during prohibited hours, but the needs of genuine excursionists cannot be entirely left out of sight.

We consider that a limited number of licensed premises where travellers may be served at specified hours should be selected by the Licensing Authority, and that a special license duty should be exacted in respect of this privilege. The statutory distance might be extended to six miles.

7. Week-Day Hours of Closing.

On week-days in London licensed houses must be closed from 12.30 a.m. till 5 a.m., except on Saturdays, when they are closed at midnight.

In populous places they are closed at 11 p.m. till 6 a.m., and elsewhere from 10 p.m. till 6 a.m.

We should welcome some further curtailment, but we do not think that public opinion will sanction any earlier hours of closing in the evening on week days at present.

CHAPTER XIII.

EXEMPTION ORDERS AND OCCASIONAL LICENSES.

Justices have adopted various modes of procedure and laid down rules for their guidance, but these are not always adhered to by an individual justice who, sitting alone and acting within his rights, may grant an occasional license at his sole discretion, and it may be without proper knowledge of the circumstances of the case.

There are obvious objections to this power being exercised except in open court. We, therefore, recommend that occasional licenses should only be granted with a certain notice to the police, and by two or more justices sitting in a petty sessional court-house. We also recommend that occasional licenses should not be renewed as a matter of course so as to make them practically continuous for a considerable period.

CHAPTER XIV.

SALE TO CHILDREN.

The distinction between sale to children for their own consumption and sale to them as messengers on behalf of others must be carefully borne in mind.

By 35 & 36 Vict. c. 94. s. 7, no description of spirits may be sold to any person apparently under the age of 16 for consumption on the premises.

By 49 & 50 Vict. c. 56. s. 1 no description of intoxicating liquors may be sold to any person known to be under the age of 13 for consumption on the premises.

If, as we are inclined from the evidence placed before us to believe, the weight of public opinion now supports the proposal, we are of opinion that serving children under the age of 16 for consumption either "on" or "off" should be forbidden, and that the present penalties for knowingly serving children under age should be raised, and similar penalties should also be imposed on those who send children knowing them to be under age.

It should, however, be remembered that the above-mentioned Act (49 & 50 Vict. c. 56) was passed after considerable debate in 1886. In the original Bill Parliament was then invited to prohibit the "off" sale to children under 13 years of age, but deliberately refused, the words "for consumption on the premises by any person under "such age as aforesaid" being inserted. It therefore appears that as recently as 1886 Parliament considered the proposal to forbid the serving of child messengers, a serious interference with the parental discretion and the convenience of working men. Legislation in this direction, therefore, should only be undertaken after the fullest discussion with those best qualified to speak for the class affected, otherwise a strong reaction of opinion might follow.

CHAPTER XV.

THE COMBINATION OF THE TRADE IN INTOXICATING LIQUORS WITH OTHER TRADES, OCCUPATIONS, &c.

There are instances in which petty sessions, inquests, and revising barristers' courts are held in licensed premises. We are of opinion that all such courts should be dissociated from the public-house. By the 56 & 57 Vict., c. 73. s. 61, no room in any licensed premises may be used for a parish meeting or meeting of a parish council, or of a district council or of a board of guardians, except in cases where no other suitable room is available for such meeting, either free of charge or at a reasonable cost. Standing joint committees have ample powers to provide petty sessional rooms, and should be compelled by law to exercise such power in all cases. Such rooms should be made available for revising barristers' courts and inquests when not otherwise in use.

We consider that it is undesirable that liquor licenses should be granted in respect of houses used as common lodging-houses. We also consider it desirable that local authorities whose district includes a sea port, should make byelaws relating to seamen's lodging-houses in their districts, under the 214th section of the Merchant Shipping Act of 1894, so as to prevent public-houses being used as lodging-houses for seamen.

We do not think that the grant of music and dancing licenses to public-houses should be absolutely prohibited; but we think it undesirable that public music or dancing should in any case be permitted in a public-house without a music or dancing license. We are, therefore, of opinion that Part IV. of the Public Health Act of 1890 (53 & 54 Vict, c. 59), should be made of general application, in rural as well as in urban districts, instead of remaining adoptive in urban districts only. The effect of this would be that outside London and Middlesex, no public music or dancing would be permitted in any building without a license in that behalf being obtained from the Licensing Authority.

"GROCERS'" LICENSES.

The question of the separation of the trade of the liquor dealer from that of any other trade is one upon which various views have been placed before the Commission.

At the present time, there are very few "off" wine and spirit traders not dealing in any other articles; in fact, except in large towns, they do not exist.

The proposal to restrict the "off" licence to traders dealing in no other articles but intoxicants would, to a large extent, amount to cancelling this class of license altogether. In large towns and cities such traders might be able to do sufficient trade to gain a living, but in ordinary country towns this would be impossible; and thus the channel of supply for home consumption in moderate quantities would, to a great extent, be cut off from the middle classes, who have become accustomed to obtain their supplies through this source.

The trade at present carried on by these mixed traders shows that the business meets the wants of an important part of the population, and their convenience is entitled to careful consideration in looking at this matter.

We do not recommend any alteration of the present system as regards the combination of trades. If our other recommendations are adopted, the Licensing Authority will in future have full discretion, and the power to impose conditions, in the case of these licenses as in all others.

CHAPTER XVI.

ADMINISTRATION BY THE POLICE AUTHORITIES.

We are of opinion that whatever disqualification debars members of the trade from acting on a licensing authority should also apply as regards a watch committee, and persons acting as solicitors or valuers for a brewing company or trade organisation should be similarly disqualified. The chief or head constable should in all cases be non-removable except with the sanction of the Secretary of State.

We consider that in proceedings under the licensing laws, legal assistance should be provided for the police.

CHAPTER XVII.

ADMINISTRATION BY THE POLICE.

We consider that an explicit general code of instructions should be issued to the police as to dealing with cases of drunkenness, &c., that the police should have a general power of arrest for simple drunkenness independent of disorder, that strict supervision of licensed houses should be maintained, that no constable in uniform, whether on or off duty, should be served with intoxicating liquor without an order from a superior officer, that the practice of testimonials to retiring inspectors should be prohibited, and that while it is unnecessary to have a central body of special inspectors of licensed houses, the Licensing Authorities in each county should have a certain number of officers of high rank to report upon the general condition of the houses.

CHAPTER XVIII.

OFFENCES BY LICENSE-HOLDERS.

The offences which a license-holder can commit, and the penalties therefor, are carefully laid down by the existing law, which in this respect appears to be generally adequate, but we are of opinion that in some cases, instead of the imposition of a fine, the license might be temporarily suspended.

There is a great discrepancy between the number of convictions for drunkenness and the small number of license-holders proceeded against for permitting drunkenness, and with regard to the latter offence, we propose a certain alteration in the law.

As matters now stand, in the case of sale to a drunken person, the license-holder who himself, or by his servant, so sells commits the offence, whether the person serving knew, or did not know, that the customer was intoxicated. In the case of permitting drunkenness, however, there must have been actual or constructive knowledge of the drunkenness to constitute the offence. In practice this difficulty in the law is now often guarded against by two summonses being taken out, so that if the charge of permitting drunkenness breaks down on the point of knowledge, a conviction may be secured for selling to a drunken person.

We are of opinion that it would be advisable to alter the law so far as to shift the onus of proof on a charge of permitting drunkenness, and where a person is found drunk on the licensed premises, or observed quitting them in that condition, the license-holder should be required to prove that he and his servants were ignorant of the drunkenness, or that if they knew it they did not permit the offender to remain on the premises. As regards sale to drunken persons, the law should remain as at present. On the other hand, we hold that the police should have instructions when possible to warn licensees if a drunken person is seen to enter the premises.

Different opinions have been expressed before us on the subject of the endorsement of convictions on licenses, varying from suggestions for the abolition of the present system under which certain convictions can, in the discretion of the justices, be so endorsed, to a proposal that all should be so treated, but that the automatic punitive effect of a certain number of endorsements should be abolished.

We are of opinion that, since what is really essential is a complete record of the history of the house, a system of registering all offences is preferable to one of endorsement, the operation of the latter being sometimes unequal. The register should give full particulars of the charge and the penalty imposed in each case, and should be produced before the Licensing Authorities. Inspection of the register should be permitted, a small fee being required from anyone thus inspecting. It is advisable that no mere change of tenancy should whitewash a house of bad character. As a reminder, and for the information of both licensees and their customers, we think it would be well for a summary of legal regulations to be displayed in all public-houses.

CHAPTER XIX.

OFFENCES BY THE PUBLIC AND PENALTIES.

We are of opinion that a person found drunk when in charge of a young child should be subject to a higher penalty than that for simple drunkenness, and that habitual drunkenness should be treated as persistent cruelty within the meaning of the Summary Jurisdiction (Married Women) Act, 1895, and entitle the wife or husband to separation and protection for themselves and children.

CHAPTER XX.

HABITUAL INEBRIATES.

The Inebriates Act of 1898 deals with those cases, limited in number, in which a sentence of incarceration for a long period is both expedient and possible. While there are undoubtedly cases in which such a remedy is hopeful, it is necessarily expensive, and it is unlikely that it will be very generally taken advantage of. There are on the other hand, numbers of habitual inebriates, whose addiction to intoxicants and absence of self control is a danger and annoyance to the public, or an injury to their own families and households, and yet for whom the extreme measure of complete seclusion and separation from their families would be undesirable, even if it were attainable. Such persons are not only responsible for a large proportion of the statistics of intoxication of the country, but for much misery which is not revealed to he public eye.

We are of opinion that, without interference with the personal liberty of these victims of a vicious habit, they might be hindered from obtaining intoxicating liquor. Such persons, on the application of the police, or immediate relatives, and on proof of the facts, or after a certain number of convictions for drunkenness, might be declared by a Court of Summary Jurisdiction to be "habitual inebriates." It would thereupon become the duty of the justices or of the police to inform such licensed victuallers, or other dealers in intoxicants, as in their discretion might be necessary, of the identity of such inebriate, and prohibit them from serving him. A penalty would, of course, attach to an infraction of the law by a publican or other dealer in intoxicants "knowingly" serving such a person. At the same time, it should be made clear that it is incumbent upon the police to take all reasonable means to inform the vendor, and assist him in the recognition of the prohibited persons—*e.g.*, it should be the duty of a constable noticing an habitual inebriate entering a public-house at once to warn the person serving at the bar. The persons prohibited, having notice of the order made against them, should also, in our opinion, be liable to penalties in the event of their attempting to evade the prohibition, and get served at the licensed houses.

The remedy here proposed would obviously be most efficacious in small towns and villages where such persons are well known. It would be more difficult of application in large cities, or towns, because the inebriate would have less difficulty in reaching a district where he was unknown. But in these places, no less than in smaller ones, most of such persons frequent the same houses habitually, for the sake of the society of their boon companions. The prohibition, therefore, would not be without effect, and in any case the disgrace and publicity of the stigma would act as a strong deterrent, and would strengthen the growing public opinion against such transgressors.

CHAPTER XXI.

ALLEGED ADULTERATION.

Allegations have been made in Parliament and widely repeated throughout the country, to the effect that adulteration by retailers of beer and spirits with deleterious ingredients is practised.

Had such cases been established, most drastic legislation would be justified. No evidence, however, has been before us in support of these allegations, and the evidence of Mr. Richard Bannister (late Deputy Principal of the Inland Revenue Branch of the Government Laboratory) and other witnesses has conclusively disposed of them. In our opinion it is extremely improbable that such practices should long escape the detection by the elaborate machinery of the Inland Revenue Department. They may be said to be practically non-existent.

The subject of the purity of the manufacture of beer has been inquired into by an expert Departmental Committee appointed in 1896, and presided over by the Earl of Pembroke and Montgomery. The Report of this body was published in the present year, and confirms our opinion as to the absence of deleterious ingredients.

PART II.

SCOTLAND.

INTRODUCTORY NOTE.

The remarks which we have already made at the commencement of our Report apply also in the case of Scotland. We do not propose, for the reason there given, to cite selections from the evidence.

CHAPTER I.

THE CONDITION OF SCOTLAND WITH REGARD TO INTEMPERANCE.

In Scotland, as in England, there has been a steady improvement in the habits of the people in temperance and sobriety during the last 30 or 40 years. The contributory causes have been similar in both countries; but though the official witnesses are practically unanimous in the opinion that the people are more sober, it is noteworthy that the proportion of arrests for drunkenness is high as compared with the sister countries. This is probably due to the stringent administration of the law by the public prosecutors, who are established in every town and district, and to an energetic police, backed by strong public opinion, rather than to the inhabitants being more drunken than their neighbours. Evidence was given of an increase in recent years in offences directly connected with drunkenness. This is, no doubt, in part, due to the large number of new offences created under the Burgh Police Act of 1892, the Public Health and other statutes, and in part to the establishment of local courts, following the adoption of the Burgh Police Act by many of the smaller towns, with the consequently greater convenience for trying trivial offences. It is a significant fact, in this connexion, that one-third of the committals to Scottish prisons are committals of Irishmen. Probably, also, the national beverage of Scotland is a potent factor in producing police offences, especially when, as too often happens, it is consumed too new.

CHAPTER II.

HISTORICAL SKETCH OF THE LAW.

Prior to 1756 the sale of intoxicating liquor seems, in the towns, to have been the privilege of the burgesses and Guild Brethren, but otherwise was unrestricted. In that year, by an Inland Revenue Act, the English licensing system was imposed upon Scotland. There were, however, a number of exemptions from the system, notably the sale of whisky, which did not require a license until 1793. Keepers of alehouses situated near the King's military roads did not require a certificate. This last exemption was repealed in 1801, and from that date all retail sellers, except vendors of table beer and sweets, came under the control of the justices and magistrates.

In 1804 an Act was passed which provided that the magistrates in Royal burghs and justices in counties, should sit yearly in May, and grant certificates; but it empowered the clerk of the court, in case any application remained undisposed of, to grant a certificate to the applicant without the sanction of the authorities. This Act also imposed penalties for selling without such a certificate. The next Act, in 1808,

transferred the granting of licenses from the Stamp Commissioners to the Excise, and, for the first time, gave a form of certificate to be granted by the Licensing Authorities. This form was applicable to all license-holders, and was taken from the English certificate of that period, but the certificates of both countries have since been very much altered.

THE HOME DRUMMOND ACT OF 1828.

This Act, which is founded upon the two preceding Acts of 1804 and 1808, is the foundation of the jurisdiction of the present Licensing Authorities. It re-enacted half-yearly meetings (as provided by the Act 1801) for granting certificates, without which the Excise cannot grant licenses, and the justices in counties and the magistrates in Royal burghs were continued as the Licensing Authority, with a right of appeal to the quarter sessions in each case.

There was provided a form of certificate which contained certain provisions against adulteration, illegal weights and measures, breach of the peace, knowingly permitting persons of bad fame and dissolute boys and girls to assemble, and unlawful gaming, the non-observance of which was punishable by fine or imprisonment, and forfeiture of certificate. By this Act there were no fixed closing hours, except during divine service on Sundays. Selling without a certificate was also penalised. Transfers in mid-term by two justices or magistrates were provided for, and a form prescribed.

Provision was made for the prosecution of offences under the Act, and for an appeal against convictions, to the court of quarter sessions.

THE FORBES MACKENZIE ACT OF 1853.

This Act was passed as the result of the report of a Select Committee of the House of Commons, presided over by Mr. Forbes Mackenzie, in 1846, printed in Vol. IX., p. 146. It introduced a number of sweeping changes. It drew a distinction between a new application and an application by one who has already held a certificate. It introduced three forms of certificate—hotel, public-house, and grocer's. It made a clear distinction between a grocer and a publican, by providing that a publican should not sell groceries, and that a grocer should not sell liquor for consumption "on." Sunday selling was prohibited, except in hotels to travellers and lodgers, and the hours of closing on week days were fixed from 11 p.m. to 8 a.m., subject to certain discretionary powers of the authorities. It gave powers to the magistrates to extend the hours on certain occasions by special permission. Selling liquor to boys and girls apparently under 14, and to intoxicated persons, were made breaches of certificate.

SUBSEQUENT LEGISLATION.

In 1862 the Public Houses Acts Amendment Act (25 & 26 Vict. c. 35) imposed penalties in respect of shebeening, hawking liquor, and drunkenness and disorderly conduct, and gave the police extended powers for detecting illicit sales of liquor. It emphasised the distinction between new licenses and renewals, and gave to certain officials and interested persons a definite status in objecting to a license.

In 1876 and 1877, by the Acts 39 & 40 Vict. c. 36 and 40 & 41 Vict. c. 3, the distinction between new licenses and renewals was further emphasised. The appeal to quarter sessions with regard to new licenses was taken away, and grants of new licenses were required to be confirmed by committees appointed for that purpose. The procedure with regard to renewals was amended in favour of the license-holders. Table-beer certificates were placed under the Licensing Authority.

In 1880, by the 43rd & 44th Vict. c. 20. s. 40, the provisions of the English Acts of 1872 and 1874, relating to six-day licenses were extended to the case of hotels in Scotland.

In 1882, by the Act 45 & 46 Vict. c. 66, provision was made for prohibiting the sale of liquor on Sundays on packet boats on estuaries and rivers in Scotland, going from and returning to the same place on the same day.

In 1887, by the Act 50 & 51 Vict. c. 38, the Licensing Authority was given a discretion to appoint any time between 10 and 11 p.m. as the closing hour on weekdays, except in towns of more than 50,000 inhabitants.

In 1897, by the Act 60 & 61 Vict. c. 50, the sale of sweets by retail was brought under the operation of the licensing laws.

CHAPTER III.

THE PRESENT LICENSING LAW.

The existing Scottish Statutes (the salient points of which are brought out in the evidence of the Solicitor-General for Scotland) are eight in number. There are besides, 24 Public General Statutes bearing on the liquor laws, many Inland Revenue Acts, and 10 local Statutes relating to the cities.

In Royal and Parliamentary burghs the magistrates (the provost and bailies) are the Licensing Authority; and in the counties (including police burghs) the justices.

Half-yearly meetings are held for the purpose of granting certificates in April and October. These must be held with open doors, and it is incompetent to refuse a renewal without hearing the applicant.

Shareholders of *limited companies* dealing in intoxicants are not specifically disqualified under the Licensing Acts from sitting on the licensing bench. It has been decided by the Supreme Court of Scotland that shareholders in railway companies having hotels and refreshment rooms are not on that account disqualified. Brewers and retailers are disqualified from acting throughout Scotland.

The certificates remain in force until May 15 in each year. The classes of certificates, which specify the leading conditions under which they are held, and without which no retail excise licenses can be issued, are hotel, public-house, grocers, table beer, and "sweets" (the last-named under the recent Act of 1897). Statutory forms are provided.

An applicant for renewal of a certificate need not attend the licensing meeting unless he is required to do so; and the grant of a new certificate to uncertificated premises alone requires to be confirmed.

Excepting applications for renewals of existing certificates all other applications require to be advertised and the applicants have to produce certificates of character by a justice or a magistrate, and uncertificated premises have to be reported as suitable by a justice or magistrate.

Transfers are granted till the next half-yearly meeting on the certificate-holder's death or on a change of occupancy. In the first case any two justices or magistrates, and in the other cases any two justices or magistrates sitting in court can grant transfers, the only question to be considered by them being the suitability of the applicant.

The refusal of an application for a new certificate is final. In cases of renewals an appeal lies by the owner or the licensee or justice to the justices in quarter sessions.

The only provision for the compulsory forfeiture of a certificate is where a holder commits a third offence within a certain time.

Objectors to applications must own or occupy property in the neighbourhood, and give five days' notice. Any justice or magistrate, the procurator fiscal, the chief constable and superintendent of police, may also object without previous notice.

A private objector has no right of appeal, but he may appear before the confirming committee, and may be found liable in expenses.

The Licensing Authority has power to make rules and regulations as to procedure, applications, qualifications of applicants and premises, transfers, special permissions, and for the guidance of the confirming committee.

Special permissions to licensees to keep open their premises for an extension of hours on a particular occasion, or to sell beyond their licensed premises on public occasions, may be granted by the chief magistrate or two senior acting magistrates in burghs and two justices in counties, and they have to be intimated to the police. The hours of sale are regulated in the grant. License-holders in the parish or adjoining parish do not require special permissions to sell outside their premises in booths at statutory fairs.

The hours of opening for all licensed premises are from 8 a.m. to 11 p.m., with a discretionary power to restrict the hour to 10 p.m. In certain exempted cities the hours are 8 a.m. to 11 p.m., with no discretionary power, except as regards particular districts.

On Sundays all licensed premises, except hotels, must be entirely closed; but hotels are only open to supply and accommodate travellers and lodgers. There is no

statutory definition of a traveller. A hotel may take out a six-day certificate, under which on Sundays neither lodgers or travellers can be supplied.

The police have to report to the fiscal as to the conduct of special permissions and also the license-holders from whose premises intoxicated persons are frequently seen to issue, but the licensees are entitled to receive intimation thereof within two days.

Prosecutions under the licensing laws are tried by two justices in counties, or one magistrate in burghs, or by the sheriff substitute in either.

An appeal lies to the quarter sessions from convictions by the justices for offences under the Licensing Acts, but there is no such appeal from a conviction by the magistrates. Appeals on points of law can be taken from either on a stated case to the High Court of Justiciary.

Penalties are provided for breaches of certificate, for offences by the license-holder under the Licensing Acts, and also for offences by the public.

In addition to the justices' certificate an Excise license must also be taken out from the Excise, and at the same rates generally as apply to England.

The license duty varies with the annual value of the premises—a full license for a public-house ranging from 4*l.* 10*s.* on 10*l.* of rental to 60*l.* on 700*l.* of rental and upwards. The maximum license for a hotel is 20*l.*, unless a portion of the premises exceeding 25*l.* in annual value is set apart and used as an ordinary public-house, when the ordinary duty is chargeable. There are abatements for six-day licenses and early closing. A grocer's Excise license costs from 4*l.* 4*s.* to 13*l.* 13*s.* according to value, but the grocer gets no abatement for early closing.

There are also wine dealers' and liqueur dealers' Excise licenses, "sweets," and table beer licenses, which cost 10*l.* 10*s.*, 2*l.* 2*s.*, 1*l.* 5*s.*, and 5*s.* respectively.

The Excise also grant licenses to theatres and to passenger vessels plying in estuaries or from one part of the United Kingdom to another.

There are penalties for selling without licenses, and the Excise can prosecute as well as the police.

CHAPTER IV.

NUMBER OF LICENSED HOUSES, AND THE TIED-HOUSE SYSTEM.

In Scotland the proportion of all classes of licenses to population is much less than in England. The figure for the whole country appears to be 1 to 333, against 1 to 219 in England. In counties the proportion varies from 1 to 2,251 in Nairn to 1 to 202 in Kinross, and in burghs from 1 to 833 in Dumbarton to 1 to 60 in Auchtermuchty. Vol. V., p. 173.

These striking differences may be largely due to the nature and requirements of the districts, but they clearly show that some re-distribution is necessary and that in certain places a reduction is desirable.

With respect to the question of tied houses, the case of Scotland differs considerably from that of England. The tied-house system does not generally prevail, it is, indeed, exceptional for any house to be owned by the wholesale traders. The houses are almost invariably the property either of the licensees themselves, or of private owners.

In the matter of provisional certificates in cases of contemplated removal, the Scottish law should be assimilated to that of England, save that the consent of the owner of the premises to the grant should not be required. The certificate-holder should be the only person who has any right to the certificate, and he should be, as far as possible, independent of all obligation, except to the Licensing Authority.

CHAPTER V.

ADMINISTRATION OF THE LAW BY THE LICENSING AUTHORITY.

In counties the Licensing Authority is composed of justices of the peace for the county. Power is given them to divide the county into districts.

In Royal and Parliamentary burghs the magistrates, *i.e.*, the provost and bailies elected by the town council are the Licensing Authority.

We deal in a subsequent chapter with the question of the reconstitution of the Licensing Authority and the Court of Appeal, but we desire to say here that, while suggesting no alteration in the constitution of the Burgh Licensing Authority, we think that no burgh possessing a less population than 7,000 should have a separate licensing jurisdiction, and that all police burghs having a population of 12,000 and upwards should obtain it.

Complaint has been made of the excessive number of justices attending the county licensing courts. This is certainly a great drawback to efficient administration, while it also leads to canvassing, which is a grave and reprehensible evil. To deal with this by a statutory prohibition would be unworkable, and we propose to find a remedy by limiting the number composing the courts.

Licensing authorities have exercised considerable powers in imposing conditions on license-holders, such, for example, as insisting on non-residence, closing of back doors, &c.

We think that a wide discretion is desirable, especially in cases of new licenses, but to secure uniformity of practice such conditions should be regulated by Statute or by byelaws to be approved by the Secretary of Scotland. Conditions thus sanctioned and imposed should be endorsed on the certificate.

We have fully dealt with the question of disqualification of licensing magistrates in the portion of the report which relates to England and Wales, and also with the subject of the position of the clerk to the Licensing Authority. We make the same recommendations in the case of Scotland, and would only add here that, in our opinion, a deputy clerk of the peace should not take private business in connexion with licensing.

CHAPTER VI.

DETAILS OF LICENSING ADMINISTRATION.

1. Grant of New Certificates.

The fullest control over alterations and extensions should be conferred on the Licensing Authority.

The recommendations in Part V. regarding surrenders and in Part I. regarding notices to be given by applicants for new certificates should apply to Scotland.

The duty of certifying to the character of an applicant, and the suitability of premises should be transferred to the chief constable; but this transference of duty should in no way preclude the Licensing Authority from satisfying themselves by personal inspection of the premises whether they are fit for a certificate.

We are of opinion that applications for new certificates should be heard at the April meeting of the Licensing Authority only, and that all certificates should run from May 28 to correspond with the removal term.

2. Renewals.

i. *The Law as to Renewals.*

The law as to renewals in Scotland, as in England, differs in certain essentials from that as to new grants. In the case of a renewal the application does not require to be advertised or intimated to the parish registrar, neither do the licensed premises nor the applicant's character require to be certified. The attendance of the applicant is not compulsory in the absence of a summons from the Licensing Authority, nor can the application be refused without a hearing in open court, and it must be disposed of before any new applications for new premises are considered. If an objection by the public is to be made, five days' notice must be given, and no objection can be entertained unless it be proved to the justices' satisfaction and be considered of sufficient importance. Expenses may be awarded against the objector. In the event of refusal of the application, the applicant can appeal to the quarter sessions.

In addition, the owner, in the event of a renewal being refused, has a right of appeal.

ii. *The Practice of the Licensing Authorities.*

A reference to Vol. V., p. 179, will show the number of cases in which renewals have been refused, and the refusal affirmed or reversed by the quarter sessions on appeal. It shows that a slightly larger proportion of appeals are sustained from burghs than from counties; and that over a period of 10 years in counties (excluding Inverness, from which no return was obtained) there were 368 appeals, of which 179 were sustained.

iii. *Inadvertent Omissions to apply, &c.*

Some provision would seem to be required in Scotland to meet cases of inadvertent omissions to apply for the renewal of the annual certificate, and also when death occurs in the interval between the statutory date for lodging applications and the holding of the licensing meeting. The want of such a provision occasions great hardship.

iv. *Reasons for Refusal of Renewals.*

Whatever the reasons for refusal to renew may be, they should be stated in open court, and, if required by the applicant, be given in writing.

3. Special Regulations.

We think that powers might be given for dealing by regulation with the acknowledged evil of repeated applications for a new certificate to the same premises.

4. Transfers.

Our recommendations with regard to transfers in Part I. (England) apply equally to Scotland, provided the necessary number of special sessions for transfers are created. Without this provision the abolition of temporary transfers would be impracticable, seeing that, in Scotland, there are only two licensing meetings at which transfers could be granted.

5. Imposition of Special Conditions.

Our recommendations in Part I. (England) Chapter VIII., apply equally to Scotland.

6. Extension of Powers of Licensing Authority.

The Licensing Authority should have complete control over wholesale licenses, except those required by brewers, distillers, wine and spirit merchants, and blenders, and also over the theatre license. Packet boats should require certificates from the Licensing Authority, and byelaws prohibiting sale within harbours, as at Dundee, should be extended to other ports.

7. Confirmation.

Confirmation should continue to be required in the case of all new licenses, and the new Courts of Appeal should be the confirming authority.

CHAPTER VII.

CLOSING REGULATIONS.

On Sundays the sale of intoxicating liquor by retail is entirely prohibited, except that in hotels liquor may be sold at any time for the accommodation of travellers and lodgers. Subject to the modifications of the law relating to travellers and lodgers presently to be suggested, we do not think that this state of things calls for any change.

With regard to the question of the hours of closing on week days, eleven o'clock is now the statutory time, but except in burghs, towns, and populous places of 50,000 inhabitants and upwards, there is a discretion in the Licensing Authority to close not earlier than 10, and this discretion is generally exercised. The places falling within the exception are Edinburgh, the whole municipal area of Glasgow, Greenock, Leith, Aberdeen, Dundee, and Paisley. We are not prepared to recommend that the discretion to close all licensed houses at 10 should be given to the Licensing Authorities in these exempted towns. They have already the power to fix an earlier hour of closing, not earlier than 9 p.m., in any particular locality within a licensing district which appears to the Licensing Authority to call for special treatment. We are of opinion that the evidence does not justify the suggestion to make 10 the general statutory time, and that since the present plan allows a certain elasticity to suit the public convenience, it should be maintained. Neither can we accept the view that a discretion to close all licensed houses at 9 should be conferred on the Licensing Authority. On the other hand we agree that the Licensing Authority should have a discretionary power to close on New Year's Day during certain hours.

The exemption of hotels from the Sunday closing regulations in respect of the serving of travellers and lodgers is subject to the provisions regulating the grant of six-day licenses. The holder of a six-day hotel license is not permitted to serve travellers with intoxicating liquor at any time on Sunday, and there is much doubt whether he may even serve lodgers staying in the hotel. On the other hand, the sale of intoxicating liquors to travellers in hotels holding the seven-day license is not restricted.

We are of opinion that hotel keepers holding six-day licenses should have the privilege of sale to lodgers in the house, and that in respect of travellers the qualifying limit for obtaining refreshment on a Sunday should be six miles.

CHAPTER VIII.

THE LICENSING AUTHORITY AND APPEALS TO QUARTER SESSIONS.

Certain suggestions have been made to us both for alterations in the Licensing Authority and with regard to the Appeal Court, those affecting the latter including proposals for the appointment of a special appeal committee, or for an appeal to go from a licensing committee to the sheriff. After considering the working of the present system, and the various proposals in the direction of alteration which have been laid before us, we are of opinion that with certain modifications to suit the conditions existing in Scotland, the general principle which we have followed with regard to England might be advantageously utilised. In particular it would have the merit of meeting some of the complaints as to unwieldly tribunals which have been brought to our notice. In the next chapter we indicate the scheme which we recommend.

CHAPTER IX.

THE LICENSING AUTHORITY.

We think that although it may not always have worked satisfactorily, the existing Licensing Authority in cities and burghs should be maintained, but with the recommendation that no burgh having a population of less than 7,000 should continue to possess a separate licensing jurisdiction, while all police burghs with a population of 12,000 and upwards should obtain it.

In counties or districts of counties, the Licensing Authority should be a committee selected triennially, two-thirds by the justices of the peace for the county, and one-third by the county council from their respective bodies, the numbers of the said committee to be fixed by the Secretary for Scotland, regard being had to the size and importance of the county or district.

The members selected by the county council should be chosen at the first statutory meeting after each triennial election, and for their term of office should be *ex-officio* justices.

COURT OF APPEAL.

In lieu of the present Courts of Appeal we recommend bodies constituted as follows:—

For the counties of cities a fixed number of members appointed by the justices of the county of the city from amongst their own number with the Lord Provost as chairman.

For the counties, including the other burghs, a tribunal selected by the justices of the peace for the county at quarter sessions out of their own body, the number to be fixed by the Secretary for Scotland, and care being taken that the districts and burghs within the county are adequately represented.

These bodies should have the same powers as we recommend in the English Report. No member of the Licensing Authority should be eligible for the Appeal Court, except the Lord Provosts of cities which have a separate commission of the peace.

An appeal to the court of session on a stated case on points of law should be allowed.

CHAPTER X.

SPECIAL PERMISSIONS.

Special permission may be granted by the chief magistrate, or failing him the two senior acting magistrates of any burgh, or by two justices of the peace in any county, to any holder of an hotel or public-house license, to keep his premises open for the sale of liquor after closing time, or to sell liquor elsewhere than on his licensed premises, at any entertainment not originating with the license-holder to be held upon a public or special occasion of a legitimate and proper character. When the permission is to sell elsewhere than on the licensed premises, an occasional license must be obtained from the excise. The person obtaining the permission must give 24 hours' notice of the entertainment to the police. The Licensing Authority has power at the half-yearly meeting to make such general regulations touching such permissions as it may think fit. We are of opinion that these special permissions should be granted only in open court in burghs. There appears to be no reason for interfering with the existing practice in counties. The applicant should be required to give notice of his application to the police, 48 hours being in our opinion quite sufficient.

CHAPTER XI.

SALE TO CHILDREN.

Under the existing law, no boy or girl apparently under 14 may be served or supplied with any kind of intoxicating liquor for his or her own consumption. But it is not unlawful to supply liquor to any child, however young, who obtains it as a messenger for an adult. As in the case of England, we recommend that no child under 16 should be served or supplied with liquor in any circumstances, and that the sender of a juvenile under that age as a messenger to obtain liquor should be liable to the same penalties as the licensee who supplies the liquor.

It should not, however, be forgotten that this might prove a serious interference with parental discretion, and the convenience of working men.

Legislation in this direction should only be undertaken after the fullest discussion with those best qualified to speak for them, otherwise strong reaction of opinion might follow.

CHAPTER XII.

QUALITY OF LIQUOR, AND THE BONDING OF WHISKY.

The evidence placed before us entirely fails to support the belief that adulteration either of beer or spirits with any noxious or deleterious ingredient is practised in Scotland. What we have said on the subject of alleged adulteration in Chapter XXI., of Part I. of this Report, is as applicable to Scotland as to England. But we cannot resist the conclusion that newly distilled whisky is less wholesome and more intoxicating than whisky which has been reasonably matured; and we agree with those who advocate that some provision should be adopted to mitigate the evil caused by the consumption of new whisky by requiring it to be bonded for a certain period. We are aware that the Select Committee on British and Foreign spirits appointed by the House of Commons in 1890 concluded that it was not desirable to pass any compulsory law in regard to the age of whisky. But the main ground of this conclusion seems to have been that such a restriction would harass commerce and be an unfair burden on particular classes of spirits; and the evidence we have received satisfies us that no hardship at all commensurate with the general advantage to be gained would be felt by the distillers if it were made compulsory to keep whisky a certain number of years in bond.

CHAPTER XIII.

THE DIFFERENT CLASSES OF CERTIFICATES.

1. Inns and Hotels.

By the Public Houses Act, 1862 (25 & 26 Vict., c. 35, s. 37) the expression "inn and hotel" is defined as meaning, in towns and the suburbs thereof, a house containing at least four apartments set apart exclusively for the sleeping accommodation of travellers; and, in rural districts and populous places not exceeding 1,000 inhabitants a house containing at least two such apartments.

We are of opinion that there is no necessity for raising the qualifying number of rooms, but the Licensing Authority should be satisfied on the police reports, or from other sources that the existing number of rooms really affords suitable accommodation.

2. Public-Houses.

As already stated we hold that the non-residence of the certificate-holder or complete separation of the premises from the dwelling-house should, where practicable, be made a condition of the certificate, and that the Licensing Authority should have full control over the construction and alteration of premises.

3. Grocers' Licenses.

The license held by the grocer in Scotland is of very ancient origin, the general merchant having for centuries sold liquor together with other commodities. It differs from the corresponding license in England, in respect that it gives freedom of selling for consumption "off" in any retail quantity, and that it is subject to the same magisterial discretion and control as the licenses held by publicans and hotel keepers. The Licensing Acts of 1808 and 1828, made no provision for a retail "off" license, and the Scottish trader was compelled to hold a publican's license. The old distinction between the wholesale burgess and the retailer, was destroyed by an Inland Revenue Act in 1825. Till that date the grocer could sell for "off" consumption quantities of not less than half a gallon of spirits without a magistrate's certificate. From the passing of that Act, however, he could only do so under a publican's license, and this gave the public a right to demand liquor for consumption "on" the premises in all grocers' establishments. Habits were thus fostered which could not all at once be eradicated by Act of Parliament, and the Act of 1853, passed to prevent the grocer from selling otherwise than for consumption "off" the premises, had not effaced the

old habit when the Royal Commission was appointed in 1877 to consider the question. Selling for consumption "on" the premises was the principal charge made against the grocer then, and doubtless it largely existed, but the burden of official testimony received by us is to the effect that the growth of time and the force of public opinion have altered these old habits, and that this evil has practically disappeared.

The charge of entering liquor as other goods has frequently been made before us, but no direct evidence on the point was produced. The only evidence we received was that of a witness who had been ordered by his father to make such entries; but these were so made, not to mislead or defraud, but to evade the provisions of the Tippling Acts, which prevent the legal recovery of small sums for liquor sold on credit. Some of our witnesses suggested the separation of the trades as a certain remedy for such offences. This may be a counsel of perfection, but we are not satisfied that it is either necessary or practicable.

The balance of opinion is largely against the proposal; men with an intimate knowledge of the question tell us that the businesses are now well conducted, some even expressing a preference for this class of license. The grocer is a part of the national life of Scotland, and is the principal wine merchant of the lower and middle classes; and a judge of great experience who gave evidence before us states, that if separation were insisted upon, there would be large districts in Scotland in which no liquor could be procured—as the general merchant can only carry on a profitable business by selling all classes of goods—and that he would regard such a result as too violent an interference with the habits, convenience, and legal rights of the public.

We do not consider that the evidence laid before us warrants us in advising a severance, but we are of opinion that the recommendations of the Royal Commission on grocers' licenses should be carried out, so far as they are applicable to the businesses and premises. When an application for a new grocer's license is made, the Licensing Authority should have power to insert in the certificate a condition that the premises shall be exclusively used for the sale of intoxicants. The premises of all licensed grocers and dealers should be entirely closed at 8 p.m., except on Saturdays and days before holidays, when in the discretion of the Licensing Authority, the hour might be extended to 9 p.m., and they should be completely open to police supervision.

A good deal of evidence has been laid before us pointing to abuses said to arise from the distribution of liquor by means of grocers' vans. The most serious abuse alleged is that liquor which has not been ordered by any particular customer, is sent out in these vans for sale to anyone who may choose to buy it when the van calls at his house. This amounts to hawking spirits which is illegal and punishable, but there is great difficulty in proving the offence. There is nothing unlawful in delivering at a customer's house liquor which has been sold to him on his order, but evidence that any portion of the liquor in the van is unordered, is difficult to procure.

We are of opinion that every van man conveying exciseable liquors under certificate from the Licensing Authority should have a pass book or invoices, in which the addresses of the persons to whom the liquor is being conveyed, with the quantities, shall be duly entered. He should be bound to produce this book to any officers of police or of excise when required. Power should be given to the excise officials and police to search the vans, and to enter any licensed premises to examine order books and compare these with the van man's delivery books or invoices, and with the goods being delivered. It should be an offence to deliver exciseable goods to any consumer unless the order for the same be previously recorded in the books of the license-holder. On a conviction for a breach of this condition, it should be within the discretion of the Licensing Authority to forfeit the certificate, the appeal usual in other cases on refusal to renew being allowed.

CHAPTER XIV.

ADMINISTRATION BY THE POLICE, &c.

1. Duties of the Police.

Evidence has been given before us to the effect that the statutory provision requiring the chief officer of police for the district to transmit to the procurator fiscal weekly reports, showing the names of license-holders from whose premises persons in a state of drunkenness have been seen to issue, is not duly acted on. We hold that

proper reports should be made with intimation to the certificate-holder as at present, and that if the Licensing Authority so desire, special officers should be placed at their disposal for the purpose of inspecting or reporting on the conduct of licensed premises.

2. Offences by Licensed Persons.

We are of opinion that the following alterations in the law would be advantageous;

(1.) There should be a penalty for permitting drunkenness on licensed premises.

(2.) The 14th section of the English Act of 1872 in regard to harbouring prostitutes should be applied to Scotland.

(3.) Provisions against supplying constables on duty with liquor should also be adopted.

(4.) The 17th section of the English Act of 1872, with regard to gaming should be applied to Scotland.

3. Offences connected with Drunkenness.

The provisions of the Burgh Police Act of 1892, making it an offence to be drunk when in charge of loaded firearms, carriages, horses, &c., should be applied generally, and licensed premises should be included in the definition a "public place." The recommendation in the English Report as to offences for drunkenness, powers of arrest, and treatment of habitual drunkards, should be adopted for Scotland.

CHAPTER XV.

GENERAL.

We are strongly of opinion that the consolidation of the Scottish law is urgently required.

We also think that the following provisions should be included in any new Scottish Act:—

(1.) The service of a summons on the justices' clerk in counties or the town clerk in burghs should be legal service upon the whole body of the magistrates or justices.

(2.) Power should be given to grant provisional licenses from plans.

(3.) During the pendency of appeals the Excise should have power to continue the license.

(4.) The system of registration of convictions for breach of certificate recommended for England should be applied to Scotland, and the cumulative penalty abolished.

(5.) Any person found on licensed premises during prohibited hours should be liable to a penalty as well as the license-holder harbouring him.

(6.) Any doubt as to the meaning of the word "occupier" in the 14th sec. of 9 Geo. IV. c. 58, should be removed by making it clear that a transferee has a right of appeal.

(7.) Not fewer than two justices or magistrates should try offences under the Licensing Acts.

(8.) In granting licenses for auction marts the licensing authority should have power to attach conditions specifying the days and hours during which the premises are to be opened.

PART III.

IRELAND.

INTRODUCTORY NOTE.

The remarks which we have already made at the commencement of our Report apply also in the case of Ireland. We do not propose, for the reasons there given, to cite selections from the evidence.

CHAPTER I.

THE CONDITION OF IRELAND WITH REGARD TO INTEMPERANCE.

A careful review of the evidence tendered before us appears to show that drunkenness, if not decreasing in Ireland, still does not show a tendency to increase. While this is so and while the over-indulgence, at any rate of the peasant population, appears to be mainly concentrated on special occasions such as fairs, races, and so forth, the need for most careful consideration of any measures which might have an ameliorating effect is patent.

Among the special occasions which are unfortunately marked by regrettable excess in drinking, wakes take a prominent place. The co-operation of the clergy in the endeavour to grappie with this abuse may be relied on, and though the question is one not easily touched by legislation, a useful suggestion with which we concur has been offered that the Tippling Acts should be amended so as to apply to liquor supplied on credit for a wake.

CHAPTER II.

HISTORICAL SKETCH OF THE LAW, AND FLUCTUATION IN NUMBER OF LICENSES.

1. Sketch of the Law.

(i.) *Early History down to* 1800.

The first licensing statute for Ireland was passed in the years 1635–5 (10 & 11 Charles I. c. 5). The reasons that led to the passing of this Act are set forth in its preamble, which runs as follows:—

"Forasmuch as it is found by daily experience that many mischiefes and inconveniences doe arise from the excessive number of ale-houses, from the erection of them in woods, bogges, and other unfit places, and many of them not in townеships but dispersedly, and in dangerous places, and kept by unknown persons not under taken for, whereby many times they become resceptacles for rebels and other malefactors and harbours for gamesters and other idle, disordered, and unprofitable livers, and that those that keep those ale-houses for the most part are not fitted or furnished to lodge or entertain travellers in any decent manner: For the redresse of these inconveniences, and many other mischiefes dayly observed to grow by the course now held and to reduce those needlesse multitudes of ale-houses to a fewer number, to more fit persons, and to more convenient places."

The Act went on to enact that no one was to keep any alehouse or tippling-house or sell any ale or beer by retail, unless licensed by commissioners appointed from time to time for each county, from among the justices of the peace, with other persons selected by the lord deputy. These licenses were to be granted annually, at the first quarter sessions after Easter, by at least two commissioners, to persons of good character, for a proper number of houses in convenient places, and were to endure for a year and no longer. The houses so licensed were to contain at least two beds set apart for the accommodation of strangers, and the license-holder had to enter into recognisances to sell provisions to travellers and strangers at reasonable rates, not to permit drunkenness, gambling, or unlawful gaming, and not to harbour improper persons. A license duty of 5*s*. 6*d*. was also imposed.

In 1662 (14 & 15 Charles II., c. 18), the Act of 1634–5 was re-enacted and the license duty on alehouses was increased to 20*s*., and in 1665 (17 & 18 Charles II., c. 19), the retail sale of wines and spirits for consumption, both on and off the premises, was made to require the license of the commissioners in a similar manner. The commissioners were empowered to fix the license duty within certain limits, and the license was not to endure for more than three years.

In 1695 the first Act (7 Will. III., c. 17) dealing with hours of closing was passed; it ordered all licensed premises to be closed during the hours of divine service on Sundays.

During the early part of the 18th century the licensing law apparently fell into disuse, for a Revenue Act of 1737 (11 Geo. II., c. 3, s. 15) recited that no commissions to grant licenses under the Acts of 1662 and 1665 had been issued for some time. The power of licensing under those Acts was therefore transferred to three chief commissioners and collectors of excise.

Another Revenue Act in 1759 (33 Geo. II., c. 10) introduced the distinction between the excise license and the justices' certificate, for, while it continued the authority of the Commissioners of Excise, it laid down (s. 94) that no license was to be issued without the certificate of the next justice of the peace that the applicant and his abode were properly qualified.

Between 1759 and 1791 licensing questions were very much discussed in the Irish Parliament, but nothing of any moment was done. A very large number of Revenue Acts during this period were passed, containing sections for the better regulation of the liquor traffic, or fixing the duties. Most of these Acts were passed for one, two, or three years; sometimes they were renewed, sometimes re-enacted with slight alterations, with the result that the law fell into great confusion, and no reform was effected, but things went continually from bad to worse. The fact that it was found necessary to enact that no license shall be granted to retail liquors in prisons and workhouses, or that the Revenue Commissioners should have power to refuse licenses to improper persons, shows that the law did not work satisfactorily.

At last, in 1791, a somewhat more comprehensive Act (31 Geo. III., c. 13) was passed "for regulating the issuing of licenses for the sale of spirituous liquors by retail "and for remedying the abuses which have arisen from the immoderate use of such "liquors." The Act recites that "the use of spirituous liquors prevails to an "immoderate excess to the great injury of the health, industry, and morals of the "people." No one was to hold a spirit license unless he also held an ale license, and a certificate of good character from the justices was required. Further than this, in Dublin, Cork, Waterford, and Limerick, no one was to hold a license for the sale of spirituous liquors unless he kept an inn, coffee-house, or alehouse, and *exercised no other trade*. Persons licensed to sell spirits had to enter into a bond to sell beer and victuals, and not to sell spirits before one p.m. on Sundays, before sunrise, or after an unseasonable hour in the evening on other days.

Liquor was forbidden to be given in payment of wages, and wages were not allowed to be paid in a public-house, while a debt for spirits of more than 20*s*. at one time was made irrecoverable.

The Act was only a temporary one, but it was renewed from time to time. The Act of 1706 (36 Geo. III., c. 40) while re-enacting made some important additions to the Licensing Authority of the justices. The Act is also important, because it enacted that in Dublin, grocers might be licensed by collectors of excise to sell spirits by retail in quantities not less than one pint for consumption *off* the premises only. This was the origin of the spirit-grocers' license.

The Act of 1796 was renewed year by year till the end of the century, but an important clause was introduced into the Act of 1798 (38 Geo. III., c. 73). The justices before signing the certificates were to determine the number of houses, which

ought to be licensed, having due regard to the morals and sobriety of the people. The grand jury was also to come to a determination on the point, and, if the justices did nothing, their number was to be accepted. The clerk of the peace was forbidden to issue licenses beyond the number so fixed.

(ii.) 1800–1833.

After the Union the existing Licensing Acts were renewed annually as before till 1805, when a consolidation Act was passed (45 Geo. III., c. 50).

The features of the system as thus enacted were as follows:—The grand jury in each county were to fix the number of licenses, and these were to be granted by the justices at special annual sessions after due inquiry into the character of the applicants and their sureties. The clerk of the peace was authorised to renew licenses, if the justices neglected to do so, and even to grant new licenses, if two magistrates living within five miles of the applicant certified to his good character. Any two justices had power to annul a license. In Dublin the clerk of the peace issued the licenses by order of the Lord Mayor.

Persons licensed had to enter into a bond with sureties to keep a victualling-house, inn, or tavern, not to sell spirits at all on Sunday, nor any other liquor before 2 p.m. on that day, except to travellers, nor before sunrise or after reasonable hours at night. The sale of victuals to be consumed on the premises was very stringently laid down, and, in order to encourage the consumption of beer at the expense of spirits, a bounty was given to retailers of spirits who sold a certain quantity of beer. The Act also contained a number of provisions for preserving public order, and preventing the illicit sale of liquor.

One very important section forbade licenses to be held by grocers and others, but this was repealed in the following year by 46 Geo. III., c. 70. s. 1.

In 1807 the Act of 1806 was repealed, and the Act of 1805 extended to all retail licenses by 47 Geo. III. Sess. 2. c. 12. Retailers were defined, and provision made for levying the license duty by means of a stamp. In any place where the stamp duty for a license to retail spirits, &c., was not less than 22*l.* a grocer was allowed to take out a license to retail spirits, but he was not allowed to sell spirits in less quantities than two quarts or more than two gallons, or for consumption on the premises. The maximum quantity of spirits was extended two years after to 50 gallons. This was the first extension of the spirit-grocer's license outside Dublin. There were at this time about 30 cities and towns in which grocers could hold licenses under this enactment.

The same Act also extended to all Ireland a provision previously confined to Dublin, that parishioners might appoint several public-house overseers, who were to have the same powers as police officers.

Acts containing various small amendments were passed in 1808, 1809, 1810, 1812, and 1813.

* In 1815, by 55 Geo. III. c. 19., previous Acts were repealed, and most of their contents consolidated. Apparently, however, the power of the grand jury to fix the number of licenses was not re-enacted, and the sections empowering grocers to hold licenses remained untouched. The justices were the Licensing Authority, except in Dublin, where the Lord Mayor and the police magistrates retained their licensing authority as before. The justices at quarter sessions, the Lord Mayor of Dublin, or two police magistrates, or the Commissioners had full power to annul licenses apparently without restriction. Persons licensed had to enter into a bond in the sum of 50*l.* with two sureties in 25*l.* each—

To keep victualling-house, inn, or tavern, and to provide beer, or porter, and victuals:

Not to sell spirits on Sundays or other liquors before 2 p.m. on that day except to travellers and inmates:

Not to sell liquors at unseasonable times except to travellers:

Not to sell to labourers resorting to the house to receive wages or for unlawful combination, or to persons illegally bearing arms:

Not to receive or sell any liquors on which the proper duties have not been paid.

An Act of the same year (55 Geo. III. c. 104.) amended the law as to the grant of licenses in Dublin. Persons applying for a license had to obtain an order from the Lord Mayor, and the consent of a divisional justice in the division in which Dublin Castle

* The duties on licenses ceased by this Act to be stamp duties and become duties of excise.

is. The power of the Lord Mayor to annul a license was taken away and given to the divisional justices of the Castle Division. The same Act gave the Excise power to renew a license on a certificate from two justices residing within seven miles of the applicant, and to issue a new license at any time on the certificate of three justices residing within seven miles, providing that the application had not been previously refused at quarter sessions.

The Act of 1818, the Spirit-Grocers' Act, 58 Geo. III. c. 57, repealed the previous enactments as to grocers, and laid down that any grocer, in any place, might take out a license from the Excise to retail spirits and other liquors for consumption off the premises, on payment of the same duty as innkeepers. The spirit-grocer was further defined by the Revenue Act of 1825 (6 Geo. IV. c. 81) which lays down that a person duly licensed to "deal in or sell coffee, tea, cocoa-nuts, chocolate, or pepper," shall be deemed a grocer, and be allowed to take out the license to retail spirits in any quantity not exceeding two quarts at one time, to be consumed off the premises. No certificate was required.

The Revenue Act of 1825 which we have mentioned, was a great consolidating Act extending to the whole United Kingdom. It lays down the rates of license duties, and provides that no person shall be licensed as a publican, without a previous certificate, to be obtained under the previous licensing Acts.

The Act, though it introduced a through reform in the Excise law, did not touch the law as to certificates, and it is not surprising that a good deal of difficulty existed as to the meaning of the series of licensing statutes, which has been so lavishly passed since the beginning of the century. It seems pretty clear, however, that at this time the powers of the justices to refuse or annul a license, in the absence of any limiting definition, was absolute.

(iii.) 1833—1874.

The Act of 1833 (3 & 4 Will. IV. c. 68) which is the foundation of the Irish licensing law, recites in its preamble that "whereas the laws for granting such certificate or "authority by justices of the peace and magistrates in Ireland have become confused, "doubtful, and complicated, and the requiring the said certificate or authority "imposes great difficulties and hardships on persons applying to be so licensed, &c.," and goes to limit and define the authority of the justices.

They were to have power to refuse new licenses on three grounds, either unsuitability of applicant, or premises, or the number of previously licensed houses in the neighbourhood. Transfers were regulated by the same sections as new licenses, but renewals were to be granted directly by the Excise on the production of a certificate signed by six householders to the good and peacable conduct of the house during the past years. The Act also provides for the entry of constables into licensed premises and for certain offences.

The Act of 1836 (6 & 7 Will. IV. c. 38) added to the certificate of the six householders the certificate of the district inspector, and of two overseers of the parish. There were special overseers for public-houses appointed by the justices; they were to possess the same power as constables. The certificate is not now required.

The Spirit-Grocers' Act of 1845 (8 & 9 Vict. c. 64) re-enacted the law as to spirit-grocers, but provides that justices and constables should have a right of entry at any time when the house is kept open for sale. The Act of 1854, known as the Shebeening Act (17 & 18 Vict. c. 89) amended by two Acts of the following year (18 & 19 Vict. c. 62 & 103) contains a number of provisions against the sale of drink on unlicensed premises, &c. The same Act makes a certificate, signed by two or more justices in petty sessions to the peaceable and orderly manner in which the house has been conducted during the past year, a necessary condition to the renewal of a publican's license. The Act 18 & 19 Vict. c. 62, amended by 23 & 24 Vict. c. 35, gives a right of appeal to quarter sessions against the refusal of such a certificate.

Another Act of 1855 (18 & 19 Vict. c. 114) provides for temporary transfers.

The Act of 1860 (23 & 24 Vict. c. 107) set up the wine-refreshment houses to which allusion will be made later, and also dealt with hours of closing.

The Act of 1864, the Beerhouses (Ireland) Act (27 & 28 Vict. c. 35) amended by the Act of 1871 (34 & 35 Vict. c. 111) provides that for the grant, transfer, and renewal of a license for the sale of beer by retail, not to be consumed on the premises, a certificate signed by two justices at petty sessions is necessary. Objection may be taken to the grant of this certificate by the police, and there is an appeal to quarter sessions both against refusal and grant. The Act also deals with the offences which a licensed beer-retailer may commit.

(iv.) *The Act of* 1872.

The Act of 1872 was originally intended to apply only to England, but by a series of omissions, additions, and modifications, it was afterwards made to apply to Ireland. The result has not been to diminish the confusion of the law.

That part of the Act which applied both to Ireland and England consolidated the law as to illicit sale, offences against public order and legal proceedings; it also dealt with endorsement of convictions, six-day licenses and miscellaneous points such as the disqualification of justices, service of notices, &c. On all these subjects the law is therefore the same as in England.

Under the sections which were added to apply exclusively to Ireland, the spirit-grocers were required to obtain, before their licenses could be renewed, a certificate of two justices to the good character of the applicant, and the peaceable and orderly manner in which the house has been conducted during the past year, and the law as to offences by spirit-grocers, and legal proceedings relating thereto was laid down. The Act also made new provisions as to the hours of closing, but these will be dealt with separately.

(v.) *The Act of* 1874.

The Act of 1874 (37 & 38 Vict. c. 69) applied exclusively to Ireland.

By it spirit-grocers and wholesale beer-dealers were made subject to the same regulations as regards grant, renewal, and transfer as beer-retailers.

The hours of sale in theatres were restricted; the publican's privilege of trading at fairs without an occasional license was taken away, early closing licenses were instituted, and the justices were authorised to grant permanent exemption orders from the hours of closing to publicans for the accommodation of persons attending markets, fairs, &c.

The date of annual licensing sessions was to be fixed by the Lord-Lieutenant by an Order in Council, and the law as to application for publicans' licenses and procedure on renewal was assimilated to the English law.

Other sections dealt with the register of licenses, penalties and endorsement of convictions, entry of constable on premises, detention of drunken persons, the *bonâ fide* traveller, and other minor points.

(vi.) *The Act of* 1877.

The Act of 1877 (40 Vict. c. 4), called Meldon's Act, imposed a qualification of annual rateable value on beer-retailers and wholesale beer-dealers; *i.e.*, 15*l.* in cities, &c., with a population exceeding 10,000, and 8*l.* elsewhere.

The Act applied to all existing premises, and it also gave the police a power of entry into wholesale beer-dealers' premises, at any hours during which they are kept open for sale.

(vii.) *The Act of* 1882.

The Act of 1882 (45 and 46 Vict. c. 34) was originally intended to apply only to England, but by an amendment it was made to apply to Ireland. It gave the justices free and unqualified discretion to refuse grant, renewal, or transfer of beer-retailers' off-licenses, and also laid down that they were to be granted only at annual licensing sessions.

(viii.) *The Act of* 1886.

The Act of 1886 (49 & 50 Vict. c. 56), preventing sale of intoxicating liquor to children under 13 for consumption on the premises applies to Ireland as well as England.

(ix.) *Hours of Closing and the Act of* 1878.

By the Licensing Act of 1833, all houses licensed for consumption on the premises were required to be closed on Sunday, Good Friday, Christmas Day, or any day appointed for a public fast or thanksgiving, except between the hours of 2 p.m. and 11 p.m.

By the Act of 1872, section 78, the hour of closing on these days was fixed at 9 p.m. in any city or town exceeding 5,000 population, and elsewhere at 7 p.m.

The Sunday Closing Act of 1878 (41 and 42 Vict. c. 72) imposed complete Sunday closing upon the whole of Ireland, except the Dublin Metropolitan Police District, and the cities of Belfast, Cork, Limerick, and Waterford. The hours of closing on Good Friday, Christmas Day, &c., were left untouched by the Act. In the five exempted cities the hour of closing on Sundays was fixed at 7 p.m. instead of 9 p.m.

Beer-retailers' licensed premises were brought under the same closing regulations as "on" licensed premises by the Act of 1864, and from 1872 onwards these regulations apply to all licensed premises.

By the Act of 1860 (23 & 24 Vict. c. 107.) all houses licensed for consumption on the premises were allowed to be opened on week days between the hours of 7 a.m. and 11 p.m. By the Act of 1872 the evening hour of closing was changed to 10 p.m. instead of 11 p.m. everywhere except in cities and towns with a population exceeding 5,000.

2. Fluctuations in the Number of Licenses.

It does not appear that legislation since 1833 has had much effect on the number of licensed premises, but especially in the case of public-houses some very remarkable fluctuations in number have taken place. In 1832 they numbered 18,234; in 1833, 20,629; in that year a Licensing Act was passed, and in the next year the numbers fell to 19,435. The decrease, however, was only temporary, and by 1838 the number had reached 21,326.

See Vol. I., Appendix I.

The figures for this and the following years are so remarkable that they deserve to be recorded.

Year.	Public-houses.	Year.	Public-houses.
1838	21,326	1842	13,063
1839	20,303	1843	13,018
1840	16,109	1844	13,514
1841	14,162		

There is no legislation in this period which can account for this tremendous decrease. There can be little doubt that it is due entirely to the extraordinary effect produced by the efforts of the apostle of temperance, Father Mathew. The years 1839 to 1845 were the years of his great success. During that period the consumption of spirits diminished to an almost incredible extent, and in parts of Ireland crime became almost unknown. Unfortunately the years of the great famine immediately followed. The population fell rapidly through emigration, and amongst those who remained a great deal of drinking went on, partly through the natural reaction following on the great enthusiasm, partly from despair. The lavish granting of licenses went on as before, and by 1858 the number of public-houses had sprung up to over 17,000, in spite of the great decrease of population.

In 1865 the number had again fallen to 15,404, but from that time the number has been steadily increasing. The Acts of 1872–4 had little or no effect as measured by the number of public-houses. In 1882 they numbered 16,531, and since then, in spite of a decrease in Dublin and Belfast, the total has increased to 17,300 in 1896.

Spirit-grocers' licenses in 1833 numbered 141. By 1845 they reached 542, but apparently in consequence of the Spirit-Grocers' Act of that year they fell in the next year to 190, and in 1847 to 146. In 1864 their total was 241, but 10 years later it was 787. Meldon's Act in 1877, though it only affected them indirectly, by imposing a rating qualification on the beer-retailers' licenses, which are generally held in conjunction with the spirit-grocers', reduced their numbers considerably. In 1884 they numbered 482, but since then they have largely increased, chiefly in Dublin and Belfast, and in 1896 they numbered 768.

The beer-retailers' licenses were introduced by an Act of 1863 (26 & 27 Vict. c. 33.). In 1864, 355 of these licenses were taken out, and by 1872 they had increased to 1,248. In 1873 they fell to 939, and, partly in consequence of the legislation of 1872–4, they fell to 714 in 1877. Meldon's Act of that year, already mentioned, had the effect of reducing them at one blow to 412. Since then their numbers have increased, in spite of the Act of 1882 giving the justices free and unqualified discretion to refuse a new grant, renewal, or transfer. Most of the people who formerly held the beer-retailers' license now hold the beer and wine retailers' off-license, which was invented by the

Revenue Act of 1880 (43 & 44 Vict. c. 20.). For some reason this license was not generally taken advantage of till 1889, as may be seen from the following figures;—

Year.	Beer Retailers.	Beer and Wine Retailers.
1888 - - -	430	141
1889 - - - -	186	409

The numbers in 1896 were beer-retailers 103, beer and wine retailers 658.
In 1896 the total number of licensed premises in Ireland was 18,751, viz.:— Vol. III., Appendix II., p. 569.

Publicans (spirit retailers "on") - - -	17,300
Beer-retailers "on" - - - -	57
Beer and wine retailers "on" - - -	16
Wine and sweets retailers "on" - - -	29
"Off" licenses - - - - -	1,349
Total - - - - -	18,751

CHAPTER III.

OUTLINES OF THE PRESENT LAW.

The wholesale licenses are the same in Ireland as in England; but the wholesale beer-dealers' license is only granted on the production of a justices' certificate.

On retail licenses are the beer, the beer and wine, and the spirit licenses which are granted on the production of a public-house certificate, the wine refreshment-house license, to whose grant the justices have a power of objection, and the sweets license which does not require a certificate of any kind.

Off retail licenses are the spirit-grocers' license, the beer-retailers', and the beer and wine, which require a certificate, and the wine and the spirit dealers' additional license to retail foreign liqueurs, which do not. Only two of these liqueur licenses are taken out in Ireland; while the table beer license, though nominally extending to Ireland, is not taken out at all. Licensing authority is divided between the quarter sessions and the petty sessions. Public-house licenses are granted and transferred at quarter sessions; they are renewed, and all other justices' licenses are granted, renewed and transferred at petty sessions.

In all counties or counties of cities or towns, except Dublin, Belfast, Cork, Londonderry, and Galway, the licensing jurisdiction of quarter sessions is exercised by the justices assembled, presided over by the county court judge, but in the five places named by the recorder sitting alone.

The licensing jurisdiction of petty sessions is exercised by two or more justices assembled, except in Dublin, where it is exercised by one divisional justice.

The law as to the disqualification of justices is the same as in England.

The Lord Lieutenant has the power to fix annual licensing quarter sessions and petty sessions, and, by an Order in Council, Michaelmas quarter sessions and the last petty sessions in September are so fixed, except in Carrickfergus, where the annual licensing sessions are the July quarter sessions and the last petty sessions in June.

Certificates (commonly called licenses), to endure for a year, can only be granted at these sessions; but at interim quarter sessions or petty sessions, new licenses or transfers may be granted to endure till the next annual licensing sessions, when they must be confirmed. Beer retailers' licenses, however, can only be granted at annual sessions.

Public-house licenses are granted for the first time at quarter sessions; they may be refused on three grounds.

(i.) Unfitness of applicant,
(ii.) Unfitness of premises.
(iii.) Number of previously-licensed houses in the neighbourhood.

The applicant must give 21 days' notice to (*a*) each of the next two local magistrates, (*b*) the clerk of the peace, and (*c*) the police, and he must advertise the notice in some local newspaper. The clerk of the peace must send a list of applications to every local magistrate and clerks of petty sessions in the county.

Any justice or inhabitant of the parish, or the police, may object to the grant; and no notice of objection is required. There is no appeal against the grant or refusal of a new license, nor is any confirmation required in the English sense.

Transfers of public-house licenses are granted at any quarter sessions; the procedure and formalities are the same as in the case of a new license; but objection can only be made on the ground of the unfitness of the applicant or of the premises.

A temporary transfer or interim authority to sell may be granted at petty sessions to endure till the quarter sessions next after the expiration of one calendar month. In case of the license-holder being convicted of one of those offences which forfeit the license at the first conviction, the owner may obtain a temporary authority to sell till the next quarter sessions.

Public-house licenses are renewed on the production of certificates to the good character of the applicant and the peaceable and orderly manner in which the house has been conducted during the past year, one signed by two or more justices at petty sessions, and another signed by six householders, two being resident in the same or next adjoining townland or street.

Objections may be taken by the same persons as in the case of new licenses on the ground that one of the above conditions has not been fulfilled, and two days' notice of objection to the grant of the justices' certificate must be given to the applicant.

No notice of application is needed. The applicant need not attend, unless specially required, and all evidence must be on oath. If objection is raised without notice, the application must be adjourned.

There is an appeal to quarter sessions against the refusal to grant the renewal certificate.

New spirit-grocers' and wholesale beer-dealer's licenses are granted at petty sessions. The police only may object on the grounds of the character of the applicant or the unsuitability of the premises for purposes of sale. Twenty-one days' notice of application must be given. The same rules apply to transfers of these licenses, but objection may be taken on the grounds that the applicant is not of good character, or that the houses has not been well conducted. Temporary transfers may be granted to the owner of the premises in case of forfeiture of the license on conviction for one of those offences, which forfeit it on a first conviction, to endure until the next petty sessions.

The justices' certificates for the renewal of these licenses are granted at petty sessions. They must testify to the good character of the applicant, and the good conduct of the house during the past year.

Beer-retailers' licenses are on the same footing, except that the justices have free and unqualified discretion to refuse a new grant, transfer, or renewal.

Both grant and refusal of a new license, renewal or transfer, are subject to an appeal to quarter sessions in the case of all these three licenses.

No qualification of annual value is required for a public-house or a spirit-grocer, but beer-retailers' and wholesale beer-dealers' licenses can only be granted to premises of an annual value of 15*l.* in cities, &c., with more than 10,000 population, or 8*l.* elsewhere.

Any person keeping a refreshment-house (which requires an excise license, if kept open between 10 p.m. and 7 a.m. in a place of over 10,000 inhabitants), and who wishes to sell foreign wines for consumption on the premises, can make application to the Excise for a license which must be issued, unless an objection is forwarded within 30 days, signed by a justice or justices in petty sessions. Objection may be taken in a similar manner to renewal and transfer of the license, and there is an appeal in all cases to quarter sessions. The objection must be on one of eight specified grounds. The Acts of 1872–4 do not apply to these licenses, except in respect of hours of closing, and separate enactments as to offences, &c., are contained in the Act of 1860.

A register of licenses has to be kept by the clerk of petty sessions to record all matters relating to the licenses, and a similar register of public-house licenses has to be kept by the clerk of the peace.

The law as to sale to children is the same as in England, viz., no child under 16 may be served with spirits, and no child under 13 with any other intoxicating liquor for its own consumption on the premises.

Sale on passenger boats is regulated by the same law as in England.

No justices' license is required for the sale of intoxicants in theatres established under Royal patent, but the Excise license is only granted on condition that the place of sale is within the theatre, and accessible only to persons employed in or *bonâ fide* attending the performances, and that the sale be conducted only during the performances and for 30 minutes before or after.

The hours of closing (applicable to all licensed premises, except wholesale beer-dealers), are as follows :—

A.—*On Sundays.*

Licensed premises are closed all day except in the Dublin Metropolitan Police District, Belfast, Cork, Waterford, and Limerick, where they are open from 2 p.m. to 7 p.m.

B.—*On Christmas Day, Good Friday, or any other day appointed for a Public Fast or Thanksgiving.*

Licensed premises are closed—

(*a.*) In cities and towns where the population is over 5,000, except from 2 p.m. to 9 p.m.

(*b.*) In other places except from 2 p.m. to 7 p.m.

C.—*On other Days.*

Licensed premises are closed—

(*a.*) In cities and towns where the population is over 5,000, from 11 p.m. to 7 a.m.

(*b.*) Elsewhere from 10 p.m. to 7 a.m.

The same exception is made as in England in favour of the *bonâ fide* traveller.

Permanent exemption orders, except between 1 and 2 a.m., are granted by the local authority, *i.e.*, the Chief Commissioner of Police in Dublin and two or more justices in petty sessions elsewhere. There are no extensions.

Authorities for occasional licenses are granted by one justice sitting anywhere, as in England.

The law as to offences by licensed persons and by the public under the Licensing Acts is somewhat complicated. It is, however, generally the same as in England, and we shall deal with some of the points more particularly at a later stage.

CHAPTER IV.

CODIFICATION OF THE PRESENT LAW.

We are strongly of opinion that the Irish Licensing Laws should be codified and simplified in the same way that we have already recommended with regard to England and Scotland.

CHAPTER V.

THE EXCESSIVE NUMBER OF LICENSED HOUSES IN IRELAND.

A large body of evidence was laid before us illustrating the great congestion of public-houses, and the number throughout all Ireland is beyond all question excessive and utterly out of proportion to the necessities of the inhabitants. It should be observed that almost all the licensed houses in Ireland are public-houses. These number 17,000 out of a total of about 18,000. Except in Belfast, Dublin, and Cork, off-licenses are rare. It is obvious that a large reduction in the number of licensed houses is in the highest degree desirable, the call for such action being indeed more

urgent than in either England or Scotland. We do not propose here to examine at length the reasons which have led to the present excess of licenses where it most notably exists, but in relation to this question it must not be forgotten that some part of the increased disproportion can fairly be attributed to the decrease of population.

CHAPTER VI.

CONDITION OF THE LICENSED HOUSES.

No qualification value for public-houses exists at present, and we are agreed that it is necessary, and that a rating qualification should be required. We are of opinion that an annual proportional qualification should be required in town respectively over 10,000 population, in towns over 5,000, and also in villages and other places below 5,000. This should apply in the case of newly-licensed houses, but a period of three years should be given to existing public-houses in which their value may be brought up to a standard, in accordance with the character and requirements of the locality.

COMBINATION OF TRADES AND STRUCTURE OF PREMISES.

It must be remembered that if the recommendations of this Report are adopted, the new Licensing Authority will have full power over all licenses, both in the direction of refusal in bad cases, and of imposing conditions.

Where practicable, we think that the Licensing Authority should direct a substantial partition to be erected to separate the two departments, and no internal communication should be allowed between the licensed part of the premises and any other portion of the dwelling-house or shop, or with any backyards, and no other business should be conducted in the portion licensed for the sale of drink; no person should be permitted to reside in the licensed portion of the premises, and a period of three years should be given to existing public-houses to effect the necessary alterations.

Except in cases of absolute necessity, post-offices ought not to be located in licensed premises, and the general principle should be laid down that public-houses are not to be used for payment of wages or for engaging workmen, or in similar ways—*e.g.*, as rate collectors' offices or as agencies for distributing tickets for poor law relief.

THE TIED-HOUSE SYSTEM.

This system is exceptional in Ireland owing to the ease with which licenses have been obtained in the past. It needs no special consideration here except that agreements should be subject to the same supervision by the Licensing Authority as we have indicated in regard to England.

CHAPTER VII.

ADMINISTRATION BY THE LICENSING AUTHORITY.

Grant of New Licenses, &c.

We recommend that the details of the law, which, as it stands, is antiquated and perplexing, should be assimilated to the proposals which we have made for the improvement of the licensing law in England, and especially that the granting of new licenses at the intermediate sessions should be forbidden.

While agreeing that all licenses should come under the same jurisdiction, and that the Licensing Authority should have full discretion to grant or refuse a renewal or a transfer, it is important to remember the existing state of the law in Ireland, that there is only a limited discretion, and that on this basis vested interests have been created.

Licenses should not be granted to wives of police officers.

TRANSFERS.

We are of opinion that the law as to transfers should be assimilated to the English law.

TEMPORARY TRANSFERS.

Temporary transfers are at present dealt with by the magistrates sitting at petty sessions, subject to confirmation at quarter sessions. We recommend that as at present notice should continue to be required, and that all transfers should be dealt with as we have indicated in Part I. (England).

OCCASIONAL LICENSES AND TRIAL OF OFFENCES.

Occasional licenses should only be granted in open court, after due notice to the police, and prosecutions of license-holders should only be tried by resident magistrates or stipendiaries. A resident magistrate should be in the same position as a stipendiary.

RECONSTITUTION OF THE LICENSING AUTHORITY.

The justices cannot be exonerated from the charge of great laxity in the administration of the licensing laws in many parts of Ireland. The canvassing of justices, which appears customary, cannot be too strongly condemned, and it is difficult to understand how men of honour can have submitted to it. It must not be supposed that all are guilty of this weakness. Owing to the fact that the licensing area is co-terminous with the county, a large number of justices are at present entitled to attend the licensing sessions.

We approve of the proposal to associate the county court judge with the resident magistrates of the county sitting at all licensing sessions in the county, and with two justices resident within each quarter sessional division, to be selected by the general body of the justices of the county assembled, at the stated quarter sessions for Crown business for the county, and to give them full authority over all kinds of licenses. In the five towns the recorder should be left as the sole Licensing Authority.

COURT OF APPEAL.

We are of opinion that, if the statutory right of renewal is abolished, an appeal to a higher court in the case of a refusal to renew, or transfer, is required. If the limited discretion as established by the existing law were to be recognised in the future, no appeal might be required, but inasmuch as a full magisterial discretion over all licenses is now recommended, a court of appeal becomes a necessity.

We recommend that an appeal court should be constituted for each of the four provinces, and should consist in each case of the county court judges of that province.

CHAPTER VIII.

THE DIFFERENT KINDS OF LICENSES.

" (i.) " *On" Licenses, &c.*

We agree that the same need is felt in Ireland as in England for a separate hotel license, and we recommend that the Licensing Authority should have the power to impose statutory conditions. We consider that the wine-refreshment license should be placed under the same regulations as the publican's license, and that all other houses in which any kind of intoxicants is sold for consumption, whether " on " or " off " the premises, should require certificates from the Licensing Authority, except in the case of brewers, distillers, wine and spirit merchants, and blenders.

(ii.) *"Off" Licenses.*

We do not recommend that the spirit-grocer's license should be abolished. The spirit-grocer's license is peculiar to Ireland, and is entirely distinct from the "off" license under which the trade for consumption off the premises is carried on by all traders in England, whether wine and spirit merchants solely, or trading in connexion with the sale of groceries and other goods. According to a return furnished to us by the authorities at Somerset House, out of the total number of 20,131 licenses in Ireland, there are 768 spirit-grocer's licenses.

It is desirable that the conditions under which this class of license is held should be altered so as to bring them under more complete control, and to do away with those houses which, according to some witnesses, are little better than dram shops. On the above grounds we would suggest certain alterations which, in our opinion, would do away with the objections. These alterations may be summarised as follows:—

(*a.*) Place the spirit-grocer's license under the complete control of the Licensing Authority, and subject it in all respects to the ordinary licensing law.

(*b.*) Limit the sale in "off" licensed premises to closed vessels, and to a certain minimum quantity. On this latter point it should be borne in mind that the law in Ireland has always allowed sale of a smaller quantity than in England.

(*c.*) Extend the spirit dealer's additional retail license, as granted in England, to Ireland, and thus do away with the temptation to an evasion of the law, which, according to the police, now exists, and which they are almost powerless to check.

(*d.*) Make the qualification for future spirit-grocer's licenses the same as that for public-houses (as already proposed). The same period should be given to existing licenses to conform to these valuations, as in the case of public-houses.

Under these four recommendations, temptations to drinking on the premises would be removed; the trade would be in the hands of a responsible and respectable body of traders; and the public, accustomed to obtain their supplies for home consumption through this channel, would not be put to the inconvenience which the abolition of this license would entail.

CHAPTER IX.

SALE TO CHILDREN.

In our opinion it is desirable that children under the age of 16 should not be served with intoxicating liquor for consumption by themselves or other persons either "on" or "off" the premises, and that the law should thus be assimilated to that which we recommend for England. The same remark, however, which we have already made with regard to England applies here, namely, that great caution should be used in not hastily legislating in advance of what public opinion would sanction.

CHAPTER X.

QUALITY OF LIQUOR AND ADULTERATION.

Certain statements have been made to the effect that adulteration of whisky is practised, but the evidence to this effect was somewhat indefinite, and was not supplemented by proofs which satisfied us.

CHAPTER XI.

HOURS OF CLOSING.

Local public opinion does not justify us in recommending that complete Sunday closing should be extended to the five exempted cities at present. On the other hand,

it is a matter of common knowledge that successive Irish Secretaries have favoured such extension, and we think that there might be some further restriction of hours as we have proposed for England.

As regards the question of early closing on Saturdays, we are of opinion that the hour of closing should be 9 p.m.

On week days the hour of opening should not be before 8 a.m.

With respect to the *bonâ fide* traveller, we hold that he should be defined as a person who has travelled at least six miles, and that he should only be served at houses selected for the purpose.

We recommend that in cases of new licenses entire Sunday closing should be one of the statutory conditions which may be imposed by the Licensing Authority.

CHAPTER XII.

ADMINISTRATION BY THE POLICE.

The Royal Irish Constabulary have generally administered the law with zeal and judgment. District inspectors and head constables should have the power to prosecute at quarter sessions. The same rule as that which we have recommended in England, as to serving constables in uniform, should be enforced.

1. Record of Offences.

The same recommendation which we have made as regards England, should apply in Ireland—namely, that all convictions for offences should be recorded.

2. Illicit Sale.

We agree that the Scotch Act of 1862, so far as it relates to illicit sales, should apply to Ireland, and that keeping liquor for sale without a license should be an offence under the Act of 1872.

3. Offences connected with Drunkenness.

We think that the power of summary arrest for simple drunkenness should be more clearly defined, and we attach importance to the arguments put forward in his evidence by Mr. Daly, chief clerk of the Dublin Metropolitan Police Court, to the effect that the penalties imposed on repeated and habitual drunkards are inadequate and ineffective, and generally, on the lines advocated by him, we recommend the following changes in the law :—

(1.) Increased penalties for offences by habitual drunkards.

(2.) Detention instead of a fine after a certain number of convictions.

We also call attention to our recommendations as to habitual drunkards in Part I.

4. Form of the Licenses, etc.

As suggested by Sir A. Reed, we recommend that the form of the license should be similar to that in Scotland, and set forth the prohibitions or offences under the licensing laws, and that a table of the legal provisions should be exhibited in all licensed premises, in a conspicuous position.

CHAPTER XIII.

ILLICIT DISTILLATION.

The offence of illicit distillation appears to us to be on the decrease, and does not call for any special recommendation. The police appear to be sufficiently alert.

PART IV.

CLUBS.

A large amount of evidence has been heard by us on the subject of Clubs. It is difficult to draw the line between a club which is a perfectly legitimate social institution and one in which the sale and purchase of drink is the leading incentive, nor can the various motives which actuate those who become members of these clubs be gauged—*e.g.*, a club established for a political purpose may degenerate owing to the freedom from restraint, and there are many complaints of such clubs.

The essential difference between a club and a licensed house must be borne in mind. A club is a private institution, and necessarily enjoys a liberty in many matters which is not permitted to licensed houses. It is certain that working men would resent restrictions on their own clubs which are not imposed on those frequented by the upper classes.

Evidence has been given before us that excessive limitation of the number of licensed houses, or undue restrictions on their public use, leads to the substitution of clubs which, even when conducted under every guarantee, may be productive of mischief. Some of these establishments have been described as nuisances to the police and a growing danger to society. Management by those who are responsible neither to the members of the club nor to any constituted authority is frequently bad. In many clubs rules are non-existent and membership a farce, any person being able with the minimum of trouble to obtain drink.

The most practical recommendations that we can make are :—

(1.) That all clubs in which intoxicants are supplied should be registered.

(2.) That the onus of proving *bona fides* should be placed on the club applying for registration.

(3.) That no club should be registered unless the club property be vested in all the members of the club or in trustees, and unless no individual member is interested directly in the sale of exciseable liquor on the club premises.

(4.) That the registering authority should examine the rules, and satisfy itself that the club is not formed solely for the purpose of the sale and consumption of intoxicating liquors, and that some check is placed on the election of members, the privileges of honorary membership, and on the introduction of friends by members.

(5.) That the sale of intoxicating liquor for consumption off the premises be strictly prohibited.

(6.) That no person under eighteen years of age be admitted as a member of a club in which intoxicants are sold.

We are of opinion that the authority to grant certificates to clubs should be the stipendiary magistrates in towns and cities where they exist, and in other localities a court of petty sessions consisting of not less than three justices.

There is a diversity of opinion as to whether the present powers of entry by warrant possessed by the police are sufficient. Should it be deemed advisable to strengthen these powers, in the opinion of the secretary of the Working Men's Club and Institute Union there would be no objection to the right of entry being given to a police officer not below the rank of a superintendent, whom the chief officer of police shall appoint in writing for that purpose.

While we believe that these regulations would mitigate the grosser evils of clubs and shebeens, it is impossible to legislate for the suppression of clubs or even to impede their increase. The greatest care is required lest an impetus be inadvertently given to undesirable institutions that would spring into existence merely for the purpose of distributing drink, while on the other hand, undue interference, or vexatious restrictions upon the many legitimate institutions that exist, would provoke resentment and defeat their own ends.

PART V.

GENERAL.

We have thus completed the survey of the licensing system, and indicated those amendments which, in our opinion, are necessary to render it effective, and we have dealt with the question of clubs. We come now to the concluding portion of our subject, the schemes for a reduction of the number of licensed houses and compensation, and the question of popular control in the direction of regulation or prohibition, or local management.

CHAPTER I.

REDUCTION OF LICENSES AND COMPENSATION.

As we have shown in Part I., Chapter 4, the evidence as to the direct connexion of drunkenness with the proportion of licensed houses is conflicting. Indeed, it may be said that such a connexion can hardly be proved by statistics.

At the same time it cannot be denied that in numerous districts throughout the country, if not universally, owing to the past laxity of administration by the licensing authority, or in some cases to diminution of the population, and especially to the unlimited increase of beershops from 1830 to 1869, over which increase the licensing authority could exercise no discretion, there is at the present time a very considerable congestion of licenses. We therefore regard a large suppression of them as essential. It is not certain that this would result in much diminution of the consumption of liquor, but it is necessary for the due control of the remainder by the police, and because the character of the premises and the status of the publican would thereby be improved.

(i.) *Areas for Reduction and Compensation.*

We propose that the areas for the reduction of licenses should be in England and Ireland the counties and county boroughs. In Scotland, as far as possible, similar areas. It is obvious that circumstances vary widely with regard to congestion. We do not therefore recommend that any fixed proportion of licenses to population should be aimed at. Where the population is thin and scattered, a larger proportion is necessary than where it is dense. Even in great cities, neighbourhoods inhabited by the rich, who have their own sources of supply, require fewer public-houses than districts inhabited by working men, and a fixed proportion would be either too great for the one or too small for the other.

Many areas or towns are subject to large incursions of people on certain days, or at certain times of the year. The most conspicuous example is, perhaps, the City of London with its immense day population. These varying needs point to the necessity for some county authority to examine the conditions prevailing throughout the area, and to allocate the compensation fund, to which we shall refer presently.

(ii.) *The Authority to allot Reduction.*

The Standing Joint Committee for each county, and a similar body in each county borough, would be suitable authorities to decide what reduction is required in each licensing area, or any portions of it, while the licensing authority in each area would decide how that reduction should be distributed within such area.

The committees would take evidence from the police and the licensing authorities as to the degree of congestion of each division, while the local knowledge of the licensing authorities could be trusted to apply the reduction, within the limits assigned to them, according to the varying needs of the different portions of their divisions.

Some safeguard, however, appears to be required against the danger of the committees, from *vis inertiæ* or other causes, failing to reduce (or adequately to reduce) the number of licenses, and we suggest that they should be required to

report to the Secretary of State the reasons for their action or inaction, and such reports should be laid before Parliament.

(iii.) *Compensation.*

We proceed to set down the arguments for and against the contention of the owners of licensed property that for a license suppressed for reasons other than misconduct they are entitled to receive the difference in the value of the premises licensed and unlicensed. Among the witnesses who have dealt most completely with this question we may cite Mr. Pope, Q.C., representing the United Kingdom Alliance, and Mr. Stafford Howard, representing the C.E.T.S., both of whom opposed the contention; and on, the other side, Sir H. Poland, Q.C., Mr. G. C. Whiteley, and also witnesses representing the trade.

(iv.) *Reasons against Compensation.*

That whatever the practice may have been, the trade were well aware that there was no security of tenure in a license which is granted for one year only and no longer, and that even if a contrary belief formerly prevailed, it was swept away once for all by the decision in "Sharp *v.* Wakefield."

That "Sharp *v.* Wakefield" is a sufficient answer to any arguments based on the differences of procedure with regard to renewals as compared with new grants.

That there is by law no property in a license. It cannot be bequeathed. Even when a licensed holder dies or becomes bankrupt it does not vest in his legal personal representatives or trustees in bankruptcy, but has to be formally transferred to them.

That no analogy exists with regard to the practice under the Lands Clauses Consolidation Act where the house is taken bodily and not merely the license, and the public body acquiring it has none of the powers of suppression inherent in the licensing authority.

That the Inland Revenue in taking market value as the basis of calculation for the purpose of the death duties, gives no guarantee of the correctness or permanence of that valuation.

That no compensation is now given for a license refused renewal under the existing law on the sole grounds of not being required and the same rule should hold good, even were a wholesale withdrawal of licenses carried out, since their only claim to existence is that they are wanted by the public.

That in so far as the ante-1869 "on" beerhouses hold a better position than the "full" licenses, this is merely an anomaly which ought to be abolished, while the time for which it has existed only strengthens the case against their receiving compensation; and, further, the precedent of 1882 should govern on this point.

(v.) *Reasons in Favour of Compensation.*

It is submitted that the expectation of renewal has for a long series of years amounted to practical certainty in the absence of misconduct—the licenses refused by the justices because they are not required being an extremely small fraction of the whole number. The licenses have consequently acquired an actual and well recognised market value, and many, if not the majority, of the present owners have purchased their licensed houses at prices very largely in excess of the value of the houses themselves without a license.

That when licensed property is compulsorily taken for public improvements, the licensee receives the full market value of his license, goodwill, and premises, with an added ten per cent. for compulsory purchase; the owner, even when his reversion is remote, also receiving, as in the case of the goodwill of any other business, the market value of his interest. ("Belton *v.* The London County Council"; 62 L.J., Q.B., 222.)

That the probability of renewal, which is the basis of the market value of public-houses, has not only been incidentally recognised by public opinion, but is also implied in definite enactments of Parliament, and by the practice of public departments—*e.g.*, the death duties are levied on the full market value.

That as regards the statutory recognition of regular renewal in the absence of misconduct, a renewal has been carefully placed by the Legislature in a different position from a new grant. For example, in the case of an objection to a renewal, all evidence must be given on oath; and if the license is refused, there is an appeal to Quarter Sessions. The license-holder has not to give any notice of his intention

to apply for a renewal, and, in the absence of a requisition from the justices, is not obliged to attend in person to apply. If an objection is to be made, notice must be given to the licensee, and, while in the case of a new license the applicant has to make out his case, as regards a renewal, the onus lies on the objector to establish his contention that the license should not be renewed.

That the rights of the owner are clearly recognised by the Legislature and specifically provided for in the Act of 1872. In the event of a renewal being refused, he has the right to appeal as a party aggrieved. Section 56 of the same Act provides for the protection of the interests of the owners of licensed premises in cases of offences committed by tenants.

That in the common instance of a provisional grant of a license on plans submitted to the justices, it cannot have been intended that large sums of money should be expended on buildings specially adapted to licensed premises, if the license was likely to be capriciously withheld or terminated, after the justices, both at general annual licensing meetings and in confirming committees, had determined that it was required in the public interest, and in many cases insisted on structural alterations, with a view of still further adapting the premises for use as a licensed house.

That the practice of the licensing authorities has pointed to the expectation on their part that they, or their successors, would renew. Thus many benches have been in the habit, particularly in recent years, of granting a new license only on the surrender of one, two, or more existing licenses: such a sacrifice, by the applicant, clearly implying on his part, and on the part of the justices, the expectation of renewal in default of misconduct.

That the decision in "Sharpe *v.* Wakefield," while affirming the full discretion of the justices on the consideration of renewals (subject to the fulfilment of the statutory requirements already alluded to, and excepting certain classes of licenses) must be judged in the light of the statements contained in the judgment of the Lord Chancellor that the discretion must be judicial, "according to law and not humour"; that the justices should fairly decide questions submitted to them, "and not by evasion attempt to repeal the law which permits public-houses to exist"; and that in respect to a renewal they should remember that an existing license had been granted the year before, and hence on previous occasions had been considered necessary.

That arguments against compensation based on the "Sharp *v.* Wakefield" decision are misleading, since a similar claim to destroy existing licenses without giving value is put forward with regard to the case of the ante-1869 beerhouses, where the legal title to renewal (save where one of the four statutory grounds has been infringed) is admitted.

That the ante-1869 licenses have, as stated above, a vested legal right to renewal, and, in addition, the stress laid on "Sharp *v.* Wakefield" is evidence of the importance of this right. The precedent of the Acts of 1880 and 1882, which is advanced against compensation for interference with the protection, is not exact. The "off" licenses then dealt with had no monopoly value, and no one would buy in the open market what he could get for nothing.

That, moreover, the precedents of 1840 and 1870 show that the Legislature had due regard for existing rights.

(vi.) *Conclusion.*

Without attempting to weigh too nicely the whole of these arguments, we desire to express—in the case of suppression of licensed houses under the proposed scheme—our general adhesion to the principle of compensation equivalent to the fair intrinsic selling value of the license and goodwill, apart from the extreme inflation of prices caused, in some cases, by excessive competition. And this we do on the general ground of justice and expediency, and we desire to lay especial emphasis on the following considerations:—

a. To suppress a proportion of the licenses without compensation, or for a fractional compensation, is to inflict very material loss on one set of licensees, arbitrarily selected, and to benefit the remainder by the elimination of their rivals. It is difficult to believe that any such measure would receive the assent of Parliament, or, if it did, that a licensing authority could be found willingly to undertake the invidious duty of selection.

b. We express no opinion, in this place, on the question of municipal management, but it seems clear that, if adopted, it should be adopted on grounds of public policy, and not on account of temptations held out to public bodies to make a great pecuniary profit. On whatever terms the licenses are to be suppressed, on those terms would the municipalities claim to take over these valuable monopolies, if Parliament would grant them the privilege; and it appears to us certain that if no compensation is allowed, or only a very fractional compensation, an agitation would presently arise in favour of this concession, because the prospect of a large rate of profit would be obvious and certain. To give a concrete case, if a public-house worth 10,000*l.* has paid the owner and tenant, between them, eight per cent. on their investment, and the municipality were allowed to acquire the premises for 4,000*l.*, they would reasonably expect to make 20 per cent. on their investment. The temptation would, in our opinion, prove irresistible, and would quite override the reasons of public policy which should govern this question.

CHAPTER II.

COMPENSATION.

(i.) *Declaratory Value.*

We have come to the conclusion that, if compensation is to be paid, it must be raised from the trade itself. We now proceed to describe the machinery by which we propose to ascertain the true and fair value of all licensed houses, whether for the purpose of suppression, or taxation for the provision of a compensation fund. Several of the proposed Bills explained to us contained a provision for a declaratory value by the licensee, which might be taken as a basis for compensation if suppressed, or taxation if it survive, thus compelling the owner of a license to consider either contingency. This principle we adopt, and suggest that every owner and occupier of licensed premises should be required jointly to declare the separate value of the premises, and also of the license and goodwill attached to them. It may be objected that the owner who expected his license to be suppressed would value high, and *vice versâ*, and this is a real danger, but might be provided against by the following check: the licensing authority might have the option of taking the declaratory value, or, if they were dissatisfied with it, of resorting to the machinery of the Lands Clauses Consolidation Act.

(ii.) *Surrender System.*

However open to objection, or however imperfect, this system may have been, it should be remembered that it is the only method which the law has hitherto allowed of exacting any *quid pro quo* for the immense boon often conferred on a private individual or company by the grant of a new license in a growing neighbourhood. Further on we make proposals for what appears to us a far more satisfactory method of attaining this object, and should that, or some similar plan, be adopted by the Legislature, the surrender system would die a natural death. An artificial value has temporarily accrued to many low class houses, owning to their suitability for surrender purposes. These are the very ones which would be the most likely to disappear under our proposals. It should, therefore, be made clear that in valuing them no account is to be taken of such past and temporary value, which will by that time have ceased to exist together with the system that gave rise to it.

(iii.) *Off Licenses.*

The scheme, to be described presently, includes in the scope of its operation all retail licenses, *i.e.*, "off" as well as "on" as contributories to the compensation fund, and as liable to suppression under this scheme. This appears to be both desirable in itself and necessary to the satisfactory working of the reduction proposals. In Part I. of the report are included recommendations to the effect that (*a*) the licensing

authority should have full control and discretion with regard to all "off" wine and spirit retail licenses, all distinction of jurisdiction between them and "on" licenses being abolished; (*b*) that all new licenses should require confirmation (Report, Part I. These recommendations would tend towards giving a monopoly value to the "off" licenses affected which they did not previously possess, and it is, therefore, not unreasonable that they should be made chargeable. Chaps. II. and VII.

(iv.) *The Compensation Fund.*

The proposals laid before us for raising this fund may be summed up in the four following headings:—

1. Taxation upon liquor.
2. Taxation on the basis of rateable value.
3. Taxation on the basis of annual profits as ascertained by returns for income tax.
4. Taxation upon the basis of the declared value.

First.—Taxation upon liquor.

Among other considerations, those of Imperial finance compel us to disregard this source.

Second.—Taxation on the basis of rateable value.

A little consideration of the way in which licensed premises are assessed will show that this is wholly inadmissible. While the fact that a house is licensed may be considered to some extent in the assessment, it is tolerably certain that goodwill cannot be considered at all. But the license and the goodwill are the things for which compensation would be given—not the building, which the owner would retain. We, therefore, regard rateable value as altogether beside the mark as a basis for compensation, and it cannot, according to our scheme, be entertained as a basis of the taxation from which the compensation fund would mainly be drawn.

Third.—The income tax basis.

There are two objections to this. First, it would be a somewhat inquisitorial process, and, secondly, it would not take into account the interest of the owner of the premises which is recognised by the law as existing during the currency of the license.

Such taxation must, therefore, be confined to our fourth heading, Declaratory Value. In the declaratory value we recommend that the value of the premises should be separated from the value represented by license and goodwill. We are further of opinion that while the additional taxation on the license value should fall in some measure on the retailer, because the presumption is that he would obtain some advantage from the suppression of his rivals, means should be found for imposing upon the owner, whose property would be increased in value by the suppression of neighbouring licenses, an equitable proportion of the additional taxation.

The contention will doubtless be raised that these charges laid upon the brewer and retailer would be shifted upon the consumer, but this, if true, is equally true of any burden which may be imposed upon them.

(v.) *Clubs to Contribute.*

We consider that some direct levy should be made upon clubs in which intoxicating liquors are sold, as they would not be liable to interference under the reduction scheme. These institutions make their profits largely out of the sale of liquor, and this points to the advisability of placing some of the burden of the new charge upon them.

(vi.) *Conclusion.*

To sum up the above, we propose that a charge should be levied of, say, 6*s.* 8*d.* per cent. per annum upon the declared or ascertained value of the licenses and goodwill. We further propose that the annual license rent payable on new licenses, as suggested in the next paragraph, should be added to the compensation fund. Moreover, when premises are extended and improved by permission of the licensing authority, some amount of contribution should be levied on such enlargement, and added to the fund. The cases of hotels and restaurants have some special features, and it may be advisable not to make them liable to the same extent as ordinary public-houses to contribute to the fund, since they would, as a rule, lie outside the operation of the reduction move-

ment, and would not, to the same extent, benefit by any increased trade caused by the reduction in competition between public-houses. Nevertheless, they should certainly provide a substantial contribution; and in regard to hotels this is especially the case, since under the recommendations as to Sunday closing some of them will have the sole right of serving *bonâ fide* travellers. We therefore suggest that hotels and restaurants should pay on a scale of one-sixteenth of their rateable value; and clubs a contribution which Parliament must determine.

(vii.) *New Licenses.*

Under the present system of granting new licenses, the initiative, instead of being in the hands of the licensing authority, is wholly in those of applicants whose interests may or may not coincide with those of the public. The authority is in no way consulted as to whether a given neighbourhood requires additional licenses at all before they are inundated with rival applications for licenses to particular houses or sites. It appears to us that the initiative ought to be with the licensing authority, and that no new license should be granted unless the authority should have first given notice publicly of their intention to consider the grant of a new license or licenses within an area defined by them.

It should then be open to any person at the next annual licensing meeting to submit plans for a house on any site within such area, accompanied by a tender of a license rent for a term of seven years. The authority would decide whether they will accept any of such tenders, and if so, which, with or without some modification in the plans, and thereupon grant a license with exactly the same liability to non-renewal as at present. If renewed during the seven years, all claims of any kind to renewal should at the end of that period be absolutely terminated, and in case the authority decide to continue the license, tenders should be again invited for another period of seven years; the person whose tender is accepted (unless he be the person who has hitherto held the license), being empowered and required to take the premises hitherto licensed at a valuation based on the value of the site and building alone, without any regard to goodwill; or he might agree with the owner of the premises, to take them on lease for the seven years. The same process would take place at the end of each succeeding septennial period until Parliament otherwise determined, and in the event of no more funds being required for compensation, the annual license rent would be available for purposes to be determined by Parliament.

(viii.) *Septennial Periods.*

It has been suggested that there are advantages in settling specified periods at which Parliament should review the working of the system, so as to facilitate the introduction of such changes as the circumstances of the time render necessary. We concur generally with this view, and recommend that recurring periods of seven years would afford a favourable opportunity to make what fresh departures may seem necessary. In the absence of parliamentary action, the system would continue for another septennial period, when Parliament could again review the situation. We recommend, therefore, that the system should be worked by septennial periods, and a capital sum borrowed at the commencement of each period on the seven years' charges. The advantages of this plan over one giving, say, a seven years' time limit to be followed by a very large reduction all at once are obvious:—(1.) An immediate and substantial reduction would take place without waiting for seven years; (2.) A more gradual operation, the results of which could be watched, *e.g.*, it might be that the reduction of licenses would greatly stimulate clubs, and that these, being less under control than licensed houses as to hours, &c., would lead to unforeseen results. Again, a more rapid rate of reduction might be desired, in which case a higher rate might be imposed, or a longer period than seven years taken, on which to borrow; or Parliament might desire to take the opportunity of making more drastic changes.

(ix.) *Disposal of the Compensation Fund.*

The county or county boroughs committee having decided on the amount of reduction in each division, and the Licensing Authority having decided on the particular licenses to be suppressed. in accordance with our recommendations (Part V. c. 1. s. 2). The Committees would proceed to pay out of the fund compensation to those interested in the licenses suppressed, according to the values previously ascertained (Part V. c. ii. s. 1.)

(x.) *Practical Application of this Scheme in the County of London.*

We now proceed to examine the working of this plan in London by way of example. We calculate that a compensation fund raised, as herein-before described, would work out as follows :—

Estimated Contribution.	Yearly Amount
	£
Contribution from the levy of, say, one-third, namely, 6*s.* 8*d.* per cent. on the capital value of the premises as licensed less their value without a license. (Take the total of this value of the public-houses, "on" beerhouses and "off" licenses to be 30,000,000*l.**)	100,000
Hotels paying, say, one-sixteenth their annual rateable value, say	15,000
Restaurants ditto ditto	10,000
Clubs, say	10,000
New licenses, say	10,000
We thus have an annual sum of	145,000
Seven years' contribution amounts to	1,015,000
Present value of above	900,000
The difference between the licensed and the unlicensed value of the premises compensated†	900,000

It must not be supposed that the reduction which takes place at present owing to municipal improvements, railways, &c., and the action of the justices in case of misconduct will cease. These reductions are normal and will continue outside the reduction here contemplated.

At the end of seven years a further capital sum would be borrowed on the same basis, and the process continued unless Parliament should otherwise determine.

(xi.) *Reduction and Compensation in Scotland.*

We recommend that for the same reasons as in England our scheme of reduction and compensation should also be applied to Scotland. There the case is somewhat different. The tied-house system does not generally prevail, it is indeed exceptional for any houses to be owned by the wholesale traders. The houses are almost invariably the property either of the licensees themselves, or of private owners, who may in certain cases benefit by a slightly enhanced rental, but who have no valuable trade interests to be considered in estimating the sum, which might reasonably be given them for the trifling reduction in rent, involved by the suppression of the license. It is unnecessary to work out the application of the scheme in detail, but it is certain that money raised for Scotland, on the same principles, would suffice during the first septennial period to effect a larger reduction of licenses than in England. The values have never become so inflated as in England, and the interest of the owner has never assumed the same magnitude.

Suitable authorities to decide what reduction may be required in counties in Scotland would be the standing joint committee, and in counties of cities a selected committee, consisting one half of members elected by the town council and one half by the justices of the peace for the county of the city.

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* The evidence shows that the value of all "on" and "off" licenses in London is 60,000,000*l.*, but this relates to the Metropolitan police district, which includes very populous areas outside the county of London. Moreover, it included the value of the premises.

† In the opinion of experts, if the lowest class of "on" and "off" licenses is selected for suppression they would be approximately valued on the average, as follows :—

	£
100 off licenses at 1,000*l.*	100,000
400 beershops at 2,000*l.*	800,000
	900,000

If public-houses only be taken, the least valuable would probably average 3,000*l.*

	£
300 at 3,000*l.*	900,000

(xii.) *Reduction and Compensation in Ireland.*

In Ireland the case is also different. There the tied-house system does not generally prevail; the houses are almost invariably owned by the licensees themselves, and are purchased in almost every instance with money advanced at the ordinary market rate of interest by the different public banking institutions of the country.

As there is in Ireland no standing joint committee as in England and Scotland, we recommend that the power of deciding upon the reduction to be made in each licensing division should be vested in the licensing authority as constituted in Part III.

CHAPTER III.

LOCAL PROHIBITION AND MUNICIPAL MANAGEMENT.

1. Local Prohibition.

Many witnesses of great weight have advocated giving to localities in one form or another, an option of prohibition with respect to the licensed houses within the area. Other evidence of equal authority and independence has been placed before us in opposition to these proposals. It must not be forgotten that a directly representative element has, by the provisions of the Local Government Act, already been admitted to the body of the justices, and hence to the Licensing Authority, and in our proposals for the re-constitution of the Licensing Authority we recommend that the town and county councils shall be given special representation. We are, therefore, of opinion that adequate means will have been taken to secure that the local conditions should be thoroughly understood, while at the same time continuity of policy and a stable administration of the law is provided for. We are not satisfied that there is at the present time a general desire for the power of local prohibition by plebiscite, and we do not advise the adoption of any of the plans for this purpose which have been submitted to us.

The effect of the scheme for the reduction of licenses and the other important reforms which we have recommended will, if carried into law, be carefully watched, and at the end of the first septennial period Parliament will be in a better position to judge how far the new Licensing Authority acts in conformity with public interest.

2. Municipal Management.

The remarks which we have already made with regard to the necessity for giving time for forming an accurate opinion of the working of our proposals for the reduction in the number of licensed houses and for amendments in the licensing law are also in point in considering the schemes which have been submitted to us for the municipal management of licensed houses. In addition, it must be borne in mind that a large proportion of temperance advocates are strongly opposed to the municipalities undertaking in any form the management of the trade in alcoholic liquors, and as we have already pointed out, great dangers would arise were local authorities tempted to try experiments of this class, not on grounds of public policy, but on account of opportunities being offered to public bodies to make a great pecuniary profit. In our judgment the scheme has not so far been presented in a form in which we could recommend its trial, even as an experiment.

SUMMARY OF RECOMMENDATIONS.

The recommendations are given in the order in which they are made.

It will be seen that we are in practical agreement with the Minority Report on the recommendations numbered :—

ENGLAND.—1, 2, 4, 5, 7, 8, 9 (partly), 10 (i., ii., iv., v., vi.), 11, 12, 13, 15, 16, 18, 19, 20, 23, 24, 25 (partly), 26, 27, 29, 30, 32, 33 (partly), 34, 35 (*a.*, *b.*, *d.*), 36, 37 (*a.*, and partly *b.*), 38 (partly).

SCOTLAND.—1 (partly), 2, 4, 5, 6 (*a.*, *b.*), 7 (*a.*, *b.*), 8, 13, 14, 15, 17, 20, 21 (partly), 22 (partly), 23, 24 (partly), 26, 27, 28.

IRELAND.—1, 2, 3, 4 (*a.* and *b.*, partly, *c.*, *d.*), 5 (partly), 6 (*a.*, *b.*, *d.*), 7, 8, 9 (partly), 10, 11, 13 (partly), 15, 17 (partly), 18, 19 (*a.*, *b.*, *c.*), 21 (*a.*, *b.*), 22, 24, 25.

CLUBS.—1, 2, 3, 4 (partly), 5, 6.

PART I.—ENGLAND.

1. The law should be consolidated and simplified. Chap. III.

2. The number of licensed houses should be largely reduced. Chap. IV.

3. The tied-house system. The agreements between owner and tenant should always be produced to the Licensing Authority on applications for transfers or new licenses, and it should be left to the Licensing Authority to say whether the terms are such as to warrant the refusal of the application. Chap. V. (vii.)

In the case of a managed house the employer should hold the license, but the name of the manager should be registered with the Licensing Authority. A duplicate copy of all agreements should, if required, be lodged with the clerk to the Licensing Authority.

4. Members of the Licensing authority should not be disqualified through holding shares in a railway company owning licensed refreshment rooms or hotels. Chap. VI.

5. The disqualification which applies to the members of the Licensing Authority should apply equally to the clerk to the Licensing Authority. Chap. VI.

6. The reasons for the refusal of the renewal of a license should be stated in open court, and, if desired by the applicant, be given in writing. Chap. VI.

7. Notice to the Licensing Authority itself of all applications for new licenses should be required. Chap. VII. (iv.)

8. A proper interval (say a month) should be left between the grant and confirmation of a new license, so that the second hearing may be a reality. All new licenses (including off-licenses) should require confirmation. Chap. VII. (v.)

9. *Ante*-1869 beerhouses should be brought within the discretion of the Authority, but, in the absence of misconduct, should not be abolished, except under the scheme of compensation in Part V., and in case of a valuation under the Lands Clauses Consolidation Acts, any value the license may have acquired owing to its Parliamentary title should be taken into account. Chap. VII. 2. (iii.)

10. i. Temporary transfers should be abolished, except in case of death, bankruptcy, or illness. Chap. VII. 3. (i. and ii.)

ii. Notice to the police should be required in all cases.

iii. If the special sessions for transfers are too far apart, they should be increased to (say) one per month.

iv. The transferor should be compelled to attend when possible.

v. The transferee should be examined as to his position and interest, and should be prepared to produce his agreement.

vi. The Licensing Authority should have power to make regulations against repeated applications.

11. Annual licensing sessions should be held in March instead of August and September. Chap. VII. 4.

12. No license should be renewed to a public-house of under 12*l.* annual rateable value. Some time notice should be required. Chap. VIII.

13. The custom of submitting plans for the alteration or rebuilding of licensed premises to the Licensing Authority should be made statutory. Chap. VIII.

Chap. VIII. 14. Wide discretion should be allowed to the Licensing Authority in imposing conditions, especially as to back and side doors, long bars, but these should be defined and regulated by Statute or the order of a Secretary of State. The imposition of conditions should be confined to new licenses, except as regards structural alterations.

Conditions imposed should be entered in the register, and there should be power to refuse the license, on proof of a breach of such condition, without appeal, except upon the question whether such a breach had, in fact, taken place.

Chap. IX. (i. and ii.) 15. All "off" wine and spirit licenses should be subject to the full control of the Licensing Authority, as well as all wholesale licenses for the sale of wine, spirits, beer, and sweets, excepting those required by brewers, distillers, wine and spirit merchants, and blenders.

Chap IX. iii and iv.) 16. The sale of liquor in passenger vessels plying between ports of the United Kingdom, and in theatres, should be brought under the control of the Licensing Authority.

Chap. XI. 17. The Licensing Authority should be reconstituted as follows :—

(*a.*) In divisions of counties and non-county boroughs the Licensing Authority should consist of three, six, or nine members, selected triennially ; two-thirds to be justices, nominated by the justices of the petty sessional division (or in the case of boroughs, with a separate commission of the peace, by the borough justices), one-third to be nominated by the county council, or in the case of the boroughs mentioned, by the town council, out of their respective bodies.

(*b.*) For county boroughs it should consist of three, six, or nine members, selected in the same manner, and in the same proportion, by the borough justices and town council.

The number in each case shall be fixed by the Secretary of State.

The Court of Appeal should be reconstituted as follows :—

(*a.*) For each county and the non-county boroughs therein, the Court of Appeal should consist of justices nominated triennially by the county and borough justices ; the number for each county to be determined by the Secretary of State, and apportioned by him between the counties and boroughs according to population.

(*b.*) For each county borough it should consist of justices nominated triennially by the borough justices (the number to be determined by the Secretary of State) with the recorder as *ex-officio* chairman whenever the borough has a separate quarter sessions.

The Licensing Authority and the Court of Appeal should have power to administer oaths, and be guided by the ordinary rules of evidence and procedure generally, and the chairman should have no casting vote. Each tribunal should have power to state questions of law in the form of a special case for the superior courts.

18. The Licensing Authority should in no case be liable for the costs of an appeal.

Chap. XII. 19. The law as to travellers drinking at railway stations requires amendment.

Chap. XII. 20. Complete Sunday closing should be extended to Monmouthshire.

Chap. XII. 21. The Licensing Authority should have power to impose the conditions of Sunday closing upon a new license.

Chap. XII. 22. Except in London and the principal cities, the hours of opening on Sundays should be restricted to two hours at mid-day and two hours in the afternoon.

Chap. XII. 23. A limited number of licensed houses, where travellers may be served at specified hours, should be selected by the Licensing Authority, and a special license duty imposed upon them. The statutory distance should be extended to six miles.

Chap. XIII. 24. Occasional licenses should only be granted, after notice to the police, by two or more justices sitting in petty sessional court-house.

Chap. XIV. 25. Sale, either on or off, of any kind of intoxicant to children under the age of 16 should be forbidden. The penalties now imposed for knowingly serving children under age should be raised, and similar penalties should be imposed on those who knowingly send them.

Chap. XV. 26. Standing joint committees should be made to provide petty sessional rooms, which should also be used for inquests and revising barristers' courts, so that licensed premises need not be employed for the purpose.

27. Licenses should not be granted to common lodging-houses. Especially in sea ports a byelaw should be adopted under section 214 of the Merchant Shipping Act of 1894, so as to prevent public-houses being used as lodging-houses for seamen. Chap. XV.

28. No public music or dancing should be permitted without a license from the Licensing Authority. The adoption of Part IV. of the Public Health Act should be made compulsory. Chap. XV.

29. (*a.*) The same disqualifications should apply to members of a watch committee as now apply to the members of the Licensing Authority; and, further, any person acting as solicitor or valuer for any brewing company or trade organisation should also be disqualified. Chap. XVI.

(*b.*) The chief or head constable should not be removable, except with the sanction of the Secretary of State.

30. Legal assistance should be provided for the police in proceedings under the licensing laws. Chap. XVI.

31. A general course of instructions should be issued to the police as to dealing with drunkenness, &c. Chap. XVII.

32. There should be a general power of arrest for simple drunkenness, apart from disorder. Chap. XVII.

33. (*a.*) No constable in uniform, whether on or off duty, should be served with intoxicating liquor without an order from a superior officer. Chap. XVII.

(*b.*) The practice of testimonials to retiring inspectors should be prohibited.

34. The Licensing Authorities in each county should have a certain number of officers of high rank as inspectors to report upon the general condition of the houses. Chap. XVII.

35. (*a.*) In some cases of offences by license-holders the penalty should be the temporary suspension of the license, instead of the imposition of a fine. Chap. XVIII.

(*b.*) When a person is found drunk on licensed premises, or is seen leaving the premises in a drunken condition, it should be incumbent on the license-holder to show that neither he nor his servants knew of the drunkenness, or that they did not, with such knowledge, permit him to remain on the premises.

(*c.*) The police should have instructions when possible to warn the license-holder if a drunken person is seen to enter the premises.

(*d.*) Instead of the present system of endorsement, a record of all convictions should be kept in the register of licenses. The register should give full particulars of the charge and the penalty imposed, and should be produced before the Licensing Authority. The register should be open to inspection on payment of a trifling fee.

36. A summary of legal regulations should be displayed in all public-houses. Chap. XVIII.

37. (*a.*) To be drunk when in charge of a child of tender years should be an offence, with a penalty attached higher than that for simple drunkenness. Chap. XIX.

(*b.*) Habitual drunkenness should be treated as persistent cruelty within the meaning of the Summary Jurisdiction (Married Women) Act, 1895, and entitle the wife or husband to separation and protection for herself or himself and children.

38. Habitual drunkards (to be defined by the number of convictions) should be placed on a black-list, and the license-holders should be warned by the police not to serve persons so notified. A penalty should attach to any license-holder knowingly serving such persons. The persons prohibited, having notice of the order made against them, should also be liable to penalties in the event of their attempting to evade the prohibition. Chap. XX.

PART II.—SCOTLAND.

1. Some redistribution of licensed houses is necessary, and in certain places a reduction is desirable. Chap. IV.

2. In the matter of provisional certificates in cases of contemplated removal, the Scottish law should be assimilated to that of England, save that the consent of the owner of the premises should not be required. Chap. IV.

Chap. V. 3. No burgh possessing a population less than 7,000 should have a separate licensing jurisdiction, and all police burghs with a population of 12,000 and upwards should obtain it.

Chap. V. 4. Conditions imposed on license-holders by the Licensing Authority should be regulated by statute or by byelaws to be approved by the Secretary for Scotland. Conditions thus imposed should be endorsed on the certificate.

Chap. V. 5. Clerks to the Licensing Authority should be subject to the same disqualification as the members of that body.

Chap. VI. 1. 6. (*a.*) The Licensing Authority should have the fullest control over alterations and extensions of premises.

(*b.*) The duty of certifying to the good character of an applicant for a certificate, and to the suitability of the premises, should be transferred to the chief constable.

Chap. VI. 1. 7. (*a.*) New certificates should only be applied for at the Whitsuntide licensing meeting.

(*b.*) Certificates should run from 28th May instead of 15th May, so as to correspond with the ordinary removal term.

Chap. VI. 2. iii. 8. Some provision should be made to meet cases of inadvertent omission to apply for the renewal of the annual certificate, and also when death occurs in the interval between the statutory date for lodging applications and the holding of the licensing meeting.

Chap. VI. 2. iv. 9. The reasons for refusal to renew should be stated in open court, and, if required by the applicant, be given in writing.

Chp. VI. 3. 10. The Licensing Authority should have power to make regulations to prevent repeated application for a new certificate to the same premises.

Chap. VI. 4. 11. The recommendations as to transfers made for England should apply to Scotland, and the necessary number of special sessions should be created.

Chap. VI. 5. 12. The recommendations as to imposition of special conditions made for England should apply to Scotland.

Chap. VI. 6. 13. Wholesale licenses (except those required by brewers, distillers, wine and spirit merchants, and blenders) should be brought under the complete control of the Licensing Authority.

Chap. VI. 6. 14. Sale of liquor in theatres should be brought under the same control.

Chap. VI. 6. 15. (*a.*) Sale of liquor on packet boats should require a certificate from the Licensing Authority.

(*b.*) Sale of liquor on board such vessels in harbour should be prohibited.

Chap. VII. 16. The Licensing Authority should have a discretionary power to close on New Year's Day during certain hours.

Chap. VII. 17. Hotel keepers holding six-day licenses should have the privilege of sale to lodgers on Sundays.

Chap. VII. 18. The qualifying limit of distance for bonâ fide travellers should be six miles.

Chap. IX. 19. The Licensing Authority should be re-constituted as follows:—

(*a.*) *In counties or districts of counties including burghs under* 7,000.—The Licensing Authority should consist of a committee selected triennially, two-thirds by the justices of the peace for the county, and one-third by the county council, from their respective bodies.

With appeal to—

A committee selected by the justices of the county out of their own body, (care being taken that the districts and boroughs within the county should be adequately represented).

(*b.*) *In counties of cities.*—The Licensing Authority should consist of the magistrates as now.

With appeal to—

A fixed number, selected by the justices for the county of the city from their own number, with the Lord Provost as chairman.

(*c.*) *In other Royal and Parliamentary burghs over* 7,000 *population, and in police burghs over* 12,000.—The Licensing Authority should consist of the magistrate.

With appeal to—

The committee described in (*a*).

The appeal committee should also exercise the functions of the confirming committee.

These bodies should have the same powers as recommended in the English Report.

No member of the Licensing Authority should be eligible for the Appeal Court, except Lord Provosts of cities with a separate commission of the peace.

20. An appeal to the Court of Session on a stated case on points of law should be allowed. Chap. IX.

21. In burghs special permissions should be granted only in open court with 48 hours notice to the police. Chap. X.

22. No child under 16 should be served with intoxicating liquor for consumption either on or off the premises, and the sender of the child should be liable to the same penalties as the person by whom it is served. Chap. XI.

23. Some measure such as compulsory bonding should be adopted to check the evils of the consumption of new whisky. Chap. XII.

24. Non-residence of the certificate-holder or complete separation of the premises from the dwelling-house should, where practicable, be made a condition of the public-house certificate. Chap. XIII. 2.

25. (*a.*) The recommendations of the Royal Commission on Grocers' Licenses should be carried out so far as they are applicable. Chap. XII. 3.

(*b.*) When an application for a new grocers' license is made the Licensing Authority should have power to insert in the certificate a condition that the premises shall be exclusively used for the sale of intoxicants.

(*c.*) The premises of all licensed grocers and dealers should be entirely closed at 8 p.m. except on Saturdays and days before holidays, when in the discretion of the Licensing Authority, the hour might be extended to 9 p.m.; and they should be completely open to police supervision.

(*d.*) Every vanman conveying exciseable liquor under certificate from the Licensing Authority should have a passbook, or invoices, in which the addresses of the persons to whom the liquor is being conveyed, with the quantities, should be duly entered. The Excise officials and the police should have power to inspect this book, to search the vans, and to enter any licensed premises to examine order books and compare them with the vanman's delivery books or invoices and with the goods being delivered. It should be an offence to deliver exciseable goods unless the order for the same be previously recorded in the books of the license-holder. On a conviction for a breach of this condition the licensing authority should have discretion to forfeit the license.

26. Special officers of police should be placed at the disposal of the Licensing Authority, if they so desire, for the purpose of inspecting or reporting on the conduct of licensed premises. Chap.XIV.1.

27. (1.) There should be a penalty for permitting drunkenness on licensed premises. Chap.XIV.2.

(2.) The 14th section of the English Act of 1872 in regard to harbouring prostitutes should be applied to Scotland.

(3.) Provisions against supplying constables on duty with liquor should also be adopted.

(4.) The 17th section of the English Act of 1872, with regard to gaming, should be applied to Scotland.

28. The provisions of the Burgh Police Act of 1892, making it an offence to be drunk when in charge of loaded firearms, carriages, horses, &c., should be applied generally, and licensed premises should be included in the definition of a "public place." The recommendation in the English Report as to offences for drunkenness, powers of arrest, and treatment of habitual drunkards, should be adopted for Scotland. Chap.XIV.3.

29. The law should be consolidated, and various minor alterations should be included in any new Scottish Act. *See* Part II., Chap. XV.

PART III.—IRELAND.

Chap. I. 1. The Tippling Acts should be amended so as to apply to liquor supplied on credit for a wake.

Chap. IV. 2. The licensing laws should be codified and simplified.

Chap. V. 3. Number of licensed houses should be reduced.

Chap. VI. 4. (*a.*) A qualification of annual rateable value should be required for all public-houses, graduated according to population.

This should apply to all newly licensed houses, and should be applied to all now existing at the end of three years.

(*b.*) Separation of trades and structural alterations of licensed premises. No person to be permitted to reside on licensed portion.

(*c.*) No post-office should be allowed to be held on licensed premises, except in a case of absolute necessity.

(*d.*) Public-houses should not be used for payment of wages or engaging workmen or in similar ways, *e.g.*, as rate collectors' offices, or as agencies for distributing tickets for poor law relief.

Chap. V. 5. The agreements between the tenant and owners should be subject to the same supervision by the Licensing Authority as recommended for England.

Chap. VI. 6. (*a.*) All licenses should come under the same jurisdiction, and the Licensing Authority should have full discretion to grant or refuse a removal or transfer as well as a new license.

(*b.*) The granting of new licenses at intermediate sessions should be forbidden.

(*c.*) Transfers and temporary transfers should be subject to the same regulations as those proposed for England.

(*d.*) In other respects the details of the law should be assimilated to the proposals which we have made for the improvement of the licensing law in England.

Chap. IV. 7. Occasional licenses should only be granted in open court after due notice to the police.

Chap. VI. 8. Prosecutions of license-holders should only be tried by resident magistrates or stipendiaries. A resident magistrate should be in the same position as a stipendiary.

Chap. VI. 9. The Licensing Authority should be re-constituted as follows:—

Except in the five towns where the recorder is, and should remain, sole Licensing Authority, the Licensing Authority should consist of the county court judge, with all the resident magistrates of the county sitting at all licensing sessions in the county, and with two justices resident within each quarter sessional division, to be selected by the general body of the justices of the county assembled, at the stated quarter sessions, for Crown business for the county.

There should be an appeal to a court constituted for each of the four provinces, consisting in each case of the county court judges of that province.

Chap 7 (i.) 10. There should be a separate hotel license and the Licensing Authority should have the power to impose statutory conditions.

11. Wine refreshment-house licenses should be placed under the same regulations as public-house licenses, and all other houses in which intoxicants are sold for comsumption either on or off the premises, should require a certificate from the Licensing Authority, except in the case of brewers, distillers, wine and spirit merchants, and blenders.

Chap. VII. (ii.) 12. (*a.*) Spirit-grocers' licenses should be placed under the complete control of the Licensing Authority and subjected in all respects to the ordinary licensing law.

(*b.*) Sale in off-licensed premises should be limited to closed vessels and to a certain minimum quantity.

(c.) The English spirit dealers' additional retail license should be extended to Ireland.

(*d.*) The qualification of annual rateable value recommended for public-houses should be extended to spirit grocers.

Chap. IX. 13. As in England, no child under 16 should be served with any intoxicating liquor for consumption either on or off the premises.

14. There should be some further restrictions of hours of opening on Sundays in the five exempted cities. Chap. XI.

15. 9 p.m. should be adopted as the hour of closing on Saturdays. Chap. XI.

16. The hour of opening on week days should not be before 8 a.m. Chap. XI.

17. The bonâ fide traveller should be defined as a person who has travelled at least six miles, and he should only be served at houses selected for the purpose. Chap. XI.

18. In the case of new licenses the Licensing Authority should have statutory power to impose the condition of entire Sunday closing. Chap. XI.

19. (*a.*) (Chapter VI.) No license shall be granted to the wife of a police officer. Chap. XII.
(*b.*) No policeman in uniform shall be served in a public-house.
(*c.*) Full power should be given to district inspectors and head constables to appear at quarter sessions.

20. All convictions for offences should be recorded as in England. Chap. XII.1.

21. (*a.*) The Scottish Act of 1862, so far as it relates to illicit sales, should apply to Ireland. Chap. XII.2.
(*b.*) Keeping liquor for sale without a license should be an offence under the Act of 1872, sec. 3.

22. The power of summary arrest for simple drunkenness should be more clearly defined. Chap. XII.3.

23. (*a.*) There should be increased penalties for offences by habitual drunkards. Chap. XII.3.
(*b.*) There should be detention instead of fine after a certain number of convictions.

24. The recommendation in the English Report as to offences for drunkenness, powers of arrest, and treatment of habitual drunkards, should be adopted for Ireland.

25. The form of the license should be similar to that in Scotland, and set forth the prohibitions or offences under the licensing laws. A table of the legal provisions should be exhibited in all licensed premises in a conspicuous position. Chap. XII. 4.

PART IV.—CLUBS.

(1.) All clubs in which intoxicants are supplied should be registered.

(2.) The onus of proving bonâ fides should be placed on the club applying for registration.

(3.) No club should be registered unless the club property be vested in all the members of the club or in trustees, and unless no individual member is interested directly in the sale of exciseable liquor on the club premises.

(4.) The registering authority should, examine the rules, and satisfy itself that the club is not formed solely for the purpose of sale and consumption of intoxicating liquors, and that some check is placed on the election of members, the privileges of honorary membership, and on the introduction of friends by members.

(5.) The sale of intoxicating liquor for consumption off the premises should be strictly prohibited.

(6.) No person under eighteen years of age should be admitted as a member of a club in which intoxicants are sold.

(7.) Authority to grant certificates to clubs should be the stipendiary magistrate in cities and towns where they exist, and in other localities a court of petty sessions, consisting of not less than three justices.

PART V.—GENERAL.

1. *Reduction of licensed houses, Areas of.*—To be in England and Ireland, counties and county boroughs. In Scotland, counties and counties of cities. Chap. I., secs. i.–xi.

2. *Authority to decide amount of.*—In England and Scotland, in counties, the standing joint committees. In county boroughs in England, and counties of cities in Scotland, bodies to be constituted like standing joint committees in counties. Secs. ii., xi., xii.

In Ireland, the Licensing Authority. All such authorities to report their actions to the Secretary of State. Authority to allot reduction within licensing area to be the Licensing Authority.

Chap. II. 3. *Compensation.*—Persons interested in all licensed premises to declare the value of license and good-will. Licensing Authority, if dissatisfied, to have right to have value ascertained under Land Clauses Consolidation Act. Such value to be the basis of special taxation on licenses not suppressed, to form compensation fund, and to be the amount paid as compensation for those suppressed.

Secs. v., vi. 4. *Compensation.*—Public-house and beer licenses and all off-licensed houses (sec. iii) to contribute a special tax of 6*s.* 8*d.* per 100*l.* per annum. Hotels and restaurants in like manner one-sixteenth of their annual rateable value per annum. Clubs to contribute. Licensed premises when enlarged to pay an increased contribution.

Sec. vii. 5. *New Licenses* only to be granted when authority has resolved that one or more are required within an area defined by them.

Tenders of an annual license rent for seven years. Such rents to be added to the compensation fund.

Sec. viii. 6. Above scheme of reduction, taxation, and compensation to be worked in seven year periods, the authority having power to borrow at the beginning of such periods on security of income arising during the period from above sources.

Secs. xi., xii 7. Above scheme to be applied *mutatis mutandis* to Scotland and Ireland.

All which we humbly submit for Your Majesty's gracious consideration.

DE VESCI. (*See* Reservation 1.)
WINDSOR.
ALGERNON WEST.
H. H. DICKINSON. (*See* Reservation 2.)
W. ALLEN. As to Part V. only. (*And see* Reservation 7.)
E. N. BUXTON.
ALEX. M. GORDON.
WILLIAM GRAHAM.
HENRY GRINLING. (*See* Reservation 6.)
SAMUEL HYSLOP. (*See* Reservations 3 and 6.)
ANDREW JOHNSTON.
HENRY H. RILEY SMITH. (*See* Reservations 4, 5, and 6.)
CHARLES WALKER. (*See* Reservations 3 and 6.)
JOHN L. WHARTON.
A. MONEY WIGRAM. (*See* Reservations 4 and 6.)
SAMUEL YOUNG. (*See* Reservation 6.)
GEORGE YOUNGER. (*See* Reservation 6.)

SIDNEY PEEL,
Secretary.

RESERVATIONS.

1. *By Viscount de Vesci.*

I dissent from the insertion of the words "if required" in the last paragraph of Section vii., Chapter V., Part I. (Tied-House System). In the first paragraph of this section it is argued that immediately after the "agreement" produced in court in accordance with our recommendation has been passed by the licensing authority, whether altered or unaltered, a new, perhaps bogus, agreement may be substituted.

This danger may be obviated, if it is made compulsory that a copy of the "approved agreement" shall be lodged with the clerk to the licensing authority, available for all subsequent occasions on application for transfer or renewal, or any other proceedings.

As in accordance with the proposals in Part V., the number of licenses in any area will be declared by the prescribed authority, the clerk will have no difficulty in estimating the necessary accommodation for the custody and record of these agreements.

DE VESCI.

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2. *By Dean Dickinson.*

I sign this report as well as that of the minority, because, on most important points, they substantially agree; and (ii) because the recommendations herein embodied represent at least a considerable advance in the direction of temperance reform.

I, however, dissent altogether from the opening statement of Chapter XI., Part III. (Ireland), because, in fact, "local public opinion" in the five exempted towns has declared itself strongly and repeatedly in favour of extending to them, and to all Ireland, the benefits of the Sunday Closing Act, and I dissent also from the suggestion that a tax should be levied upon Clubs in order to provide a Compensation Fund.

H. H. DICKINSON.

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3. *By Mr. Hyslop and Mr. Walker.*

We, Charles Walker and Samuel Hyslop, two of the above Commissioners, whilst concurring to a large extent in the above recommendations, and therefore joining in the report, do so with the subjoined reservations.

Whilst fully realising the difficulty of adjudicating upon so perplexing and intricate a subject as the licensing laws of this country, surrounded and associated as it is with such immense financial interests, and bound up as it must be recognised to be with the moral and social conditions of the people, we cannot be indifferent to the necessity of the greatest care being exercised not to irretrievably dislocate the Trade's financial machinery. On the other hand, we cannot be insensible to the great, honest, and untiring exertions that are continually being made for the moral and social advancement of the people. As representatives of our class we can truly say on their behalf, that they would hail with the greatest possible satisfaction reasonable legislation on the principles of justice and equity, so that in the true spirit of compromise (and whilst assuring to them the preservation of their legitimate worldly possessions) a satisfactory settlement of this difficult and complicated question may be arrived at.

PART I.

Chapter III.—"The Justices as Licensing Authority."

If it be considered impracticable to exclude from the licensing body justices holding extreme views on licensing questions, the total abolition of all disqualifications is inevitable. A continuance of the present system of justices biassed against the trade being allowed to adjudicate, whilst those interested in the trade are excluded, would be intolerable. Either disqualification on both sides or none at all.

Renewals.

Chapter VII. 2 (iii.).—Ante 1869 Beer Houses.

Upon the footing of adequate compensation being paid to those interested in these licenses in the event of their renewal being refused on other than one of the four grounds, there is no objection to the general discretion of the justices being extended to these licenses. Upon no other terms would it be equitable to interfere with the parliamentary title which they possess.

Transfers.

Chapter VII. 3 (i.).—Recommendations.

Power to the licensing authority to make regulations against repeated applications for transfer might be productive of great inconvenience and injustice. The question of whether or not the transfer should be granted should depend upon the circumstances of each case, and should practically be limited to the question of the character of the incoming tenant. The subject of too frequent transfers should be limited to the general annual licensing meeting upon the application for renewal. *See* the recommendation in the report at the commencement of this heading.

Chapter VII. 3 (ii).—Temporary Transfers.

The system at present in use is not liable to abuse if properly administered. The police should always be afforded time to make inquiries into the character of the proposed incoming tenant before application for protection is made.

With that precaution the present system is convenient and necessary and should not be interfered with.

Further Details of Licensing Administration.

Chapter VIII.

The Appeal from the refusal of the renewal of a license on proof of breach of a condition should not be limited to the question whether a breach had in fact taken place, but should be a re-hearing of the whole matter.

The Reconstitution of the Licensing Authority and the Appeal Court.

Chapter XI.

The Licensing Authority.

The functions of the licensing authority, even in their administrative department, being essentially of a judicial character, the introduction of any elective element is to be deprecated as being contrary to the accepted traditions of this country.

We cannot therefore concur in the recommendation to introduce into the licensing authority members of the county council or any other elected body, but are of opinion that the justices should continue to be the licensing authority.

Court of Appeal.

The proposal to constitute a Court of Appeal *ad hoc* is unobjectionable in itself, but it is essential that such a court should be quite independent of the Court appealed from.

No Court of Appeal constituted out of the Court of First Instance could be satisfactory. Such a constitution is opposed to the general administration of the law in this country.

Hours of Opening and Closing.

Chapter XII.

2. Sunday Closing in Wales.

We cannot concur in the opinion that in Wales, as a whole, Sunday closing has been a success. Cardiff may be cited as a notable exception to the contrary.

3. Extension to Monmouthshire.

There is no sufficient evidence of the existence of a strong local desire in Monmouthshire to be associated with Wales in the matter of Sunday closing.

There must be a border line, and wherever it be fixed there will be a migration from one side of the border to the other on the part of those desiring to obtain intoxicating liquor.

Monmouthshire is an English county, and public policy is opposed to the existence of laws differing in one part of the country from those existing in other parts.

5. Sunday Hours of Opening in England.

The regulations which have been in operation for the past 25 years are reasonable, and have been proved to be convenient and acceptable to all sections of society.

Any curtailment of the hours of opening on Sunday, even in the provinces, would be productive of great inconvenience to those at all interested in the question, and no necessity for such curtailment has been proved.

In numerous localities in which the resident population is but small there are special circumstances connected with the habits of persons travelling, and so forth, which would render the shortening the hours of opening on Sundays a source of the greatest inconvenience and irritation.

7. Week-day Hours of Closing.

The same objections to any curtailment of the hours of opening on week-days apply as in the case of Sundays.

Sale to Children.

Chapter XIV.

This is a subject which cannot be regarded as affecting only the retailers of intoxicating liquors. It, in a much greater degree, affects the convenience and comfort of the working classes, whose opinion on it has not been ascertained.

When the weight of public opinion is spoken of, it has to be borne in mind that the public opinion referred to is the opinion of those whose convenience would not be in the least affected, but who purport to speak on behalf of the community at large.

The opinion of Parliament having been deliberately expressed so recently as 1886, and nothing having since occurred to place the matter upon a different footing, there appears to be no reason for a change in the law in this respect.

The suggested restriction would be most harassing to the retail trade, whilst the proposal to impose penalties upon those who send children, knowing them to be under age, would be nugatory, as the proof necessary to conviction would be practically impossible.

How could young children be called as witnesses against their parents?

Offences by License Holders.

Chapter XVIII.

The suggestion that in some cases instead of the imposition of a fine, the license might be temporarily suspended is one of a most impracticable character, and would injuriously affect the interests of persons not in any degree responsible for the offence.

The closing of a house for an indefinite period would prejudice its value to an incalculable degree, and instead of being a definite would be an indefinite penalty which (if effectual at all) could not but work the greatest injustice.

We cannot concur in recommending any legislation of this kind.

There is no reasonable foundation for the present position of the law that in every case in which a sale of intoxicating liquor to a drunken person is proved, a conviction must follow.

The same element of knowledge as is requisite in the case of permitting drunkenness should in all fairness be extended to the kindred case of selling to a drunken person whose drunken condition may have been unseen by or unknown to the licensee or his servants.

PART. V.

Chapter I.

Reduction of Licenses and Compensation.

It may fairly be assumed that in some parts of large cities or towns there are more licensed houses than are needed for the reasonable requirements of the population.

It is admitted, however, that there is a failure of evidence to establish that there is any relation between the number of licensed houses and the amount of drunkenness in any locality.

For many years there has been, owing to the operation of various causes, a steady diminution of the number of licensed places on the register.

This diminution would have been much larger but for the compulsory granting by the justices of "off" wine and spirit licenses over which the justices had no discretionary power and the granting of which has kept up the total number of licenses to a degree much greater than would have been the case had the justices had the same power with reference to them as they have with reference to "on" licenses.

By the refusal to renew for misconduct, by the failure to apply for renewal, by the system of surrenders and in other ways the number of "on licenses" has decreased year by year, so that whereas in the year 1884 the total number of publicans and beer house licenses in England and Wales was 119,557, in the year 1898 it was only 116,406.

Having regard to these circumstances, there seems no sufficient reason for imposing either upon the public or upon the trade any tax for effecting a diminution in the number of licenses.

With the continual increase of population, which in 1884 was 26,922,192, and had risen in 1898 to 31,397,098, and with the continual decrease in the number of licenses, the adjustment of numbers to population may very properly be left to the operation of time without the application of any special remedies.

Chapter II.

Compensation.

There is no sufficient ground for the proposition that if compensation is to be paid it must be raised from the trade itself.

If there be, in fact, too many licensed houses, that is largely due to the action of Parliament in 1830 and subsequent years. The commencement of such legislation in the year 1830 was opposed by the trade, and they ought not to be held responsible for its results.

If anything is to be done for the benefit of the community at large, why should the cost be thrown upon a particular section of the community?

The suggestion must necessarily be based upon the assumption that such particular section would benefit to the exclusion of other sections, but that is not so.

The scheme of compensation propounded presumes that the remaining licensed houses must necessarily benefit by the extinction of others, but that would not be the case in any uniform or reliable degree.

The scheme contemplates the creation of areas over which the taxation of the trade shall take place.

It is probably true that the permanent closing of a licensed house in the same street would enure to the benefit of the trade of the adjoining houses, although that assumption is far from being borne out by experience.

But the areas of taxation must necessarily be somewhat wide, and what benefit could the owner of a licensed house derive from the closing of another house half a mile away from him?

Ever since the year 1890 the trade have been paying a tax upon beer and spirits, which was intended to be applied to the buying up of superfluous licenses, but which

has been diverted from that purpose, and it would be intolerable that the trade should be further taxed for the accomplishment of an object which could only be promoted for a supposed public benefit, but from which the majority of the members of the licensed trade would derive no benefit whatever.

SAMUEL HYSLOP.
CHARLES WALKER.

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4. *By Mr. Riley Smith and Mr. Money Wigram.*

While agreeing generally with the foregoing report and recommendations, we desire to make certain reservations on particular points.

(1.) As instances have not been wanting of a tendency on the part of some benches to arbitrarily dictate agreements inconsistent with the requirements which experience has taught traders to be desirable for the proper conduct of their business, we have some doubt as to the advisability of conferring on the Licensing Authority power to call for the production of tenency agreements as recommended in Chapter V., sub-head vii., but, as we understand, objection should only then be taken to an agreement on the ground that its terms are such as to render it difficult for the tenant to carry on his business in conformity with the law, we feel compelled to support this recommendation of our colleagues.

(2.) With regard to the further curtailment of the hours of opening on Sunday (outside the Metropolitan area and excluding the principal cities) recommended in Chapter XII., we feel called upon to express our dissent. The advocates either of complete Sunday closing or of curtailment of the time of opening, pay, in our judgment, insufficient attention to the extent to which the hours are now limited on that day. We cannot accept as final the evidence we have heard in support of further curtailment. A different view has been taken by witnesses of large experience, and one, at least, favoured some extension of the lawful hours on Sunday. Realising fully, from personal knowledge, the many grave evils which arise when an undue restriction of the ordinary facilities for obtaining alcoholic beverages drives consumers to seek other methods of obtaining supplies, we are not prepared to endorse the proposal to so largely reduce the hours of Sunday opening. We are, moreover, of opinion that under any circumstances legislation dealing with clubs should precede any measure to restrict further the hours of supply in licensed houses.

(3.) While readily admitting the weight of the evidence as submitted to us in favour of the prohibition of the serving of children for consumption either on or off the premises, we do not think that public opinion will support the proposal in Chapter XIV. of an age limit of 16. We accept the recommendation in so far as it affects the serving of children for their own consumption, but the case is altogether different with regard to child messengers. It is worthy of remark that even in the notices that have been issued by certain benches within the last year the age limit has not been placed higher than 13, and we are, therefore, inclined to believe that the strong re-action to which allusion is made would follow an attempt to so greatly hamper the convenience of the working man. A limitation as to the hours within which children, sent as messengers, might be served, would be a practical reform that would meet the case.

(4.) We cannot, for the following reasons, agree to the recommendation in Chapter XVIII., that in some cases, instead of the imposition of a fine, the licence might be temporarily suspended. The penalties under the existing law appear to us to be generally sufficient, and there is at present a power of disqualifying a person on a second conviction (*see* section 3 of the Act of 1872), and to disqualify premises on repeated convictions (*see* sections 30 and 31 of the Act of 1872). The penalty now suggested would be oppressive in the extreme in its effect on the owner of the premises, who would be heavily fined for a fault of the licensee for which he was not responsible, and which he could not prevent. The suggestion would also establish an interference with the convenience of the public by closing, perhaps for the greater part of a year, a house which the justices had licensed as required by the neighbourhood. In addition, the severity of the possible consequences entailed might render the petty sessions unwilling to convict, and if there is to be no dealing with the licence during the period of suspension it would prevent steps being taken by the owner to obtain a more satisfactory tenant. Again, as regards the licensee, to inflict such a penalty as suspension where, say, his servant has, in his absence, accidentally served a drunken person, would

be most unfair. It must also be observed that, if the suspension is to follow automatically on the conviction, the licensee will be condemned by the Licensing Authority unheard. If, on the other hand, he is to be re-tried, it will be for an offence for which he has already suffered.

H. H. RILEY SMITH.
A. MONEY WIGRAM.

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5. *By Mr. Riley Smith.*

While agreeing generally with the foregoing report and recommendations, I desire to make the following reservation as to the source from which the fund to be used for compensation in the case of licenses suppressed under the scheme set out in Part V. should be derived.

In my opinion this fund should be drawn not from an annual charge levied upon the declared or ascertained value of the license and goodwill of licensed premises, but from the taxation of liquor.

It will be observed that the justification of any plan which places a charge on the remaining licensed premises to provide the means of paying compensation to those suppressed, rests largely on the assumption that the houses which retain their licenses will obtain enhanced profits upon the disappearance of some trade rivals and a consequent diminution of competition and increase of business. No plan of taking toll of this assumed benefit can ensure equality of treatment as between individual houses, owing to the varying conditions of each particular case. But while no scheme can, as I have said, operate automatically with complete fairness, that which places the burden of the charge upon liquor approximates far the most nearly to this result. If the burden is placed upon liquor, the distributing agencies which do an increased trade will pay proportionately a greater sum to the compensation fund, and so forth.

The considerations I have hitherto alluded to illustrate the advantages of this mode of dealing with the question in avoiding inequalities in the incidence of the charge, but there are also larger and more important issues involved. The amount that could be raised by such taxation, especially if the tax were imposed for a long term of years and capitalized, would facilitate the operation of reduction, and, at the same time, involve less hardships on licensees.

It must, moreover, be remembered that this plan of devoting certain taxation of liquor to the buying up of licenses believed to be redundant was put forward by Mr. Goschen in 1890, and, while the license purchase scheme was ultimately dropped, the taxation to provide the money for that purpose—and amounting to some 440,000*l.* a year—was imposed and has ever since been regularly exacted, although the proceeds have been diverted to other uses. The moral claim of the licensed trade to be freed from this impost which was assented to only for a particular object that was not carried out seems to me beyond dispute, and was, indeed, at the time acknowledged both by the late Mr. W. H. Smith (the First Lord of the Treasury) and Mr. Goschen. If this sum were rendered available for uses similar to those for which it was designed, a very substantial starting point for the compensation fund would be provided, and whatever is required in addition might be raised on the same lines.

The argument that it is trenching on the national revenue to obtain money for the extinction of licences from the taxation of liquor does not appear to me in any way an answer to my proposal. As far as the taxation of 1890, to which I have already referred, is concerned, I have pointed out that it was originally imposed for this specific end, and since it has been diverted to national objects there is no reason why the burden should be retained on a particular class of the community. Looking at the subject of a further special tax, if it be said that this would interfere with the resources of the national revenue, it must be remembered that the outlay contemplated is to secure a reduction in licences which is advocated, as in the public interest, and to which, therefore, if there is no complaint against the way in which the houses are conducted, the public might even be fairly asked to directly contribute.

H. H. RILEY SMITH.

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6. *By Mr. Grinling, Mr. Hyslop, Mr. Riley Smith, Mr. Walker, Mr. Money Wigram, Mr. Young, and Mr. Younger.*

We express by our signature our general assent to Part III. (Ireland), except as regards the question of early closing on Saturdays (page 248, Chapter X., paragraph 2). We are of opinion that in cities and towns where the population is over 5,000 the hour of closing should be 10 p.m., and not 9 p.m., as in the Report.

HENRY GRINLING.
SAMUEL HYSLOP.
H. H. RILEY SMITH.
CHARLES WALKER.
A. MONEY WIGRAM.
SAMUEL YOUNG.
GEORGE YOUNGER.

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7. *By Mr. Allen.*

PART V.

I do not think any levy should be made on Clubs for the Compensation Fund.

In considering the question of compensation it must be remembered that in the case of wine, spirits, cider, and sweets licenses, there is no monopoly value; I am of opinion, therefore, that they should not receive any compensation under the proposed reduction scheme.

The first Septennial Period may be regarded as a time notice, after which the tax of 6*s.* 8*d.* per cent. should be raised to a much higher rate if the reduction in the number of licenses is not, in the opinion of the Licensing Authority, sufficient.

W. ALLEN.

FINAL REPORT

(Signed by the CHAIRMAN, the ARCHBISHOP OF CANTERBURY, SIR W. H. HOULDSWORTH, SIR C. CAMERON, DEAN DICKINSON, Mr. ALLEN, Mr. CAINE, Mr. HERBERT ROBERTS, and Mr. WHITTAKER.)

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REPORT.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

MAY IT PLEASE YOUR MAJESTY,

We, the undersigned Commissioners appointed to consider the Operation and Administration of the Laws relating to the Sale of Intoxicating Liquors, desire humbly to submit to Your Majesty this our Final Report.

INTRODUCTION.

(*i.*) *Terms of Reference.*

The terms of our Reference were to inquire into the operation and administration of the laws relating to the sale of intoxicating liquors, and to examine and report upon the proposals that may be made for amending the aforesaid laws in the public interest, due regard being had to the rights of individuals.

(*ii.*) *Procedure.*

As soon as possible we set to work upon the inquiry. We have held 123 sittings for the hearing of evidence, in the Queen's Robing Room, House of Lords, by Your Majesty's gracious permission, and we have examined 259 witnesses from all parts of the United Kingdom.

The present state of the law in the three countries was very ably explained to us by Mr. W. B. Heberden, Excise Secretary of the Board of Inland Revenue; Mr. N. J. Highmore, Assistant Solicitor to the same Board; Sir H. Poland, Q.C.; Mr. C. P. Scott Dickson, Q.C., Solicitor-General for Scotland; and Mr. Dunbar Plunket Barton, Q.C., M.P., Solicitor-General for Ireland.

We have also received valuable assistance from many official and independent witnesses, as well as from many temperance reform societies, and representatives of the liquor trade.

Our general plan was to examine first the operation and administration of the laws in England, Wales, Scotland, and Ireland respectively, and then to hear any special schemes that might be proposed for the more complete reform of the present system.

With regard to the licensing systems in force in the colonies or abroad, we felt that, in view of the different conditions prevailing in those countries, a detailed examination of them would be of little value for application to this country, and at the same time impossible to perform satisfactorily without an indefinite and unwarrantable extension of our proceedings. We accordingly resolved that British witnesses advocating or opposing special schemes, might refer to foreign experience by way of illustration or argument, but that it was impossible to examine a series of witnesses from America, varied as the licensing system is in the different States of the Union, and elsewhere.

We also addressed a series of questions to the clerks of every licensing bench in the United Kingdom as to the number of licensed houses, their proportion to population, &c., the result of 10 years' administration of the law, and other particulars relating

to licensing practice, and we also sent out a circular to the police authorities with a view of obtaining information as to the number, increase, and condition of clubs.

The result of these inquiries, together with the minutes of evidence and appendices relating thereto, we have from time to time reported to Your Majesty.

The inquiry has necessarily been a long and intricate one; but it might have been indefinitely prolonged without hearing any irrelevant evidence. The questions committed to us for investigation are numerous, difficult, and controversial in the highest degree. The law, besides being different in the three Kingdoms, is in itself extremely complicated, it is administered by a number of different authorities, whose practice differs very much in different parts of the country, and its operation is very much affected by the varying habits and customs of the people.

The importance of the subject with which we have to deal few will deny, and fewer still will fail to be impressed with the evidence which has been submitted to us in the course of our protracted inquiry.

PART I.—ENGLAND AND WALES.

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CHAPTER I.—INTRODUCTORY.

(*i.*) *Connexion between Drink and Crime and Poverty.*

The drink question is so much interwoven with other questions, strikes so deeply into the very ground-work of social relations, and has such bearing upon thrift, health, domestic habits, and national character that it is advisable at the outset to glance at some of the opinions which have been expressed on the subject by very competent judges, and first, as to the connexion between drink and crime.

Bridge, 2684. It scarcely needs the authority of the senior metropolitan police magistrate to confirm the opinion that "most crimes of violence and neglect of wife and children "are due to drink," while as to the general connexion between drink and crime,

Bower, 26,382. Captain Nott Bower, Chief Constable of Liverpool, admitting that there is frequent exaggeration in estimates, concludes that it is a fair calculation to say that 50 per cent. of the crime of the country is due to drink.

Roberts, 7563. Mr. J. R. Roberts, clerk to the justices of Newcastle-upon-Tyne, explains the exceptional freedom of that city from crimes of violence by the fact that the activity of the police anticipates the drunkards, and prevents the commission of that class of crime to which drunkenness naturally leads.

Whyte, 67,329. It is obvious also that drink and poverty are closely allied, and the Manchester guardians specially investigating the connexion, in 1884, found that 51·24 per cent. of the cases of pauperism were directly caused by intemperance.

Somerset, 31,325. Lady Henry Somerset, who has devoted many years to studying social questions among the poor in London and South Wales, and who has founded a home for inebriate women, has stated that when 21*s.* is the total aggregate weekly earnings of a family, six shillings is frequently thought not too large a proportion to spend on drink, and she testifies by a number of striking instances to the change that comes over a home when intemperate habits are abandoned.

But, short of actual crime, the misery brought upon a household can well be understood without again recurring to the evidence of Mr. Roberts, that in Newcastle nearly all the numerous cases of married women applying for protection from their husbands on the score of cruelty or desertion, show that drink was "*an element*" in the production of the miserable result.

(*ii.*) *State of Drunkenness.*

It is here essential to consider what is the actual state of the country in respect of drink.

Is drunkenness stationary?

Is it more prevalent? or

Is it decreasing?

Without impugning the bona fides of those who draw up or compile statistics, it is clear that the basis and conditions upon which they are drawn up are different, that the points of view of the compilers are various, and that in some cases bias, often quite unconscious, or other considerations, may materially affect the results and the conclusions to be drawn from them.

Thus in the preparation of his figures Mr. Troup, principal clerk at the Home Office and editor of the Judicial Statistics, states that the cases where drunkenness is accompanied by some more serious offence are not included under the head of drunkenness, and that if they were so included the result would be an addition of 5 or 6 per cent.

The amount of misery and degradation caused by drink may be very great, but the drinking that is the direct cause cannot be the subject of statistics. Indeed, the chief

constable of Staffordshire asserts that police statistics are no test at all of the actual amount of drinking, and he explains that what is shown in the Judicial Statistics as drunkenness is simply those cases where a person is proceeded against before the magistrates for no other offence than being drunk and disorderly. Anson, 7137, 6917.

The heavier offence covers the less, thus, if a person is arrested and charged for assault and drunkenness, the conviction for assault is recorded and, though the 5*s.* which may have been also imposed for the drunkenness is accounted for as a money-payment, the record stands for assault and for assault alone.

It is clear, too, that both the practice of the police as well as their activity in arrests will vary in different places.

Habitual inebriety will also sometimes, through the repeated conviction of an individual, unduly swell the returns and give an incorrect impression of the number of the persons convicted.

But giving full weight to these qualifications of the value of statistics, the broad facts remain unchallenged of the prevalence of evil arising from drink.

In some places, as in Liverpool, drunkenness is decreasing, the number of convictions since 1889 having decreased from 16,042 to 5,305, on the testimony of the Chief Constable, though he admits that the decrease in real drunkenness is hardly so great. Bower. 26,285, 26,547–605.

In Manchester drunkenness, says the Chief Constable, is on the whole decreasing, though the figures for 1896 show a very large increase, nearly 1,100 over 1895, a fluctuation possibly accidental, but for which he is unable fully to account. Hannay, 3682.

In the Metropolis, in some districts, drunkenness seems stationary, *e.g.*, in Soho, and in the Bow Police Division. In St. James' Police District the superintendent testifies to a very remarkable increase in proportion to the rest of the metropolis, while there is a decrease in the Clapham Division. Wells, 4769. Smith, 4182. Lucas, 5064.

In South Shields the Rev. H. W. Farrar states that there has been an improvement, though drunkenness is still one of the curses of the place.

The Secretary of the United Kingdom Alliance commenting upon the alleged fact that in England and Wales every thirteenth person dies in the workhouse and every eighth in a public institution, believes the consumption of alcohol per head to have increased from 3·561 gallon proof spirit in 1847 to 4·026 at the present time, and observes that while open drunkenness is less, soaking drunkenness is more common. Whyte, 67,267, 67,289.

To turn to medical evidence, Dr. Norman Kerr, President of the Society for the Study of Inebriety, and Consulting Physician to an Inebriates' Home, allows a decrease of intemperance in many respects, but dwells upon the fact of the increase of deaths from chronic alcoholism and delirium tremens, and asserts that the present generation is peculiarly susceptible of alcoholism owing to mental and bodily excitement, and that the evil is hereditarily transmitted to posterity both by man and woman. Kerr, 74,041, 74,054. 74,148.

Mr. Lawson Tait, F.R.C.S., thinks that drunkenness in Birmingham is decreasing. Tait, 71,577.

Thus, there is conflicting testimony as to the actual status of drunkenness, though on a general survey of the evidence it will be seen that there is little difference of opinion as to the existence of a widespread evil, and probably the stipendiary magistrate of the Potteries expresses in concise form the opinion of many others when he remarks that "if you were to take away the effect of drink in my district I do not "think I should have practically any work whatever to do." Wright, 20,275.

It should be noticed as indicating the fluctuation of drunkenness and the material causes which operate towards its prevalence or diminution, that when trade is depressed and employment scarce there is less money to spend and consequently less indulgence, whereas in good times, high wages, and prosperous trade, there is an increase of intemperance, so that to use the expression of Mr. Roberts, "there was the closest "possible connexion between a prosperous state of trade and a high level of wages "and drink." He thought they were convertible terms, and he instanced a particular period in his own town of Newcastle, in which the spending power of the people having increased a corresponding increase took place in the number of convictions and in the prosperity of the brewery companies. The same witness had little hopes of eradicating this ingrained habit of spending from the present, but thought there was considerable hope for the coming generation. 7567. 7582.

(*iii.*) *Female Intemperance.*

Somerset, 31,673. Clements, 28,583.

A darker feature remains to be noticed. Numerous witnesses testify to the growth of intemperance among women, and among them Lady Henry Somerset, being asked whether female intemperance is on the increase, replies, "Unquestionably there has "been an increase. I fancy that that is indisputable."

Mr. Lawson Tait thinks female intemperance to be decreasing, while the Chief Constable of Liverpool, while he dwells upon improvements which have been there effected by various agencies, moral, police, and sanitary, regrets that the improvement has not extended in the same proportion to women; for while the total amount of female drunkenness has no doubt decreased, the female proportion of drunkenness, which in 1855 was 38 per cent., rose in 1889 to 43 per cent. of the total.

Rothera, 10,938. Sampson, 12,195.

In Nottingham the coroner has observed a great deal of female drinking, especially in the morning, and young girls are in and out of public-houses a good deal, while the coroner of Liverpool confirms the greater decrease of convictions for drunkenness among men than among women, and states that there is a large increase of deaths from excessive drinking among women, and concurrently a large increase in deaths of children from suffocation.

It is a lamentable fact that when a woman becomes intemperate she seems to have less power of self control than a man, and a table which has been presented to us, showing for a period of 10 years apprehensions for drunkenness in Liverpool from 5 times or more up to 50 times or more, brings out the fact that whereas at the lower scale of 5 apprehensions or more the males numbered 1,047, and the females 1,673, for 10 apprehensions or more the women are nearly three times as numerous as the men, for 20 apprehensions or more are six times more numerous, and that under the remaining heads 30, 40, 50 and upwards, while the men are put down as 4, 1, and 0, the women figure as 70, 32, and 14—one woman reaching the total of 167.

Bower, 26,521.

(*iv.*) *Child Drinking.*

The natural consequences to the children follow from the intemperate habits of their parents. Mr. Rothera may have been witness of extreme instances, when he relates that he has seen children in perambulators drinking beer; but if the cases of child drunkenness are happily few in Liverpool there is significance in the fact that in that city between the years 1889 and 1895 there were 41 cases of children dealt with for drunkenness.

10,493.

31,356.

Lady H. Somerset speaks of a girl of 13 brought before a police court in Manchester for being drunk; she had entered a public-house, bought some whisky, and drunk it on the doorstep.

But it is not the actual drunkenness of children that points to the existence of danger so much as the effects produced in after life by the example of parents, by the wretchedness of home, by the neglect of education, and by the absence of all training except for evil. It is not necessary to dwell upon the inevitable consequences.

(*v.*) *General.*

It would be unjust to deny the effects which are being made to counteract the mischief of drink, or to withhold our tribute of respect and admiration for the individuals and societies, churches, and lay institutions whose activity and self devotion merit the highest praise from all who wish to promote national welfare.

But the individuals or societies would themselves be the first to admit that unless they are aided by reforms both in the law and its administration, their efforts, however successful, must lose somewhat in their effective and permanent operation, and we now proceed to examine the reforms which have been suggested to us, and to consider which among them are *feasible* and *necessary*.

We hope we may receive the support of public opinion in our earnest endeavour to deal with a subject the intricacy and difficulty of which will be best understood by those who have most carefully studied it.

CHAPTER II.

SKETCH OF THE HISTORY OF THE LIQUOR LAWS.

(*i.*) *Early History down to* 1828.*

It has been found necessary from very early times to regulate the sale of intoxicating liquors, especially for consumption on the premises.

In 1495, by 11 Henry VII. c. 2, the retail sale of beer and ale was first placed under the control of the justices. Any two justices of the peace were empowered in their discretion "to reject common ale selling in any places and take security from sellers of ale for their good behaviour."

The first Licensing Act proper, however, and the foundation of the present system, was passed in 1551 (5 & 6 Ed. VI. c. 25), to remedy "the intolerable hurts and "troubles to the commonwealth of the realm which did daily grow and increase "through such abuses and disorders as were had and used in common ale-houses and "other houses called tippling-houses."

The Act confirmed the power already possessed by justices of the peace, and further enacted that no person was to keep an ale-house or tippling house unless licensed by them. The justices were to take surety by recognizance from the license holders, and were given power to try breaches of their conditions.

These recognizances contained such conditions for the management and good order of the business as the justices thought suitable, and in this way a set of regulations came into existence many of which were subsequently embodied in Acts of Parliament.

A Royal Proclamation of 1618 included most of the conditions commonly in use in a set form of recognizance which was ordered to be generally adopted. It contained provisions for closing at 9 p.m. and during the hours of Divine service on Sundays, against unlawful gaming, permitting drunkenness, harbouring bad characters, &c. Later, on, however, a simpler form of recognizance containing conditions against unlawful gaming and disorderly conduct only was thought sufficient.

The proclamation of 1618 also directed that annual licensing meetings should be held, and that the licenses should be annual, though it is clear that some licenses at least were annual long before this. The annual character of the license is thus almost coeval with the licensing system itself, and had nothing to do with financial and excise considerations as has been alleged.

The retail sale of spirits for consumption on the premises was first made subject to the justices' license by an Act of 1700 (12 & 13 Will. III. c. 11.), but it was not properly enforced owing to the negligence of the justices.

At last the ill consequences of this free trade in spirits came to such a pass that Parliament determined to take stringent action, and in 1836 an Act was passed (9 Geo. II. c. 23) intended by its authors to entirely suppress the retail trade in spirits.

The preamble of this Act forcibly expresses the nature of the evil:—

"Whereas the drinking of spirituous liquors or strong waters is become very common, especially among the people of lower and inferior rank, the constant and excessive use whereof tends greatly to the destruction of their healths, rendering them unfit for useful labour and business, debauching their morals and inciting them to perpetrate all manner of vices, and the ill consequences of the excessive use of such liquors are not confined to the present generation, but extend to future ages and tend to the devastation and ruin of this kingdom."

An excise license duty of 50*l.* was imposed, together with an additional 20*s.* for every gallon of spirits sold, over and above the duties paid by the manufacturers. The principle that the trade in spirits should be distinct from other trades was also laid down. The Act, however, was extremely unpopular, and could not be enforced. The 50*l.* license duty was reduced to 20*s.*, the 20*s.* per gallon duty was repealed, but the duties on the manufacture of spirits were increased, and various minor improvements in the law were effected with beneficial result.

* *See also* a careful account of the liquor legislation down to 1828, drawn up at our request by Mr. Bonham-Carter, Barrister-at-Law, Vol. III., App. 14, p. 572.

Meantime an important reform had been made by an Act of 1729 (2 Geo. II. c. 28). The Act states that inconveniences had arisen from licenses being granted by justices who, living at a distance, might not be truly informed as to the occasion or want of such licenses, or the character of the applicants. For the future such licenses were only to be granted at a general meeting of the justices acting in the division where the applicant resided. It was thus clearly laid down as a principle of the licensing law that local knowledge was an essential qualification in the licensing authority.

In 1753 (26 Geo. II. c. 13) the law was consolidated, and the old practice of annual licensing was made statutory.

By the Act of 1792 (32 Geo. III. c. 59) the consent of the justices in petty sessions was required to be obtained to the transfer of a license.

The retail sale of wine was early brought under regulation for revenue purposes, but did not come under the control of the justices till 1792.

Sweets and made wines were brought under the same regulations as ale and spirits in 1736.

(*ii.*) *State of the Law at the Beginning of the Present Century.*

At the beginning of the present century, therefore, the justices had full control over the retail sale of all intoxicating liquors for consumption on the premises, but no justices' license was required for retail sale off the premises only.* Licenses were granted at the annual licensing sessions by the local justices of the division. The justices still retained the discretionary power of suppressing a license at any time, but this power existing side by side with the regular licensing system had naturally long been obsolete.

The distinct discretionary power of refusing renewal at the annual licensing sessions remained as before and was far from obsolete. Transfers during the continuance of the license required the consent of the justices in petty sessions. There were regulations for the maintenance of good order, but no other closing hours were enforced than during Divine service on Sundays.

License duties which had in most cases been first levied by means of a stamp duty on the justices' license were now raised by means of the excise license duty. The payment of the proper fee and the production of the justices' license (where this was required by law) were the necessary conditions for the issue of these excise licenses.

(*iii.*) *The Act of* 1828.

The year 1828 is an important epoch in licensing legislation, not so much because of the changes introduced, as because the Act passed in that year is still the foundation of our present law.

The Act 9 Geo. IV. c. 61 was a consolidation Act, but it made some important changes. Recognizances were no longer required, but the conditions formerly contained in them as to hours of closing, against unlawful gaming, disorderly conduct, &c. were embodied in the justices' license as is the case in Scotland to-day, and cumulative penalties were laid down for breach of the conditions. New rules were also made as to applications for new licenses and as to transfers.

The most important change, however, was the appeal to quarter sessions against refusal to grant or renew a license. The Select Committee of the House of Commons on the State of the Metropolitan Police and Licensing of Victuallers in 1817 had reported against "the arbitrary power claimed and exercised by the magistrates to "deprive old-established victuallers of their licenses," and it was to check this that appeals were allowed to county quarter sessions from both borough and county divisions. The discretionary power of the justices to refuse renewal without any reason assigned, however, remained in itself unchanged.

At the same time the old power of suppressing a license at any time, dating from the time of Henry VII., was formally abolished.

* The on-license then, as now, always includes sale "off." No retail sale of spirits for consumption off the premises was permitted except in a public-house. Wine in any quantity could be sold "off" by persons holding wholesale wine-dealers' licenses. Brewers for sale could take out an excise license to retail beer "off" the premises. This was only abolished in 1869.

There were at this time about 50,000 fully-licensed public-houses, called ale-houses, because the ale and beer license was the foundation of the license, and no one could take out a license for spirits, wine, or sweets unless he had it.

Of these some 45,000 held the spirit license, 18,000 the wine license, and 700 the sweets license. All were, as explained, under the complete control of the justices.

(*iv.*) *The Beerhouse Legislation of* 1830–40.

A great change soon followed—the policy of 300 years was completely reversed, By the Act of 1830 (1 Will. IV. c. 64) the principle of free trade in beer was introduced. Subject only to the qualification of a bond with sureties, any householder rated to the parish was entitled, on mere payment of a duty of 2*l.* 2*s.*, to take out an excise license to retail beer or cider on or off the premises without a justices' license. The object of the Act was two-fold. Great apprehensions were felt as to the spread of the tied-house system; several Committees of the House of Commons had reported against it in very strong terms, and the introduction of the free beerhouse was designed to stamp it out once and for all. The second object was to discourage the consumption of spirits by encouraging the consumption of beer. Never was an Act passed which more disastrously failed to fulfil the expectations of its authors. The tied-house system continued to prevail, and while the consumption of beer enormously increased, that of spirits suffered no check.

Immediately on the passing of the Act 30,000 beerhouses sprang into existence. In less than four years great abuses arose, to which the report of a very strong Committee of the House of Commons in 1834 bears eloquent testimony.

In 1834 the second Beerhouse Act (4 & 5 Will. IV. c. 95) was passed, which made a distinction between beerhouses selling for consumption on and those selling for consumption off the premises; the license duty on the former was raised to 3*l.* 3*s.*; the duty on the latter was 1*l.* 1*s.* A certificate of good character from six householders was required, and in some instances a rating qualification was introduced. The Act failed to check the increase in the number of the on-beerhouses, which now numbered 40,000, and in 1840 the third Beerhouse Act (3 & 4 Vict. c. 61) was passed, which made a rating qualification universal, and required the licensee to be the real resident occupier. The increase was checked, but only for a time, and by 1869 the numbers of the on-beerhouses had reached nearly 50,000.

(*v.*) *The Legislation of* 1840–69.

The Beerhouse Acts did not at all diminish the numbers of fully-licensed houses, but as time went on tended to increase them. It was useless to suppress an alehouse when two beerhouses might spring up in its place, and the justices sometimes granted the full license to a beerhouse, preferring a house over which they had some control to one over which they had none. By 1872 the number of fully licensed houses reached 70,000.

A House of Lords Committee in 1850 reported on the evils arising from this multiplication of beerhouses, and this was confirmed by Mr. Villiers' Committee in 1854. In proportion as the magistrates tried to keep down the number of public-houses, so did the number of beerhouses increase; they formed a mischievous refuge for those who had failed discreditably or been deprived of their licenses as publicans. They were the "habitual haunts of the idle and abandoned, of thieves, prostitutes, and the adepts and learners of crime." Both Committees were in favour of bringing the beerhouses under the control of the justices.

But in spite of this signal failure, the principle of free trade in licenses continued for a time to be the order of the day. Mr. Villiers' Committee, influenced by their fear of the tied-house system, even recommended its application to the fully-licensed houses, though under more stringent regulations. The Act of 1860 created an on-license to sell wine in refreshment houses, and an off-license to sell wine in shops in bottles only. The Act of 1861 created an off-license to allow a licensed spirit dealer to sell spirits or liqueurs by retail, and also instituted the table-beer license for the off sale of beer not exceeding in price 1½*d.* a quart. A previous Act of 1848, called the "Maraschino Act," had created a spirit dealers' additional retail license for the sale of foreign liqueurs only, but this, though it still exists, was practically swallowed up by the off-retail spirit license of 1861. In 1863 another off-beer license was created allowing a licensed beer-dealer to sell beer by retail.

None of these licenses required the consent of the justices, except that they were entitled to enter a caveat against the wine refreshment house license on certain conditions. The Act of 1860 was passed by Mr. Gladstone with the object of promoting the use of light foreign wines as a beverage, and the off-wine license created by it, which could be taken out by any shopkeeper, was the foundation of what are popularly termed grocers' licenses.

The table beer license, which cost 5*s.*, was very unimportant. The sale of beer at the price mentioned, without any license, had been previously allowed by custom if not by law. About 2,000 of these licenses were taken out in the first few years, but after 1872 they rapidly diminished, and now only about 14 are taken out in England and Wales.

The spirit-dealers' additional retail license was intended to legalise the retail sales, which the spirit-dealers had been accustomed to make for the convenience of those who did not wish to go to a public-house, and presumably the beer dealers' additional retail license had the same object.

(*vi.*) *The Legislation of* 1869–70.

The period 1869–74 was a time of great activity in licensing legislation. It marked the reversal and final abandonment of the free trade principle pursued for the preceding 40 years.

The Wine and Beerhouse Act of 1869, amended by the Act of 1870, was a temporary Act designed to bring houses for the retail of beer or wine under the control of the justices, more or less like public-houses. It applied to both the wine licenses under Mr. Gladstone's Act, to all the beerhouse and cider licenses under the Beerhouse Acts, and to the table beer and beer-dealers' additional retail license.

In all these cases a justices' license was required to precede the issue of the excise license, but a distinction was made between on-licenses and off-licenses. In the case of an on-license the justices were empowered to refuse the certificate at discretion, subject to appeal to quarter sessions. In the case of an off-license they could only refuse it on one of four grounds, viz.:—

(1.) That the applicant has failed to produce satisfactory evidence of good character.
(2.) That the house or the adjoining house owned or occupied by the applicant is of a disorderly character.
(3.) That the applicant has had a previous license for the sale of any exciseable liquor forfeited through misconduct, or has through misconduct been adjudged disqualified.
(4.) That the applicant or the premises are not duly qualified according to law.

In the case, however, of houses licensed for consumption *on* the premises prior to 1st May 1869, the justices' discretion was limited, and by section 19 confined to the four grounds above-mentioned.

A great deal of discussion has taken place over this section, and the reasons which induced Parliament to give the beerhouses a privileged position as compared with fully-licensed houses. It has been suggested that the powers of the justices to refuse the full license was not understood at the time, and that it was intended to put the two kinds of licenses on the same footing. It must be remembered, however, that Parliament was not conferring any new privilege on the beerhouses, but rather cutting down those which they already possessed. However that may be, the effect of the section is that the justices have only a limited control over the beer and wine-houses, which then numbered about 53,000.

(*vii.*) *The Act of* 1872.

In 1871 a comprehensive measure was introduced dealing with the whole subject; this had to be abandoned, but in 1872 a very important Act was passed.

Its chief provisions were as follows:—The Acts of 1869–70 were made perpetual, and their principle was extended by requiring a justices' license in the case of four other excise licenses,* the sweets licenses on and off, and the dealers' additional retail

* By the Act of 1828 sweets required a justices' license, but the excise duty on sweets was repealed in 1834 (4 & 5 Will. IV. c. 77.), and in the case of R. *v.* Lancashire (7 E. & B. 839), in 1857, it was held that no justices' license was required. From 1857 to 1872, therefore, sweets were sold without a license.

spirit and retail foreign liqueur licenses, except where the premises were used exclusively for the sale of intoxicating liquors.

Fresh restrictions were placed upon the grant of new licenses by the institution of the confirming committee, so that all new licenses required the concurrent jurisdiction of two authorities, one to grant the license and the other to confirm the grant; and by the abolition of appeals to quarter sessions against the refusal of a new license in the case of a public-house.

A qualification of annual value was required for all new on-licenses.

The applicant for a renewal was protected from objections made without notice or not upon oath, and from unnecessary attendance at the annual licensing meeting.

New closing regulations were established, and six-day licenses were introduced.

All the former penal police provisions were abolished and new ones substituted, applying to all premises licensed by justices.

(*viii.*) *The Act of* 1874.

The amending Act of 1874 substituted a new set of closing regulations, abolished confirmation in case of new off-licenses and appeal against the refusal of a new certificate under the Wine and Beerhouse Acts, and introduced early-closing licenses, besides making various amendments in the law, especially with regard to the penal endorsement of licenses.

(*ix.*) *The Acts of* 1880–82.

The Acts of 1880 and 1882 gave the justices free and unqualified discretion to refuse the grant of the three retail off-beer licenses, viz., the off-beerhouses, the beer-dealers' additional, and the table-beer licenses. No distinction was made in favour of existing licenses.

(*x.*) *Effects of Legislation on the Numbers of Licenses.*

The result of this legislation may to some extent be judged by the fluctuations in the numbers of the different classes of licenses.

Since 1872 the increase of fully-licensed houses has ceased, and their numbers have slightly gone down from 70,000 to 67,000.

Since 1869 the number of on-beerhouses, on-beer and wine houses and on-wine houses has decreased from 53,000 to about 35,000, of which the privileged houses number probably about 30,000.

The off-beerhouses created under the Act of 1834 soon numbered about 6,000, but probably owing to the ease with which the on-license could be obtained, diminished to about 3,000 in 1869. During the period of limited magisterial control, 1869–1883, when the restriction on other kinds of licenses began to be felt, they rapidly increased, till they reached about 14,000 at the time of the Act of 1882. They immediately dropped by about 1,000 in the first year, and have since slightly decreased to a little over 12,000.

The other off-beer license, the dealers' additional retail, shows similar changes. Numbering 3,000 in 1869, they rose to between 5,000 and 6,000 in 1880, but since the passing of the Act of that year they have steadily declined to 3,000.

On the other hand, these licenses over which the justices have still only a partial control, viz., the wine-off and the dealers' additional retail spirit, have steadily increased; the wine licenses, which numbered 2,300 in 1872, have exactly doubled, and the spirit licenses have risen from 2,600 in 1872 to 7,500.

(*xi.*) *Closing Regulations.*

It has been mentioned that the Act of 1872 introduced a new set of closing regulations for houses in which intoxicants are sold. Before this the law had been in a state of great confusion.

In 1828 no closing hours were laid down for public-houses, except during the hours of Divine Service on Sundays, Christmas, and Good Friday. Between 1828 and 1872, at least 11 Acts of Parliament dealt with this point. Many of these were the subject of much controversy at the time, but they have now lost all importance. Their general result was that all houses for the sale of intoxicants were closed on Sundays until

12.30 p.m., from 3 p.m. to 5 p.m. and from 11 p.m. till 4 a.m. on Monday morning. The rules for week day hours of closing differed in different places and for different kinds of licensed houses, while in some cases, *e.g.*, that of public-houses in many rural districts, they did not apply at all.

By the Act of 1872 the hours of closing were fixed for all kinds of retail licenses in the Metropolis—

On Sundays, &c. till 1 p.m., from 3 to 6 p.m., and after 11 p.m.
On Week-days, &c. till 5 a.m. and at 12 p.m.

Elsewhere the closing hours were :—

On Sundays, &c. till 12.30 p.m., from 2.30 p.m. to 6 p.m. (or 1 p.m. might be substituted for 12.30 p.m. and 3 p.m. for 2.30 p.m. by order of the licensing justices) and after 10 p.m., but the licensing justices might fix any hour not earlier than 9 or later than 11 p.m.; such an order, however, would not apply to beer-houses if the hour fixed was later than 10.

On Week-days till 6 a.m., or any hour not later than 7 or earlier than 5 a.m. fixed by the licensing justices, and at 11 p.m., or any hour not later than 12 or earlier than 10, but a later hour than 11 was not to apply in the case of beer-houses, and these houses, if situated in a district having not more than 2,500 inhabitants, were to close at 10 p.m.

The feature of this legislation was the discretionary power of the justices over the hours of closing. They availed themselves of it in about 200 districts. Changes in the evening closing hour were usually in the direction of an earlier hour, though not invariably. Changes in the opening hour were about evenly divided in each direction. It is worth noting that a rather similar discretionary power over the hours of closing in beerhouses was given to the justices in 1834.

The Act of 1874 took away this discretionary power except on Sundays at mid-day. New closing hours were fixed, which were to apply to all licensed premises, according to their situation in the metropolis, in a town or populous place, or in a rural district, as follows :—

—	Metropolitan District.	In Towns or populous Places.	Elsewhere.
Sunday - - - -	Up to 1 p.m. 3 to 6 p.m. 11 to 12.30 a.m. on Monday	Up to 12.30 p.m. 2.30 to 6 p.m. 10 to 12 p.m.	Up to 12.30 p.m. 2.30 to 6 p.m. 10 to 12 p.m.
Weekdays - -	12.30 a.m. to 5 a.m.	Up to 6 a.m. From 11 to 12 p.m.	Up to 6 a.m. From 10 to 12 p.m.

These regulations are now in force throughout England and Wales with the important exception that by an Act passed in 1881 (44 & 45 Vict. c. 61), there is complete Sunday closing in Wales.

(*xii.*) *Offences and Penalties.*

The history of offences and penalties under the Licensing Acts is even more complicated than that of hours of closing. Perhaps the most important point to notice is the penal endorsement of convictions upon the license; the license is forfeited if after two indorsements a third conviction takes place within a certain period. The principle was first introduced by the Act of 1869. The Act of 1872 divided offences into three categories, those which could not be endorsed, those which must be, and those which must be unless the justices ordered otherwise. The Act of 1874, while it maintained the first class, laid down that other offences were only to be endorsed if the justices thought proper.

(*xiii.*) *Sale to Children.*

It only remains to add that by the Act of 1886 (49 & 50 Vict. c. 56), the sale of any intoxicating liquors to any child under 13 for consumption on the premises was forbidden. By the Act of 1872 the sale of spirits to children under 16 had been already prohibited.

CHAPTER III.

THE PRESENT LAW.

(*i.*) *Outlines of the Law.*

The result of the changes we have sketched may be briefly summed up. There are 19 excise licenses for the sale of intoxicating liquors, which are held either singly or in a great variety of combinations. A complete account of them, drawn up by Mr. Highmore, will be found in Vol. I., Appendix II.

Cf. Vol. III. App. XI.

The functions of the excise authority in regard to these are, with one or two small exceptions, purely ministerial. The licenses are issued on payment of the duty, and production of the justices' license where necessary.

The justices' license is not required for any of the wholesale licenses, nor for the spirit dealers' additional liqueur and spirit retail off-licenses when the premises are used exclusively for the sale of intoxicating liquors. To these may be added on-licenses for passenger boats and theatres.

In all other cases a justices' license is required, discretion to refuse which is sometimes complete, sometimes limited to the four grounds. The license lasts for one year and no longer.

On-licenses are held by the public-house, the beer, cider, and wine houses. Over all these the licensing authority has full control, except in the case of those beer, cider, and wine houses licensed continuously since 1st May 1869, when it is limited to the four grounds. All the off-beer licenses (three in number) are also subject to full control, but in the case of all other retail off-licenses this control is limited to the same four grounds.

The so-called "grocer's license" deserves a word of explanation. Any shopkeeper (not a grocer only) can take out the off-wine license under Mr. Gladstone's Act, permitting sale in bottle. He may also, along with this or without it, take out the dealer's additional retail spirit or liqueur licenses, or the beer-dealers' additional retail licenses, but he need not be a shopkeeper at all to take out these, the only qualification being that he must have taken out the wholesale license.

As a matter of fact, persons who take out these licenses, other than the ordinary wine and spirit merchants, are usually grocers, and hence the name.

A qualification of annual value is required for all houses licensed for sale *on* (except in the case of public-houses licensed before 10th August 1872), varying according to situation in the Metropolis, in towns of over 10,000 population or elsewhere. But beer and cider houses licensed before the date named are subject to a lower rating qualification (*i.e.*, 15*l.*, 11*l.* and 8*l.*, as against 30*l.*, 20*l.* and 12*l.*), which applies also to beer and cider houses off and to the additional retail beer. The rating qualification for a public-house is now 50*l.*, 30*l.* and 15*l.*

To grant these licenses there are held annual licensing meetings of the county justices in every petty sessional division and of the borough justices in every borough, having a separate Commission of the Peace.

New licenses are granted in the counties by the full bench, and in the boroughs (with the exception of some small ones) by a licensing committee. All new on-licenses have to be confirmed by the confirming committee of county quarter sessions in counties, and by the full bench in boroughs.

There is no appeal against the refusal of a new license.

The renewal of a license stands practically on the same footing as the grant of a new license, except with regard to the notices required for application or objections, and a few other particulars. Renewals are granted by the full bench, and need no confirmation.

Special sessions are held for the purpose of granting transfers from one person to another, and temporary transfers are also granted at petty sessions.

There is an appeal to quarter sessions against the refusal of a renewal or transfer. This appeal goes to county quarter sessions from both counties and boroughs.

Removals from one house to another and provisional licenses, *i.e.* new licenses from plans, are granted under the same regulations as new licenses, but provisional licenses have to be made final at annual or special sessions.

The regulations for closing hours have already been described. An exception is made in favour of the *bonâ fide* traveller. The local authority may also grant a temporary extension of hours to on-licensed premises for a special occasion, or a permanent exemption order on certain days except between 1 and 2 a.m. The local authority is usually two justices in petty sessions.

Consents for occasional licenses can be granted to a license holder for sale elsewhere than on his premises by one justice sitting anywhere.

There are numerous offences which a licensed person can commit, *e.g.*, permitting drunkenness, &c., selling drink to drunken person, harbouring prostitute, harbouring or supplying drink to constable on duty, infringement of closing hours, illegal sale to children, permitting gaming, permitting house to be a brothel, &c., &c. The penalties vary, and the conviction can be endorsed in some cases, as already described.
There is an appeal to quarter sessions against both conviction and endorsement.

There are also penalties laid down for offences by the public, especially being found drunk or drunk and disorderly in a public place, being drunk when in charge of loaded firearms, horse and carriage, &c. It is is also an offence to be found on licensed premises during closing hours, or to give a false name to the police when so found, or falsely to pretend to be a *bonâ fide* traveller.

There are also stringent penalties on the sale of liquor without a license for the protection of the revenue.

All these regulations are enforced chiefly by the police, and partly by the excise where the matter affects them closely. Accordingly, both have a power of entry into licensed premises, and the license holder must produce his license at any time when asked for.

(*ii.*) *The Complexity of the Law and Need for Consolidation.*

The bare outline which we have given can, of course, give no idea of the intricacies and difficulties in which the law is involved. Besides excise enactments in England alone, there are now in force nearly 25 Acts of Parliament dealing wholly or in part with licensing by justices; these have been largely supplemented by much case law, and even now important points are constantly coming up for judicial decision.

It is a serious drawback to the effectiveness of a law, whose operation touches such a vast number of people, and whose administration is in the hands of so many laymen, that it can hardly be understood without reference to a lawyer, and we concur in the opinion expressed by nearly all our witnesses that any future reform of the law should include its simplification and consolidation.

CHAPTER IV.

EXCESSIVE NUMBER OF LICENSED HOUSES AND THE EFFECT.

(*i.*) *The Excessive Number of Licensed Houses.*

In considering the operation of the licensing laws, two prominent facts, besides the prevalence of drunkenness, which we have already noted, call for our special attention—the excessive number of licensed houses, and the prevalence of the tied-house system.

A remarkable unanimity prevails as to the excessive number of licensed premises in England and Wales. In large and small towns, in village and country, the same story is told, licenses beyond all possible requirements, and in some places such a congestion of them as to be hardly credible upon any principle of adaptation to public wants.

Thus in Birmingham they are enormously in excess of any possible requirement, there being a license to every 140 people above 15 years of age, and Mr. Barradale put in a map which can be referred to, Vol. I., App. VIII., showing very graphically the condition of things. Barradale, 5433.

In Newcastle the number is excessive, judged by the standard of proportion to the number of inhabitants, 1 to 307. Fifty of these it is estimated are not doing a remunerative trade, and are continued on the speculation of some alteration in the neighbourhood. Roberts, 7529, 7732 7859.

In Lincoln there is a very excessive number, and in Wakefield the case is the same, not one half of the licensees making a living out of liquor, and a reduction by half being very desirable. Richardson, Harris.

In some towns there is great congestion, as in the old part of Hull, where, according to Mr. Shackles, clerk to the borough justices, at least one-half are not required. These, though unprofitable, are maintained in hope of compensation, or of surrender for new licenses elsewhere. 8253–74.

Sheffield compares unfavourably with other large towns in Yorkshire, the proportion of licensed houses being 1 to every 40 families, or about 192 persons, whereas in Leeds the proportion is 1 to 345, Bradford 1 to 239, Huddersfield (in 1893) 1 to 283. To bring the ratio to population in Sheffield up to that of Leeds 740 licenses would have to be extinguished. Clegg, 17,903

In Chichester the proportion is 1 to 100, having at one time been 1 to 79, and this state of things has been the subject of remonstrance by the guardians as well as by the bishop and clergy. Prior, 26,136.

From Reading comes evidence of the proportion of 1 to 208, and of the licenses being "exceedingly thick" in the older portions of the borough. Clements, 28,670.

It will be found that the comparison of licensed houses to population tells unfavourably for Portsmouth, where the average is 1 to 153, and where the same difficulty of gaining a living is found as in other towns, as evidenced by the transfers, which numbered in 1894, 206, in 1895, 289, and in 1896, 275, and this out of a total number of 1,040 licensed houses. There is congestion here as in other large towns. 75 licenses as compared with 31 food shops are found in Portsmouth parish, while in High Street 1 house in 14 is licensed, and in one street 1 in 5. But the worst case is on the "Hard," where, though trade has shifted and what necessity there was no longer exists, in a space of 191 yards 13 out of a total number of 27 houses are licensed, while licenses are thickly strewn among the neighbouring streets and narrow and disreputable alleys. The locality is styled "The Devil's Acre." Chorley, 20,086–108.

In Brighton the number is excessive and though the incursion of visitors may account in some degree for the excess, there is a poor quarter unvisited by excursionists where 26 out of 156 houses are public-houses or beerhouses. Mr. Prince, solicitor, of Brighton, tells us that there is much disorder in this locality. Many of the licensed houses are the resort of bad characters, and probably about 150 are a curse to the place and ought to be swept away at once. Prince, 25,613, 25,766, 26,022.

The opinion of Mr. T. E. Rogers, J.P. and D.L. for the county of Somerset, is noticeable from the divergence which it presents to other evidence. He admits that there are many public-houses in his rural district, but thinks there are not more than sufficient, and expresses his views, in answer to a suggestion whether he had attained the happy medium, that "if they are all well-conducted and all wish to live, to talk "about too many is nonsense." 27,425.

The licensed houses in Henley-on-Thames are thickest in the poorest quarters, and in the town of Halifax this coincidence is also found, as in many other towns, large and small. Clements, 28,538. Spink, 29,117.

In the Metropolis congestion clings to poorer districts, such as St. George's-in-the-East, where the evil state of things that once prevailed in Ratcliffe Highway in the shape of public-house music and dancing halls is still credited with much of the existing immorality. Notwithstanding the improvement in that once notorious thoroughfare, there is one street in the neighbourhood where out of 215 houses 27 are licensed. The Rev. P. Thompson speaks of the pernicious results upon the society of St. George's-in-the-East and the adjoining Whitechapel. Thompson, 33,841, 33,859, 33,868.

Map 1. We may refer to a chart, Vol. III., App. IV., which was put in by Lady H. Somerset, showing the congestion of licenses in an area of less than a quarter square mile, where the total number of public-houses is 116, equivalent to 1 public-house to every 17 inhabited houses, or 1 public-house to every 200 persons. Of two other charts, Map 2. put in by the same witness, one shows 45 public-houses in the length of a mile in Whitechapel Road, E., and another gives 77 public-houses in an area of a little Map 3. under a quarter square mile in Fitzroy Square district, W.

Vol. V., p. 31. To turn to the country districts; the proportion of all licensed premises to population varies greatly, as will be seen from a table showing the highest and the lowest ratio, in which Nelson borough occupies the most favourable position, with 1 to 1,153, while the unenviable first place among those where the ratio is highest, is occupied by St. Ives Borough, in Huntingdonshire, where the proportion is 1 to 66.

42,606, 42,620. In respect of St. Ives, Mr. Tebbutt, a magistrate and occupier of agricultural land, and a near resident, is of opinion that there had been an enormous decrease of drinking in his neighbourhood, and though, in the place where he actually lives (Bluntisham) there are 10 public-houses to 500 population, he would not object to an extension, and certainly would strongly deprecate a reduction; his views being that the fewer the public-houses the greater the drunkenness; that there is no reason why an increase in facilities should increase consumption; that on the contrary drunkenness would diminish if free trade in selling liquor was the law.

He thinks the present condition of things is due to brewers and teetotalers, and that if the principle of supply and demand were left to operate without these disturbing agencies, the mere increase of the supply would not increase the demand any more than it would do so in the case of bread or cheese or any other article.

As showing the ratio of all licensed premises to population, a summary of a table which we have prepared shows the following results :—

Vol. V., p. 31.

Licensing Districts.	Where the Proportion of all Licensed Premises to Population is 1 to				
	Under 100.	100 and over.	150 and over.	200 and over.	300 and over.
London - - - -	—	2	—	2	13
Boroughs - - -	15	65	58	67	32
Petty Sessional Divisions - -	15	112	195	251	135
Total - -	30	179	253	320	180

The ratio of licenses to population may be low for the whole of a district, while some parts of it are very much over licensed, so that the facts are often worse than the figures, though these are bad enough.

(*ii.*) *The Effect of Excessive Number.*

Here we must notice an argument which is sometimes put forward, that there is no necessary relation between the number of licensed premises in any locality and the amount of drunkenness.

It might seem obvious that excess in the number of licenses would produce a condition of things in which, competition being rendered very severe, the licensees would have to resort to illicit practices to secure customers and to push their trade by the attractions of concerts, dances, and exhibitions, and would not be very likely to scrutinise the condition of a half drunken customer who asked to be served. It would also occur to many people that the fewer the houses the greater their value, and the greater inducement to the licensee to conduct his house properly, for fear of prejudicing so valuable a property. Further it would seem that, if the houses are unduly multiplied, the greater in proportion becomes the difficulty of effective police supervision. And again, if there are a great number of licensed houses, this increases the number of a class of persons who are directly interested in the sale of drink and in finding outlets for the trade. A certain number of customers also attach themselves to particular houses, form a regular clientele, and drink for the good of the house. Where there is an excessive number

of licensed premises there is most probably a tendency of the houses at the lower end of the scale to deteriorate, and thus to injuriously affect the character of others by their evil example, and to reduce the general level of respectability.

The argument which we wish to notice in reply to the above reasons may be thus summarized :—

1. A man wishing to drink will go for his drink, without reference to the increased distance which he may have to go for it.
2. The increased value given to public-houses by their rarity tends to make the justices lenient in dealing with offences, and thus confers impunity upon the license holder.
3. If the house is less crowded, by the reason of there being many others in the neighbourhood, supervision by the publican is thereby facilitated.
4. It is better to let the people who drink too much resort to the houses they patronise and not mix with other customers in the houses which, if few, will be crowded.
5. Police statistics can be produced which show that where houses are fewest, arrests are more numerous.

But to infer (as is the logical inference) that the way to reduce drunkenness is to increase the licenses, is to go against the legislative system of 400 years, and to reduce to a farce the function of a licensing authority. The whole process involved in the above arguments is fallacious. Nothing can be more inconclusive than to take two places and compare the percentage of arrests for drunkenness with the percentage of licensed houses to population, as if that relation were the only factor in the case, and as if there were no considerations to be taken into account such as climate, wages, general condition of the people, size and character of the licensed premises. Statistics of some kind there must of course be, but for purposes of useful comparison, the places which are statistically compared must be considered in a variety of aspects, and every element as far as possible eliminated which may tend to prejudice the conclusion.

The Lords Committee on Intemperance in 1878 laid some stress upon the statistics showing that the northern towns and counties have fewer public-houses but are more drunken than the southern, and that the number of public-houses varies inversely with of increase in the population. But this may be accounted for by the high wages usually obtained in the northern towns, and by the fact that the large population is mainly due to new coal-field districts which have been created since restrictions on liquor selling have been more stringently enforced, while other places now not so flourishing date from the period when licensing was practically free.

Police statistics themselves can be only relied on to a certain extent, for much depends upon the character and activity of the police force, and a comparison say of Newcastle with other towns must be unfair unless the peculiar activity and efficiency of the Newcastle police be reckoned with, as contrasted with another town of like size, where perhaps the police are less distinguished by those qualities. The practice of the police, too, differs in various places, and in some arrests are made for simple drunkenness, in others arrests are only made in cases where drunkenness is accompanied by disorder.

The difference between a new and active chief constable and an old and inefficient one, or between a well and ill-constituted watch committee would produce striking variations, when one locality is compared with another. The number of the police, the number and situation of the stations to which drunken persons can be conveniently taken, and all such circumstances would greatly affect the records of drunkenness. Mr. Prince told us that in 1896 the number of convictions for drunkenness in Brighton was nearly double that in the previous years. This he attributes to the greater activity on the part of the police following on the appointment of a new chief constable. 25,610.

Suppose that a lock-up in a country district is between four and five miles from a given village, and a policeman two miles off, it is clear that cases of drunkenness will either escape police notice altogether, or if they are noticed it will require to be a very bad case indeed before the policeman would take the trouble to convey the arrested person such a distance as that. All this does happen in a district of Hertfordshire, a county where public-houses are thickest, and yet which is signalised in police Lockwood, 19,076.

statistics as one of the soberest of counties. But the rector of Widford, near Ware, has himself dragged drunken people at harvest time out of the public road in a state of "dreadful intoxication," and having informed the police has been naturally told that had there been a lock-up anywhere near they could have put them in. He concludes, from his own observations, that police statistics are no criterion of the amount of drunkenness, and he instances Ware, which possesses one public-house to every 101 persons, and where, in 1892, there were only 10 convictions, and 14 in the village of Widford, although he declares, with regret at having to speak thus of his own neighbourhood, that "drunkenness is the habit of a great number of these people, and "as a consequence there is an enormous amount of poverty."

Colonel McHardy, Chairman of the Prisons Commission of Scotland, has paid
48,369. particular attention to the statistical side of the question. He finds that 90 per cent. of all prisoners committed to prison attribute their position directly or indirectly to drink. Struck by this he has attempted to trace, if possible, any connexion between the
48,350. number of public-houses and the number of all offences. He takes the 29 principal towns in Scotland, and, dividing them into two groups, those with the largest and those with the smallest number of public-houses, and comparing the average number of offences over a three years' period, 1894–6, he obtains the following result:—

1st Group, average 11 public-houses per 10,000 population, offences 24 per 1000,

2nd Group, average 24 public-houses per 10,000 population, offences 32 per 1000,

which shows roughly that the more public-houses, the more offences, and therefore drunkenness.

Struck by the geographical position of these towns, he divides them again into two other groups, according to their position east or west of the main watershed of Scotland, which ran roughly north and south; the result is as follows:—

48,365. East Group, average 13 public-houses per 10,000, offences 22 per 1000.

West Group, average 22 public-houses per 10,000, offences 35 per 1000.

The same conclusion, the more public-houses the more drunkenness, is arrived at even more strikingly than before, though the witness says that possibly the moist atmosphere or the large Irish population on the West Coast may have something to do with it.

Taking the same 29 towns and then comparing their offences in 1886 and 1896, he finds that—

Out of 21 towns showing an increase of public-houses, 10 showed an increase of offences, 6 were stationary; only 5 showed a decrease.

Out of 7 towns, where the number of public-houses remained the same, 2 showed an increase of offences, 4 were stationary, and 1 showed a decrease.

In 1 town, where the number of public-houses had increased, the number of offences was about stationary.

These results are apparently somewhat discrepant with the former. The witness explains this to some extent by pointing out that in the latter calculation two different periods of time are taken; new offences had been created in the interval, and other causes might have been at work.

48,350. Colonel McHardy's conclusion is that it appears clearly, but no more than that, that you cannot predicate the number of offences by knowing the number of public-houses in any one town. His figures point very strongly to the conclusion that the number is an important factor in the case.

Other factors there are, as he points out. Climatic influences, especially moisture, apparently predispose to drink. A high or low rate of wages greatly affect the result, as is shown by the diagrams attached to the annual reports of the Prison Commission, in which the, at first sight, strange fact is prominent that the maximum of poor-house population coincides with the minimum of prison population. In the great frost in the early months of 1895, when wages were of course scanty, the average daily prison population fell from 2,300 to 1,553; but, on the cessation of the frost and on the recurrence of employment, the number in prison immediately
48,365. rose. This was an exceptional frost, but year by year the same results are seen in
48,377. their degree, though not in such sharp and definite outline.
48,382.
48,402. Other factors are also of importance, the stringency of administration, the sizes of
48,878. the licensed houses, and so on.

Colonel McHardy deduces from this, that mere reduction of numbers will not by itself reduce the number of offences; much depends on the status of the houses that are

left. but, if the number of public-houses is reduced, and the status of the remainder raised, he would expect a large reduction of offences. He hopes to improve the status of the houses by eliminating the element of private profit; but without going so far we may point out that a reduction of numbers is one of the surest ways of improving the status of the houses that remain. 48,385.

Colonel McHardy's valuable and judicious investigations cover the whole ground as far as statistics go; we turn to the opinions given by other competent witnesses.

Captain Nott Bower, the chief constable of Liverpool, states that he is satisfied that a substantially lessened temptation must lead to less drinking, and he thinks that the four years' experiment of open licensing, which increased the number of public-houses in Liverpool by 370, had a bad result, inasmuch as "in the seven "or eight years following the open licensing system the number of convictions "for drunkenness was very great." 26,377. 26,277.

Captain the Hon. G. Anson, chief constable of Staffordshire, thinks the number of licensed houses in his district is a great deal too large, and that the state of things is practically the same as if there was free trade in licenses—there would not be more drunkenness. 6931

Mr. E. T. Lloyd testifies that drunkenness in York is continuously decreasing; and admits that drunkenness is greatest where the public-houses are most numerous, 10 licensed houses occurring in one road in a space of 110 yards. 14,672, 14,833.

Mr. D. Owen, who puts in some tables relative to Carnarvonshire generally, and also specially to Conway division, concludes from his experience that where licenses have decreased, convictions for drunkenness have decreased, and he cites the authority of an eminent physician in Liverpool to the effect that the general result had invariably been that exactly in proportion as the facilities for obtaining drink had been increased so had drunkenness increased, together with a corresponding increase in poverty, disease, crime, and death. 30,859, 30,928.

Mr. D. Lewis, ex-bailie and now J.P. for the city of Edinburgh, asked whether he can observe any relation between the number of licensed houses in any particular locality or portion of the city and the prevalence of drunkenness, replies: "Yes, "we find that in Edinburgh, speaking generally. Of course it is very difficult to "compare wards exactly, because we have not uniform conditions in various parts "of the city, but we have arrived at the conclusion that the amount of drunkenness "is very much conditioned by the number of licensed houses." 50,331.

In Perth public opinion is represented by Bailie Wright as entirely in favour of "greater restriction," and he states that two-thirds of the licenses are in a part of Perth where all the slums exist. 51,872.

Mr. Dewar, chief constable of Dundee, spoke of the decrease of drunkenness since 1844 in that city; such decrease was coincident with a decrease in the number of licensed houses from 626 in 1852 to 432 at the present time.

A very singular fact was brought out in the course of an examination into the figures supplied by Sir A. Reed, Inspector-General of the Royal Irish Constabulary, which give the number of persons proceeded against for drunkenness in counties and in the five towns of Dublin, Belfast, Cork, Limerick, and Waterford. The figures for these five cities show a very close connection between the number of licensed houses and the prosecutions for drunkenness. Thus in Dublin, where the ratio of prosecutions to population is 1 to 45, the ratio of licensed houses is 1 to 274. In Belfast, ratio of prosecutions 1 to 42, of licensed houses 1 to 242. In Cork, ratio of prosecutions 1 to 32, of licensed houses 1 to 140. In Limerick, ratio of prosecutions 1 to 21, of licensed houses 1 to 126. In Waterford, ratio of prosecutions 1 to 14, of licensed houses 1 to 93. The up-shot of these figures is, therefore, that as far as these towns are concerned there is a very remarkable correspondence in a regularly ascending scale between the greater number of the licensed houses and the greater number of prosecutions for drunkenness, and that in Waterford, where you have three times as many public-houses in proportion to population as Dublin, you have three times as many prosecutions for drunkenness in proportion to population. It is to be noticed that in Ireland there is one central police authority, and thus one great source of variety in the value of police statistics is removed. Vol. VII., App. I., Table 6.

Without going in this place to Ireland for detailed illustration, it is sufficient to say that while in that country a regular system practically amounting to free licensing has prevailed, there is a remarkable unanimity in the witnesses to the effect that ill results have followed and that restriction is absolutely necessary.

On the whole, great care should be exercised in dealing with statistics, especially when they are used for comparing one place with another, but the necessity of care is not urged as a reason for weakening the actual force of the records of drunkenness as furnished by the police. Indeed, loudly as these records speak of the extent of drunkenness, they err not on the side of exaggeration but by reason of their understatement of the case; and though the story which they tell is bad enough, there is evidence on all sides how imperfect an idea would be formed of the extent of the national evil if mere records of arrests were exclusively relied on.

(*iii.*) *Conclusion.*

On a careful examination of the facts we arrive at the inevitable conclusion, which is affirmed by all our most competent witnesses, that the excessive number of licensed houses is a factor of the first importance in the encouragement of drunkenness. No doubt can be felt as to the immediate and crying necessity for a large reduction.

In three ways at least a large reduction would be immediately beneficial. The mere reduction would diminish the facilities and therefore the temptation to indulge. It would make effective supervision of licensed houses by the police or other authorities a possibility. It would diminish the competition between individual licensees, and so, by improving their status, make them more able and more willing to abstain from undue pushing of the trade.

CHAPTER V.

THE TIED HOUSE SYSTEM.

(i.) *Prevalence of the System.*

The Tied House system, though not a new system, has developed into great proportions and is gaining fresh ground.

Complaints against the dependence of tied tenants date from the early years of the present century, and the Select Committees of the House of Commons in 1817–1818, of the House of Lords in 1850, and again of the House of Commons in 1854, comment unfavourably on the system, while the beerhouse legislation of 1830 may be said to have been partly directed against the evils arising from brewer monopoly.

The system is making great strides, and is promoted and encouraged by the increased trade competition and by the anxiety of large limited liability companies to extend
35,050. the area of their business to the widest possible dimensions, so that, Mr. E. N. Buxton states, 80,000,000*l.* of brewers' securities are now quoted on the Stock Exchange. On a rough calculation we believe we are justified in estimating that 75 per cent. of licensed houses are "tied" at the present moment.

13,768. To give instances of the prevalence of the "tie" we refer to Mr. Malcolm Wood's evidence, who is of opinion that in Manchester 90 per cent. of the houses are tied in different ways and in varying degrees, from beer only, up to nearly everything that is sold in the house.

Nott Bower, 26,337. Of the 2,078 licensed houses in Liverpool in 1892, 1,057 were brewers' houses with paid managers, and of the remaining 1,021, 667 were held by private owners, themselves holding the license, while 136 were held by tenants of private owners, and 218 by tenants of brewers.

Clegg, 18,016. In Sheffield, of the 523 fully-licensed houses, 75 are free and 448 tied, and of the 650 beerhouses, 183 are free and 467 are tied.

Moorsom, 9981. In the police district of the county of Lancaster, of fully-licensed houses, in number 2,297, the "tied" amount to 1,569; of 1,861 "on" beerhouses 1,417 are tied; of

986 "off" beerhouses 453 are tied; of 274 other licensed places 15 are tied; in other words, out of a total of licensed houses of 5,418 the "tied" amount to 3,454.

In Leeds the "tied" are increasing and now number 285 to 478 free (on), 94 to 310 free (off).

In Staffordshire the chief constable gives— Anson, App. XIII. Vol. I., p. 450.

Public-houses tied 1,177, free 887.
Beerhouses (on) tied 977, free 829.
Beerhouses (off) tied 137, free 232.

In Lincoln half of the houses are tied. Richardson, 19,528.

In Chester 80 per cent. of licenses of all kinds are tied. Fenwick 27,654.

In Bristol the magistrate's clerk speaks of an absorption of houses by one or two brewery companies. Gore, 9313.

In Cheshire, Mr. Roundell gives the figures, excluding the seven boroughs, as 1,589 exclusive of shop licenses, and of these 900 are tied, 689 are free, and at the time (1891) when the matter was investigated by a committee there were 51 townships in which all the houses were tied. 21,598.

In Bedfordshire, out of 238 houses in the Biggleswade division in 1891, 216 were tied, and there are in the whole county 664 tied houses to 120 free. Gibbard, 22,881.

The stringency of the tie varies from the simple contract to repay a loan through many varieties of obligation to purchase beer, or wine, or spirits, or all of them from the brewer or distiller up to the onerous condition of compulsion to purchase from the owner or landlord every article of consumption, even cigars. One witness quotes what a man said to him in reply to his question: What are you tied for? "*I am tied for everything but sawdust.*" Shackles, 8,245.

(ii.) *General Effect.*

This elaborate system has sprung up and grown outside the law, and though it is urged that the Acts of 1872 and 1874 recognise an owner as distinct from the tenant and having an interest in a house, no inference can be drawn of any sanction to the practice of tying nor to the relations which have been created between licensee and brewer.

The general effect of the "tied" system is to push the trade and sale of liquor to the utmost. The brewer having purchased the house in the race of competition, feels himself compelled to justify his purchase by the extension of custom, and in the way of business desires to make his distribution of liquor as effective as possible.

As an instance of this, it has been noticed that six-day licenses, which must be voluntarily applied for, are very seldom taken out by tied licensees.

A committee of Cheshire magistrates considered the bearing of the tied and the free system upon the question of six-day licenses, and they found that the number of six-day licenses taken out by the tied was very considerably smaller than those taken out by the free. Out of 47 houses which have six-day licenses in Cheshire 43 are free houses. Roundell, 21,600. Fowell, 22,238.

And Mr. Stileman Gibbard, having a suggestion made to him that it would be better if every license-holder were to take out a six-day license, replies: "So he would "if he were not prevented from doing so by the brewer." 23,104.

An agreement between a limited brewery company and a tenant was put in by Mr. Barradale, clerk to the justices for the city of Birmingham, in which, among the terms by which the tenant binds himself, occurs the following passage: "The tenant "shall not close or permit the same (house) to be closed during hours in which the "same may by law be kept open, or do or permit or suffer any act whereby the custom "and business may be lessened or injured." A very natural clause in the supposed interest of the brewer, but one militating against the free action of the tenant if he were desirous of closing his house on Sunday or earlier on a Saturday night. This agreement was put in as the best the witness had seen. An individual brewer might be willing to close on Sunday, or adopt earlier hours in the houses which he owns or has control of, though it would be difficult for him to run the risk of loss of custom thereby. But where there are a vast number of shareholders pecuniarily interested in the returns from the various houses owned and served by the company, it is obvious that those interests are more likely to be of paramount importance, and be thought to be promoted by the utmost extension of hours, and by the fullest development of sale. Vol.I.,App.9. 6089.

(iii.) *Different Systems of Tying.*

In London the usual system is that the brewer holds a mortgage on the premises; in consideration of the loan the tenant of the house gets all his malt liquors from the brewer; competition between brewers has now brought in the system prevalent elsewhere of the brewers owning the freehold or leasehold, but the tenant almost invariably receives a long lease over which he has absolute control, and has a considerable stake in it himself, though a large proportion of the value is generally borrowed money.

Buxton, 34,978. 34,989.

Elsewhere all varieties of tying prevail. The stringency of the tie varies considerably, according to a report on the custom of the trade put in by Mr. Godden, Solicitor to the County Brewers' Society.* In the counties of Northumberland, Durham, Cumberland, and Westmoreland it is generally for beer alone. In Lancashire and Yorkshire the tied tenant system is a development of the last 20 years, and the tie extends from that for common beer alone to that in exceptional cases of all beers, spirits, wines, mineral waters, and tobacco. In the Midlands, the majority are tied for beer, wines, and spirits; while in the south, east, and west of England, and in Wales, the houses tied for beers only number 50 per cent.; for beers and spirits, 20 per cent.; for beers, wines, and spirits, 20 per cent.; and in 10 per cent. the tie is extended further to mineral waters and tobacco, and in certain counties to cider. Sometimes the tenant pays for the goodwill, sometimes only for fixtures. Sometimes he is charged more for his beer than a free tenant, sometimes the same.

Then again, there is the manager system, when the ostensible licensee is merely a servant in the house, paying no rent, but receiving a wage, and selling his master's goods as directed.

The difference between a manager and a tied tenant is often imperceptible, and the one shades off into the other, when the rent is nominal.

(iv.) *Opinions in Favour of the System.*

Turning to the opinions of those witnesses who see no objection to the tied system, and deprecate interference with the relations between the landlord and tenants, Sir H. Poland, speaking "as a lawyer and as one of the public," cannot understand why contracts should be interfered with, and argues that, whereas by the Act of 1840 a beerhouse keeper must be the real resident holder and occupier, the absence of any such provision in regard to licensed public-houses shows that, in their case, the licensee may be a servant, secretary, or a managing director of a company, that there is no ground for refusing a license because there is a contract behind it, if the tenant has conducted himself respectably, and, finally, he does not see any advantage to the public whether a house is tied or untied.

1130-33.

Mr. Whiteley, clerk to the justices of the Newington division of the county of London, states that the question of the kind of holding, that a tenant ought to have before he can be regarded as a "fit or proper person" to have a license, is differently regarded in the various divisions of the metropolis, but that in his own division the minimum requirement is an annual holding with three months' notice on either side, and the bench have to be satisfied on this point before they grant a license. But though acting officially in carrying out this requirement, he thinks the question of "managers" and the whole question of the "holding" to be moot points.

2876, 2878.

Mr. Roberts, clerk to the justices for the city and county of Newcastle-on-Tyne, who testified to the fact that all the principal houses are getting into few hands, and that now the majority of the houses are owned by a dozen local firms or syndicates, thinks the tied houses well conducted and better conducted than the free.

7606, 7607.

Colonel Moorsom, chief constable of Lancashire, where three-fourths of the licensed houses are tied, does not see the agreements between landlord and tenant, but, as far as figures go, does not think the tied houses any worse than the free, and though there is a diversity of opinion among the police superintendents, they generally say they are well conducted, and he has no special complaint as to the quality of liquor which they sell.

10,108.

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* Vol. 3, App. 10.

Mr. Webb, chief constable of Leeds, where a great number of houses belong to brewers, considers the tied-house tenants as respectable as any other tenants, and does not think that the brewers let their houses to an inferior class. 15,305.

Mr. Ellett, clerk to the Cirencester division of the county of Gloucester, and chairman of the Justices' Clerks' Society, in reference to the houses in his district, where 67 out of 89 are tied to brewers, sees no difference in dealing with a tied as compared with a free house. The magistrates only inquire into the character of the man, though in some instances they call for and examine agreements. But they see no objection in the ordinary clause binding the tenant to buy beer or spirits from the owner. 6747.

Mr. Lee Warner, J.P. and county councillor for Norfolk, thinks that in a sparsely populated district "the eye of society is very much on the brewer," that the question of tied or free is a very difficult matter to form an opinion on in regard to the respective merits, that he himself is in the habit of inspecting agreements, and if he finds a "tie" for anything else than liquor he remonstrates. But his colleagues differ from him, and disapprove his action. 24,918.

In Birmingham, Mr. Barradale, speaking on behalf of the justices, sees no objection to a tied house any more than to a managed house, on the grounds of public order or morality, but the frequency of transfers showed an unsatisfactory state of things. 5,489, 5,817. 6,113.

Captain Nott Bower, Chief Constable of Liverpool, draws a distinction between tied houses with managers and tied houses with tenants, as well as between tied and untied houses. He is in favour of managers as against tenants, but as between tied and free houses, though a free may be slightly better than a tied house with a tenant, he cannot draw much inference from the comparison. Summing up, he concludes that of the three classes into which he divides the houses, viz: Tied houses with paid managers, tied houses with tenants under brewers, and free houses, the tied houses with managers are the best, and the brewer-tied tenant houses the worst conducted. In the agreements with their paid managers the brewers make them sign a blank transfer; but that is for the public benefit, as thereby a bad man is got rid of, and the course of justice is thus anticipated rather than hindered. The better conduct of the managed houses appears to be largely due to the stringent regulations made by the owners of these houses; the managers are paid a fixed wage, and his action is checked in many ways by strict supervision, as was explained to us by Mr. Ellis, Secretary to Messrs. P. Walker and Sons, brewers. 26,336, 26,340, 26,370. 38,398, 38,413, 38,447, 38,467.

Other witnesses represent the trade, and are in favour of the tied system; but perhaps Mr. Godden's summary of the advantages of the tie, and defence of the agreements which the tenants enter into, may fitly conclude the series. Mr. Godden is solicitor to the County Brewers' Society. The tenancies are yearly, and terminable in a few cases at one month's notice, but in the majority of cases at three, and in some at six months' notice. He regards the agreements as fair and intelligible, and has heard of no complaint from tied tenants; thinks there is no peculiar frequency of transfers in tied houses, and holds that instead of the tenant being at the mercy of the landlord, the case is rather the other way. He has heard of bogus agreements, but has never seen one. In regard to the form of the agreements—they are printed documents, drawn up with a view to fairness, a little involved, perhaps, and with a little more verbiage than is quite necessary, but not unfair, and not open to objection. The "tie" under his society's rules is for beer, but often it includes other articles, and this extended tie is getting more common. In consequence of a legal decision that distress for a beer account amounts to a bill of sale, a clause which up to that time had been inserted in the agreement was omitted, and an alternative substituted in the interest of the tenant. He knows of no grievance arising from the monopoly of a district in the hands of a brewer, and concludes that nothing would be gained by interference with free contract. 37,293 and following.

(v.) *Objections to the System.*

On the other hand many witnesses speak very strongly against the system.

Mr. Shackles, from his own experience as Clerk to the Borough Justices of Hull, and from the experience of the magistrates, has very unfavourable opinions of the system, as exemplified in the fully-licensed houses, beerhouses, and off beerhouses in the borough, where 90 per cent. are tied. The houses are often in bad condition in sanitary and structural respects. The tenants are under very onerous terms of 8200-8904.

tenancy; some of them are tied, not only for beer, but for everything, including mineral water and tobacco. They are compelled to sign a blank application form for transfer, so that they are liable at any moment to eviction. They pay heavily for bad articles.

Their position is illustrated by the great number of transfers, 300 to 400 in number, a year.

In 10 years, 135 houses were transferred 6 times.

83	„	more than 6	times.	
53	„	„	7	„
36	„	„	8	„
20	„	„	9	„
11	„	„	10	„
4	„	„	11	„

This frequency of transfers proves either that the houses are not required, or that for some other reason the tenants cannot get on. If one bad tenant is removed by transfer, another equally bad takes his place; for a livelihood cannot be had in these houses, so poor and numerous are they. He would abolish the tie absolutely. "It is "not for the public good, and I should abolish it."

Shackles, 8923.

20,122. 20,167. 20,226.

Mr. Chorley, a Wesleyan minister, stationed at Portsmouth for the full term of three years permitted by his Church, 1893–6 (in Portsmouth, as we have already seen, the houses are practically all tied, the bulk belonging to three firms) describes how retired warrant officers after 21 years' service in the Navy invest all their savings in these houses, and how, after a few months or a little longer, in a very large number of cases, they leave the houses with their money gone. The tenants sign blank applications for transfer; their rent is merely nominal, but the conditions of the life are so hard that the tenancy soon comes to an end. The system acts very injuriously upon them. Transfers are very numerous; are granted as a matter of course, subject to police investigation as to the character of the new applicant, but without inquiry as to why the preceding tenant had left.

Anson, 7003.

7397.

6969. 7008.

The Chief Constable of Staffordshire strongly objects to the tied house system. It interferes with the course of justice, as the imposition of proper penalties is prevented, and the character of the house is supposed to be purged by the transfer from the offending licensee; and, although, from the point of view of public order, it is an advantage that a good man should be substituted for a bad, still the "fact that "the house has been badly conducted for a certain time is entirely lost sight of by "the process." And even when a conviction has been obtained, a transfer takes place and "the thing is practically wiped out." Transfers increase as the system spreads, and there is no stability among the holders of licenses.

10,298–10,331.

In East London Mr. Martineau, Chairman of the Licensing Justices for the Tower Division, expresses for himself and his colleagues dislike to the tied house system. The system led to an undue pushing of the sale of drink; the tenant, unlike a free man, was under continual compulsion to sell, or he must go if he did not sell enough. It also made it very difficult to fix the responsibility for offences, as the licensee was so easily turned out. It was an evil that the tenancies were terminable at such short notices. In some parts of East London the liquor supplied was not quite so good. Unless there was keen competition, there was a strong temptation to the brewer to get rid of inferior liquor. In some districts one firm had an entire monopoly. The system operated injuriously upon the tenant; he was so tied that he had no separate existence; he was completely in the hands of his chief. The justices sometimes inspected agreements and leases, &c., but did not attach much weight to them.

21,600. 21,607. 21,615. 21,646. 21,910.

Mr. Roundell has also a strong objection to the system, though there are brewers and brewers. The present case of transfer puts the tenant at the mercy of the brewers. There was often a clause in agreements giving the brewer immediate right of re-entry, in case the tenant did or permitted anything which *might lead to* a conviction. The tenant was thus no longer responsible to the justices, but only to the brewer. The tied tenant was charged sometimes 6*s.* to 10*s.* a barrel more for his beer; and, so handicapped, he had a tendency to resort to all sorts of means to obtain a living. Lower rent did not compensate for the higher prices. The brewer thus encouraged the tenant to sell more beer, and took himself the benefit of the excessive charge. The lower rent tended to lower the assessment. At Crewe, in consequence of the strong action of the justices in insisting on *bonâ fide* tenants and fair terms, the

brewers raised their rents, and the result was that in the case of nine houses the total assessment rose from 714*l.* to 1,548*l.*

The Rev. J. T. Lockwood, Rector of Widford, Ware, says that the system keeps alive houses which cannot pay unless questionable practices are resorted to, and these act as traps to people who have saved a little money and think a public-house must be a good investment.

In the five public-houses, all tied, in his parish, there have been 22 changes in the course of 20 years, the transfers being necessary because the tenant finds he cannot get a living. His experience is that if a house gets a bad name, it attracts people for that very reason, and bad tenant succeeds bad tenant.

Mr. Stileman Gibbard (Bedfordshire) contrasts the number of convictions in tied houses, 1 in 25, with those in free houses, 1 in 60.

He agrees in other objections which we have gathered from witnesses, and upon a suggestion as to whether the brewer is not more severe than the law, *i.e.*, in forestalling offences and in punishing them, replies: "The brewer is a great deal 22,897.
"more severe than the law. The great difficulty, I think, is this: that the law puts
"the licensed victualler under the authority of the licensing justices, and it was the
"law's intention that his one fear should be of breaking the law by selling liquor
"to drunken persons, or by permitting drunkenness or otherwise; his terror would
"be that he would be brought before the licensing justices and be punished
"accordingly; but under the tied house system it is turned round entirely."

The Rev. H. W. Farrar, late missioner to seamen in South Shields, and Mr. H. 17,718.
Wright, stipendiary magistrate in the Potteries, give similar evidence of the injurious 17,724.
consequences of the tied house system. 17,730.
19,833.
20,303.

As indicating that there is probably something wrong in the tenure of public-houses there is a great frequency of transfers, especially among those which are tied.

Thus in Leeds—

The transfers in one year amounted to— 13,215.

Of public-houses tied -	54	or 85 out of a total of 353 licenses.
,, free -	31	
Of beer-houses, tied -	72	or 118 out of a total of 410 licenses.
,, free -	46	
Of shops, tied - -	39	or 71 out of a total of 404 licences.
,, free - -	32	

What makes this comparison more unfavourable to the tied houses is that the free houses are still more than twice as numerous as the tied, and Mr. Thornton, clerk 13,216.
to the justices in Leeds, who furnished us with the above comparative statement, explains that the proportion is partly due to the spread of the tied house system which is being tried by the tenants, and which, not being approved by them, leads to a multiplication of transfers.

Mr. Owen, solicitor, residing at Bangor, objecting to tied houses for the sake of the 31,183.
tenant as well as of the public, holds that it is not worth while for a substantial man to take a small tied house, and suggests the frequency of transfer as showing something unsatisfactory in the conditions under which these houses are held.

Mr. Barradale, clerk to the justices of Birmingham, though not at all objecting to 6113.
the tied system either on public or private grounds, states that transfers are very 5887.
numerous. Last transfer day there were 100, and they amount in a year to 800. On being pressed whether he does not think that this number indicated something wrong, and something unfair in the agreement between landlord and tenant, he replies that "it shows more likely that the tenant cannot make it pay and is glad to get out, "and the brewer is glad he should go out, in order that a man with more enterprise "should make a trade."

We have noticed the argument that the conditions of agreements between landlord and tenant sometimes actually favour instead of impeding the operation of law by ejecting the tenant on the first hint of an offence.

The best reply to such a plea is contained in an answer of Mr. Davies, solicitor, of 11,426.
Liverpool, who, rightly regarding the matter from an administrative and legal point 11,427.
of view, quotes with approval the remark made to him by a county magistrate and chairman of a bench that such a practice on the part of the landlord "places the "magistrates there merely to register the decrees of the brewer."

Whatever advantage may be derived by the brewer speedily removing a wrong-doer is not to be compared with the disadvantage which results from the facilities for practically whitewashing the house by putting in another man. For the police to communicate with the brewers any suspicion they may entertain of the conduct of any of their tied tenants is to misconceive their position as officers of justice, to render themselves the servants of private parties, and to forget that their first duty lies to the bench and the public.

The change of tenant thus brought about by either the intervention of the police or by the independent action of the landlord does not satisfy the demands of justice, but leaves the house still unpurged of its character, and with practical impunity it may be for a long course of misconduct.

Mr. Locke, ex-Mayor of Chesterfield, cites a case which came before the licensing committee during his mayoralty in which the terms of the agreement which the tenant had entered into were very stringent, as he was compelled to take everything that is
27,192. sold in the public-house from the landlord. The agreement was at first not forth-coming but was ultimately presented to the bench. The landlord reserved the sole
27,195. right of deciding what quality of beer should be sold. The brewery at which the remarks of the witness were specially levelled was stated to supply its tenants with bad beer, and on the natural question being put to the witness whether a brewer by so doing was not cutting his own throat, replied that the tenants were miners with a little money, who dreamt of a fortune by taking a public-house, that transfers were numerous, and that the policy of the brewery in thus dealing with their tenants appeared to answer, for the financial results to the company were by all accounts exceedingly satisfactory.

9313. Mr. Gore, justices' clerk at Bristol, though he does not think the tied house system has worked injuriously in that city, yet knows of brewers, though they are happily exceptional, who have houses which are mere traps for the savings of thrifty poor people.

Mr. J. W. White, who is secretary of the Bristol and district Licensed Victuallers' Association, after bearing testimony to the honourable conduct of the principal brewers, and noticing, on the other hand, a practice resorted to by some others, of
23,278. circulating, free of charge, flagons of beer, with the results that might be expected, goes on to speak of the tied houses, and makes a distinction among those which are
23,293. partly and those which are wholly tied. In the latter class of fully tied he has known many people go in and come out penniless, and has never known one succeed in a
23,297. fully tied house. The prices charged in some instances to fully tied tenants are 50 to 100 per cent. higher than in open market; so that in the case of spirits there is no possibility of profit to the tenant unless he resorts to the practice of reducing them much below the legal proof. Transfers in these cases are numerous. He mentions that there are three brewers who thus treat their tenants.

Mr. Richardson, an engineer of Lincoln, speaks very strongly against brewers and their agreements with their tenants, and gives an instance of an agreement
19,391. between a limited company and their tenants, by which the company is constituted the tenants' agent for the transaction of a transfer, is invested with the power of forcible entry into the premises, of reletting the same and transferring the license to the new tenant, and for that purpose of using the name of the ousted tenant.

19,359–19,374. He says that higher prices are charged for beer, and in consequence tenants are tempted to questionable practices, because the margin of profit is so small. He declares that he has seen letters from brewers to tenants, in which the brewer said, "You are not selling enough beer; you ought to double the trade; cannot you do "something to push the trade?" and so on.

18,022. Mr. Clegg says that in Sheffield the agreements are sometimes very stringent, giving the brewers great powers. There are two classes of occupiers, managers and tenants, who pay a valuation for fixtures. The tenants are often thrifty sober people who have saved a little money, and think that a public-house is a good investment. They chiefly come from the neighbouring villages, put themselves in the hands of the brewers' agents, and make no inquiry into the fate of past occupants; in a few years they often find it a bad speculation owing to the competition, and leave in debt.

Mr. Batty, of Manchester, said his experience led him to think that when the brewers
19,682. personally supervised the business the tenants were kept in good order and properly treated. But where the tenants had only to deal with the understrappers of a large

firm, caring for nothing but large dividends, the system operated very prejudicially. He had been professionally consulted by tenants who complained of harsh treatment from the brewers.

(vi.) *Practice of the Justices.*

While some witnesses see no harm in the system, either to the individual or to the public, there are others who regard it with apprehension, as tending to defeat the object of licensing legislation, and as erecting a code and custom of procedure unknown to the magistrates who adjudicate upon licensing matters, and who are ousted from their full and proper jurisdiction by agreements privately entered into between brewers and their tenants, which may or may not militate against public policy, but which, in many cases, withdraw the license from the authority of the justices, and substitute for them and the laws which they administer a series of private rules and obligations.

This is felt so strongly by some magistrates, that in Cheshire the licensing bench has opened the agreements between landlord and tenant, has declared some of the stipulations to be illegal, as, for instance, that which provides for forcible re-entry, and has not recognised the penalties imposed upon the tenant, on the ground that the only penalty which the tenant might suffer should be imposed directly by the bench as a consequence of infraction of public and recognised law. Roundell, 21,646.

There is no doubt that in different parts of the country a different course is adopted by the bench, and while in some, as in the instance just quoted, there is close scrutiny of the terms of agreement, in others they are regarded as of no public interest, and as simply being conditions of private arrangement between two parties equally free to enter into contract.

It is impossible to regard conditions which may press hardly on the tenant as beyond all bearing upon public policy, because the character and status of the applicant for a license may be greatly affected by the terms of tenure imposed upon him.

These terms may in a given case be found by him to be so onerous, that to gain a livelihood he is compelled to resort to illicit practices, and thus to become himself demoralised, and an ill example to his colleagues and his customers.

In houses which are partly tied there may be less interference with the tenant and a greater latitude of action allowed him, but even here conditions may exist which withdraw the license from the full jurisdiction and cognizance of the licensing bench.

In some districts the magistrates object to managers, in others they license them, and the variety of practice which prevails is well exemplified in the case of the Metropolis, as will be seen in the memorandum contained in Vol. V., p. 40, wherein it is shown that in some divisions no managers are allowed, in some insistence is made on the production of agreements, in others no rule is laid down, while in one division the applicant is required to state what his interest is. In other cities and in country districts the same diversity is found, and variations exist, best illustrated perhaps by the two cities of Liverpool and Manchester, for while Liverpool completely recognises them Manchester refuses, except in a few cases, to recognise any but *bonâ fide* tenants.

In some places the justices insist on *bonâ fide* tenants with a certain length of tenure. But generally the justices appear to trouble themselves very little about the position of the licensee and his interest in the premises. The production of the agreement is very seldom insisted upon.

(vii.) "*Bogus*" *Agreements.*

Reality of inspection is very important.

We use this term because witnesses have spoken of "bogus" agreements which are produced to satisfy the enquiries of the magistrates but which are really very different from the real contract which has been signed by the tenant.

We have been told of the magistrates being thus hoodwinked. One witness "has heard of" these bogus agreements (though he has never seen one). Another produced before us a specimen of a bogus document, by which the magistrates were deceived into believing that a manager paying no rent was a *bonâ fide* yearly tenant. In short, the manager, as he really was, was only a *bonâ fide* tenant when before the court. The witness speaks of a great number of bogus tenancies in Manchester Powell, 22,193. Godden, 37,350 Haggis, 24,197.

supported by bogus and sham agreements which impose on the magistrate. On being pressed he owned that he himself in 1885 used a bogus agreement, and in 1896 another person did the same in the case of an agreement which he (witness) had with him, and he further said that he could produce 50 different persons who have done the same thing.

This is confirmed by Mr. Murray, Chairman of the Licensing Committee, who in a letter to us says that in Manchester they had long suspected that some of the produced agreements were bogus, but felt unable to do anything in the face of sworn statements.

If such instances can be produced it points to the necessity of very close examination by the magistrates of the documents presented to them.

(viii.) *Summary.*

The enormous increase of the tied houses gives fresh and constantly increasing importance to the question, and adds to the gravity of the inquiry whether the evils which are attached to them are merely accidental and transient, or are inseparable and essential features of the system.

We have already remarked that the general effect of the tied-house system is to push the trade in liquor. No other general statement can be laid down.

Under a good and careful brewer the system may operate very well indeed, and produce excellent results, but there are brewers and brewers, and the evidence which we have quoted leaves it impossible to doubt that unless under strict regulation the system in very many cases works ill.

We have seen how it practically withdraws the license from the authority of the justices, chiefly owing to the ease with which they allow licenses to be transferred without inquiry. It also exercises a bad effect very often on the administration of the law. A big brewery company, or an individual brewer, owning many tied houses in a district is apt to exercise a perhaps unconscious influence both upon the police and the justices. The justices are loath to refuse a license, and the police are apt to think that they have done enough when they have reported any misconduct in a licensed house to the owner.

Anything that makes the position of the license holder more precarious is likely to be prejudicial to good order. One of the reasons for reducing the number of licensed houses is that a diminution of competition will enable remaining license holders to make a living without resorting to questionable methods of pushing their trade; but this good result would be done away with if the pressure from within is to produce the same result as external competition.

There is no doubt that some brewers charge more for liquor to tied tenants than to free, and thus try to get some of the profits on retail sale as well as the wholesale profits which properly belong to them. They defend themselves by saying they lower the rent, but the reason for this arrangement is no doubt that the tenant must sell more beer to make the same amount of profit, and it is difficult to believe that the brewer would remain content with a tenant who took advantage of the low rent, but let down the trade of the house, and would not spur him to greater activity.

There are cases where the tenants are treated with harshness, but, though it is not possible strictly to discriminate or assign responsibility to particular classes, speaking generally, it is the smaller brewers who are mostly chargeable on this score.

The partly tied tenants are likely to be better off than the wholly tied, as they have less burdens to bear.

The manager system can only be a success when the manager has no interest in sales, and is very strictly supervised, otherwise, having but little to lose, he is likely to be reckless in increasing profits. Under a good brewer, of course, the system might work much better than the tenant system, but it is open to great abuses, and is not one to be encouraged.

(ix.) *Suggested Remedies.*

The remedies suggested to us in the course of our inquiry were various.

Some witnesses advocate the total abolition of the whole tied system. We regard such a remedy as impracticable. Looking to the complication of relations, the tangled and intricate commercial interests which govern this department of trade, the necessity of some tenants to borrow, and the facilities for borrowing, we think any

enactment forbidding a practice amounting to a prohibition of the system could not be operative, and, because inoperative, would be mischievous.

Then there is the recommendation of the duality of licenses, seeing that the interests are dual, *i.e.*, that a license should be issued to the tenant as well as to the owner, and another suggestion that the brewer or owner alone should be licensee, and stand in direct relation to the licensing authority.

We believe that a duality of licenses would only add to existing confusion, to a dispersal and therefore a loss of direct responsibility, and with regard to the brewer or owner being the licensee, such a plan would alter the relation of the licensing authority towards the tenant, would shift from them to another authority the duty of seeing that a fit and proper person was put in to conduct a house, and would bring the licensing authority into direct contact with powerful agencies whose existence has not been hitherto recognised, and who being thus recognised would soon assert their power, and, not content with a license which is now admittedly for a year, would claim vested interests and permanency of tenure; there would be more and more difficulty than ever in making not the tenant only but the house responsible for acts of misconduct.

(x.) *Recommendations.*

The real occupier of the house should be the only person with whom the bench should deal, and his misbehaviour should entail penalties upon him, and upon the house itself, the penalties, whether on the man or the house, being imposed by the direct authority of the bench, and not by authority transmitted to a brewer or a company.

We are, therefore, of opinion that, inasmuch as the agreements which govern the tenure of houses, whether partly or wholly tied or whether conducted on the managerial system, are essential factors in the question and constitute a set of circumstances which should be fully within the cognisance of the licensing authorities, they should be always submitted to them, and those provisions should be eliminated which are contrary to the policy which the Legislature has sanctioned by the creation of a licensing authority and by the powers with which it has invested them.

It must be left to the discretion of the licensing authorities to say whether the terms of the agreement or arrangements entered into between the parties are such as to warrant refusal of the license.

If, in the exercise of their discretion, they grant the license on condition that objectionable clauses are struck out, these clauses should be ipso facto void.

We recommend that transfers executed in blank should be void.

Upon transfers being applied for, we think that the Licensing Authority should require the presence of the transferor and transferee, and that they should be examined, if necessary, on oath as to the reason for the change.

Indeed, the procedure in case of transfers, to which later reference will be made, can be so regulated as to become largely instrumental in preventing much of the evil associated with the abuse of the tied house system.

The ostensible applicant should be the person with whom alone the Licensing Authority has to deal, and to whom alone they should look for the due discharge of his lawful obligations. A record of all breaches of the law in the house in question should be kept and produced on all occasions when the Licensing Authority have to deal with the license, and they should have the power of visiting the house with the penalty of suppression in the event of the record justifying that extremity.

CHAPTER VI.

THE JUSTICES AS LICENSING AUTHORITIES.

The administration of the Licensing Law is shared in the counties by the duly qualified justices of the peace for the county in each petty sessional division and at quarter sessions, whereas in the boroughs the work is divided between the justices of the borough and the justices of the county sitting at quarter sessions. We shall revert later to the consequences of this diverse jurisdiction as between the counties and the boroughs.

1. Disqualification of Justices.

(i.) *The Law.*

The disqualifications of justices to act in licensing matters are set out in s. 60 of the Act of 1872:—

No justice may act for any purpose under the Licensing Acts (except in the trial of offences) who is, or is in partnership with or holds any shares in a company which is, a common brewer, distiller, maker of malt for sale, or a retailer of malt, or of any intoxicating liquors in the licensing district in which he usually acts or in any adjoining district.

No justice may act at all in respect of any premises in which he is beneficially interested, or of which he is manager or agent.

(ii.) *Railway Shareholders.*

Greaves (Bradford), 9600. The disqualifications referred to may operate in the case of justices holding shares in railway companies. The railway companies possess refreshment rooms or hotels, and are thus retailers of intoxicants, and an interest is established in the justices sufficient to prohibit them from acting in licensing matters. To such an extent does this latter disqualification work in excluding magistrates that in Leeds the stipendiary magistrate, on the question being raised by himself, was disqualified, retired from the licensing committee, of which he was chairman, and carried with him under similar disqualification so many members of the committee that the clerk has had the greatest difficulty in finding a magistrate, and has even been obliged to have a case postponed.

Thornton (Leeds), 13,260.

Crosfield (Liverpool), 11,723. An accidental personal interest in an investment in railway shares prevented a justice of the peace and member of the licensing committee for Liverpool from acting on licensing matters.

Batty (Manchester), 19,634. The difference between holding shares in a railway company and a brewery is strongly dwelt upon by Mr. Batty, who, in another respect, would extend the area of disqualifications. He holds the interest in the case of railways to be too remote, and the disqualification as very inconvenient, and mentions a particular case in which the whole of the bench would have been precluded from acting, had not a general agreement been come to that no notice should be taken of the disabling section of the Act.

Gore, 9544. In the case of the Licensing Bench at Bristol, about one-tenth of the whole body would be disqualified, if strict scrutiny were instituted.

The witnesses we have quoted object to this particular disqualification as unnecessary and inconvenient, and those who are in favour of rigid exclusion of magistrates on account of direct or even indirect interest, would remove this particular rule about railway shareholders.

(iii.) *General.*

Two witnesses who specially condemn the rule, Mr. Roundell and Mr. Batty, would, however, exclude magistrates who had actual interests in the trade from acting not

only in their own and adjoining districts, but from acting anywhere (as they are precluded under the provision of the law in Scotland).

The abolition of all disqualification is advocated by Mr. Fenwick on the ground that restrictions of this nature are invidious in the case of men presumably chosen because they are public men, men of honour, and men of influence, while Mr. Roberts would allow brewers to act on the licensing bench, as they would thereby gain an insight into the conduct of public-house business. 27,728 7816.

There are some who desire to exclude from the bench all persons who have professed opinions hostile to the trade, and such teetotalers as display a marked bias in favour of their own views, or have by overt act, such as subscribing to societies inimical to the liquor business, manifested their unfitness to adjudicate in a fair and impartial manner.

Mr. Roundell would, in his desire to be fair between one side and the other, exclude those who have expressed very strong temperance views—as he would exclude persons interested in breweries—but he thinks that it is a question of honourable feeling, and one which must be left to the magistrate himself or to his colleagues, and could not be the subject of statutory prohibition. 21,671. 21,929. 22,041

Mr. Godden, solicitor to the County Brewery Society, agrees with Mr. Roundell that no statutory test can be applied, and holds that while the disqualification of the brewing interest has not, so far as he is aware, met with any objection, the disqualification of the man who holds strong opinions against the trade must be a point for himself to decide, or, in a very extreme case, must be brought about by the interference of authority. 37,420.

(iv.) *Conclusion.*

The whole question turns upon the distinction between a financial and personal interest on the one hand, and opinion on the other.

The pecuniary interest is palpable and tangible. The opinion is abstract and theoretical, and though it is absurd on the one side to exclude an otherwise competent man by reason of his holding shares in a railway company, it is quite possible, on the other hand, to conceive of a case where a man is not only of such strong opinion on the subject of drink, but has given expression in act to his opinion in such a manner as to render him unfit for the discharge of duties either of an administrative or of judicial nature.

We see no reason for a change in the law except so far as railway shareholders are concerned.

2. Disqualification of Justices' Clerks.

(i.) *The present state of things.*

But if justices are in some cases justly disqualified from acting, the question arises as to the disqualification of their clerks.

The justices' clerk at Bristol, who is a solicitor, is debarred by the terms of his appointment from private practice, and he thinks that a clerk should neither act professionally for any brewery company, nor hold shares, any more than a magistrate. Gore, 9375. 9378.

The clerk to the bench is naturally possessed of influence, and in some cases of preponderating influence, and it happens in some instances that he is connected, either professionally or financially, with licensed houses. In such a case, Captain Anson says, proceedings are not taken at all against a house which would otherwise be proceeded against, or a solicitor would be employed for the prosecution, which would not be necessary but for the fact of the clerk acting as adviser to the bench, while himself interested in the matter before the court. Anson, 7142. 7304.

Mr. Roundell says that the clerk may be passive owing to his anomalous position of serving two masters, and his passive attitude may act as prejudicially to the due administration of the law as if he took up the position of active opposition, and he added that he made that statement "with very great conviction." Mr. Prince, of Brighton, substantially agrees with the last witness, and would debar a clerk and his firm from practising in licensing matters so long as he held the appointment. Mr. Candy would also disqualify a clerk from private practice inconsistent with his duties, but would not prevent him from acting as solicitor to a brewery company if his professional duties in this latter capacity consisted only in preparing agreements and arranging tenancies, and such like. Roundell, 21,643. 25,593. 25,875 40,745.

Mr. Ellett, who is clerk to the Cirencester Division of Gloucester, also solicitor to the Cirencester Brewery Company, and a shareholder in the same, thinks with
6704. Mr. Whiteley, that "a clerk advising justices should not be directly associated with "any organisation dealing with licensing questions." He regards himself as a mere servant of the justices to advise them on legal matters, and does not consider himself influenced in his advice by any circumstances such as being a shareholder in a brewery. But this circumstance, it will be recollected, disqualifies a justice.

We have referred to a condition in an agreement entered into by the justices' clerk on taking office (Bristol), precluding him from taking private practice. At
Roberts, 7467. Newcastle-on-Tyne, the clerk, who is a solicitor (as in most cases), is also debarred from acting privately or professionally advising anybody besides the justices, though he is allowed to prepare notices for transfers and new licenses as matters of form.

Rothera, 11,057 The same restriction does not, however, prevail in other places where the justices' clerk, though receiving a high salary still has the right of private practice.

Sutcliffe, 27,063. At Burnley, the clerk is in private practice, but the witness, without casting the least reflection upon the gentleman who holds the office, thinks the arrangement "very undesirable."

Long, 39,391. The clerk to the Maidstone justices is solicitor to a brewery, and acts for that brewery in an adjoining division, of which the clerk is also solicitor to another brewery, on behalf of which he acts in Maidstone.

(ii.) *Conclusion.*

Though the last witness, who admitted these facts, does not think them undesirable, we are unable to agree with him, and on a review of all the circumstances, as detailed by the several witnesses, we think that the disqualifications which apply to a justice should equally apply to the justices' clerk, and that the holding of shares in a brewery should disable both from acting in licensing matters.

On the question of the clerk, who is generally a solicitor, giving his services exclusively to the Bench which he serves, it is no doubt desirable that no professional, much less pecuniary, interest in any brewery, distillery, or company dealing in intoxicating liquor should be allowed to co-exist with his services as clerk to the licensing justices. This disqualification should operate not only in the division in which the clerk is employed, but in any other division whether adjoining or not.

To hold shares or to have pecuniary interest in any brewery or distillery concern should be a statutory disqualification, while the private practice might be precluded by the clerk entering into an agreement to that effect upon his assumption of office, or, upon due arrangements being made, at any time during tenure of office by existing clerks.

The understanding which exists in large boroughs between justices and their clerks may not be practicable in all cases, looking to the desirability of securing competent men at adequate salaries. But if in country districts it is found difficult to afford a remunerative salary, the difficulty might be partly met by a union of districts, or combination of official duties. But in any case, whether in rich or poor districts, the clerk should be under the same disabilities as the justice in respect of pecuniary interest, direct or indirect, in the sale of liquor.

We desire to make no imputation on justices' clerks either as a body or as individuals. Much depends upon them, and they perform a great variety of difficult duties with skill and ability, but they should not be placed in such a position as to make their duties conflict with each other, or to render their conduct as advisers of the Bench open to the least suspicion of even unconscious bias.

3. The General Administration of the Licensing Justices.

(i.) *Effect on Number of Licensed Premises.*

Taking a general review of the results of the administration by justices of the Licensing Laws, we find that, during the last 10 years, there has been in England and Wales little change in the number of licensed premises.

In the case of those licenses over which the justices exercise complete discretion, we have seen that the increase has ceased, and that there has been a reluctance to grant new licenses.

In regard to the general tendency to preserve the existing condition, it must be noted that the indisposition to reduce licenses is more marked among the county justices than among the borough justices. We refer to the memorandum in Vol. V. on the distribution of licenses and the ratio of all licensed premises to population in 1886 and 1896. Vol. V., p. 40.

(ii.) *Effect on Number of On-Licenses.*

As to *on*-licenses, which, in England and Wales stand in proportion to "off" as, roughly, 5 to 1, there has been no change in the vast majority of instances, while in the 10 boroughs in which there has been an increase, the population shows a substantial increase, and in the 19 Petty Sessional Divisions which show an increase of licenses (on) there has been a more or less substantial increase of population in all but one. The decrease in on-licenses is more decided in London and the boroughs than in the petty sessional divisions, London especially showing a total reduction in all its divisions of 616. The causes are to be found in the action of the ground landlord, non-application for renewals, and the action of the justices. A remarkable instance of diminution is found in the Bilston Division (Staffordshire), where, though the population has increased by 723, there has been a decrease in licenses of 54, all of which have been allowed to drop, leaving the present ratio of *all* licensed premises to population of 1 to 170. Vol V., p. 41.

In borough and petty sessional divisions generally the on-licenses have practically remained stationary, while the tendency to decrease is more marked in towns than in country.

(iii.) *Effect on Number of Off-licenses.*

In the case of off-licenses the same preservation of the status quo is to be remarked in most of the divisions, both when the justices have full discretion and when they have not; but the discretion has had a markedly restraining effect upon those licenses over which it is exercised.

(iv.) *Proportion of Licenses to Population.*

If we next examine the average number of persons to each licensed house over the same districts as before, namely, London, boroughs, and petty sessional divisions, we find, in conformity with the other tables, the greatest increase in London, in half of the boroughs an increase, while in the petty sessional divisions the proportion is stationary in more than half, and where a decrease is shown the explanation lies generally in the decrease of population. Vol. V., p. 43.

It would, therefore, appear that in the discharge of their administrative duties there has been failure, whatever be the reason, on the part of the county justices in particular to proportion licenses to population, inasmuch as where the latter falls there is no corresponding reduction in the licenses.

(v.) *Number of New Licenses.*

Of the number of new licenses granted by the justices in each borough and petty sessional division in England and Wales during the 10 years, 1886–1896, amounting in all to 7,885, more than half, 4,133, are licenses which the justices cannot refuse, while 1,832 are off-licenses within their full discretion, the remaining 1,930 being on-licenses. Vol. V.

While no confirmation is required for new off-licenses, all on-licenses require confirmation, and of 2,290 granted, 1,930 only survived the process.

It must be noted that the full bench in boroughs more frequently confirm the grants of the first court, than the county licensing committee confirm the grants made by the petty sessional licensing authorities.

New licenses are few in number, and are fewer still in reality than they appear, because they are frequently made in exchange for old ones surrendered, while in addition removals are reckoned as new.

(vi.) *Special Conditions.*

A practice prevails in some district of attaching conditions to licenses, such as requiring that the premises shall only be used as restaurants or hotels, that there shall be no open bars, and that food shall be supplied as well as drink; or, in the case of off-licenses, that closed vessels or bottles shall be used, and no tap as in a public-house.

(vii.) *Various.*

Some licensing authorities object to managers, others admit them. Some investigate agreements in the case of tied houses, others make no inquiry. Some object to a plurality of licenses, others allow it under special circumstances. Licenses are granted in some divisions to married women, though the practice does not prevail very extensively. In some, the married woman obtains the license because the husband's character is good, in others, because it is bad, or because the husband is not likely to keep order in the house or because he is disqualified by holding some office.

(viii.) *Conclusion.*

All these details will give some idea of the many questions which arise in the administration of the law, of the variety of aspects in which the licensing authorities regard their duties, and of the different manner in which they execute them. When we consider the tendency that is shown to continue the existing state of things, and when we bear in mind the actual and present fact that in most parts of the country the supply of licensed premises is in excess of the wants of the population, and in many cases flagrantly in excess of any reasonable demand, we are bound to regard those who administer the law as on their trial before the country, and we proceed to examine what can be said in their defence as well as what can be urged in condemnation alike of the system, and of those who administer it.

The licensing authority then, to speak generally, acquiesces in existing conditions, is averse to change, and in no way can be said to adjust the proportion between licensed premises and population.

4. Causes tending to Ineffective Administration.

(i.) *Incomplete Powers.*

It must be remembered that the justices have an incomplete control, and that, whatever their anxiety to mend matters, and whatever the extent of their discretion in granting or withholding some licenses, their discretion is curtailed in the case of the 1869 beerhouses, and of certain kinds of off-licenses.

(ii.) *The Appeal to Quarter Sessions.*

Secondly, the authority of quarter sessions acts in a sense restrictive of the full liberty of the court of first instance, though, as we have mentioned already (and we shall have further occasion to refer to the point in detail), the borough justices are more subject to this control than the county justices, inasmuch as the appeal from the decision of the first lies to a differently constituted body, while in the case of the county justices the appeal from them is to a body of similarly chosen justices of which they themselves form a part.

(iii.) *Imperfect Knowledge, &c.*

Then, again, there is an indisposition on the part of the justices to depreciate, by any action which they might otherwise feel constrained to take, the value of any licensed premises. There is the uncertainty in their minds as to the full extent of their powers, and in some cases an imperfect knowledge of the law, which renders them dependent upon a clerk, himself, as we have seen, sometimes not indisposed, owing to his private relations, to take a lenient view.

(iv.) *"The Purely Judicial" Theory of the Licensing Authority.*

But perhaps the most potent factor in regulating the action of licensing justices is their oblivion or imperfect recognition of their duty in their administrative and not merely judicial capacity.

Thus, Mr. Roberts, speaking of Newcastle, and pointing out the inconvenience thereby caused, states that the magistrates are a judicial body and do not take cognisance of anything until it comes before them. 8014. 8191.

In Hull, the magistrates startled at the frequency of transfer and the insanitary condition of many of the premises, ordered their clerk to make a survey, and requested the Watch Committee to personally inspect the houses, and as they themselves were reluctant to do so, believing themselves "to be a judicial body." The Watch Committee declined. The magistrates eventually went and saw for themselves, and were glad that they had done so, as it gave them "such an intimate acquaintance with all these houses." Shackles, 8286–89.

This idea of the character of the licensing body has been strengthened by judicial decisions such as R. *v.* Glamorganshire justices, in which case it was held that they were practically courts of summary jurisdiction, and that appeals from them came under the provisions of the Summary Jurisdiction Acts. This decision has been overruled. But there was an expression in the judgment of the Lord Chancellor in Sharp *v.* Wakefield which seemed to sanction the notion of judicial character when he spoke of "judicial discretion," though it would appear that what was meant was a wide discretion exercised reasonably and in accordance with law, and that the Lord Chancellor expressly recognises, within the limits of their legal discretion, the consideration of the wants and circumstances of the neighbourhood. By the judgment in Boulter *v.* Kent justices (1898), it was held that the licensing court is not a court of summary jurisdiction, that in the particular case a refusal to renew a license was not an "order or conviction," and that the Summary Jurisdiction Acts had no application. Vol. IX., p. 169.

The confusion that perhaps naturally has arisen between licensing business and criminal business, both transacted at petty sessions, has thus been dispelled by this recent authoritative decision. Criminal business at petty sessions is, of coures, conducted on strictly judicial principles.

The justices, hitherto influenced by the belief now no longer tenable in their solely judicial functions, have, in many cases, confined their action to only those cases in which objection is made, and in some places where no one else will undertake the duty, vigilance associations have been formed and have done good work.

Captain Anson shows how disastrously the principle may work in some places. In Staffordshire no one but the police ever thinks of raising any objection to renewals and transfers, and if it were not that the police had special instructions from him to bring up the record of the house he believes that the justices would not consider the conviction at all, or would not have it before them. They are not even necessarily cognisant of recorded convictions. By these means in many places the past conduct of a house escapes scrutiny, and renewals and transfers are granted without due examination. 6982.

Thus, in Nottingham, Mr. Rothera tells us, when convictions are recalled by the Chief Constable, the cases are adjourned till the September meeting; but in other cases "unless some one objects" the renewals at the annual licensing sessions are all disposed of *en masse* in ten minutes, and even in the conviction cases the Chief Constable appears to make a selection, as out of the houses convicted last year objections on the score of conviction were made in nine cases only. Rothera, 10,799–83.

We call special attention to this question of police intervention in view of recent decisions that the police have nothing to do with objections to renewals.

5. Licensing Administration by Justices.

It is therefore not to be wondered at that partly owing to the interpretation of the law and partly to other causes to which allusion has been made, the administrative action of the licensing authorities has fallen below the level of their powers, and that practice has not kept pace with the theory on which the licensing law is based.

That theory is that account should be taken of the requirements of the neighbourhood, of the suitability of the premises, and of the character of the licensee, and these local conditions have to be observed by local authorities—the justices who are conversant with the wants of the localities where they exercise jurisdiction.

The more prevalent the idea of their duties being mainly judicial, the less is the feeling of responsibility on the part of the justices for the well-ordered condition of their districts as regards the supply of licensed premises.

6. Examples of Efficient Administration.

This responsibility, however, is acknowledged and acted upon by many individual justices and by some benches, and there cannot be a better instance than Liverpool.

In that city a feeling arose a short time ago that the existing state of things was unsatisfactory. The citizens took the matter up, with the result that three great improvements were effected in licensing administration. The Licensing Committee was freed from its close connection with the licensed trade which once existed, through a solicitor to some leading brewers being a member and occasionally acting as chairman of that body. It was further felt that the Watch Committee, no less than the Licensing Committee, should have no association with the licensed trade, and this change has been effected. The police system of inspection of licensed houses was reformed.

Davies, 11,190. Nott Bower, 26,295. Both Mr. Davies, solicitor, of Liverpool, and Captain Nott Bower speak to the great improvement effected in that city by the increased attention paid to their duties by the magistrates, and by the increased stringency of their administration and of their investigation into cases of application for new licenses. These reforms were brought about in 1889 and 1890, and the result is shown by the fact that the licenses both of beerhouses and fully licensed houses are fewer at this day by 144 than they were in 1890-91. The magistrates giving weight to the administrative side of their duties, consider the whole conduct of a house, "place it in the balance," and have withheld a license after such consideration, even where there has been no conviction.

Davies. 11,221.

Crosfield. 11,763. Mr. Crosfield, a city justice, also testifies to the greater strictness of the bench. The circumstances of individual houses are well known, and the knowledge thus gained, under the superintendence of the Chairman of the Committee, is brought to bear with excellent effect in dealing with such things as alteration of premises, back doors, and the like matters, in all which a distinct and consistent policy is adopted.

As an instance of their active supervision, it may be mentioned that on the edge of a "prohibition" area, three new licenses were applied for, and although no less than 12 old licenses were offered to be surrendered, the offer was refused, the Bench probably being of opinion (says the witness, himself a licensing justice) that though one district might have been bettered another would have been worsened.

11,768.

Mr. Davies, whom we have referred to above, gives an instance of administrative intervention by the magistrates in their attempt to put a stop to serving children under 13 years of age with liquor. Last September they passed a resolution requesting the Watch Committee to direct the Head Constable to report to the magistrates at the annual licensing meeting, 1897, any case in which, after written warnings, a licensee persisted in so serving children; a "practical consequence" has followed, and in the windows of licensed premises is to be seen on a printed card "Children under 13 will not be served here."

A similar administrative activity is shown, among other instances, by Leeds and Birmingham. In Leeds, since 1873, the number of on-licenses had decreased by 53, and the ratio of all licensed premises to population had fallen from 1–252 to 1–344.

The Crewe justices and the Newington justices also afford instances of active superintendence.

Mr. Whiteley, the clerk to the latter board, says that the justices have administered the Licensing Acts so as to decrease the number of licenses, and there has been a continual and a gradual decrease each year. It is the duty of the justices, says their clerk, if there was distinct and definite evidence that a particular license was not required, to abolish it.

2871.

7. Unfavourable Examples.

Nottingham, Derby, and Portsmouth present an unfavourable contrast of less energy and vigour.

10,789, 10,962, 10,818, &c. Mr. Rothera, solicitor and coroner of Nottingham, as well as solicitor to the federated temperance societies of the town, complains of the lax administration of

the licensing laws both by justices and police; all renewals were granted *en masse* unless objection was made, and it was only in the case of convictions, and not always then, that the Chief Constable raised objections. The register was never produced in court. Little interest was shown by the justices in transfer sessions, and temporary transfers lightly granted were confirmed at transfer sessions on the assumption that inquiry had been made in the first instance.

The clerk to the Nottingham justices, however, disputes and challenges the truth of the statements of Mr. Rothera. In the cases of the register, however, he admits that up to last year when he made a change, there was a little difficulty in ascertaining the state of the record. Cartwright, 12,729.

In Derby, Mr. Robotham, solicitor and diocesan representative on the executive of the Church of England Temperance Society, complains of the slack administration, and especially of the constitution of the Watch Committee, the chairman of which holds four full licenses in the town, while the chairman, last year, of the Licensing Committee was trustee for the debenture holders of one of the large local brewery companies. 25,246. 25,249.

The Rev. E. C. Chorley, Wesleyan minister, makes complaints of the administration of the law by the justices at Portsmouth and also finds fault with the constitution of the Watch Committee on the ground of the direct or indirect connection of five of its members with the trade and its interests. He states that the only way in which the licensing justices will consent to reduce the excessive number of licenses is by barter, *i.e.*, accepting surrenders in exchange for a very much more valuable license elsewhere. 20,064. 20,194. 20,203. 20,204.

To turn to the counties, Mr. J. J. Griffiths, representing the Quarterly Association of Calvinistic Methodists in South Wales, complains of the existing bench of justices that they are very careful to attend on licensing day, but that they are not so attentive when other work has to be done. He says there is a general complaint of the laxity of administration, and that the contention is that the nuisance and loss to society would be greatly diminished if the laws were administered in such a way as to prevent instead of practically permitting drunkenness. 32,636. 32,756.

In 1893 the County Council of Glamorgan passed a resolution "calling the attention "of the Police Committee to the laxity with which the laws in relation to permitting "drunkenness on licensed premised are administered."

Lax administration is also testified to by Mr. Davies, in respect of the country district immediately round Liverpool, where, as the witness avers, the most important part of the function of the licensing justices is "often compressed into five minutes." 11,516.

Mr. Stileman Gibbard, J.P. for Beds., states that the administration of these laws is very lax in that county.

The Vigilance Committee, consisting of respectable persons, not necessarily teetotalers, in the Walthamstow division of Essex at Leytonstone, established because they thought the law was not properly carried out, found it impossible to work, owing to the insufficient support which they received alike from justices and police. Bradford, 28,423.

Lastly, Mr. Roundell, in referring to the register not being called for, cites the fact as "a good "instance of the careless, heedless way in which the licensing laws are administered," "the magistrates in the hands of their clerk, and their clerk in many cases interested "in his private capacity as a solicitor dealing with brewers and others." 21,638.

CHAPTER VII.

DETAILS OF LICENSING ADMINISTRATION.

1. New Licenses.

i. *The Law.*

All new licenses are granted at the annual licensing sessions, in March in Middlesex
1872, s. 38. and Surrey, in August and September elsewhere. In counties they are granted by all the qualified justices of the petty sessional division, in boroughs by a committee of not less than 3 and not more than 7 borough justices annually elected by the whole body. In boroughs with less than 10 justices, they are granted by the whole bench.

1872, s. 37. All grants of new on-licenses have to be confirmed in counties by the county licensing committee, consisting of from 3 to 12 county justices appointed annually at quarter sessions; in boroughs with a licensing committee by the full bench; and in boroughs with less than 10 justices, by a joint committee of 3 borough justices and 3 county justices.

1869, s. 7. 1872, s. 40 All applications must be preceded by 21 days' notice to the police and the overseers, and must be posted within 28 days on two consecutive Sundays on the door of the house or shop and on the church door, or on some conspicuous place if there is no church. The application must also be advertised in a local newspaper not less than two or more than four weeks beforehand.

1872, s. 43. Any person is entitled to object to a new license without notice, but no one may object to the confirmation who has not objected to the grant.

1874, s. 22. Provisional licenses, *i.e.*, licenses from plans before the house is built, may be granted under the same regulations, but when the house is built, the grant has to be made final at the annual licensing sessions.

1872, s. 50; 1874, s. 22. Removals are granted in the same way as new licenses, after notice to the owner of the premises from which the license is removed, and to the license holder, if he is not the applicant. There are also provisional removals.

The justices have full and absolute discretion to refuse the grant (or confirmation) of any new license, except wine and spirit off-licenses, which can only be refused on one of the four grounds. Refusal of a license is absolute.

ii. *Grants in Return for Surrenders and Removals.*

Comparatively very few new licenses are now granted or have been granted in the 10 years 1886–96, and of these, as we have already stated, more than half were off-licenses which the justices have practically no power to refuse. But it often happens that in some districts, often the poorest, there is a congestion of licenses, and surrenders are made by their owners of, it may be, several of these in exchange for a new license granted in another part of the town. This practice of granting a new license in exchange for one or more old ones, prevails very largely in some towns, such as Bristol, Hull, Oxford, Birmingham, and in some divisions of counties, *e.g.*, in Surrey and Essex. Some benches object to transferring licenses in this manner. The practice is an extension of the principle of removal, which came about in the following way.

Davies, 11,565. In 1871, in contemplation of the change in the licensing system which was effected in the following year by the Act of 1872, the Intoxicating Liquor Licenses Suspension Act was passed, and in that Act provision was made for the removal of existing licenses
Lee, 42,275. from parts where they were not wanted to others where they were held to be required. In the Act of 1872, the permission of removals was retained, and sanction was given to removals from one part of a licensing district to another part of the same district, or from one licensing district to another within the same county.

The practice, as we have just seen, is prevalent, and many witnesses have spoken of it with approval, and many with disfavour.

Barradale, 5446. The Birmingham Bench favour this exchange of licenses as practically the only way of reducing licenses in the city; of course, much depends upon the value of that which is surrendered as compared with that which is obtained, and it appears that in

Birmingham strict scrutiny is made into the circumstances before the bargain, if such it may be termed, is completed. Licenses have been bought up to the extent of 1,000*l.* in order to get by way of exchange a license, which, when granted, might be worth 2,000*l.*, 3,000*l.*, 4,000*l.* This would seem to be a very one-sided bargain, and the value of the license thus obtained will be the subject of notice at a later stage. Poland, 1053.

It is hardly conceivable, says Mr. Whiteley, clerk in the Newington Division, that the justices "would grant a new license straight off in their district" so little chance is there of a new license being required, but if a particular state of circumstances were to arise, two surrounding houses would be closed, and one license granted in lieu of the two. 3012.

But strong objections are entertained to this exchange system by Mr. Martineau, Chairman of the Licensing Justices in the Tower Division of London, who regards the offers so made "rather in the nature of bribes that are not worth much," and though old rubbishy houses may thus be stamped out, he thinks that the grant of a new license ought not to be a present from the Bench, but should be paid for in the shape of a special sum for the benefit of the ratepayers. 10,420.

Very objectionable, also, does the system appear to be in the view of Mr. Batty, solicitor in Manchester and chairman of a district temperance union. The brewers always gain by the bargain or adjustment, and immortality is practically conferred upon houses of low value in impoverised and drink-ridden districts by their being accepted as a *quid pro quo* for the imposition of a license in another district, which, perhaps, does not require it, or even in face of the strongest possible opposition on the part of the neighbourhood to which it is transferred. 19,651. 19,654.

The witness mentioned a case in which by surrender of licenses, a Salford firm of brewers obtained a grant of a license adjoining the Manchester Canal and close to the Custom House, a dangerous place in his opinion, as in proximity to the spot where dockers and sailors are paid their wages. By such a grant, the brewer obtained a license of the value of many thousand pounds. He has never known, as representing the temperance party, that the public interest has not suffered through transactions such as these. 11,713.

The same verdict is passed by Mr. Davies, solicitor and notary public in Liverpool, who assents to the principle that licenses may be reduced, but objects to considering the relations of one district to another. Each should be considered by itself, and he stigmatises the practice as "utterly unsound in principle, illogical and unfair." The magistrates may alter the character of a neighbourhood and alter it for the better by accepting surrender, but that does not justify them in making a change possible in the opposite direction in the new district. 11,715. 11,769.

Mr. Chorley mentions that an application for a new license to a Portsmouth house closely adjoining his own residence was strongly opposed, but was granted in consideration of the surrender of five old ones. The objectors were powerless, and the witness was assured by one of the brewers that he did more business in the one house than in all the other five put together. Surrenders are offered, not only in consideration for the removal of a license or licenses from one district to another, but in consideration for the transformation of a beerhouse into a fully licensed house. 20,153.

Mr. Roundell speaks of a case within his own experience, in which application was made for the conversion of a tumble down beerhouse into a fully licensed house, the consideration being the surrender of a license elsewhere. In his opinion, the practice of surrender and grant is "wholly illegitimate, and ought not to be allowed." If the house, the license of which is proposed to be surrendered, is not paying, it should be suppressed by the justices, and it is not right that the grant should be obtained in a new district, unless the wants of the neighbourhood require it. On being questioned what he means by the justices "suppressing" a house, he explains that the fact of a house not paying, coupled with other causes, is an element to be taken into account by the justices, in the exercise of their discretion. 21,541. 21,542.

As an instance of the terms of the bargain being unfair in the public interest, Mr. Robotham, whom we have already quoted, cites the case of the "Dun Cow," in Derby, a fully-licensed house, troublesome in the opinion of the senior justice, situate in one of the lowest parts of the town, with five other licensed houses within 60 yards, and 12 within 160 yards, which was offered in exchange for a license in a house proposed to be erected on a building estate. 183 residents and owners of property in the immediate locality, and 25 out of 27 in the actual street, objected to the new 25,284.

license. The application was granted, and was also confirmed, though, as far as memorials and witnesses went, there was, says the witness, a great preponderance against the confirmation.

It is plain that licenses granted by way of surrender of others amount practically to new licenses, and indeed, simple removals, apart from any question of bargain and exchange, are such in law, the powers of the justices being the same in either case, and orders for removal equally receiving confirmation. Here it becomes material to consider the pecuniary effect of the grant of a new license.

iii. *The unearned Increment of a New License.*

Naturally a house with a license is worth a great deal more than a house without a license, because in the house that is licensed a trade can be carried on which is "not "only a restricted trade, but to a great extent a monopoly." Sir H. Poland, whose expression we have just quoted, being asked whether the license does not sometimes prove a "white elephant," seeing that expenses may sometimes absorb profits, 1844. emphatically replies that that is purely a trade question, and that he would "like to "have a white elephant to try. A new license is 'an absolute gift,' almost more Whiteley, 3119. "than an unearned increment, an absolute gift to a man of many thousands of "pounds."

Roberts, 7637. A full license is granted to a house with an outside value of 4,000*l.* or 5,000*l.* In 18 months it is sold for 22,000*l.* "It is a very great mistake in public policy to grant "a very valuable thing for no consideration." Mr. Burton, builder and contractor, Buxton, 35,461. and assessor, arbitrator, and valuer in Newcastle-on-Tyne, mentions a case in which, in his estimate, a gift of no less than 23,000*l.* was conferred by the justices—a free Burton, 29,510. gift for which practically nothing was paid. He had not considered to whom that sum should go, but it certainly should not go to an individual.

But it is needless to repeat evidence on a self-evident proposition, or to quote witnesses to prove that someone else is entitled at least to share in the advantages which are conferred by a grant of a license.

It has been suggested that a fee shall be paid by the licensee either to a local authority or to the exchequer, and it is stated that there would be no objection on the part of the trade to the imposition of such a charge.

Mr. Maitland, however, solicitor to the Licensed Victuallers' Protection Society, objected altogether to a system of high licensing, on the ground that, though a license was a valuable thing, it was in no sense a gift, being "simply entrusted to the 37,168. "individual for the public good." The man builds the house and spends his money, 37,171. and the witness fails to see that he should pay anything additional on a license *quâ* license.

It is clear that a considerable sum could be raised by high licensing duties, license rentals, or by whatever name they may be called by, which might go to the benefit of the public, or provide, if it was thought fit, a fund for compensation.

The sale of new licenses has been suggested, but the objection has been taken that by the sale you add to the difficulty of interfering with the purchaser, whereas now a valuable present having been conferred by the grant of a license, you have a hold upon the licensee, and can take away in the public interest that privilege which was conferred upon an individual, not for his own personal, but for the public benefit. However, some form of increased payment will probably have to be adopted. But this question, as well as the appropriation of the sum obtained will be discussed later. Here it need only be remarked that a system of high licenses, which would be annually paid, and by which nothing more than an annual holding is contemplated, is far preferable to the sale of licenses, to a lump sum down for a license to a house, and not to an individual, and also to a system of "surrender" by which a bargain is struck, not always for the public advantage even from a financial point of view, and detrimental in the further sense that there is an implied recognition of vested interests, and of right of continuity in the house to which the new license is granted in exchange for what appears to be, and in some instances may possibly be, adequate consideration.

iv. *Grievances in the granting of New Licenses.*

Many complaints are made of the action of justices in granting new licenses, and of the powerlessness of the inhabitants to influence the decision.

Mantle, 18,754. Camperdown Street, in Devonport, on a property in the hands of several leaseholders' was built for the accommodation of the higher working class. The occupier of one of the houses applied for and obtained a license, though in every lease there is a

covenant that no public-house shall be opened, and in the face of objection by 31 out of the 37 householders who signed a petition and employed a lawyer to represent them. The landlord had waived his objection, and expressly declined to insist upon the prohibiting clause in the covenant, and left the decision to the justices, with the above result. But those who had taken houses had a right to complain that their residences were injured, and their wishes absolutely disregarded.

It was the Parish Council who were the objectors to the grant of a full license in the village of Sheringham, in Norfolk, near Cromer. They passed a resolution against the grant, but in vain. Mr. Lee Warner, who gave us the information, says that after events have justified the remonstrances of the Parish Council. 24,801.

It is quite true that the justices are bound to consider the wants of a neighbourhood in the case of an application for a new as well as for a renewed license. But the difficulty lies in there being no authoratitive means at present of ascertaining what the wishes of the neighbourhood are. The remedy suggested by some witnesses is a poll. Mr. W. George, solicitor, of Criccieth, suggests that a direct vote of the inhabitants should be taken, as formerly under the Free Libraries Act. He quotes an instance of such a plebiscite being taken in Festiniog, but the justices at licensing sessions ruled that it was not evidence. He wants "to make such a plebiscite as that, taken in an "official way, with proper safeguards, evidence." George, 30,403.

It is the difficulty of procedure by petition against a grant, namely, that the justices require formal proof, and in some instances require everybody to go into the box and be examined on oath, that leads Mr. James, solicitor in Leeds, to advocate the plan of a popular vote, not on a particular case, but generally, whether they are in favour of an increase or a reduction of licenses. 28,185.

v. *Notice of New Applications.*

It is an anomaly that no notice to the Licensing Authority itself is required. In divisions where there are a large number of applications for new licenses, it is essential that a complete list should be before the licensing meeting, and it is not right that they should be required to gather the information from advertisements in newspapers.

vi. *Confirmation.*

We have already seen that the requirement of confirmation has had a marked effect in reducing the number of new on-licenses which had been granted by the licensing authorities in the first instance, and considering that in some districts the grant of an off-license is as bitterly resented as that of an on-license, and that it is often passed by a majority of one vote only, it has been suggested that it also shall require confirmation. This view is also taken by Mr. James, who thinks the justices should have confirming power in one case as in the others. Batty, 19,641. 28,183-4.

But the confirming power itself is sometimes rendered nugatory, so far as the public is concerned, by the shortness of the interval between the hearing of the case by the licensing committee and by the full bench, *i.e.*, the confirming authority, and Mr. Rothera, coroner for the borough of Nottingham, gives an instance in point.

A firm had applied for a license in August; the licensing committee declined to comply with the application. But in the same year, at the adjourned session in September, the application was renewed, and this new application was acceded to by the licensing committee, and in the same morning was granted by the full bench—half-an-hour only intervening, an inadequate time for the witness who was acting as solicitor in the case to get additional or further evidence. Rothera, 10,793, 10,796.

At Derby also the practice, up to 1894, was such that if at the adjourned Brewster Sessions a new license was granted, it might be confirmed immediately, without any chance to the opposition to adduce fresh evidence or contest the decision of the licensing bench. Since 1894 apparently the practice has been abandond. e Robotham, 25,226.

In Leeds, the practice is unobjectionable, as the clerk to the justices states it to be, for notice is given, so that the person who has opposed the grant in the first instance may have an equal opportunity of opposing it at the confirmation stage. He approves the practice at Leeds, and thereby, though he desires to avoid doing so, impliedly condemns the procedure at Nottingham. Thornton, 13,557.

Confirmation is evidently intended to be a distinct process from the grant, and it should be so treated. A proper interval should always be left between the two, so that

the second hearing shall be a reality. All new licenses should require confirmation as suggested.

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2. Renewals.

i. *The Law as to Renewals.*

Except in the case of an ante 1869 beerhouse, the grant of a renewal rests in the discretion of the justices.

1872, s. 42. 1874, s. 46. No notice of application is required, and the applicant need not personally attend unless specially required. Any person may object, but must give seven days' notice to the applicant stating generally the grounds of opposition, and all evidence must be on oath. If an objection is raised without notice, either by one of the licensing justices or some other person, the justices may adjourn the hearing of the application.

1828, ss. 27–9. Licenses are renewed by all the qualified justices both in boroughs and petty sessional divisions, and there is an appeal to county quarter sessions against refusal to renew.

ii. *Practice of the Licensing Justices.*

The subject of renewals is closely connected with the question of compensation, which will be dealt with later on.

A reference to Appendix XXI., in Volume VIII., will show the number of cases in which renewals of licenses have been refused, and the refusal affirmed by the Quarter Sessions on appeal, the refusal being grounded on non-necessity, either as the sole or as a contributory reason.

Candy, 40,825. The law on the subject has been clearly recognised for some years; and Mr. Candy, Q.C., has given in his evidence the outline of the famous case which is well known as Sharp *v.* Wakefield. Since the decision in that case there remains no doubt that the non-requirement of a house, however long its tenure of a license may have been, may be ground of objection to be raised before and to be taken into consideration by the court, although there is no charge against the licensee of that house personally. That is to say, that the existence of a licensed house may be challenged from year to year independently of any other reason than that it is not required to supply the wants of the community.

40,627. 40,645.

Richardson, 19,488. The justices have the power of refusing the renewal of a license, however old, though they do not exercise their power at all largely, but are restricted from acting as decidedly as they would otherwise do, from fear of inflicting an injury either on the tenant or on the owner of the property.

But besides the feeling just referred to, and other causes which deter the justices from acting up to their full power, there is the difficulty which arises from determining which house is to be selected for suppression. The "judicial" theory of the duties of the justices here comes into prominence, for if they are to act on the strict principles of judicial procedure, hear each case on its merits, and consider the proofs against each house taken separately, how are they to decide that a particular house is more deserving of suppression than another if it is the over-supply of the requirements of the neighbourhood which is the main factor in the determination of the question?

10,676. Mr. Candy himself starts this difficulty, and himself solves it, by suggesting that the justices should take an ordnance map, and, bringing their own knowledge to bear,

40,680. examine the chart, and decide whether a particular house, owing to its position or other circumstance, can be dispensed with with regard to the wants of the locality. This they can do, and have a right to do, and the justice or injustice of their decision must depend upon each particular set of circumstances, and, being subject to appeal, can be reviewed and reversed by an independent body.

Here comes in the administrative side of the duties of justices; and what scope there is for administrative functions, and how wide is the difference between good and bad administration may be seen by comparing the improved system now pursued at Liverpool with that followed at Portsmouth, where, according to the evidence of the Mr. Chorley, existing licenses are renewed without any inquiry as a matter

20,161. of course, and where, during 10 years, one license only has been endorsed; or with

Rothera, 10,843. the case of Nottingham, where, until the year 1895, not one refusal of renewal had been known for 25 years, but where, in the present year, owing to the action of the citizens upon the watch committee and the police authorities, six renewals have been refused.

iii. *Ante* 1869 *Beerhouses.*

It now becomes necessary to refer to a class of houses which, in many instances, stand in urgent need of reform, but over which the justices can exercise but a very limited control. The historical sketch in our report will have sufficiently explained the legal position which these houses occupy. Their renewal, it will be remembered, can only be refused on one of four grounds:—

Failure of the applicant to produce satisfactory evidence of good character. — 32 & 33 Vict c. 27, s. 8.
The character of the house.
The character of the applicant.
Want of qualification in applicant or house.

Sir Harry Poland conceives that there could not be a stronger instance of vested rights than these ante 1869 beerhouses, that they are protected houses, and that a man who has invested money in the purchase of one of them has bought it with the desire of buying the privilege attached to it, and has paid a price for it accordingly, and that to put that house suddenly under the control of the justices, who may refuse to renew, is a hard measure of justice. — 1030, 1031, 1034.

He admits, of course, that whatever is done for the public good, people must submit to, but he objects to a man's whole trade being taken away without compensation. Regulation, he adds, is one thing, suppression is another.

These ante '69 beerhouses may be properly conducted, and, indeed, Mr. Ellett, clerk to the Cirencester Division of Gloucester, says that he has not known an instance in which one of these privileged or protected houses would have been refused renewal if it had been subject to full magisterial discretion.

The "four grounds" may be, and, according to Mr. Fenwick, are sufficient to keep them in order, and this witness does not quarrel with the Legislature for having put them on a different footing from that of a fully licensed house. They do not take liberties which a fully licensed house dare not take, and in Chester they are not low and disreputable, but well conducted. — 27,797. — 27,800.

Mr. W. Godden cannot understand why there should be any difference between these houses and fully licensed houses, and thinks it a mistake that all were not equally protected. He would extend the same protection to all. — 37,442.

Other witnesses speak to the same effect, but perhaps Mr. E. N. Buxton may be taken to summarise their views in his statement that the Legislature must have been aware of what it was doing when it conferred this "legislative advantage" upon the beerhouses, and that when it conferred the advantage it assumed that other licenses had, in effect, the same privileges, but that, whatever its intention, and whether by accident or design, the privilege or protection is there, has not been compensated for by the lapse of time since 1869, and that the lapse of time argument is poor consolation to a tradesman who bought one of the houses last year, and paid a higher price for it on account of its privileged position. — 35,094, 35,098.

But neither the previous history nor the present condition of these houses entitle them to any special consideration. During the long time that has elapsed since 1869, they have been frequently remarkable for imperfect structural conditions, which withdraws them from proper supervision, hundreds of them in Birmingham having back doors opening into common yards. The justices are not responsible for their existence, cannot press reforms, such, for instance, as non-serving of children, find their wishes disregarded, and an effectual obstacle presented to suggested improvements. — Barradale, 5422. Jackson, 9023.

Witness after witness gives his opinion that magisterial discretion over these houses should be the same as over fully licensed houses. — Anson, 7061.

Sir Harry Poland thought that there was less cause for interference with these houses than there used to be, but Mr. Davies (Liverpool), who has made a particular study of these houses, emphatically disagrees with him, and maintains that the assertion that the houses of bad character have been weeded out is at variance with the facts. — Davies, 11,381.

So also thinks Mr. Wood, chief constable of Manchester, in holding that the restriction of the grounds of objection to renewal of ante 1869 wine and beer on-licenses to the four grounds has been to "perpetuate in excessive numbers, and to preserve dirty, ill-constructed, and unsuitable licensed houses which no bench of justices at the present day would tolerate." — 13,751.

In the case of a '69 beer-house being tied, the tenant is in a worse position than the tenant of a fully licensed house, for the former may at any moment find the — Gibbard, 22,940.

house he occupies transferred at the will of the brewer, there being no power in the justices to refuse the application for transfer except upon breach of one of the four conditions. The transfer is thus rendered more easy, and the position of the tenant more precarious.

iv. *The Precedent of* 1880 *and* 1882.

But it is said to be a hard thing to take away privileges which have been so long enjoyed; whatever may have been the actual circumstances under which the "privileges" or "protection" were conferred in 1869.

Some would reply that the advantages of the position thus acquired by the beer-houses have been sufficiently reaped in the interval between then and now, especially since the continued existence of these houses has proved so detrimental to public interest.

But if any argument should be wanted to justify interference, it is amply found in the precedent of the legislation of 1880 and 1882. It will be remembered that by the Act of 1869, while certificates to sell "off" were not to be refused except on the "four grounds," new "on" beer licenses were subjected to the full discretion of the justices, but reservation was made in the case of beer-houses for consumption "on" if they existed previous to May of that same year, and they were to retain privileges henceforth to be taken away from their class. But in 1880–2 the holders of "on" licenses took great part in pressing forward the legislation of those years, by which the free and unqualified discretion of the licensing justices was extended to the licenses for consumption of beer "off" the premises, and these, though they had retained since 1869 the protection of the four conditions, were placed in the same position and brought into rank with fully licensed houses.

Candy, 40,825.

If this was done in 1882 to off-licenses which had been specially protected in 1869, what is to prevent, on the score of justice and fair treatment, the dealing out the same measure to the ante '69 beer-houses, if they are found to be an obstacle to improvements, and to impede the due administration of the licensing law?

The proposal, be it noted, is not to abolish them, but to put them in their turn under the same regulation as the fully licensed public-house, and to secure the exercise of full magisterial discretion in their case as in others.

3. Transfers.

i. *Law as to Transfers.*

9 Geo. IV. c. 61. ss. 4, 14.
35 & 36 Vict. c. 94, ss. 40. (2), 74.

The law as to transfers, one of the most important parts of the licensing system, is extremely complicated.

There are two kinds of transfers; both are granted at special transfer sessions, of which there must be not more than eight, and not less than four in every year.

First, under s. 4 of the Act of 1828, a person wishing to remove from a licensed house may obtain a transfer of his license to a newcomer.

Fourteen days' notice of application, signed by the transferor, showing name, residence, and occupation of the proposed transferee in the last six months must be served on the overseers and police.

Secondly, under s. 14 of the same Act—

(*a*) when the licensee dies, falls ill, or becomes bankrupt, his heirs, executors, or administrators, or his assigns (when he falls ill), or his assignee in bankruptcy, may obtain the grant of the license;

(*b*) when the licensee (his heirs, executors, administrators, or assigns) remove from or yields up possession of the premises, or when the licensee, being about to quit the premises, has wilfully omitted or neglected to apply for a renewal of the license at the annual licensing sessions, any new tenant or occupier, or any persons to whom such heirs, &c. have *bonâ fide* transferred their interest, may obtain the grant of the license to them;

(*c*) when the licensee has been convicted for the first time of one of those offences which disqualify him from holding a license, the owner of the premises may obtain the grant of the license.

All such grants of licenses are not technically called transfers, but they amount to the same thing. They differ from the first kind of transfer in that application is made by the transferee or the owner on his behalf, and no notice of application is required.

Besides these, there are what are commonly known as temporary transfers, or protection orders. These are interim authorities to sell intoxicating liquors granted at petty sessions by two or more justices, or in London by a metropolitan police magistrate. They remain in force until the next special transfer sessions, when a transfer has to be applied for as described above. 5 & 6 Vict. c. 44. 37 & 38 Vict. c. 49. s. 15

No notice of application is required for a temporary transfer.

The justices have the same power to refuse transfers as to refuse renewals, but they apparently have full discretion to refuse temporary transfers in all cases. There is an appeal to county quarter sessions against refusal to transfer.

ii. *Importance of Transfers.*

The whole subject of transfers is of the utmost importance as an essential feature in the administration of the law, and as affecting for good or evil the character of the licensed premises and the licensees.

In the case of the tied-house system, it is, as we have pointed out, peculiarly important. The abuses connected with that system largely depend upon the facilities at present afforded for transfer without inquiry. When the justices abdicating their proper functions become, as we have seen, mere registrars for recording the decrees of the brewers, anything may happen. But by strictly inquiring into all transfers, and limiting their numbers, the system can be controlled; for the license holder is then given some security of tenure, and an assurance that he will not be unjustly removed, while the brewer, on the other hand, is obliged to take greater care in the selection of good tenants, when he knows that he cannot, by a mere change of servant, divest himself of all responsibility, and escape all penalty.

Again, an application for transfer may often afford an opportunity for doing away with an unnecessary license with the least amount of injury to individual interests. An illustration of this comes from Bradford.

After the Act of 1882, giving the justices free and unqualified discretion to refuse off-beer licenses, the justices determined to refuse all transfers of these licenses when, after inspection of the neighbourhood and the premises, they judged that the premises were unfit or that the license was not required. They applied this rule whenever a license-holder was giving up business, but not when he was merely transferring to a member of his family. Then at the annual licensing sessions the renewal was refused. Greaves, 9666.

In this way, since 1882, 254 off-beer licenses, all held by shopkeepers, and nearly all by grocers, have been abolished, 29 for misconduct, 139 because they were not required and because the premises were unfit, 88 by voluntary surrender. There has been only one appeal, and Mr. Greaves, clerk to the justices, assured us that no hardship had been done to any licensee, and he does not think that the absence of appeals is due to any fear of the cost. 9760. 9687. 9864. 9711.

The Bradford justices appear to have acted upon the powers expressly conferred upon them by Act of Parliament with commendable courage. It is a great pity that a similar policy has not been consistently pursued in other places with regard to public-houses in congested districts, over which the law has given the licensing authority exactly the same powers.

But, generally speaking, the justices have not been alive to the importance of transfers, and there has been a good deal of lax administration in this respect.

iii. *Effect of present System of temporary Transfers.*

At present it very often happens that all inquiry falls to the ground between two stools, at the temporary transfer, because it is thought unnecessary in view of the coming scrutiny at transfer sessions, and at the permanent transfer, because it is assumed that all sufficient inquiry has been made, the new license-holder being already in possession.

A man may apply for a temporary transfer before the justices at petty sessions, but the police may not, owing to the suddenness of the application, know anything of the intended application, or of the character of the applicant, and it would appear that adequate notice should be given in such cases so as to enable due inquiries to be made. Anson. 7016.

In the case of these temporary transfers, no notice is required by law to be given to the police who have no *locus standi*, therefore, in the granting of a transfer which will endure till the next special sessions.

A temporary transfer thus obtained, when it comes up for confirmation at the subsequent transfer sessions, has, therefore, the previously obtained sanction of the justices in its favour, while the justices, in the first instance, are more ready to grant it, on the ground that it will have to be adjudicated on later by the full bench.

Crosfield, 11,726. 11,730.

In Lincoln it is seldom that applicants for these temporary transfers come to the regular transfer sessions; they apply a few days before or a few days later, with the result that they seldom get carefully inquired into at all.

Richardson, 19,434. 19,500.

In Nottingham, Mr. Rothera has observed a similar falling through of inquiry, and Mr. Cartwright, clerk to the justices, practically admits that this is the case, though he says that some private inquiry is made as to the character of the transferee by the chief constable. The same thing is reported from Norfolk.

10,869. 12,774.

Lee Warner, 24,828.

On the other hand, in Leeds, applications for temporary transfers are always carefully inquired into. The attendance of the outgoing tenant is required, if practicable; the incoming tenant is sworn and questioned as to his interest, and made to produce his agreement, &c. Then, unless anything turns up in the meantime or public objection is made, the transfer is confirmed as a matter of course at transfer sessions.

Thornton, 13,319.

We fully agree with these witnesses who recommend the abolition of temporary transfers, except in case of death or bankruptcy. It will be no hardship for a person wishing to dispose of his business to wait till transfer sessions. If the license holder has been convicted for the first time of one of those offences which disqualify him from holding a license, it is quite proper that the house should be closed till the ensuing transfer sessions. At present, under the Act of 1874, s. 15, the owner may immediately obtain a temporary transfer of the license.

iv. *Procedure on Transfers.*

On the whole subject of transfer, law and procedure are alike defective. The principal part of the law dates from 1828, it is full of difficulties, and needs simplification, some obvious reforms have been suggested by several witnesses, in which we concur.

Roundell, 21,724. Cartwright, 21,751.

(1.) Proper notice should be given in all cases.
(2.) The number of transfer sessions should be reduced to 4, or at the most 6.

Roundell 21,535.

The evidence we have received shows how important it is that further reforms in procedure should be made, and also indicates the laxity with which this branch of the law has hitherto been generally administered.

21,528. 21,736. 21,882. 21,535.

Mr. Roundell says procedure in the case of transfers is very defective. The evidence as to the character of transferees is like all testimonials, absolutely worthless; he would make all transferees find sureties for good behaviour; the recognizances to range from 10*l.* to 50*l.* according to rateable value. The transferor should be questioned upon oath as to his reasons for leaving, especially as frequency of transfer was strong evidence that the house did not pay and was not required. The incoming tenant should be obliged to produce his agreement, and the brewer or any person interested in the premises should be disqualified from acting for the parties. The system of signing blank applications for transfer, a feature of the tied-house system, was already, he believed, illegal.

It is very important that the outgoing tenant should be made to appear, and give his reasons for going. This is a great safeguard against his being made to go because he does not sell enough liquor, or for any similar reason. It is also essential that the transferee should produce his agreement, and make his position and interest perfectly clear.

Thus Mr. Stileman Gibbard says that in Bedfordshire transfers are very perfunctorily granted. Sometimes the brewer's agent appeared to make the application, without having had any communication with the nominal transferor, sometimes the brewer himself applied. He had made great struggles to insure the presence of the outgoing tenant, but he was not supported by the other justices, and the brewers were very reluctant to concede the point; however, by insistence on this in the Sharnbrook division he had reduced the number of transfers by 60 per cent.

22,893. 22,932.

But too often transfers are granted very easily and without inquiry, except into the character of the transferee. Thus in Staffordshire, Captain Anson says they are granted too freely, and even when the justices do inspect the agreements, he thinks they are evaded by "subterranean" devices. So in Sheffield, Mr. Clegg tells us that inquiries into character of transferee being satisfactory, the transfer is allowed as a

7291. 7447. 17,909. 18,052.

mere matter of procedure; transfers are very numerous, in consequence of the difficulty of getting a living among so many competitors, especially in the case of beer-houses which are less valuable.

In Manchester more inquiries are made, but, as we have seen, these are sometimes evaded. In Lincoln the transferor is now made to attend at the transfer and give his consent. Vol. II., App. 5. Richardson, 19,433.

In Portsmouth transfers are very numerous, but Mr. Chorley tells us that they are granted without inquiry into the circumstances. The same witness speaks of the tied-house system as very prevalent; he thinks the tenancies are monthly, and the rents are very low, in one case 5*s.* a year only. 20,147. 20,122.

In Nottingham, Mr. Rothera says that very few justices take an interest in transfer sessions. Transfers are granted as a matter of course, apparently without even evidence of good character. Transfers are never refused, unless objection is made by outside parties. The justices never require the transferor to be present, and only recently the transferee. No inquiries are made as to the position and interest of the incoming tenant, and no questions are asked, even after a conviction, unless someone objects. 10,799–10,833.

Mr. Cartwright, clerk to the justices, who came up to answer Mr. Rothera's charges on their behalf, explains this apparent inactivity by saying that the licensing committee deal privately with applications for transfers, and only come into court to record their decisions, or give opportunity for public objections. This privacy is not in itself desirable, but when Mr. Cartwright goes on to say that "the justices have hitherto "gone on the principle that assuming there to be no special circumstances *brought to* "*their notice*, and that the transferee is a fit and proper person with regard to "*character*, &c., there ought not to be and there is not in the statutes any greater "restriction on the transfer of a publican's business than of any other lawful business," he clearly shows that the Nottingham justices have entirely misconceived their position, as an administrative body entrusted with important functions in the public behalf. 12,774. 12,782.

v. *Repeated Application for Transfers.*

But even if at the regular transfer sessions full investigation has been made into a particular application, and the application refused, repeated applications may be made even within a year, and this, too, even after the *actual refusal* of a renewal.

A case was mentioned by the chief constable as having occurred at Manchester, which shows the abuse of repeated applications. A man licensed to sell beer and wine was convicted of harbouring prostitutes, and was fined; this was in March. In the following July a person applied for the transfer of the license; it was refused. The original man returned and carried on the business, and at the general annual licensing sessions applied for renewal; this was refused. Two other subsequent applications for the grant of the license were made and were refused. Here, as the witness properly complains, were four applications one after another, putting the police to great cost and trouble after the case had been once investigated, and after the application for renewal had once been refused, on the grounds of the house being frequented by disorderly characters, of its not being required in the locality, and of the non-residence of the licensee. 13,763.

In Nottingham the practice of applying for a transfer after refusal of renewal is apparently well-known. Mr. Rothera says, "In all cases where renewal has been refused, "application is made to the local magistrates perhaps a couple of months afterwards "at some ensuing transfer sessions with a new applicant, and the license is restored "after perhaps a couple of months abeyance, so that they do not go to the court of "appeal." 11,119.

It is an astounding anomaly that a license can be transferred in this way after it has expired (for that is what these grants under 1828. s. 14. amount to), yet apparently that is held to be the law. It is a good instance of the complication of the law which renders such decisions possible.

vi. *Transfer after Conviction.*

It is a mistake to suppose that a mere change of tenant can whitewash the character of a badly conducted licensed house, although many benches act on the principle that a transfer to a new tenant purges all offences. Sometimes, no doubt, if a new tenant of strong character is put in he may effect a great change in the conduct of the house, but it often happens that the new tenant is no better than the last, though his

testimonials are very good, and the reputation of the house is too much for him, so that bad tenant follows bad tenant, the only real remedy being to take away the license entirely. Penal endorsement of licenses is intended to guard against this whitewashing by transfer, but, as we shall see, it is often a farce.

20,309 20,333. Mr. H. Wright, who has had much experience as stipendiary magistrate in the Potteries, attaches great importance to the reputation of a house. He says, "Take, "for instance, a house that is near a large ironworks and collieries, where the "house has been known for years, where a man may go in, and is not questioned "much whether he has had one glass or 10 glasses of beer. The house gains a "reputation among that man and his mates, and if any one of the mates wanted to "go and have a drink at any particular time he would go to that house in preference. "Then a reputation is gained amongst the man and his mates. That house gains a "reputation. A great many of these men who go in are often of a very rough "nature, and it is almost impossible for the manager, unless he is a man of very "great moral strength, to turn a man out, to say when a man has had enough, and "when he thinks he has had enough, to say to him, 'You shall leave my premises.' "You would see, if you had my experience in dealing with these cases, how enormously "difficult it is for the manager so to do."

22,022. Mr. Roundell told us of a similar case within his own knowledge. A respectable man came into an ill-conducted house, tried at first to conduct it respectably, but failed.

33,435. The Rev. the Hon. R. Grimston, Superintendent of the Navvy Mission Society, a witness of great practical experience, questioned by Mr. Walker, says, "When large "works begin, the navvies will meet each other, and will ask where a public-house is "in which they can 'randy,' that is where they can carry on all sorts of games "without being interfered with—the ordinary public-house—and so certain houses "get to be very bad in the neighbourhood of works, because bad men congregate 33,439. "around them." He adds that such houses can very frequently be discovered.

52,368. So Dr. Nasmyth speaks of houses in Fifeshire to which the colliers go if they wish to get rapidly drunk, and "lie on the bricks all night."

It may, of course, be an advantage to get rid of a bad tenant after conviction, but in such cases the justices should have power to close the house till the next licensing sessions, when the whole question of renewal may be considered.

vii. *Summary of Recommendations as to Transfers.*

1. Temporary transfers to be abolished (except in case of death or bankruptcy).
2. Transfer sessions to be reduced to four a year, or, at the most, six.
3. Proper notice to be given in all cases.
4. Transferor to be compelled to attend, and to be examined on oath as to his reasons for leaving.
5. Transferee to be examined as to his position and interest in the house, and made to produce his agreement, &c. Security by recognizance to be taken as to character.
6. Licensing authority to have power to make regulations against repeated applications, and no application to be made after refusal of renewal.
7. Licensing authority to have power to close the house after conviction till next annual licensing sessions.
8. Law to be generally very much simplified and codified.

In concluding the subject of transfers, we may usefully point out that it is at present within the power of the licensing justices to carry out many of these recommendations, and we are confident that good results will be obtained if they will do so.

4. Date of Licensing Sessions.

It has been represented to us that August and September, the holiday months, are a very inconvenient time for the annual licensing sessions, and the suggestion has been made in which we concur, that the date should be March, as it now is for Middlesex and Surrey.

CHAPTER VIII.

FURTHER DETAILS OF LICENSING ADMINISTRATION.

The wide discretion possessed by the justices over the grant of licenses enables them to exercise an indirect control over license holders and their houses on various points as to which the statute law is either silent or vague, viz.: as to the construction and alteration of premises and the imposition of special conditions.

This control is, of course, limited by the privilege enjoyed by the *ante* 1869 beer houses, and its exercise is principally confined to some of the more active benches, especially in London and the large boroughs. It would probably have been more freely exercised but for the fear of the intervention of quarter sessions, and for the interpretation of their duties by some justices who hold the "purely judicial theory."

1. Value Qualification of Premises.

We have already seen that there are a series of provisions relating to the annual value required for licensed premises according as they have been first licensed before or after 1872.

No value qualification is required for a public-house licensed before 1872, so that much in the same manner as the Act of 1869 gave advantages to the previously existing beerhouses, so the Act of 1872 exempted from the qualification scale, which henceforth it imposed upon other public-houses, those which had previously been licensed.

There is a little village in Carnarvonshire where there are four fully-licensed houses, all licensed before 1872. Their rateable values respectively are 6*l.* 10*s.*, 6*l.* 10*s.*, 7*l.* 15*s.*, and 11*l.* 5*s.* The qualification for these houses would, under the Act of 1872, be required to be 15*l.* Owen. 30,796

Trade had left the village, shops had been closed, but the public-houses were renewed annually, notwithstanding a plebiscite, in which nearly the whole adult population voted against the continuance of so large a number; and, though only six adults voted for the continuance, the licensing justices said there was no evidence of the wishes of the neighbourhood, and the four houses remain. Two of the opposed houses belonged to the justices' clerk.

The Church of England Temperance Society, in a Bill which was introduced in the House of Lords four years ago, proposed to raise the qualification of beer and public houses, which, if carried out in the Cirencester Division, would have the effect that, as values at present stand, 8 public-houses only would satisfy their test, while 50 would fall below it, and of the 27 beerhouses not one would comply with it. Stafford Howard. 66,020. 66,026.

The qualification proposed in their Bill was 12*l.* for a public-house, and the Welsh Sunday Closing Commission recommended that a renewal should be refused if the house were under that value. Lewis, M.P 73,535.

We concur in this proposal; possibly some time notice might be allowed.

2. Construction of Premises.

i. *The Law, &c.*

The Act of 1872 contains in s. 45 provisions specifying the number of requisite rooms (exclusive of private house) according as spirits are or are not sold. But there is no definition of a room, no regulation as to size or situation, and the ingenuity of an architect can easily baffle the vague directions of the statute. Requirements of this nature are very difficult to enforce. They are, at any rate, not enforced in a great many divisions. But what the legislature cannot successfully accomplish, the justices, by the reasonable exercise of discretion, could easily recommend and enforce. Whiteley. 2957. 2967.

The evils that exist are consequently numerous, opportunities are given for secrecy, and for withdrawing the customers on the licensed premises, not only from the easy supervision of the police, but also from the observation of the publican himself.

ii. *Snugs, &c.*

The definition of "snugs" or bar-parlours, as they are euphemistically called, may differ in various places; but in Hull, at all events, they are constructed for secret drinking, they are the resort of women who are either ashamed to be seen in the Crosfield. 11,761.

open dram shop, or, if they were there, would be objected to by the landlord. A number of these secret and dark partitioned chambers abut upon the counter of the dram shop. The man who serves behind the bar cannot control the inmates, as he would have to go over the bar to get in to them, or have to go round outside. In some cases he cannot see what is going on inside, and if it is alleged that these arrangements are convenient for the customers, they certainly do not conduce to the reasonable and even decent management of the house. The tenants themselves of the houses sometimes object to them, but the landlords will not allow of their removal.

Shackles, 8544. 8565.

iii. *Back and side-doors.*

Side doors and back doors add to the obstacles in the way of the police; a back door, for instance, will open into a back yard common to many cottages; and the facility with which business can be done in courts, yards, and narrow back streets by means of these back approaches amount in Nottingham to a very great curse, and though magisterial discretion can be brought to bear, at present under the existing law discretion is either not sufficiently exercised or its limits are imperfectly understood.

Anson. 6994–7001. Rothera, 10,890.

From South Shields, Derby, and Wigan, come similar complaints as to "snugs," back doors, and side entrances. Police supervision is difficult in the face of these internal and external arrangements; watch is set and signals are given on the approach of a constable, and the bad characters escape through the back door. Houses in courts promote female drunkenness especially.

Farrar. 17,719. Robotham. 25,291. H. Marsden 17,116.

The importance of easy supervision by the police is shown by a terrible account given by Mr. Moore, agent to the Missions for Seamen, of a scene of drunkenness and debauchery which he witnessed in a public-house, so situated at the end of a court that prompt notice could be given of the approach of the police. The witness himself only succeeded in getting in by assuming a disguise.

32,049.

iv. *Lodgers in public-houses.*

Houses which by their construction combine the functions of a public-house and a lodging-house without any separation between the two are a source of great mischief.

When public-houses are occupied by lodgers, the upper rooms being let off to one, two, three, and more families, and where the licensed premises form a passage, and the only one, to the rest of the tenement, it is easy to conceive what happens in Plymouth in a large number of licensed houses. The lodgers, or permanent residents as they are described, can get drink at any hour of the day or night if they are inclined, and if the licensee is disposed to indulge them.

Sowerby 7,428.

A similar complaint comes from the vicar of St. Michael's, Devonport, where also a great number of licensed houses are sublet to families who are not merely lodging but are permanent residents, and where the access is through the bar or through the jug-entrance to the living rooms, with the result that, according to information supplied to the witness by two serjeants of police "it may be taken, as a rule, that "in all the smaller houses where these families live, the families are more or less "drunken families, and that if they are not so when they go there, they in course of "time very quickly become so."

Mantle. 18,706.

v. *Long bars and perpendicular drinking.*

Far apart from the extreme of snugs and secrecy is the long-bar system, where there may be a long seat running round, but where no eatables are provided, and when if say half-a-dozen men come in they stand treat all round, and the one glass that the man originally intended to confine himself to, develops into five or six.

Roberts. 7551. 7584. (Newcastle).

To promote this long counter system the domestic offices of the house are removed to or put up into the attics, and to judge from the rate at which this practice is increasing in Birmingham, the public-houses will soon be all on the same model.

Barradale. 5516.

Whether "perpendicular drinking," *i.e.*, standing while you drink, and then going out, or in other words, the "drink and go" system conduces or not to sobriety may be a question, but rapid dram drinking and a succession of glasses quickly drained without food must be a dangerous and pernicious habit.

5593.

In East London the same practice is prevalent. It is pointed out that the difficulty of obtaining food in public-houses tells hardly upon the numerous class of people who take no intoxicants, and that victuals and drink should go together, as indeed is implied in the description of "licensed victuallers."

Martineau, 10,391. Burton, 29,384.

It may be desirable that something approaching to the café system, as distinct from the long bar dram-drinking system, should be introduced, and it is certain that what happens in Pontypridd and Rhondda district should be made impossible. There, after the license has been granted for "large, palatial looking buildings," with coffee rooms and commercial rooms displayed on the plan by which the justices consent has been obtained; the rooms are closed, and all the accommodation that the public can get is a long bar without food or proper refreshment for travellers. Bourke 6172. 6257. 6242. 6314. Griffiths, 32,623.

It is not clear why the justices do not, in such a flagrant case of departure from the stipulation on which the license was granted, refuse to renew when the next opportunity offers.

vi. *Recommendations.*

Public-houses should, in our opinion, be as open as possible to supervision, both from the inside and the outside, and this—in the common interests both of the license holder and of the public. Mr. Albert de Rutzen, police magistrate in London, after a case had been heard by him—being struck by one of the circumstances which were recorded—went himself and inspected the house which was concerned in the matter. He discovered a state of things which, though the superintendent of police saw nothing strange or wonderful in it, amazed the magistrate, who found that "nobody could see any single person who was in the bar"—such was the arrangement of compartments with holes for the passage of the liquor and the receipt of the money. Every single offence could be committed in such a place with impunity, especially such offences as serving children under age, serving policemen, &c., &c. 3553.

Open spaces and open bars with seats and tables are in every way preferable to such a compartment system as that which the magistrate exposed. Deakin. 35,617. 35,618.

Licensed houses should not be placed in connexion with back courts or yards; should have the smallest number of doors compatible with the proper conduct of the trade, and should not admit of communication of any kind with the dwelling of the publican or with the lodgers who are in the house.

The Scottish licensing authorities absolutely prohibit such communication, as a rule, but the salutary injunction is not followed in England.

In Scotland, a very general rule prevails that licensees of public-houses are not allowed to reside on the licensed premises, though in some parts of England a contrary custom is in force, and in the case of beer-houses residence of the licensee is a statutory condition. Non-residence has many advantages; *e.g.*, it quite puts an end to tippling during closing hours, and the Scottish practice may well be recommended to the attention of licensing authorities.

3. Alteration of Premises.

Such facts as we have described point imperatively to the necessity of conferring upon the justices full control over any alteration of premises. A detailed plan of premises is at present deposited with the Excise, and there is no reason why the same plan should not be laid before the justices and their consent required before any deviation is allowed.

Mr. Thornton says the justices are powerless to prevent the conversion, say, of an ordinary public-house into a dram shop with a long bar. However strong may be the view held by the justices against such unauthorised conversion, they are unable to prevent it unless they like to refuse the renewal of the license, and thereby run the risk of being overruled on appeal. The Leeds justices desire to be invested with statutory discretion over such matters as these, and would not object, if such discretion were conferred upon them, to have their decisions open to appeal. Thornton. 13,299.

From Birmingham and Plymouth and many other places come similar expressions of opinion. Mr. Barradale says:—

"If conditions are imposed by the justices, those conditions should be enforceable by law, whereas, at present, if the conditions are not complied with in regard of any structural internal alteration and the license is refused, appeal follows, and the license is inevitably restored." Barradale. 5592. 5597.

The chief constable of Plymouth is also emphatic on the point, that proposed alterations should be laid before the licensing justices, and they should have legal power to refuse or modify them either at special sessions or at the ordinary Brewster sessions. Sowerby, 17,493. 17,555.

Grove 33,138. The publican's interest, too, is concerned. He may now make alterations, but at a certain amount of risk; if he had obtained legal magisterial consent he would be free.

It is of the utmost importance that the licensing authority should exercise the strictest control over any alterations, external or internal, as we have recommended. Such alterations may at present be made in a public-house that the facilities for drinking are doubled, and yet, unless the premises are so altered that the house is practically a new house, the justices have legally no control. It is true that in many places the license-holders do by custom submit plans of alterations, but the custom should be made statutory.

4. Special Conditions.

i. *Law and Practice.*

The only conditions that can statutorily be imposed upon the license are those of early-closing and Sunday closing, and then only upon the initiative of the applicant. In the case of a person taking out such a six-day and early-closing license for the sale of spirits, he may give an undertaking that it shall be used only as an auxiliary to his business as a restaurateur or eating-house keeper, and that there shall be no open drinking bar. He then obtains a reduction in the license-duty, but the justices have no legal guarantee that he will continue to use the premises in this way.

As a matter of fact, a variety of conditions are imposed upon the licenses, especially that the premises shall have no drinking bar and be used as a restaurant only, but there is no way of enforcing these conditions, except by taking the extreme course of refusing the license, in case of a breach, when quarter sessions usually restore it unconditionally.

This want of direct statutory power sometimes operates against the applicant. A very good restaurant was started in Hull, and the justices would grant it a license to-morrow, were it not that in similar cases experience has proved that directly the license is granted the houses are, in defiance of conditions, turned into a dram shop. Quarter sessions on appeal, if they refuse to renew, restore the license unconditionally, so that the justices will grant no more.

Wood, 13,734. Gore, 9286. Shackles, 8330, 8620. Mabbott, 24,386. Thornton, 13,333. Whiteley, 2985. Similar evidence comes from all parts of the county, and licensing authorities everywhere ask that power shall be conferred upon them to impose conditions.

Mr. Davies complains that the greatest possible difficulty is experienced in proving before the justices that such conditions have been imposed, and expense has to be incurred in hunting up witnesses to testify to a fact which is well-known. Such conditions and stipulations, however deliberately entered into, are sometimes flagrantly

11,314. violated. He makes the excellent suggestion that all such conditions should be entered in the register of licenses. This is actually carried out by Mr. Whiteley in the

2994. Newington Division.

Representatives of the licensed trade take a different view.

40,878. Mr. Candy, Q.C., thinks that it is not desirable that the justices should have

40,881. the power, for instance, of imposing the conditions of a six-day license if they thought that the effect of Sunday opening would be productive of an influx of strangers from other districts, and prove a nuisance to the neighbourhood. He objects to such magisterial action on the grounds that the legislature has deliberately left the choice of a six or seven day license "to the business instinct of the applicant," that the neighbourhood may be a "show place" and that provision ought to be made for the accommodation of those who are not water drinkers. "The moment" he adds "the house "has been licensed, and disorder ensues, the justices ought to have the power of "refusing the license, and they have."

35,585. Mr. Deakin also opposes the present exercise of discretion by justices in their

35,625. imposition of conditions, both in matters of structure, arrangement, and alteration of premises, as well as in matters of procedure; but he thinks that it is only in some directions that they have exceeded the discretion admittedly conferred upon them. What he complains of, on the part of the licensed victuallers, of which body he has been a member for 34 years, is the want of uniformity among the benches, and the uncertainty in which the trade are thereby placed, and he would like to see the conditions, some of which he admits to be reasonable, to be not local and shifting but general and Imperial. He does not want a reclassification of licenses, but would prefer such a change to any enlargement of the powers of the justices.

Lastly, Mr. Maitland, acting director to the Licensed Victuallers' Protection Society, takes the same general objections as the preceding witness; complains of justice-made law, and of the want of uniformity among the 20 Metropolitan benches. 36,382. 36,442. 36,449.

ii. *Recommendation.*

We are of opinion that wide discretion should be allowed to the licensing authority in these matters. A separate hotel license would be extremely useful, but beyond this there should be full discretion to insert in the license conditions, as to early or Sunday closing, as to open drinking bars, restaurants, supply of food, &c. These conditions should be entered in the register, and on proof of a breach of any such condition there should be power to refuse the license without appeal, except on the question whether the breach of any such condition has in fact taken place.

5. Miscellaneous Questions.

There are many other questions on which the discretion of the justices operates; such as, whether a man shall hold more than one license; whether, as in the case of beer-houses, the licensee should be compelled to reside on the premises, and whether a license should be granted to a married woman.

There are *primâ facie* objections to licensing any woman, and there are also real objections to the grant being made in some instances, as where the husband is himself disqualified. Here the greatest caution is necessary, because the most strenuous applications are made for the grant, and on the firm resistance of the justices it generally comes out that the husband is an uncertificated bankrupt or a convicted felon. But, on the other hand, the house may be the wife's property, and the question arises whether she or the husband (if residing on the premises) should have the license; or she may be separated from her husband. While we think that under the circumstances of the felony or uncertificated bankruptcy of the husband, there should be no grant to the woman, we are also of opinion that all these questions must be decided by the discretionary power of the licensing authority, and that, if they are fit to occupy their position, they are competent to adjudicate in their discretion upon such questions as "one man one license," license to married women or to single women, or what is the required holding in a tenant under the tied house system. Roundell. 21,714. 21,721. Whiteley. 2914. Rothera. 10,761.

If it be thought that it would be too much if all these questions were left to the discretionary decision of the licensing authority, and that the variety of practice in the petty sessional division would be, and is now, too great, it would not be difficult to provide that some central authority—*e.g.*, the appeal committee—should draw up rules upon all these points, and so secure general uniformity of practice upon the more material issues, while leaving absolute discretion upon minor and subsidiary points to the licensing authorities of first instance. Martineau. 10,428.

CHAPTER IX.

EXTENSION OF THE POWERS OF THE LICENSING AUTHORITY.

We have referred to instances where magisterial control is imperfect, and it will be found on a perusal of the evidence that there is a preponderance of opinion in favour of the extension of the powers of the licensing authority in several respects, viz.:—

Off wine and spirit retail licenses.
Wholesale licenses (excepting those required by brewers, distillers, wine merchants, and blenders).
Packet-boat licenses.
Theatre licenses.

The ante 1869 beer and wine-houses have already been dealt with.

1.—Off Wine and Spirit Licenses.

i. *The Law.*

The law as to off wine and spirit retail licenses, has already been stated, and it is sufficient to say here that the justices have a partial control over the sale of spirits,

liqueurs, and wine in bottles, but their consent is not required when the spirits and liqueurs additional retail licenses are held for premises exclusively used for the sale of intoxicants, or when wine is sold by retail under the wholesale wine dealer's license.

ii. *Evidence, &c.*

We shall have separately to consider the question of allowing the sale of intoxicants on premises when other articles than drink, as, for instance, groceries, are sold, but we now content ourselves with the inquiry whether or not the same law of magisterial control should extend to these as to other licenses.

Mr. Whiteley says that all off licenses, of whatever kind, should be placed under the same jurisdiction, and that to have some licenses granted by the Excise, and some by the justices, is only the way to create confusion and complications, so that it would be better to bring all off licenses under precisely the same conditions, as to complete magisterial discretion, as the on licenses, or abandon altogether in this case the fiction and pretence of magisterial authority. The distinction between on and off licenses in respect of jurisdiction cannot be maintained; there is, indeed, room and scope for both on and off licenses, but if the licensing authority has to deal with the matter at all, they ought to have the whole matter under their control, and under their full control.

3448.

3444.

Indeed, it is impossible to see why, assuming a licensing authority to exist, a bottle of beer should be any more under control than a bottle of wine or spirits, or why the law should not be uniform in the two cases, as it is in Scotland.

Thornton, 13,196. 13,202.

The Leeds bench also complain of every retail dealer being able to sell "off" by paying the sum of 13*l.* 13*s.*, that is to say, they represent themselves to be, though in many cases they are not, wholesale dealers, produce the wholesale license, and claim the retail license in addition.

Batty, 10,655. Gore, 9237. Greaves, 9592. Bund, 10,666. Cartwright, 12,847. Sutcliffe, 26,86

Witness follows witness in advocating uniformity of magisterial control over off licenses as well as on, and Mr. Batty refers especially to a case in which the Manchester city justices in their report for 1895, in regard to the sale of spirits "off," pray for some practical measure to correct such a palpable and dangerous source of drinking.

Objection, however, to this extension of magisterial control is taken by Sir H. Poland. He thinks the sale of wine and spirits off the premises should be without limitation; that such trade is a lawful trade as much as that of bread, drapery, or beef. He would allow anyone to sell beer or spirits for consumption off, and he draws a distinction between a trade of that class and the trade of a public-house with a bar for drinking, where there is a possibility of disorder which he thinks is precluded in the other case.

1042. Wood, 14,070.

The chief constable of Manchester testifies to the good conduct of the off license holders carrying on a mixed trade, and is satisfied with the present system. It is observable, however, that he is rather combating the necessity of condemning these houses, than speaking directly of the authority on which their licenses should be granted.

iii. *Recommendations.*

Reviewing the evidence on the one side or the other, and putting aside the consideration of the mixed trade, we think that full magisterial control and discretion should apply to all off wine and spirit retail licenses, and that all distinction of jurisdiction should be abolished in this respect between "on" and "off" premises.

Beer "off" were in 1880–2 put under the control of the justices and the same provision should apply to the others.

2.—Wholesale Licenses.

i. *Complaints.*

Wholesale licenses for the sale of wine, spirits, beer, and sweets do not require the consent of the justices.

Grimston, 33,315.

These, and especially the beer wholesale license, are frequently the cover under which "shebeening" is practised; a man can obtain this license without any reference to his character, responsibility, or record, and notwithstanding the fact that he has been

Maclean, 41,870–2.

convicted five times for shebeening in the house for which he holds a wholesale license, and though he has been convicted 15 times in 10 years, may still continue to hold the excise license, and have it continuously renewed in the very face of the licensing justices.

At the time that Mr. Maclean gave evidence there was a woman in Cardiff who had been frequently convicted, and was then actually in prison, in possession of the excise license, which on its expiry would be again applied for, and, as a matter of course, continued.

Two cases were presented to us in which large bodies of workmen were collected together for the execution of railway works in one case, and of waterworks in the other. In both places the occupant of huts had taken out the excise license, and under that pretence had sold liquor by retail. The natural result followed, till at last the police were able to make a raid upon the huts to stop the practice, though in one instance it required repeated fines to put a stop to the illegal and profitable trade. Grimston, 33,316. Grove 33,112.

But this is not the full extent of the evil, a wholesale dealer having received the excise license to sell in 4½-gallon casks is under no restriction as to hours—day or night, Sunday or week-day. If his premises are raided and the beer carried away, all that the occupier has to do is to get from a wholesale dealer, with whom he may be in collusion, a fresh supply, and go on selling with impunity till the next raid, and the next confiscation of the supply. McKenzie, 15,434.

ii. *Recommendation.*

We are therefore of opinion that the wholesale licenses for the sale of wine, spirits, beer, and sweets should require the consent of the justices, and come under the full control of the licensing authority, excepting those required by brewers, distillers, wine merchants, and blenders.

It should be remarked that in Ireland the consent of the justices is necessary for wholesale beer dealers' licenses.

3.—Sale of Liquor on Passenger Boats.

i. *Complaints, &c.*

Packet boats have next to be considered. No justices' license is required for the sale of liquor on board passenger boats going from one port of the United Kingdom to another, or returning to the same port on the same day. 43 & 44 Vict. c. 20, s. 45.

In the Metropolitan Police District, however, no sale is allowed on vessels at anchor during the hours when licensed premises are closed. 1842, s. 5.

In Scotland no sale is allowed on such boats on Sundays, and in Chester, under a byelaw, a condition of obtaining a license is that on Sundays they shall not sell at all. Excise licenses may be taken out either for one day or for one year. Fenwick, 28,136.

The evils attendant upon the present system, whereby an excise license is alone required for these boats, is dwelt upon by Mr. Bund, Chairman of the Worcestershire County Council and Quarter Sessions, as regards the Severn in its passage of 25 miles through Worcestershire, on 12 or 14 miles of which there is considerable traffic. As long as the boat keeps in motion it is not liable to the licensing law, but an actual mooring at a landing stage brings it within its operation. 10,614.

There is no restriction as to hours, day or night, or Sundays, and here we get a glimpse of the *bonâ fide* traveller who, on Sundays, after being freely supplied with drink on the steamer, lands a few miles further up or down, is thereby constituted a *bonâ fide* traveller, and can claim his privilege of getting more to drink. 10,630. Steamers fitted with public bars run up and down the Tamar on Sundays, and though on shore one is precluded from getting drink during the closing hours, freedom is restored on setting foot on the deck of the steamer. The people are turned out in a drunken condition in the evening, again and again, and even if other grounds are put out of sight, the mere injustice to the publican is patent, that whereas he is subject to various restrictions, the boat traverses the river untroubled as to hours during which his house is closed. Mantle 18,833. What was seen on the Tamar was also seen on the Yare (Norfolk), by Mr. Lee Warner, namely, people coming out from the boats in a drunken state.

The question arises who should grant the licenses, and on the suggestion being put to the witness that the magistrates at one of the termini of the traffic might discharge this function, he thinks such a plan would work well on the Yare, but that the distance which the boats have to run is an important factor to be considered. 24,879

There are also a number of lines plying between Liverpool and Ireland, and Liverpool and North Wales, and there appears to be no reason why not only river

Crosfield, 11,908. steamers, but all passenger steamers plying between ports of the United Kingdom, should not be treated as a portion of the kingdom, and be subjected to the same authority in the grant of licenses as licenses on land are or ought to be subject to.

Sampson, 12,216. The license might be made out to some individual, as, for instance, the contractor who furnishes refreshments in agreement with the company who own the line. These contractors are under little or no responsibility, and should be subjected to the authority of a licensing body.

ii. *Recommendation.*

Gore, 9342. The magistrates at the port of departure or landing could easily through the police ascertain what was the state of things on board, and refuse the license if they were so empowered, as we think they ought to be. The evil is not confined to one locality.

It is unreasonable that no restriction should be imposed on the boats, and whether the drunkenness that is observed on them is produced by drink obtained on board, or brought on board with them by the passengers, a possibility of withdrawal of license in consequence of disorder would tend to discipline, and exert a wholesome influence.

Clark, 40,327. If a hundred dozen bottles of beer and porter exclusive of spirits can be consumed during a short trip on a Sunday on board one steamer, the necessity is emphasised of magisterial control and supervision.

4.—Theatre Liquor Licenses.

i. *The Law.*

5 & 6 Will. IV. c. 39, s. 7. Wood, 13,902. Turning to theatres, when a theatre is licensed by Royal Patent, or by the county council, or by the justices of the peace, no justices' license to sell liquor is required, and there is a doubt whether closing regulations apply. There is merely an arrangement or understanding that liquor shall be sold only as long as the performance lasts.

ii. *Recommendation.*

Batty, 19,665. A dramatic license thus carries with it the right to an excise liquor license, and, judging from the experience of Manchester, they should not necessarily go together, and we conclude by expressing the opinion that in addition to the three classes of license with which we have been dealing—*i.e.*, i. off-wine and spirit retail license; ii. wholesale licenses; iii. packet boat licenses—theatre licenses should be brought under the same control of the licensing authority in regard to the sale of all exciseable liquors.

CHAPTER X.

THE APPEAL TO COUNTY QUARTER SESSIONS.

1. General.

We turn to the administration of the law by the justices at county quarter sessions. Here we are at once met by complaints from nearly all parts of the country to the effect that the justices, by their action at quarter sessions, have not only not co-operated in, but have greatly thwarted the due administration of the licensing laws.

Crosfield, 11,780. Since 1828, when the Act was passed which gave appeal to the county justices in quarter sessions, many changes have taken place by the birth of great cities and by the expansion of municipal life, so that enactments which were then suitable have become, in the course of time, out of all proportion to the circumstances of to-day.

The borough justices have no part in the constitution of the quarter sessions of the county, and appeals are carried from the former to the latter on questions which the first body is intimately acquainted with to a body completely outside, less informed, and certainly not more active or intelligent than the authority which is appealed against.

The county justices, moreover, have not the same responsibility with regard to the good conduct of the borough as the borough justices naturally have, and the whole

tendency of legislation since 1828 has been to invest local authorities with a responsibility which has itself been an educational and elevating force, and has made them, while their responsibility is increased, more capable of acting up to its obligations.

2. Appeals from Boroughs.

i. *Complaints against Quarter Sessions.*

There is a very general agreement among the great boroughs of the inconvenience and the evil of the present system; and two deputations have waited upon the Home Office—one in 1883, and the other in 1889—when, to two different Home Secretaries, the story of their grievances was told, and when each Home Secretary in turn expressed sympathy, and spoke hopefully of success. Crosfield, 11,780. Wood, 13,818.

At the latter deputation, however, the Home Secretary, though in accord with their views, and admitting the justice of their claims, as they were boroughs having local courts of quarter sessions, feared that the concession once granted would be claimed by the smaller boroughs, and that the measure of justice would have to be inconveniently extended. Thornton, 13,578. Sutcliffe 25,922. Crosfield, 11,780.

Among the great boroughs, complaints come from Manchester, Leeds, Bradford, Sheffield, Burnley, Liverpool, Newcastle, Birmingham, South Shields, Lincoln, Reading, Nottingham, Bristol, West Bromwich, Hull, Plymouth, and others. The purport of these complaints is that the appeal is from a strong to a weak court, from a well-informed to a less informed, to a court knowing less of facts, and possessed of no more law, that the whole system is antiquated, is out of harmony with the needs of the neighbourhood, and acts as a deterrent to magistrates in the due discharge of their duties. Roberts, 7822. Barradale, 5408. Farrar, 17,757. Richardson, 19,442–9. Clements, 28,608. Gore, 9245 Jackson, 9021.

Mr. Davies, solicitor, of Liverpool, regards the action of quarter sessions as "a dead "weight which, in very many districts, renders the due administration of the law in "the interests of the general public, who are most affected, difficult and discouraging." 11,251.
Mr. Sowerby, Chief Constable of Plymouth, cites an instance where a tenant was twice convicted within the year for supplying drink to drunken men. Shortly before the annual licensing day a brewery company got rid of the tenant, and pressed for the license to be given to another man, against whom nothing could be said on the score of character. The magistrates refused the renewal, which, on appeal, was granted. The contention of the Chief Constable is that, while seven magistrates on the spot and knowing the circumstance were unanimous in refusing, three magistrates sitting on the court of appeal 52 miles distant, at Exeter, granted the license. The bench that knew was over-ruled by the bench that did not know. 17,478. 17,666.

The justices in Hull could, under the decision of Sharp *v.* Wakefield, have suppressed several houses which were paying no rent at all, but did not suppress them, because they knew that the appellate court would reverse their decision. The houses were doing no business, and the tenants were not earning a livelihood, changing frequently, and in some cases resorting to illicit practices. Shackles, 8269. 8733.

In another case the Hull justices, annoyed at their conditions having been broken by the licensee, who, in their despite, opened a dram shop in the street where he had undertaken to keep the house as an hotel pure and simple, refused the license. It was restored by the quarter sessions at Beverley.

The justices of the borough of Bradford, says their clerk, have much reason to complain, for during the last 10 years their decisions have, on appeal, been reversed in every case, except one, and that one could not be heard, because proper notice had not been given by the appellant. Greaves, 9634, 9643.

Mr. Clegg, solicitor and alderman of the city of Sheffield, gives a remarkable series of cases in which the decisions of the city justices were overruled by quarter sessions at Wakefield in 1894. 17,966.

Fourteen licenses had been refused on various grounds, many of them in consequence of repeated convictions for permitting betting or permitting drunkenness, and sometimes on the additional ground that the neighbourhood was already overcrowded with public-houses. One case was particularly flagrant. The grounds for refusal were that the house was of a disorderly character, that a conviction had been recorded on the license for permitting the premises to be the habitual resort of prostitutes, that the military authorities had "put the house out of military bounds" in consequence of repeated disorder from soldiers visiting the place, and that the house was not required,

there being 35 public-houses within a radius of 210 yards. The license had not even been transferred, which was the ground of allowing the appeal in some cases. Yet this appeal, as well as 12 of the other 13, were allowed. On the first day of the hearing of these appeals, 60 justices attended from all parts of the West Riding, nineteen-twentieths of them complete strangers to Sheffield. The witness thought some influence had been brought to bear to bring together this enormous number.

18,010 The witness speaking from his own experience would "undoubtedly" abolish quarter sessions as a court of appeal.

The question arises how to account for this serious and pronounced difference of opinion between the borough benches and the county justices assembled in quarter sessions, and it is difficult to escape from the conclusion that one or the other body must be incompetent to discharge its duties.

ii. *Opinions in favour of Quarter Sessions.*

Down, 38,685. Some trade representatives, however, take quite an opposite view to those who would abolish quarter sessions, as a court of appeal in licensing cases.

Burland, 39,736. If an appeal, say these, were from the licensing justices to the full borough bench, the latter would not like to reverse the decision of their colleagues; the remoteness of the court of appeal precludes the possibility of canvassing; there should always be a right of appeal from so small a body as the licensing justices, which even in Bristol numbers only seven.

10,730. Local knowledge, says Mr. Candy, though it may not prejudice or bias, may yet mislead. A good court of appeal may, no doubt, be found, say, in a large borough of 600,000 population, but anything that tends to counteract local prejudice is to be desired.

40,767. The local courts decide first and then hear a case; the independent and remote body will know something about the case when they have heard it, and their previous ignorance is in their favour. Where the unanimous decision of seven justices was, as in an actual case, reversed on appeal by the chairman of quarter sessions and one colleague, there is an apparent justification for resentment, but the statute has provided the remedy of a rehearing, and it is no fault of the appellant that the court to which he goes is so numerically weak. The particular case to which the witness was referring in the above remarks was one where the justices had refused a license to a new man, as the former tenant had been repeatedly convicted and fined for grave offences, though there was nothing against the new man who had succeeded him and who had been six months in possession.

37,406, 37,412. Mr. Godden, solicitor to the Country Brewers' Society, is in favour of retaining the present court of appeal, and thinks "local knowledge a very dangerous element to "introduce where they (the justices) should judge on the evidence before them, and "repeats the objection of a former witness (Burland) that an appeal from a committee "to the full bench would be an appeal from colleagues to colleagues, and fail in the "independence of the appellate court."

He would not be satisfied with making the licensing bench and the court of appeal, each a fixed and carefully selected body, and "on the whole" thinks the present court of appeal a good tribunal.

36,625. Finally Mr. Maitland, solicitor to the Licensed Victuallers' Protection Society, holds that the objection that the justices in the appeal court are remote and less acquainted with the circumstances of the neighbourhood is the very argument in favour of the present court.

36,627. He can conceive a much better tribunal of appeal than exists at present, and there would be no objection to one constituted largely of the legal element and absolutely impartial between the trade and those who are hostile to the trade. "Local knowledge," he adds, "should be eliminated."

3. Appeals from Petty Sessional Divisions.

Complaints of the action of quarter sessions in appeals from petty sessional divisions are fewer in number, but it will be remembered that the appeal does not lie to an entirely external body.

Whiteley, 3000. In London the clerk to the Newington Bench approves of quarter sessions as a court of appeal, and would allow appeal, not, indeed, in such an ordinary every day case of administration as an occasional license, but apparently in all cases of grant,

transfer, renewal, and removal, and Mr. Martineau, Chairman of the Licensing Justices in the Tower Division of London, agrees in thinking quarter sessions an excellent tribunal if a sufficient attendance can be secured. 10,278.

The Reverend Peter Thompson, however, superintendent of a Wesleyan mission in East London, complains of the frustration of efforts at reform by the right of appeal to quarter sessions. 33,977.

Mr. Davies thinks that the appeal to quarter sessions is as strongly disapproved in some rural districts as the appeal from the city to the county justices, on the ground, among others, that the same party who is admitted to the lower court has no *locus standi* in the appeal courts. 11,352, 11,355.

In North Wales, too, the grievance caused by the court of appeal is felt, where, in a small village of 350 inhabitants with four public-houses, two out of the four being objected to, and a strong feeling being entertained for their abolition, the local Bench refused the licenses. It is alleged that there was a collection of justices at the appeal court who are not often seen there; but whether this was produced by canvassing or no, the appeal was allowed, and the two houses continue, though every year the inhabitants continue their opposition. George, 30,431, 30,585.

Objection may be taken to any court of appeal, but Mr. Roundell does not share this view, confining his objection to the present tribunal as a court of appeal both from petty sessional and from borough justices. In 1895 the decision of Cheshire justices in the court below were upheld in 32 cases and reversed in 23, out of a total of appeals of 55. He quoted Parliamentary returns showing the number and nature of the decisions appealed against in various counties for 1894, and the cases in which the ground of refusal in the first court was that the house was not required. Though it is within the competence of the justices to refuse a renewal on the ground of non-requirement, the quarter sessions overruled many cases in which this ground formed a more or less predominant element in the refusal to renew. The Benches of Cheshire have been overruled to an extraordinary extent, to such an extent, indeed, as to stultify the magistrates and paralyse the police. It is not the case that here and there a wrong-headed or perverse Bench has met with a rebuff, but the same thing has happened all over the county, and the inference is either that the petty sessional benches must be unfit to exercise original jurisdiction or there must be something wrong in the constitution of the quarter sessions. 21,677.

The paralysing effect of quarter sessions upon the local benches is also spoken to by Mr. Stileman Gibbard in Bedfordshire. 22,949.

4. Conclusion.

It is a remarkable fact that quarter sessions as a court of appeal finds very few supporters outside the representatives of the licensed trade. It is clear that the present system has not generally worked satisfactorily.

5. Suggested Reforms.

We now proceed to consider some reforms which have been suggested on the subject of appeal generally, on limitations to the liberty of appeal, and on the question as to what should be the tribunal to which appeals should lie.

(i.) *Abolish Appeals.*

By the Church of England Temperance Society Bill, as explained to us by one of its Vice-Chairmen, appeal would be abolished altogether, while the conclusion of Mr. Davies (Liverpool) is either to have no appeal at all from the general body of justices or to have no appeal to justices outside who are not competent to judge. Howard, 66,095. 11,535.

Lady Henry Somerset, who regards the present system of appeal as "most deleterious," would do away with a court of appeal, or substitute some other body in place of the existing tribunal. 31,597.

There are opinions in favour of abolishing appeal on matters of fact, and of reserving appeals for points of law. 33,977.

(ii.) *Appeal from Committee to full Bench.*

Roberts, (Newcastle), 7662, 7798, 7810, 8062.

From the boroughs come several witnesses who advocate appeal, and in some instances an extended appeal to the full body of magistrates within the boroughs. This privilege of internal appeal should be granted to all towns which have their own local magistrates; and if, where there are at least ten acting justices, the licensing committee is fixed in number, so you might have a minimum and maximum number for the appellate court. Suppose there are less than ten qualified justices, appeal might go outside; in other cases appeal should lie inside the borough, whether there was a recorder or not.

Gore, (Bristol), 9246.

(iii.) *With or without the Recorder.*

Greaves, 9626. 9652.

From Bradford, it is suggested that while the borough justices should settle all cases of fact within their own limits, all points of law should go to a court of law, and not to another court of no higher authority than the first. The recorder, who now deals with the licensing law so far as he tries infractions of it which are of a criminal or quasi-criminal character, may fitly constitute or preside over a court of appeal in all licensing questions.

Clegg, (Sheffield), 18,055.

Sampson, 12,254.

On questions of law the recorder might sit alone, and on questions of fact he might preside over the general body of justices sitting as an appellate court.

A further appeal might lie from the recorder on a point of law to the Supreme Court.

(iv.) *Appeal to Recorder.*

Jackson, (W. Bromwich), 9021.

On the special question just referred to of appeal to the recorder, a reason is urged that the nature of an appeal implies or should imply application from one jurisdiction to another, and that, therefore, the recorder should sit as chairman of the justices, with the exclusion of those who had already adjudicated on the case.

Wood, 13,818. 14,053.

The chief constable of Manchester would re-place quarter sessions by the Sessions Court of the city with the recorder sitting. He might either sit alone or in company with the stipendiary magistrate, who would have to leave the licensing bench. Such a man would be quite competent to re-hear and decide licensing questions which are questions of fact and evidence, just as much as are the questions which he now has to decide which may involve a punishment of five years' penal servitude.

Clegg, (Sheffield), 18,012.

Mr. Clegg has so high an opinion of the local justices as being quite competent to decide the question before them, that he would have no appeal on fact, but he would in any event prefer to go to a recorder, with his trained and judicial mind, rather than to the court of quarter sessions. As a matter of preference he would not allow of appeals on matters of fact, and would take appeals on points of law to the Divisional Court.

(v.) *The Birmingham Scheme.*

Barnsdale, 5413, &c.

In Birmingham, however, the justices have manifested a certain amount of distrust of a recorder who might come from London, and be unacquainted with local requirements and local conditions; and quite apart from the fact that the present recorder is also Chairman of quarter sessions, they prefer that the recorder should form part only of the appellate court, and that with him should be associated as commissioner of appeal three or four justices, the mayor, unless disqualified, to be *ex-officio* one of that number; so that in practice the change proposed would be to substitute a court of three or four borough justices, sitting with the recorder, for a court consisting of the Chairman of quarter sessions, sitting with three or four county justices.

(vi.) *Appeal to Joint Committee.*

Again, there is a proposal that the court of appeal should be formed of a joint committee of city and county justices.

Gore, (Bristol), 9532.

Mr. Gore thinks that it is an excellent suggestion that there should be chosen a committee of county and borough justices to act as a court of appeal, on the model of the confirmation committee as constituted under the 38th section of the Act of 1872.

And Mr. Cartwright approves of such a plan, with a proviso that the arrangement should be "mutual," *i.e.*, that a similar court of appeal should be constituted for the county, with a certain admixture of magistrates from the larger boroughs. Cartwright, (Nottingham), 13,095.

(vii.) *Appeal to Special Committee of Quarter Sessions.*

Retaining the present court of appeal, and allowing appeals in every case, the Chief Constable of Chester, to meet the objection sometimes urged that the court is a scratch bench, or whipped up for a special occasion, would constitute the court of five or seven members, including the chairman, to hear the licensing appeals. To this Mr. Candy agrees, recommending that the body should be a permanent body, or a body elected for a year by the rest of the bench, and re-eligible. Thus would be obtained a court of ascertained constitution and character. Fenwick, (Chester), 27,770. Candy, 40,752.

(viii.) *Appeals from Petty Sessional Divisions.*

In country divisions Mr. Davies would give an appeal from the petty sessional districts to all the justices usually acting in that hundred or division, for he is of opinion that the nearer you keep the source of licensing to the place and persons affected by it the better for society at large. Davies, 11,351.

If an appeal on matters of fact is considered absolutely necessary, then Mr. Stileman Gibbard would adopt the same court of appeal as that just suggested. Gibbard 22,951.

Then come other suggestions, namely, that appeal should lie to a judge of assize without a jury, to two county court judges sitting together, or to a county court judge sitting alone, on all questions of fact and law. Roundell, 21,698. George 30,417.

(ix.) *Change of System.*

Still other suggestions deal with a complete change in the constitution of the licensing authority, and these we propose to deal with when we come to consider that question, and when, in due course, it will be our duty to make our own recommendations.

CHAPTER XI.

RECONSTITUTION OF THE LICENSING AUTHORITY.

1. General.

It will be noticed that the general tendency of our remarks and recommendations as hitherto expressed tend in the direction of conferring greater powers and increased responsibility upon the licensing authority.

That licensing authority should be invested with complete discretion in granting licenses of all kinds (with the exceptions formerly mentioned), and in attaching special conditions to the grant of licenses, with the duty of examination into the contracts or agreements entered into between owner and tenant, and of more effectually supervising the structure and alteration of licensed premises.

We have attached special importance to the administrative functions of licensing justices, and now we are brought directly in front of the important question as to the constitution of the licensing authority.

We are able to discuss this question without prejudice to the subject of direct popular control. It is true that some of the supporters of that principle attach very little importance to a licensing authority, arguing that its function would be gone, and its very existence immaterial if direct popular control should be granted. But popular control is a wide and general principle, still requiring machinery to carry out innumerable administrative details, so that except in the single event of absolute and complete prohibition, a licensing authority of some sort would be needful, and it is desirable from every point of view to render such authority as efficient as possible.

2. The Justices not the best Authority.

Roundell, 21,656. On the assumption that the justices are to remain the licensing authority, it would be clearly an improvement upon the present system to have a committee in every division appointed by the justices of the division to deal with all licensing questions, with appeal to the full Bench which should also be the confirming authority. But after a very careful and exhaustive review of the administration of the law by the justices, we are forced to the conclusion that licensing business cannot properly be left solely in their hands, and that if permanent improvement is to be hoped for with any chance of being realised, the tribunal which shall administer the law and be invested with the increased powers which we have suggested cannot remain a wholly irresponsible body.

It certainly cannot be denied that the justices have met with much hindrance from the imperfections and deficiencies and ambiguities of the laws, and it may readily be 66,139. admitted that, to use the words of Mr. Stafford Howard, "they are a great deal better "than they were, and have more idea of their responsibilities than they used to have "years ago." But when all has been said that can justly be said in their favour, it cannot be admitted that they are the best representatives of the wishes of the neighbourhood, or best interpreters of public feeling in regard to the due requirements of a locality.

3. Suggested Reforms.

(i.) *Indirect Popular Election.*

33,107. Mr. Grove, chairman of the Monmouthshire County Council, is in favour of solving the difficulty by resorting to a committee of the county council. The thoroughly representative character of that body may be admitted, and Mr. Grove thinks that if these new and important functions were added to its present duties "the election of "the county council would be, if possible, more strict than it is at the present "moment."

The direct admixture, however, of municipal and county business with licensing would meet with strong objection in many quarters, and the action of some watch committees does not afford a very encouraging example.

30,730. 30,736. Mr. Owen, however, does not see danger in the municipal or county business being thus mixed up with licensing business, and suggests that the county council and the county borough councils should select representative gentlemen resident in each licensing division to supersede the present licensing authority.

The presence of *ex officio* members on the licensing board, such as the chairmen of the vestries and the chairmen of the local boards of health, is viewed with different eyes by Mr. Martineau on the one side, and by Mr. Bund on the other.

10,268. Mr. Martineau, speaking of London, regards such *ex officio* members as "distinctly 10,444, an element for good" and as being of assistance to magistrates "from their being so 10,449. much mixed up with the local life of the division," but Mr. Bund, speaking from his experience as a justice of the peace for Worcestershire and Cardiganshire, and alluding to the chairmen of district councils, regards the latter as more amenable to outside pressure than magistrates appointed in the ordinary way, and as imperfect administrators of the law.

(ii.) *Direct Popular Election.*

25,651, 25,657 &c. 25,921. A direct election is advocated by Mr. Prince, solicitor of Brighton, who entertaining the view that the functions of the licensing authority are administrative and in no sense judicial, would like to see the licensing system transacted by a board elected purely and simply for licensing purposes, chosen for three years on the widest possible franchise.

Objection, however, is taken to this proposal, on the ground that there are already more than enough of elections.

(iii.) *A Joint Committee.*

Westlake, 67,112, &c. A body partly elected and partly selected is recommended by Mr. Westlake, Q.C., and by Mr. Touchstone, representing the Conservative and Unionist Temperance

Association. Mr. Westlake advocates the Westminster Bill—so called as emanating from the Westminster Licensing Reform Committee — which makes a sweeping change in the constitution of the licensing authority and provides for licensing boards, two-thirds of such licensing boards to be elected in electoral divisions and one-third to be appointed.

Mr. Touchstone, agreeing in the principle of election and selection, is of opinion that the introduction of the popular or local elements by those means would give a large amount of confidence to those who desire some form of popular control. 68,001.

The Rev. O. Mordaunt too would be satisfied with an infusion of local feeling through the county council or urban council, or both, and holds such indirect to be preferable to direct election. 69,792.

Mr. Roundell would like to bring in, as far as possible, the new local authority, to choose, say, two assessors, to represent the residents, but would exclude direct popular election *ad hoc*. 21,664.

4. Recommendations.

(i.) *The Licensing Authority.*

The best solution of the question as thus presented to us, and of the difficulties arising alike from the variety of complaints and from the diversity of reforms which have been suggested, appears to us to be afforded by the following recommendations :—

The licensing authority should consist of a committee of from six to ten members for each division with a permanent chairman elected by themselves. Half of the members should be chosen by the justices of the division from their own number; the other half by the county council or town council.

Such a committee should be elected for three years, and all local bodies, from parish councils upwards, should have a *locus standi* in preferring objections.

(ii.) *The Appellate Body.*

It may be urged, that the better the constitution and the greater the efficiency of the original licensing authority, the less need there would be of a court of appeal. We think, however, that an appeal or rehearing to a properly constituted tribunal should be allowed.

After the evidence presented to us, we are unable to recommend the continuance of county quarter sessions, as at present constituted, as an appellate body, nor do we think that the county justices alone are the body best entitled to exercise jurisdiction in such a court.

There is considerable difficulty in deciding upon a satisfactory appellate body. If the appeal lies to an entirely new body, this has the effect of invalidating the discretion of the original licensing authority. It cannot be too often repeated that licensing business is administrative and not purely judicial business, and it is not right that the deliberate acts of those who have continuously studied the question should be overruled by a totally different authority, which has not had the same opportunities for gaining an understanding of local conditions and needs. The only satisfactory solution of the difficulty seems to be to make the original licensing authority a part of the appellate body, in the same manner that the licensing committees in boroughs under the present law form part of the confirming authority and hear what are practically appeals against their own decisions. It might be objected that the members of the original licensing authority will be prejudiced in favour of their own decision; but for the reasons given it is only right that due respect should be paid to them, and the more unanimous they were in the first instance, the more likely is their view to prevail on appeal, unless new facts should have arisen. The presence of a new element will give a guarantee that the case shall be properly reheard, and a full opportunity given to bring forward any additional facts, while the presence of the original licensing authority will ensure the proper presentation of their views, and be a safeguard against local knowledge being disregarded and over-ridden. To avoid, however, even the appearance of injustice, the new element in the appellate body should exceed in numbers the original licensing authority.

In the case of boroughs having a separate licensing jurisdiction, we are distinctly of opinion that all licensing mattters should be decided wholly within the limits of the borough. An appeal, therefore, against a refusal to renew or transfer should be heard by a body consisting of the members of the licensing committee, sitting with a larger number (in the proportion of three to two, *e.g.*, nine new members to six members of the original licensing authority) selected in the same manner, *i.e.*, half by the town council and half by the borough justices.

We should be glad to place every petty sessional division in the same position as boroughs with regard to licensing, but county organisation presents some practical difficulties. Taking these into account, it is best to treat each county as a whole. The county council and the county justices shall elect an equal number of members to a county appeal committee; and in case of appeals from any particular division, they shall be heard by this committee, sitting along with the licensing committee of that division, in the same proportion of three to two.

Both in counties and boroughs the new appellate body shall perform the functions of the present confirming committee, and thus a distinct simplification of the law will be effected.

Members of the appellate body shall be elected for a period of three years.

5. Incidence of Costs on Appeals.

Cp. Vol. IX., p. 184.

A great deal of practical difficulty has arisen as to who the respondents are to be in case of an appeal against refusal to renew, and who are to bear the costs. An elaborate memorandum has been presented to us by Messrs. Roberts and Head on behalf of the Justices' Clerks' Society in which they point out the anomalies of the present position.

We are clearly of opinion that the licensing authority should be in no way hampered by any personal liability for costs.

We shall deal later with the costs that may be incurred by the police, but we may point out that much of the difficulty above alluded to has arisen from trying to regard licensing business in the same light as other judicial business, when it really, whether before the justices in licensing sessions or in quarter sessions, ought to be treated as purely administrative.

CHAPTER XII.

CLOSING REGULATIONS.

1. General.

Poland, 1164. Bridge, 2521. McWilliam, 3964. Smith, 4325. Moorsom, 10,115.

We find little disposition to question the benefits which have arisen from the stringency of the closing regulations under the Acts of 1872 and 1874, and while some witnesses are in favour of retaining the present hours, hardly anyone recommends their relaxation.

The present law is that all licensed houses must be closed:—

(*a.*) *In the Metropolitan District:*—

From Saturday midnight to 1 p.m. on Sunday.
From 3 p.m. to 6 p.m. on Sunday.
From 11 p.m. on Sunday night to 5 a.m. on Monday.
And on all other days from 12.30 a.m. to 5 a.m.

(*b.*) *Outside the Metropolis, but within the Metropolitan Police District, and in towns and populous places* :—

From 11 p.m. on Saturday to 12.30 p.m. on Sunday.
From 2.30 p.m. to 6 p.m. Sunday.
From 10 p.m. Sunday to 6 a.m. Monday.
And on all other days from 11 p.m. to 6 a.m.

(*c.*) *Elsewhere* :—

From 10 p.m. Saturday to 12.30 p.m. on Sunday.
From 2.30 p.m. to 6 p.m. on Sunday.
From 10 p.m. Sunday to 6 a.m. Monday.
And on all other days from 10 p.m. to 6 a.m.

2. Hours of Closing on Sundays.

i. *The Law.*

To deal with Sunday first, it will be seen that licensed premises may be open on that day :—

(*a.*) *In the Metropolis*, from 1 p.m. to 3 p.m., and from 6 p.m. to 11 p.m.

(*b.*) *Elsewhere*, from 12.30 p.m. to 2.30 p.m., and from 6 p.m. to 10 p.m.

Consequently, licensed houses are open on week days in towns and populous places for 17 hours, in country districts for 16 hours, and in London 19½ hours; while on Sundays they are open for 6 hours only, except in London, where they are open for 7 hours.

ii. *Sunday Drunkenness.*

Much less drunkenness, then, may naturally be looked for on Sundays, and the figures of arrests for drunkenness coincide with this expectation.

While we bear in mind the remarks which we have made on the unreliability of statistics, we feel that here we are on surer ground, because the comparison is made of the locality with itself, at the same time, and not with other localities where different conditions might confuse and vitiate the result, or even with itself at different periods.

An interesting table supplied to us by Captain Nott Bower shows the totals of apprehensions for drunkenness in the City of Liverpool from 1886 to 1895 for each day of the week. Vol. III., App. I.

Sunday	6,155
Monday	17,233
Tuesday	12,916
Wednesday	10,280
Thursday	9,101
Friday	10,360
Saturday	35,784

That is to say, 6 per cent. were arrested on the Sunday, while 35 per cent. were arrested on the Saturday, out of the total number of arrests during those 10 years, a total amounting in the aggregate to 101,829. Nott Bower. 26 32

The week falls into two periods, one Saturday to Monday, a period of great drunkenness, the other Tuesday to Friday, when the number of arrests greatly diminishes.

The apparent causes of the period of greater drunkenness are the wages in the pocket and the leisure to spend them at the close of the week. Now Sunday falls within the drunken period, and yet the arrests on Sunday are the fewest in the week, and this, although wages are still in the pocket, and though the leisure (to which we have partly attributed the drunkenness on Saturday) is greater than on any other day.

But on Sundays the houses are opened for 6 hours only instead of 17, so that the figures bear very remarkable testimony to the effect produced by a curtailment of hours, even when all the causes predisposing to drunkenness are present.

See Appendix V., Vol. II., p. 510.

Mr. Malcolm Wood, Chief Constable of Manchester, has furnished us with a table, which shows the number of persons arrested and charged with drunkenness, and being drunk and disorderly, for the year ending July 31, 1896.

The figures are, on	Sunday	867, or 15 per cent.
	Monday	962
	Tuesday	812
	Wednesday	653
	Thursday	663
	Friday	708
	Saturday	2,042, or 35 per cent.

13,723 13,724. 13,727. 19,667. 19,668.

The witness accounts for the large number of arrests on Sunday by attributing them to the clubs as the cause of the drunkenness, inasmuch as the public-houses close at 11 o'clock, and it is not till between 12 and 1 that the large number of arrests, 304, take place, and 459 between midnight and noon next day. Mr. Batty, however, differs from the chief constable, and does not put down the drunkenness on Sunday night to the clubs, 27 in number, which sell intoxicating liquor, and which form an infinitesimal proportion to the 3,000 licensed houses in Manchester. Mr. Hall, speaking for the clubs, points out that, if these clubs were the source of the drunkenness on Sunday night, it would be easy to trace the drunken men where the sources were so few. The men drink to the latest moment in the licensed houses, may have something in a bottle, or go to brothels, and it is with the public-houses and not with the clubs that the blame must rest. The chief constable does not base his opinion that the clubs are chargeable with this Sunday night drunkenness upon any absolute evidence, but surmises that it must be so in the absence of any other explanation.

Hall. 16,302.

Wood, 14,022. 14,027.

However to be explained, the fact remains, that in Manchester as in Liverpool the Sunday drunkenness is very high, considering the relatively small number of hours that licensed premises are open on Sunday.

In Hull, the arrests on Sunday for drunkenness, 1886–95, were 881, out of a total of 9,618, or about 9 per cent. of the whole.

The conclusion then to be drawn from the above circumstances of Sunday drunkenness is, that although there is a great deal of drunkenness on that day, arising from the special conditions of the day, still the positive effects of shorter hours are manifest in the fewer arrests and presumably less drunkenness.

If it is objected that a greater amount of drinking is concentrated within the fewer hours during which the houses are open, the broad fact is not gainsaid that when the houses are open for the shortest time the arrests for drunkenness are fewest, and that the limitation of time is to some extent at all events a limitation upon drunkenness.

Would a further restriction of hours still further restrict the amount of Sunday drunkenness?

iii. *Arguments for and against complete Sunday Closing.*

Hills. 72,253. Malins, 72,059. Rooke, 33,505. Griffiths. 33,059. Clements. 28,599. Burton. 29,593. Batty. 19,672. Mabbott. 24,632.

Some witnesses advocate entire Sunday closing, and testify to the steady feeling in its favour in many large towns and elsewhere, and even in some places among publicans themselves.

The arguments which have been urged in favour of Sunday closing may be thus summarised:—

1. A break in the week's drinking would certainly be beneficial.
2. If necessary, a sufficient supply of drink could be laid in the night before. Beer, too, can be bottled and so kept fresh.
3. Sunday, as a day of leisure, affords peculiar facilities for unnecessary drinking.
4. There is a steady public opinion in its favour.
5. It would afford a welcome relief to the publicans and their employees.
6. Experience has proved its success in Scotland, Ireland, and Wales.

To these arguments it is replied:—

1. Sunday closing would only result in driving drinking "under" and promote drinking at home or in clubs and shebeens, and so withdraw it from the control now exercised.

2. Beer, the national drink, will spoil by keeping; and
3. If laid in on Saturday night will lead to increased drunkenness on that night which is also a time of leisure.

We have noticed above the argument that publicans themselves would welcome the change, not to speak of those persons, men and women, who are in their employ. A day of rest would be welcomed in itself, and would be adopted by some publicans, were they not afraid of losing customers who might go, if their regular houses were closed, to some other house which was kept open. It is only natural that some interval from their severe work would be grateful to publicans as to other tradesmen, and we find that in Scotland there is among them an almost unanimous opinion in favour of Sunday closing, from a view of their own interests, and from a desire to promote their own comfort. This opinion is general in Scotland, and is not confined to Edinburgh, in which city ex-Bailie Lewis avers that there are not half-a-dozen publicans who would assist or encourage any agitation for the repeal of the Sunday Closing Act.

Augus. 44,909. Wyness. 45,486. Craig. 46,696. &c.

iv. *Alternative Reforms.*

There are other witnesses who advocate—

A considerable reduction in Sunday hours, *e.g.*, an hour at one time and an hour at another time of the day, or

Sale only for consumption off the premises, or

Discretion to the justices to order complete closing.

Two hours of opening are advocated or two half hours, or one at mid-day, and two in the evening.

Two hours "off the premises" sale is provided for by the Church of England Temperance Society Bill, though many of the members of that society favour total closing.

Gibbard. 22,990. Lockwood 19,105. 19,238. Mordaunt. 69,776. 69,788. Stafford Howard. 65,973. Hicks. 66,677. Roberts. 7708.

v. *The Teaching of Experience.*

If we turn to what our own experience can teach us, we find that in Scotland Sunday closing is an undoubted and unquestioned success, as it is in Ireland when properly enforced.

In Wales there is controversy as to its success, and we proceed to give the subject more specific examination.

3. Sunday Closing in Wales.

i. *The Royal Commission on Welsh Sunday Closing.*

The Welsh Sunday Closing Act came into operation in the end of the year 1882. The Royal Commission on the operation of that Act in 1890 reported in favour of its continuance, and the amendments which they suggested were made with a view of facilitating its enforcement. They had some doubts as to the wholly salutary effect of the Act in Cardiff and the mining districts of Glamorganshire, but they did not recommend a change, nor had they any doubt of the success of the Act in the rural districts, where its provisions were in entire harmony with the opinion of the vast majority of the people.

Welsh S. C. Commission Report.

ii. *Public Opinion in Wales.*

Public opinion at this day supports the Act as strongly as, or even more strongly than ever, and in rural Wales especially there can be no doubt of its success.

Mr. Lewis, M.P., says:—The mind of Wales is made up, and all that is asked is that the Act shall be strengthened by the enactment of those recommendations of the Royal Commission to which we have just referred.

J. H. Lewis. 73,506.

There is not the slightest semblance of a foundation for saying that a change of the law in the direction of opening is desired in the Principality. The Act works admirably, says Mr. George, speaking of North Wales, and as regards South Wales,

Owen. 30,959. 30,591.

the county council of Glamorganshire passed a resolution in 1892 by a majority of 53
Griffiths. to 3, praying that the Act might be continued with such amendments "as will render
32,759. "its success still more complete."

iii. *Sunday Closing in Cardiff.*

Cardiff is the great battlefield on which the question is fought, and two witnesses were examined by us from the respective sides, each well qualified to speak for his party.

Mr. Lascelles Carr, editor of the "Western Mail," the great organ of opposition to Sunday closing, appeared and reiterated his views, and on the other side came Mr. Donald Maclean to represent the opinions of himself and others in support of the Act, while the chief constable gave us the police view.

The difficulties in the way of the successful working of entire Sunday closing are very great in Cardiff.

It is a great centre of trade, lies close to the border of Monmouthshire, where the Act is not in force, is a great seaport doing a large export trade, with a floating population of some 10,000, crowded with seamen from vessels which work round "light" and there take in their cargoes, a class of seamen not by any means of the best quality, and little disposed to tolerate restrictions of any kind. Here are elements antagonistic to a Sunday closing Act. But notwithstanding all this, whether by reason of the stricter enforcement of the law, or from a new generation having sprung up, who are more accustomed to its provisions, the fact remains that the obstacles are being gradually overcome, and the Act is becoming more and more a decided and pronounced success.

29,635–30,390. Mr. Lascelles Carr, the champion and leader of the opponents of Sunday closing, maintains that the effect of the Act has been to create an enormous increase in Sunday drunkenness. He does not dispute that this is not borne out by the figures of arrests, but says he wonders that anybody is arrested at all, for if people are got quietly home they are not apprehended. People have been forced to drink in clubs, shebeens, in Monmouthshire public houses, and beyond the three-mile limit. Both clubs and shebeens he attributes entirely to Sunday closing, though he admits that the clubs, 30 in number at the time he gave his evidence, are now well conducted. The worse drinking takes place outside the town, especially at Rumney, just across the Monmouthshire border. He maintains that public opinion in Cardiff is strongly in favour of some relaxation of complete Sunday closing.

41,804. 42,125. On the other hand, Mr. Donald Maclean, solicitor of Cardiff, argues that Cardiff was a place presenting exceptional difficulties for enforcing the Act. A great deal of mischief had been done by clubs, which at one time numbered 141, and after that by shebeens. But since the law began to be properly enforced in 1892, the police had got shebeening thoroughly under control. They were now hard to find, and only existed in the most disreputable quarters, frequented by disreputable persons who would, in any case, be law-breakers. He admits a good deal of drunkenness at Rumney, but he is emphatic in declaring that in spite of an organised opposition and all other obstacles, Cardiff has immensely benefited by Sunday closing, which is strongly supported by public opinion in the town.

15,424. 15,471–89. Mr. McKenzie, the chief constable, testifies to the good order of the Cardiff streets on Sundays compared with other large towns. Much of the shebeening, he says, has been caused by mere bravado, and he confirms the statement that it is chiefly conducted by totally disreputable persons (often convicted criminals). Sunday closing in Monmouthshire would, in his opinion, lessen Sunday drunkenness in Cardiff.

There is no doubt Sunday drunkenness at Rumney, but that only points to the need for Sunday closing in Monmouthshire. No doubt, too, Cardiff sends out its quota of *bonâ fide* travellers, but so do other large towns in England, while Cardiff is not worse off in the matter of clubs than many towns which are not under Sunday closing.

Lewis, 73,616. Indeed, recently we are told that about one-half of the remaining clubs have been suppressed by stringent police action, and evidence was given that some of them were merely conducted in the interests of brewers.

iv. *Conclusion.*

We repeat that in Wales, as a whole, Sunday closing has been a success, and that if in some places, as in Cardiff, success has not yet been so fully maintained, a marked improvement is discernible, and we have no doubt that complete Sunday closing is entirely in harmony with the feelings and sentiments of the Welsh people.

4. Proposed Sunday Closing for Monmouthshire.

Closely connected with Sunday closing in Wales is the proposal to give Sunday closing to Monmouthshire apart from the rest of England. Mr. E. Grove, Chairman of the Monmouthshire County Council, showed by means of a map that the inclusion of Monmouthshire in the Sunday closing area would do away with many boundary difficulties now encountered. At present within four miles of the Glamorganshire border are 200,000 people, as it runs right through the coal measure. But taking the eastern side of Monmouthshire as boundary of the Sunday closing area, only 9,000 people in an agricultural district would be affected, taking a four-mile radius along the line. Grove. 33,081. 33,250.

He argues that Monmouthshire is already included in Wales for many purposes, and that public opinion there is strongly on that side.

There can be little doubt that Monmouthshire has a strong claim, and we are of opinion that the local desire should be acceded to in accordance with the recommendations of the Royal Commission on the Welsh Sunday Closing Act.

5. Recommendations as to Hours of Closing on Sunday.

Some districts in England would probably be in favour of entire Sunday closing, while others would strenuously object.

It would be wise to curtail the hours of opening to one hour at midday and two hours in the evening as a maximum, and to give the Licensing Authority power to reduce the hours or to close entirely if in their discretion they should see fit to do so. In the exercise of their judgment they should be guided by the circumstances of the neighbourhood and by the expressed opinion of local bodies, deputations, petitions, and such-like means of ascertaining and gauging the public sentiments.

The fears of those who opposed Sunday closing as offering an incentive to illicit drinking have been proved to be greatly exaggerated; as to shebeens, the police and excise authorities have sufficient power already to deal with them.

The suggestion which we have already made as to wholesale licenses will tend to facilitate the execution of the law, and further we desire to support the recommendation of the Royal Commission on the Welsh Sunday Closing Act that frequenters of shebeens should be made liable to arrest.

6. The Bonâ Fide Traveller.

i. *The Law.*

The law applicable to *bonâ fide* travellers may be thus stated:—

At any time during hours of closing the keeper of premises licensed for "on" consumption may sell to a *bonâ fide* traveller but only for consumption on the premises. The traveller before he can be constituted a *bonâ fide* traveller must have lodged during the preceding night at least three miles distant from the place where he asks for refreshment. This, however, is not a sufficient qualification, for he may travel the required distance, and not thereby be constituted a *bonâ fide* traveller if he has travelled merely for the purpose of obtaining drink. 37 & 38 Vict. c. 49. s. 10.

Persons arriving at or departing from railway stations may be served at the railway refreshment rooms, and persons who are lodging in the licensed house may also be served therein. 44 & 45 Vict. c. 61. s. 4.

ii. *Its Interpretation.*

There will naturally be difficulty in determining in a given case who is or is not a *bonâ fide* traveller, and the question of fact must be decided by the justices according

to the evidence which may be adduced, but there is no doubt that the law is often wrongly interpreted to mean that anyone who has traversed three miles becomes thereby a *bonâ fide* traveller.

The result of such a view, and, indeed, of the law, independent of its interpretation, is that a village where the inhabitants cannot obtain drink during the closing hours may be overrun by an incursion of visitors from a neighbouring town, and may be robbed of its quiet and order without a remedy, unless, indeed, the inhabitants of the village should think retaliation was a remedy, and in their turn invade the town which has sent forth the disturbers of their peace.

iii. *Evidence as to Character of the Bonâ Fide Traveller.*

A very large amount of evidence was forthcoming to the effect that the so-called *bonâ fide* traveller is a fraud and a nuisance, and deserving of no consideration whatever.

Poland. 1149.

Sir H. Poland speaks of him as "a great impostor." The London police are not much more favourably inclined towards him.

Supt. McWilliam 4093. Supt. Wells. 4763.

Lancashire is very much bothered with him, and the "three-mile houses" undoubtedly give more trouble than others on Sunday.

Supt. Lucas. 5098. Moorsom. 10,151. Thornton. 13,406. 13,427. Roundell. 21,595. 21,596. 21,752.

Mr. Thornton, of Leeds, thinks no appreciable harm would be done by abolishing the provision which allows a *bonâ fide* traveller to be supplied in closing hours. He should be abolished altogether with reservation for the hotels, where he should be received as a guest. Five or six miles distance would mitigate the evil.

He should, in the public interest, be put on the same footing as the residents; in other words, he should be abolished altogether.

18,963.

Superintendent Bielby, of the police force in the West Riding of Yorkshire, who came before us to speak specially on the question, says that according to his own observation during many years, 90 out of every 100 who go out as so-called *bonâ fide* travellers are not such, and that the abolition of the clause would produce good. The hardship, if any, would be outweighed by the benefit the rural village would obtain by having a quiet and orderly Sabbath. The abolition would benefit the publican also, who under the present state of the law does not know whom to serve and whom to refuse.

Fenwick. 27,691.

That the traveller should be defined, the limit extended, and the publican should keep a book, are the suggestions of the chief constable of Chester. That city, however, rather supplies this class to the surrounding district than accommodates it.

Prince. 25,678.

In Sussex he is a nuisance to the licensees and the neighbourhood, and there are a great number of the better class of publicans who would be very desirous of seeing him abolished.

Bradford, 28,410.

The Rev. J. Bradford says it is doubtful whether a real *bonâ fide* traveller exists. It would puzzle the publicans themselves to find on Sundays in the Leytonstone district a *bonâ fide* traveller as the Act intended him to be.

Many other witnesses from all parts of the county speak of the nuisance caused by these persons.

iv. *Suggested Remedies.*

The remedies which have been suggested for the abuses connected with this kind of travellers are to—

(*a.*) Extend the qualifying three-mile limit to seven miles or more.

(*b.*) License only particular houses to take in travellers.

(*c.*) Restrict the hours during which the traveller may be served.

(*d.*) Define the *bonâ fide* traveller more closely; let no one be counted as a *bonâ fide* traveller, unless he be about to lodge in the house, or be taking a *bonâ fide* meal.

(*e.*) Abolish the exception in favour of *bonâ fide* travellers entirely, and make them conform to the hours which are enforced upon other people.

v. *Recommendations.*

So great a nuisance has the so-called *bonâ fide* traveller become, that he fully deserves to have the last suggestion applied to him. The drinking that is carried on by these false travellers is a peculiarly noxious form of tippling, which deserves no consideration whatever. It is hard to see why people living in their own district should have to submit to these undesirable invasions.

There are, however, some *bonâ fide* travellers who may deserve consideration, though they are comparatively few in number. Probably the extension of cycling has increased their numbers.

The Scottish law to a certain extent meets the difficulty; it distinguishes between certificates for inns and hotels, and certificates for public-houses; public-houses are entirely and absolutely closed during the hours of closing, but hotels may serve *bonâ fide* travellers. Hotels, however, are rather loosely defined, and, as we shall have occasion to explain, a certain inelasticity in the law prevents it from being so effective as it might be.

We are of opinion that a separate license should be issued for hotels having a certain quota of bedrooms for the reception of guests and no public-bar accommodation; a license which would be convenient upon other grounds also. These hotels, together with houses licensed exclusively as restaurants, should alone possess the privilege of serving travellers. Travellers should be defined as persons about to lodge in the house, or take a meal therein, who have travelled at least seven miles from their previous night's place of lodging. As a further safeguard against the abuse of the privilege, the licensing authority should have full discretion to withdraw it for any reason that may seem good to them.

This discretion might include the power to fix certain hours during which the *bonâ fide* traveller might be served, instead of letting them, as now, have "the whole of the run of Sunday."

The inmates of hotels and railway passengers would be left to the regulations of the existing law. In connexion with travelling, however, we must call attention to the mischievous absurdity that on Sundays, at any hour, the mere production of a penny ticket qualifies a person to purchase liquor at a railway refreshment stall, and though we are not prepared to recommend, as the Royal Commission of 1890 did in the case of Wales, that on Sunday no intoxicants should be sold at railway refreshment rooms, we think that the railway companies should be required to draw up regulations, &c., to be approved by the Board of Trade, limiting the hours of sale, both in their refreshment rooms and in their railway carriages, and that these regulations should include precautions against the indiscriminate sale of intoxicants at their stations.

7. Six-day Licenses.

At present a six-day license, which allows sale on Sundays to persons staying in the house, but not to travellers, can only be granted when application is made.

It would be advantageous that the licensing authority should have the power of granting six-day licenses, and this might be done generally or by way of punishment for offences not deserving of more serious notice in the case of any particular house. Such a power would be of especial use in those districts where the Sunday Closing Act is in operation, under the present law.

8. Closing Regulations on Week Days.

i. *The present Hours of Opening.*

The suggestions in respect of closing regulations on week days fall under two classes, those which relate to the morning, and those which relate to the evening hours.

On week days, in London, licensed houses are opened at 5 a.m. and closed at 12.30 a.m., except on Saturdays, when they are closed at 12 (midnight).

In towns and populous places they open at 6 a.m. and close at 11 p.m.

Elsewhere they open at 6 a.m. and close at 10 p.m.

Excluding Sundays licensed houses are, therefore, open for 116½ hours in the Metropolis, in other towns and populous places for 102 hours, and in rural districts for 96 hours; hours far in excess of those in other trades which are besides carried on during six days only in the week.

ii. *Morning Hours of Opening.*

Sampson. 12,235. Farrar. 17,749. Roberts. 7584.

There seems to be no reason why licensed houses should be opened before 7 or 8 a.m.

Eight o'clock is the opening hour in Scotland. Intoxicants cannot be considered necessary, or indeed otherwise than harmful, if taken before 7 or 8, especially when in the form of a dram without food, and while some refreshment is certainly necessary for early workers, large employers of labour might supply the wants of the workpeople, and the publicans could easily open coffee or tea stalls, though on no account if the opening hour be fixed at 7 or 8 should the licensed premises themselves be open before that even for the supply of non-intoxicants.

iii. *Evening Hours of Closing.*

Less attention than the question deserves and less than is given to it in Ireland has been paid in England to the important subject of evening closing hours.

Farrar. 17,749. Roundell, 21,584. Clements, 28,590. 26,328.

It is generally acknowledged that drunkenness is greatest in the last hour or two of the day, the "fierce drinking," as one witness characterises it, occurring between 10 and 11, and this is especially the case on Saturdays, days of leisure, and of money, without the restraining influence of the prospect of early work next morning.

Captain Nott Bower, however, though admitting that a very large amount of the drunkenness takes place from 9 o'clock onwards on Saturday night, is doubtful whether earlier closing would have very much effect in decreasing the evil.

Indeed, conditions and habits are so various that it is not prudent to lay down an absolute limit without exceptions, and here again we would recommend that the licensing authority should be invested with the discretion to close two hours earlier than the present hour.

A similar discretionary power of early closing has been found to be most beneficial in Scotland, and we would suggest that the licensing authority should be empowered to make an order for earlier closing to last for one year. This would give opportunity for experiment, which could not fail to be useful.

9. Closing on Election Days, &c.

The justices have now the power to order public-houses to be closed in anticipation of a riot, but they have no power to close on election days. We are of opinion that the licensing authority should have power to order closing on such days. A great deal of drinking often goes on.

CHAPTER XIII.

EXEMPTION ORDERS AND OCCASIONAL LICENSES.

i. *The Law.*

There are two classes of *exemptions* from closing regulations—temporary, which are known as extensions of hours, and permanent, known as exemptions.

35 & 36 Vict. c. 94. ss 26. 29. 37 & 38 Vict. c. 49. s. 5.

An extension of hours may be granted to a particular licensed house for a special occasion by any two justices in petty session, or in London, by the commissioner of police, subject to approval by a Secretary of State, and in the City of London, by the commissioner of the city police, with the approval of the Lord Mayor.

Permanent exemptions on certain days, at all hours, except between 1 and 2 a.m., may be granted by the same authority to particular licensed premises, for a public market, or for the convenience of persons carrying on some lawful trade.

An *occasional license* is a license granted to the keeper of an on-licensed house for the sale of intoxicants in some other place. 25 & 26 Vict. c. 22. s. 13.

An occasional excise license is required, costing 2*s.* 6*d.* per diem, or 1*s.*, if granted for wine or beer only. 27 & 28 Vict. c. 18. s. 5.

Occasional licenses, though of much more importance than "extensions" require the consent of only one justice usually acting for the petty sessions of that division—but sitting anywhere. The justice must specify in writing the hours of opening, which, except in the case of a public dinner or ball, must not be earlier than sunrise nor later than 10 p.m. 37 & 38 Vict. c. 49. s. 19.

In the case of a public dinner or ball there is no limit to the hours which may be specified in the justice's consent.

A fully-licensed publican may be granted an occasional license for six consecutive days or less, any other on-license-holder for three days or less.

Neither extensions nor occasional licenses may be granted for Sundays.

ii. *Practice of the Justices.*

In various places the justices have adopted modes of procedure beyond the statutory rules, and with excellent results.

Thus in Leeds, by a resolution of the justices, occasional licenses and extensions are only granted (after application duly entered in a book) in open court, on a particular day (Friday) when most of the licensing committee are on the rota for attendance, and a memorandum of the occasion is entered on the book and communicated to the police. Licenses of either class are granted very sparingly, and extensions of hours are never granted beyond midnight, except for the benefit of those who are employed at theatres. Thornton. 13,407. 13,413.

In Bristol all applications under the Licensing Acts require 24 hours' notice to the police. Gore. 9414.

In Wakefield and Henley resolutions were passed by the justices that no occasional licenses should be granted except in open court, and with the approval of the clerk and the police. One magistrate, however, at Henley, in the face of such a resolution, used frequently to grant these licenses at his own private residence, notwithstanding the fact that the applications had been refused at the petty sessions. Harris. 16,957. Clements. 28,578.

The same thing has happened in Newport, and Mr. Grove suggests the removal of the difficulty by statutory enactment that all such licenses should be applied for in open court, with notice to the police. Grove. 33,104.

In Norfolk both extensions of hours and exemption orders, and occasional licenses are too easily and too frequently given, and a definite principle of action is desired by Mr. Lee Warner. 24,846. 24,855.

Dissatisfaction is felt in Cardiganshire at the manner in which individual justices, acting within their rights at law, can override rules made by quarter sessions and the decisions of petty sessions, and grant occasional licenses after the applications have been refused by the petty sessional bench. Bund. 10,527.

A justice sitting alone, without the presence of the police, and not able to administer an oath, may grant and does grant an occasional license, without proper knowledge, to the wrong man, who, using the name of a licensed victualler, obtains the license and sells in his name without the licensed victualler, whose name has been wrongly used, knowing anything of the transaction.

The remedy for this abuse and fraud is that the application should be made in open petty sessional court in the presence of the police, and with full publicity.

But it would appear that in Cardiganshire, whether in petty sessions or not, the justices grant these licenses, to use the witness's own words, "not recklessly but most freely," a statement borne out by his assertion that on the occasion of a fair being held in a hamlet of 11 houses in all, nine occasional licenses were granted, the only places which were not then licensed being the board school and the meeting house. Bund, 10,579.

Mr. Bund tells a very remarkable story of the reckless granting of occasional licenses, in consequence of a custom, which he calls Cwrwbach. Out of kindness to a person, who has lost a pig, horse, or cow, an occasional license is often granted for his benefit to some publican; the neighbours assemble and drink, the profit going to compensate the loss sustained. In one case a justice (who in our opinion is not fit to remain on the bench) granted such a license for the benefit of a widow, whose husband had committed suicide through drink. The neighbours assembled and drank for days

together before and after, but the police knew nothing of the granting of the license till afterwards.

10,544. As a further instance of maladministration in Cardiganshire, the witness spoke of the lax practice in granting extensions of hours.

10,554. 10,555. The consent of two justices in petty sessions is required, but in a case presented to our notice, two justices granted an extension in a document purporting to be signed in petty sessions at Lampeter, on a day when no petty sessions were held there—without the presence of the clerk, without his knowledge, and without the knowledge of the police.

The consent was given by the two justices sitting in their respective homes, and in favour of a house which is alleged to have been the property of one of the justices who signed the paper.

30,945. Mr. Owen, of Bangor, also cited a case in which, two years ago, eleven occasional licenses were granted for a single-day fair. He thought that no occasional licenses should be issued at all, influenced, apparently, by what he saw at some festivities at Studley Park, extending over four or five days, where, on one day, though 10,000 persons were present, there was no disorder nor complaint, as no one was allowed to sell any intoxicants. Occasional licenses were also prohibited at the Carnarvon and Anglesey Agricultural Show, and this proved a very successful measure.

Anson. 7051. 7052. The chief constable of Staffordshire is strongly of opinion that occasional licenses should be granted only in open court, the main requisite being that the police should be aware of the application and its result.

Clegg. 18,044. Robotham. 25,311. Occasional licenses lose their right to that name by the way in which they are repeated. A man who has the right to the bars on the cricket or football field, and has paid a sum of money for that right to the proprietors of the ground, applies for an occasional license. He obtains it for the period of six days—the maximum time—and on the expiration of the six days obtains a new occasional license for a like time, and successfully repeating his application, secures the privilege for a whole season, it may be, of so-called occasional licenses, which cannot properly be considered as falling within the meaning of the provisions of the Act.

Bund, 10,596. At Aberystwith the confirming committee refused a license to some public gardens, but one justice sitting by himself in his own house granted no less than 20 occasional licenses during one summer to one person for this very place.

Richardson. 19,405. During the continuance of the great fair at Lincoln, no drinking booths are allowed on the ground, nor have been for the last year, and the necessities of the case have been met by granting to all the Lincoln publicans an extension of one hour during the six days continuance of the fair, with the best result, as compared with the time when every publican in the town had a right to open a drinking booth on the ground.

Burton. 29,392. 29,394. On Newcastle Town Moor, an area of 1,100 acres, bordering on the town, and once the scene of the famous Northumberland Plate race meeting, a great assemblage gathers every summer, under the auspices of a temperance society. A festival of sports is held for three days—all persons are admitted. A quarter of a million people are assembled, to whom no intoxicating drink is permitted to be sold, and the freemen who own the moor are better satisfied now with the financial result than they ever were when the race meeting was held, and when licenses were granted to the grand stand.

Davies. 11,336. 11,345. A short distance out of Liverpool is the site of the Waterloo coursing meeting. There was a time when publicans used to bring liquor in carts on to the course—under their occasional licenses—but for ten years past, in consequence of the prohibition of the landowner, no intoxicants have been sold, with the result that perfect order prevails, instead of the drunkenness, assaults, and dangerous rowdyism that once were the habitual conditions of the meeting.

iii. *Recommendations.*

It seems only reasonable that some restriction should be placed upon the issue of occasional licenses. They should be granted only in open court by two members at least of the licensing committee, after due notice to the police; and opportunity should be offered for opponents to be heard.

CHAPTER XIV.

SALE TO CHILDREN.

35 & 36 Vict. c. 94. s. 7. 49 & 50 Vict. c. 56. s. 1

i. *The present state of things.*

At present no spirits may be sold to any child under the age of 16, and no other intoxicating liquor to any child under 13, for their own consumption on the premises.

Neither of these restrictions apply to child messengers for liquor, and in consequence of the large number of children thus frequenting the public-houses, the justices of Liverpool, at a quarterly meeting last year, gave instructions to the head constable, through the watch committee, to report cases of children under 13 being served for consumption off the premises. Many license-holders have co-operated with the justices, and practical results for good have followed.

Davies, 11,525.

Many witnesses speak to the evils which result from children being sent for liquor, and Messrs. Mason and Luff, inspectors under the National Society for the Prevention of Cruelty to Children, each presented, out of a number of similar cases, a glaring instance of the depravity of a household where children were sent for liquor by drunken parents.

Mason and Luff. 73,291. 73,338. 73,378.

The condition of children of drunken parents is also spoken to by Mr. Spink, superintendent of the attendance officers of the Halifax School Board, who has seen children under school age going for the drink—sent by a drunken mother as often as six times before dinner. Children fetch drink for their parents and are kept from school for that purpose.

Spink. 29,232. 29,244. 29,176.

Inducements are sometimes offered to the children, by sweets, to come to the public-house to fetch the drink.

It is needless to refer in detail to similar evidence from other witnesses, who report from their own experience, the consequences of child-messengership and the results to the children themselves from early familiarity with the public-house.

Superintendent Lucas. 5085. Mantle. 18,749. Bradford. 28,412. Miss Johnson. 12,076. 11,508. 12,108. Mrs. Hawkes. 27,473.

The opinion of Mr. Down, manager and director of a brewery company at Warrington and St Helens, is different. He thinks that it would be a hardship to the parents to forbid delivery to children under 13, and that children hear worse language and see worse conduct in the streets than they do inside a public-house, and that under 13 they do not take so much harm as if they were 13 or 14 from what they see and hear. If the children go for the beer, the parents are kept from the temptation of loitering and having a glass or two in the public-house. The witness, however, entirely discouraged the practice of tempting children with toys and sweets.

Down. 38,750.

Mr. Deakin, a licensed victualler, also sees no harm in children under 13 being served for consumption *off*, and thinks restriction would be a hardship.

Deakin. 35,680. 35,701.

On the question of the minimum age for consumption *on*, the agent for the Mission to Seamen, with experience at Bristol, Poole, Sunderland, and Lowestoft, speaks of fisher-lads, as low as the age of 12, coming in drunk to the Institute, and Captain Bower, reporting very little child-drunkenness at Liverpool, still reports 41 cases of children under 16 dealt with for drunkenness in that city between 1889 and 1895.

Moore. 32,099. Nott Bower. 26,398.

One instance, among many, is given by Lady Henry Somerset of a girl of 13 being locked up insensible from drink, which she had procured (sixpennyworth of whisky) in a public-house, and drank on the door step.

Clements. 28,601. Lady H. Somerset. 31,524.

The various witnesses whom we refer to in the margin advocate a variety of minimum ages for consumption *on*, such as 14, 15, 16. While for sale *off*, others recommend a minimum of 13 or 16.

Hills. 72,258. Hicks. 66,701.

Many resolutions, too, have been passed by benches of magistrates and other bodies in favour of restriction.

Miss Johnson. 12,004 Davies. 11,347.

ii. *Recommendation.*

The simplest and best plan that recommends itself for adoption is to forbid sale either *on* or *off* of any kind of intoxicant to children under the age of 16; while we are of opinion that the penalties which are now imposed for knowingly serving children under age, should be raised from the too low scale which prevails at present, viz., 20*s.* for a first and 40*s.* for a second offence.

Nott Bower. 26,398. and many others.

CHAPTER XV.

THE COMBINATION OF THE TRADE IN INTOXICATING LIQUORS WITH OTHER TRADES, OCCUPATIONS, &c.

1. General.

Looking to the evils connected with the liquor trade, and the acknowledged need for its strict regulation, it would seem to be advisable that the trade in intoxicants should be kept as distinct as possible, and that all unnecessary temptation should be removed. This principle is generally conceded in practice as regards premises licensed for consumption on the premises, it is not so with off-licenses.

2. As regards Premises Licensed for Consumption "on."

i. *Mixed trades, &c. in public-houses.*

Though there is no statutory prohibition, as in Scotland, against the sale of other articles, groceries, &c., except cooked food, in public-houses, on-licenses are never now granted to shops. We were told of a few instances at Leeds and elsewhere, where a grocer's shop is also a public-house, a relic apparently of a former state of things; but these are exceptions, and usually, as we have seen, public-houses fall into the opposite error of not supplying any kind of refreshment other than liquor.

Staines. 41,450.

In the towns public-houses are generally public-houses and nothing else, but in the country districts, especially where licensed houses are very numerous and cannot make a living, licenses are often held as annexes to small farms or mills.

Lee Warner. 24,930. Stafford Howard. 66,098.

Probably a diminution of the number of houses would by itself abolish this state of things without any further statutory restriction.

ii. *Meetings of Benefit Societies, &c. on Licensed Premises.*

Somerset. 31,553. Diprose. 16,071.

It is extremely undesirable that benefit societies, &c., should hold their meetings in public-houses, but there seems to be no way of preventing this if the members wish it, except in the case of registered societies, for which it might be forbidden.

iii. *Inquests, &c. held on licensed Premises.*

Rothera. 10,765. Sampson. 12,211.

The coroner for the borough of Nottingham for want of better accommodation holds many inquests in public-houses, and though the coroner of Liverpool holds his inquests in a court provided for the purpose in the police buildings, he, in his capacity of solicitor has had to attend inquests in outlying districts in public-houses, a practice which he deems to be inconvenient, and even scandalous.

The witnesses, in one case which he attended, had been served with drink together with a number of other persons standing about, and he does not think that the witnesses so treated are always in a state to give evidence.

Prince. 25,697. 25,699.

In Brighton, though there are plenty of facilities for holding inquests in the town hall and in the police stations, they are held in the great majority of cases, where they are not held in the county hospital, in licensed premises; a very undesirable practice in the opinion of the witness.

Gibbard. 22,972.

In the country also, as in Bedfordshire, inquests are held in public-houses, and certainly in one village, the revising barrister always holds his court in licensed premises.

Lee Warner. 24,868.

In one instance, in Norfolk, petty sessions are held in a public-house, to the great prejudice of evidence tendered by witnesses the worse for drink.

45 & 46 Vict. c. 50, s. 160 2).

Borough justices may not use as their room any room on licensed premises, and the rule should be extended to county justices.

All such courts should be completely dissociated from licensed premises by law.

iv. *Lodgers in Public-houses.*

The evils arising from families permanently lodging in public-houses have been already referred to in the instances, among others, of Devonport and Plymouth; and

that common lodging-houses should hold licenses, as is a general custom in Maidstone, is indeed as undesirable as the ex-mayor of that town declares it to be. Long. 39,435.

Equally reprehensible is the practice in sea-port towns of permitting persons holding licenses for the sale of intoxicants to receive seamen and fishermen as lodgers.

There are no registered lodging-houses in Bristol, nor is a license required for boarding seamen; and looking to the peculiar temptations to which this class is liable, it would tend greatly to their advantage, and would prevent many scandalous scenes of extortion and disorder, if the municipalities of all sea-port towns would adopt, as Cardiff has done, a byelaw under the Merchant Shipping Act, 1894, regulating and controlling houses for the reception of this class of lodgers. Moore. 32,002. 32,025.

3. Music and Dancing Licenses to Public-Houses.

In close connexion with the subject with which we have just been dealing is the question of music and dancing licenses.

i. *The Law.*

In London and Westminster or within 20 miles thereof, music and dancing licenses are granted by the County Council. 25 Geo. II. c. 36.

Elsewhere, unless Part IV. of the Public Health Act, 1890, 53 & 54 Vict. c. 59, s. 51 has been adopted, no license is required for music and dancing in a public-house, but on the adoption of that Act, the licensing justices, or in special circumstances, the town council, are invested with the discretion to grant or to refuse applications. 38 & 39 Vict. c. 21. 51 & 52 Vict. c. 41. s. 3 (5).

ii. *Results of Music and Dancing in Public-houses.*

In many cases the adjunct of music and dancing is sought for as an incentive to drink, and as a mere meretricious attraction in the sharp competition between rival houses.

The action of the London County Council has been brought to bear with advantage in the cases of two public-houses which were notable instances of abuse of music and dancing licenses being held in conjunction with licensed premises. Thompson. 33,868.

These two houses had for years been causes of immorality, drunkenness, and even of crime. The license was at length refused, and although it is true that the houses were re-licensed year after year, it was owing probably to the want of knowledge on the part of the justices of the particular district, and now that the licenses have been refused, the proper ordinary business of a public-house goes on, and a definite improvement has been observed. 33,961.

It may be added that for six years in succession the music and dancing license has been applied for in one of the two cases and uniformly refused.

The question appears to arise why, if the houses were so disorderly when they had the music and dancing license, they were not suppressed altogether, and why they were allowed to continue as public-houses.

In the Rhondda district, grave improprieties, according to Mr. Jones-Griffiths, representing the Quarterly Association of Calvinistic Methodists in South Wales, were practised in a public-house before the adoption of the Public Health Act, and an entertainment of a corrupting influence was introduced for the purpose of drawing a crowd for the consumption of beer. 33,013. 33,021.

It may not be possible, as one witness desired, to make the purchase of a glass of intoxicating liquor as uninteresting as the purchase of a penny stamp, but there is no reason why premises licensed for the convenient supply of food and drink to the public should be turned into music halls and dancing saloons as adventitious aids to the supply of those articles. Farrar. 17,754.

There is no conceivable reason why in a public-house belonging to a brewery company of which the chairman is also the chairman of the watch committee in the same town, lady boxers should be advertised to perform, and the announcement made that admittance would be free. Nor can we at all agree with the witness in thinking that "there is not very much harm in it." Harrington. 21,058. 21,060.

Objection was taken before the justices in Portsmouth to the renewal of some licenses, because the music and dancing rooms in the premises were badly conducted and had injurious effects. In every instance proceedings were withdrawn by the objectors, in consequence of the tenants of the houses voluntarily offering to surrender the license for music and dancing, and now the general policy of the justices and of the police is very greatly to limit the number of these combined licenses. Chorley. 20,115.

James. 28,239. In Leeds it was recently found that some free concerts of a very doubtful character were held in some public-houses, and a number of licenses have been withdrawn to the general satisfaction.

Parker. 23,915. In Barnsley a witness speaks to an advertisement that in a public-house a lady will dance and "kick high," and justly thinks it a disgrace to the trade that a tenant should have to resort to such methods to earn a living.

Rothera. 10,819. Advertisements are posted in the streets of Nottingham of the names of performers at the free concerts. The expenses have to be paid for by what is sold in the house.

Shackles. 8294. In Hull, the licensing justices, shortly before the Public Health Act, which had been adopted, came into operation, personally visited in company with the police the various houses where dancing, singing, and music licenses were held by the tenants. They were so shocked by what they saw, that they determined not to grant any dancing licenses unless under very exceptional circumstances, and they have granted music licenses only after being satisfied of the propriety of so doing and by no means as a matter of course.

Anson. 7124. The universal adoption of the provisions of the Act referred to is strongly urged by the chief constable of Staffordshire, as the great mischief caused, especially by the dancing licenses, is spoken to by all his officers, and Mr. Roundell urges its compulsory adoption in the interests of morality.

Roundell. 21,714.

But the mere adoption of the Act would scarcely seem to be sufficient, and Nottingham affords an illustration of the need of something more.

The Public Health Act was adopted by the town council of the city, and the clerk to the borough justices maintains that the music and dancing licenses which are granted are subject to very strict rules, and that very few dancing licenses are in force for a year—being only special licenses—and none of them attached to public-houses. There are however, in Nottingham, 450 music licenses granted in the main to public-houses, and in rooms stated to be insufficient in dimensions, with inadequate approaches, with apparently no demand in the immediate neighbourhood for entertainments of that nature.

Rothera. 10,819. 10,822.

Robotham. 25,305. 25,418. In Derby there are 174 music licenses, and in some cases dancing licenses as well, and in consequence of petitions and memorials the justices reduced the hours of opening, though relaxation has since been extended, and the licenses now expire only a quarter of an hour before the general closing of public-houses at 11 p.m.

Whiston. 42,123. Mr. Whiston, examining these figures as given by Mr. Robotham and regarded by the latter as a very large number, and strongly objected to by a certain section of the community, divides the 174 as follows;—139 music licenses to public-houses and 22 combined music and dancing; 13 combined licenses are held in other places, including a temperance hall and other halls or rooms which have no licenses. But it would seem that the licenses are in excessive number, inasmuch as Mr. Whiston states that out of the 174 total only 51 are availed of, and even these not every night.

Roberts, 7523. As a contrast, however, to Derby, Newcastle shews only 15 music and dancing licenses granted to public-houses and beerhouses, while the majority out of 46, the total of all music, singing, and dancing licenses, are held in music halls.

Sutcliffe. 26,925. A great change was effected in Burnley by the justices as shown in the report of the chief constable for 1894. Music and dancing licenses were at that time held by 58 innkeepers and 54 beerhouse-keepers. In every instance the license was taken away, the suppression being largely due to agitation on the part of the ratepayers, in which all religious and all political parties appear to have shared.

Shackles. 8294. 8713. 8720. In Hull the action which the justices took in suppressing music and dancing licenses, to which we have previously referred, resulted in a material improvement in the district in reducing by one-half the number of police which used to be employed in the main streets, and the disgusting sights witnessed in 1891 are no longer to be seen.

Deakin. 35,619. The evidence of Mr. Deakin, himself a licensed victualler, is important, because while he objects to vexatious control, and would seem to allow of provision for exceptional cases, he expresses his own opinion thus, "I should not like to see "entertainments given in public-houses at all."

iii. *Recommendation.*

It is not, of course, to be inferred from the foregoing evidence that, even if it were possible, people should be prohibited from hearing music or dancing to it or be precluded while so doing from obtaining refreshments. The conclusion of the whole matter rather seems to be that there is danger in associating the public-house and the beerhouse with entertainments difficult to control, and which have no necessary connexion with the purposes for which licensed houses are sanctioned, and in carrying out which

they are controlled and regulated by the necessary care and watchfulness of the Legislature. It is of the utmost importance that entertainments should be provided elsewhere, that the idea of recreation should not be associated with the public-house, as if the primary obligation on those who attend were to consult the so-called good of the house, and the sole object of the person who provides the entertainment were to increase the consumption of intoxicating liquor.

We are therefore of opinion that the issue of music and dancing licenses to public-houses should be entirely prohibited, and that the consent of the licensing authority should be everywhere necessary, before they are granted to hotels or restaurants.

4. Premises licensed for Consumption "off" only, and Combination of Trades.

i. *Grocers' Licenses.*

As we have already explained, there is in law no grocer's license in England. There are four retail off-licenses, wine, sweets, spirit dealers' additional and spirit dealers' additional foreign liqueurs, which must be held by a shopkeeper, though not necessarily a grocer, and there is nothing to prevent any of the other *off* retail licenses, viz., the three beer licenses and the cider licenses, being held by a person such as a grocer carrying on some other trade.

In practice these licenses, especially the wine, spirit, and additional beer dealers' licenses, are very frequently held by grocers.

A great deal of evidence has been forthcoming to show that there is a widespread feeling against this combination of trades.

ii. *The Point at Issue.*

A good deal of confusion is often introduced into discussions on this subject by the assumption that the "abolition of grocers' licenses" means the abolition of the off-license. This is not necessarily the case, and few persons would be found to assert that an off license by itself is more dangerous than a license which permits sale both *on* and *off* the premises. The real point at issue is whether the principle, so generally admitted in case of the sale of intoxicants for consumption *on* the premises, that the premises should be exclusively devoted to that purpose, ought not to be extended to the sale of intoxicants for consumption *off* the premises. It is to be noticed that the Legislature has to some extent recognised the principle by enacting that no justices' license shall be required for the *off* retail sale of spirits and foreign liqueurs, when the premises are *exclusively* used for the sale of intoxicants.

iii. *General Complaints.*

It is urged that the combination of trades makes supervision difficult, and detection of drinking on the premises impossible. Some shop-keepers, *e.g.*, tobacconists, may and do keep open and sell intoxicants on Sundays regardless of closing hours. It also offers facilities for circulating by means of carts a large amount of beer and spirits, which would not otherwise be bought, so that spirits are hawked about in contravention of the law; it being very difficult to tell whether previous orders have been given for the liquor. These complaints, especially as to vans, are mostly confined to country districts.

Anson. 7069. Mordaunt 69,807. Lee Warner, 24,856.

A second class of objections alleges that by means of these licenses temptation and secrecy are united in inducing women to drink. The mixture of trades makes it difficult to tell what they are buying. The grocers sometimes co-operate with the women, who wish to deceive their husbands, and enter intoxicants as items of harmless groceries, and generally all who enter the shop for ordinary purchases are unnecessarily exposed to temptation.

It is naturally not easy to obtain evidence as to infringement of the law by drinking on the premises where only sale for *off* consumption is permitted, and equally difficult is it for police to say that women drink secretly or consume in their own homes liquor surreptitiously purchased.

Police statistics cannot prove their drunken habits, if such there are, nor record the cases as is, of course, possible when people of either sex get drunk in a public-house and go home afterwards through the public streets.

Riley. 42,426.

Very difficult also, from the nature of the case, is it to prove that intoxicants have been booked under a false description, as all parties are concerned to conceal the transaction, and if relatives or persons in confidential positions happen to discover it, they have strong motives to hush the matter up.

Notwithstanding these considerations some evidence of a remarkable nature was presented to us.

Prior, 26,074. The mayor of Chichester was sitting as chairman of the board of guardians, when a certain grocer volunteered the information that being on the rota for sending in supplies to the guardians, he had followed the precedent of a predecessor, and had sent in certain quantities of drink in lieu of groceries, which purported to be supplied for the use of the officers of the workhouse.

This grocer had only acted in this manner for three months, and becoming uneasy had honourably divulged the practice.

The master of the workhouse acknowledged the practice which he had been pursuing for years, and mentioned another leading tradesman who had acted in the same way.

Three grocers in all had supplied intoxicants instead of groceries, and the abuse had been rectified by adding to the entry for currants, eggs, and lump sugar, the following note:—

"This order must be strictly adhered to, and nothing supplied in lieu thereof."

26,176. The same witness thinks that the grocer's license has increased drunkenness amongst women in Chichester.

28,386. 28,394. The Reverend J. Bradford, baptist minister at Leytonstone, distinctly traces female intemperance to these licenses, and specifies a case, not in Leytonstone, where "drink" was supplied as "biscuits." He himself saw the bill.

68,051. Mr. Touchstone, not objecting in this respect to the ordinary *off* beer license, attributes to grocers' licenses much that is now "mischievous and terrible," especially in families.

68,062. He reports that a guardian of two ladies in Manchester told him of their being supplied by a grocer, and of his refusing to pass the heavy grocery bill if drink "were supplied in that fashion," and Mr. Lowry, for many years a grocer, has "seen it done with his own eyes, and the goods supplied and put down under another name."

Lowry. 68,351. 68,357. Hawkes. 27,452. Mrs. Hawkes, connected with the Women's Total Abstinence Union, would abolish shop-keepers' licenses altogether, as she "cannot refute the evidence" of their pernicious character.

Sutcliffe. 26,844. 27,039. Batty. 19,665. 19,766. 19,880. Mr. Sutcliffe agrees entirely with the evidence furnished by Mr. Batty who, though he declines to give names, declares that a considerable number of instances have been brought under his own notice where wine and spirits have been booked as groceries on the part of off-licensed holders, and bases his objection to these licenses, not so much on the ground of these bookings, which he imagines are not very frequent, but on the general evil of secret home-drinking, which is encouraged thereby.

It must be stated that Mr. Crews, a wine and spirit merchant, and honorary secretary of the National Federation of Off-license Holders' Protection Associations, refers to the alleged causes of intemperance among women, and says that "there is no reality in it," and denies the truth of the charges of fraudulent entry of goods on the part of many associations to whom questions were distinctly put. And though he admits the "undesirability of the thing," he refers to the particular case of the Chichester grocer and excuses his action of supplying drink under another name as a "not very heinous offence, for the heinousness of the offence consisted in supplying "liquor. If he had supplied another article of diet he would not have been blamed."

It will be remembered, however, that the grocer in question honourably came forward and volunteered information, as being desirous of breaking a practice which he conscientiously regarded as wrong.

Roberts. 7687. H. Wright. 20,545. There are complaints of a general kind against grocers' licenses by the clerk to the justices of Newcastle and by the stipendiary magistrate for the Potteries.

The former thinks they are a temptation that might very well be removed, and the latter regards them as "a very great evil." Both these witnesses give their own views as a matter of private opinion, not founding their objection on anything which has come before them in their official capacity.

Riley. 42,397. Mr. Riley, engaged in the treatment of women inebriates, traces a very large percentage of the cases to grocers' licenses.

Owen. 30,951. 31,189. A pretty unanimous feeling is entertained about the Bangor district in favour of their abolition, says Mr. Owen, who further says that evidence has convinced him beyond the possibility of refutation "that the grocers' licenses are a curse in other parts of "the country."

Dr. Norman Kerr says these licenses offer additional temptation to women and others, and the Monmouthshire County Council have adopted a resolution in favour of their abolition; other general charges are made against them by witnesses from Halifax, and from the National United Temperance Council, by the chief constable of Wolverhampton. Norman Kerr. 74,084. Grove. 33,089. Spink. 29,117. Hills. 72,145.

Two licensed victuallers, one a secretary of a body with 10,000 members, and the other a proprietor and tenant of two hotels respectively, testify to the desire of the trade to see no grocers' licenses, or to see them subject to some restriction. Burnett. 15,121. Clark. 40,296. Long. 39,475.

iv. *Evidence in favour of Grocers' Licenses.*

But, on the other hand, Mr. Gore, clerk to the magistrates of Bristol, does not know of any well-grounded complaints of injurious working. Gore. 9555.

With him agrees Mr. Whiteley, clerk to the Newington justices (London) who doubts the prevalence of booking under false names, but he remarks "that if one case were caught it would be sufficient to prove it." Whiteley. 3441. Nott Bower. 26,783.

The police in Liverpool, on the evidence of the head constable, almost universally consider that these licenses have not conduced to drunkenness.

Mr. Lawson Tait, F.R.C.S., of Birmingham, thinks the destruction of the grocers' license would be a public mischief, and is of opinion that statements regarding the connexion of female inebriety with grocers' licenses are "simply ridiculous" and speaks disparagingly of the qualification of Mr. Riley, whose evidence we have referred to (42,397), to form an opinion on the inebriety of women.

Four witnesses, themselves holders of these off-licenses or representing associations of that body, strenuously deny the charges made against them, and maintain the necessity of this kind of license. Crews. 41,167, &c. Staines. 41,479.

Mr. Hopkinson, one of the witnesses just referred to, thinks the public in Bradford are in favour of these off-licenses, though he admits of a "crusade" by the justices against off-licenses generally, and notes their reduction, since 1882, by the large number of 250. Hopkinson. 41,557. Barker. 41,764. 41,563.

v. *Recommendations.*

The questions then with which we have to deal are:—

1. Ought there to be a separation of trades?
2. How is this to be effected?

We think that there should be a separation of the trades so complete that there shall be no sale within the same premises of intoxicants and groceries or other articles. It must be distinctly understood that this separation does not mean the abolition of off-licenses.

The number of different kinds of off-licenses allowing sale by retail is now very excessive, including three beer, two spirit, two wine, one beer and wine, one cider and perry, and one sweets, ten in all. Only one form of justices' off-license should be granted, its terms might be varied according to what liquors were authorised to be sold, as is the case with the grocers' license in Scotland, and a license to sell spirits should cover the rest as in the case of the on-license. The number of excise licenses should be reduced and the duties arranged in accordance with this suggestion.

Off-licenses being thus consolidated, no new ones should be granted, except under the full discretion of the licensing authority and to premises exclusively used for the sale of intoxicants.

The question remains how to deal with the existing off-licenses held by grocers and other mixed traders.

In considering this question it must be remembered that in the case of wine, spirits, cider, and sweets licenses there is no monopoly value, though there may be in the case of off-beer licenses, which are subject to full magisterial discretion, and that mixed traders deprived of their liquor licenses would have their other business to fall back upon in all cases.

We would allow a period of five years, during which the proposed restriction of the sale of intoxicants to premises exclusively used for that purpose should not apply to

premises now holding licenses. During this period no new licenses should be granted, and the licensing authority should come to a decision as to how many of the new off-licenses would be required for the district, and they might come to some arrangement with existing license-holders, by which, in the granting of new licenses, some preference might be given to old license-holders if they desired the new licenses on the new conditions.

In this way we think that the convenience of the public can be fully consulted, and at the same time the temptations to indulgence now held out by the combination of the trades absolutely removed, with the least possible disturbance of existing trade arrangements.

CHAPTER XVI.

ADMINISTRATION BY THE POLICE AUTHORITIES.

1. The Watch Committee in Boroughs.

i. *Its Powers.*

The watch committee is a statutory committee consisting of not more than one-third of the town council, and having an independent existence, except so far as its expenditure has to be ratified by the council. It has full power to appoint, suspend, or dismiss at pleasure the chief constable, or any other constable; to forfeit, refuse, or diminish any pension that may have been earned (subject to an appeal to quarter sessions), and to frame such regulations as it may deem expedient for preventing neglect or abuse, and for making the borough constables efficient in the discharge of their duty.

Such regulations have to be submitted to the Secretary of State four times in the year, but this is purely formal, and he has no control over rules thus made, nor has he any control over the appointment or dismissal of the chief constable.

The chief of the police in a borough is thus entirely in the hands of the watch committee, nor can he dismiss or appoint any of his officers without their approval.

Half of the police grant is paid by the Treasury, if the Government Inspector reports the force to be in an efficient condition. This constitutes the only control exercised by the central authority, but it appears that the power of refusal would only be exercised under very exceptional circumstances.

It is important to emphasise the very wide powers possessed by the watch committees over the police, because of the responsible duties which the police discharge in the administration and enforcement of the licensing laws.

Although it is open to, and even incumbent upon, private persons to assist the licensing authority by giving information, and, when necessary, objecting to the grant of a license, they are naturally reluctant to come forward, and such duties fall to the police, who, as guardians of public order, ought to be the best informed, and are also directly engaged in preventing infringements of the law.

ii. *Complaints.*

The most serious complaint against the watch committees is that persons are frequently members of those bodies who are, more or less, directly connected with, and interested in, the liquor traffic, and whose presence is a discouragement and hindrance to the police in the exercise of their duty.

These persons are in some cases doubtless actuated by the best motives and desirous of behaving impartially, and of enforcing the laws, although it be to their own detriment. But motives and action of this kind cannot be expected to be readily credited by the ordinary constable, who will be likely to act with less energy and activity when he reflects that his zeal may not be altogether palatable to those to whom he is responsible. Nor is it conceivable that a man can fitly and properly either

do, or be deemed to be doing, his duty, who holds simultaneously two such inconsistent positions as chairman of the watch committee and chairman of a brewery company in the same town. We have evidence, however, that sometimes such is the case.

A remarkable state of things is revealed in the borough of Wigan.

It appears from the evidence of Mr. Herbert Marsden, manager of a mantle manufactory in that town, that the justices in 1892 passed a resolution requesting the watch committee to consider the advisability of instructing the chief constable to ascertain on what premises persons charged with being drunk had last obtained liquor. The watch committee ordered it to lie on the table, and, consequent upon this inaction, the justices subsequently passed another resolution regretting that the first resolution had not secured more favourable consideration. 17,135 17,148 17,236 17,273

In 1893 the "Crown Inn" was complained of. It had had in previous years more than one conviction recorded against it, and since those convictions it had been conducted in a notoriously bad manner. The watch committee declining to interfere, independent objectors took the case before the justices, with the result that the license (an *ante* '69 beerhouse) was refused.

This house belonged to a brewery company, the chairman of which was at the time a member of the watch committee.

Subsequently to the occurrence just narrated, two houses, the "Bricklayers' Arms" and the "White Horse Inn," were proceeded against by members of a vigilance association in complete co-operation with the chief constable, and convictions were obtained.

It became necessary in the course of the proceedings to get a warrant to enable a raid to be made upon the two houses. The chief constable applied to Mr. Laycock, a justice of the peace, and a member of the watch committee, to grant it, and explained to the witness that he dared not go to the chairman of the watch committee or to any of the other brewers who were members of that body.

Mr. Laycock records the conversation which he had with the chief constable, and confirms the statement made to us by the witness, Mr. Marsden, that the chief constable told him that he dared not apply to the brewers on the committee to sign the warrant. The chief constable told Mr. Laycock that he could not apply to two aldermen on the watch committee, naming them, each of them being chairman of a local brewery company. 17,349.

"If I approached either of these men the game would be up," were the words used by the chief constable, who also added that he had no confidence in a third alderman, who was vice-chairman of the watch committee, for if he told him what he proposed to do the matter would be all over the town in 15 minutes, and his (the chief constable's) "own officers and constables would be the men that would carry the message."

Such is the purport of the evidence presented to us by Mr. H. Marsden, of what the chief constable said to him, in which evidence he is supported by the justice, Mr. Laycock, to whom the chief constable made the same remark when applying for a warrant.

But Mr. Ernest Marsden, a nephew of the witness of that name, also corroborates his uncle's testimony, and declares that the chief constable in the presence of himself and Mr. H. Marsden remarked that he could not trust his men, because they and their officers were "in with" the tenants of the licensed premises and used them for betting purposes.

Captain Bell, the chief constable, denies having made the statement attributed to him by Mr. Herbert Marsden, and attested by Mr. E. Marsden, and also the statement which Mr. Laycock declares was made to him by the chief constable when the latter came to ask him to sign the warrant. It is difficult to believe that the two Mr. Marsdens and Mr. Laycock gave erroneous versions to the same effect of what passed between them and the chief constable on the different occasions when the conversations were held; and indeed Captain Bell, who came before us at the instance of the watch committee to contradict or modify the evidence thus given by the three gentlemen in question, concluded by refusing to say that they concurred in giving a false version, but alleges that it is so long ago that he cannot recollect making the statement. He did not, however, deny the truth of it.

The chairman of the Wigan watch committee, as well as the ex-town clerk of Wigan also appeared as witnesses.

It will be remembered that in the case of the "Crown Inn," the chairman of the brewery company, to which that house was "tied," was a member of the watch committee.

Smith. 21,692. 21,523. The present chairman of the watch committee is also chairman of a brewery company, owning houses in the town, and to whose firm belongs that particular house to which we have had occasion already to refer, as advertising that a lady boxer would appear, and that admission would be free. The chairman does not see much harm in that advertisement. The ex-town clerk defends in the case of his late father the dual position of watch committee man and chairman of a brewery company, and declares that the two aldermen who asked to be informed by the chief constable if there was anything wrong in any of their houses did so in the interests of public order.

Laycock. 17,234. 17,235. A great deal of the evil which exists in Wigan, and which has caused a public protest in the shape of a memorial, signed by members of every class of the community and of all shades of religious belief is, in the opinion of Mr. Laycock, due to the existence of the large number of beerhouses, and to the fact that a large number of these belong to brewery companies who are represented on the watch committee.

We have dwelt at length upon the instance of Wigan, because it displays a state of facts discreditable to the watch committee and the chief constable; and if he is to be believed, to the officers and men of his force, and as indicating such an administration of the law as emphatically calls for radical reform.

Robotham. 25,238. 25,426. 25,423. 25,512. 25,590. 25,299. In Derby the condition of things is not much better.

The "Brown Bear" was a house used for immoral purposes, the occupier was fined by the magistrates 15*l.* and costs. Six days after the committal of the offence, a transfer was applied for and granted to the agent of the brewery company which owned the house. The chief constable, though of course cognisant of the pending charge and cognisant of the character of the house, made no objection, so that when the publican came up and was convicted, there was no license to endorse, as it had already been transferred.

The license was subsequently refused by the Derby bench of justices, and on the trial of a civil action against the lessees, Ind, Coope, and Co., for compensation for loss of the license, Mr. Justice Day stigmatised the house as a "flagrant brothel," and it was shown on the trial, by reference to the complaint books kept by the chief constable himself, that over a series of years there were 43 cases in which the police had been called in to this particular house for such offences as rows, fights, and disturbances, ten cases occurring in the year preceding 1892, when the last offence was committed; yet 17 police constables swore that they had never known anything wrong in the house.

The judge recommended a thorough investigation into the whole case, and into the conduct of the police. The watch committee investigated the circumstances under the presidency of a large license-holder in the town and intimated their dissent from the remarks of the judge whom they regarded as mistaken.

Of the 11 members of the watch committee four were interested in the trade, including the chairman who held four licenses. Looking to the effect that this must produce in the minds of the police, the state of the force is not a matter for surprise.

W. H. Marsden. 42,711. 42,754. 42,844. Mr. William Henry Marsden, J.P., and mayor of the borough in the year 1892, and then chairman of the investigation committee and chairman of the watch committee, who came before us to rebut the evidence of Mr. Robotham, failed to do so in any material degree, but on the contrary left the impression that, in all essential particulars, the evidence which he came to contradict was unassailable.

Rothera. 10,946. 11,073. 11,070. 11,001. In Nottingham, on the evidence of the coroner for the borough, reports have been on many occasions made by him to the chief constable of circumstances disclosed at inquests which would fully have justified prosecution of license-holders. No prosecution has ever ensued. He comments upon the presence on the watch committee of directors of brewery companies, and sometimes, nay generally, when the police do undertake prosecutions, they are represented by legal advisers who are solicitors for associations of licensed victuallers and license-holders. He asserts that penal endorsements of licenses are rare in Nottingham and cites an instance where the chairman adjudicating upon a case, found it to be a "very bad" one, imposed a fine of 5*l.*, but declined to "endorse." The solicitor remarked that he had distinct instructions not to ask for endorsement.

Sir S. G. Johnson. 12,410. 12,389. 12,440. The town clerk for Nottingham, in reference to prosecutions, says that the chief constable takes out a large number of summonses on his own initiative, and the watch committee do not discuss among themselves the chance of conviction in particular cases.

In the case of transfers and renewals however, though that kind of work belongs to the licensing justices and the police, the watch committee appear to "go out of their

way" to inquire into these cases; but according to the witness it is in order to see that transfers and renewals to certain houses should be opposed.

The same witness, while exculpating the watch committee from being influenced by any unworthy motives, still holds very strongly the opinion that the disqualifications which attach to magistrates should attach to members of the watch committee, and if he were a member of the town council he would desire, in giving his vote or choosing a watch committeeman, to regard bias of any kind as a disqualification in the way of exercising judicial functions.

In Portsmouth Mr. Chorley, Wesleyan minister, is of opinion that the direct and indirect influence of the trade on the town council has a material effect upon the watch committee, which in its turn very seriously influences the action of the police in the conduct of licensed business generally. Chorley. 20,126. 20,131. 20,140.

On the borough council, from which according to him the original influence is transmitted, the trade is directly and indirectly somewhat largely represented, the ex-mayor owning 49 licensed houses in the town and one of his immediate predecessors is managing director of a brewery company owning in the town no less than 109 houses.

It was on the 16th December, 1896, that the chief constable of Manchester, Mr. Malcolm Wood, gave evidence before us. In consequence of his representations, the justices of the city passed a resolution urging the watch committee to disallow the pension of superintendent Bannister, who with another man, Taylor, was owner of a beerhouse and brothel in the district in which he acted. The Bannister case was the subject of an inquiry instituted by the Home Office, and we content ourselves with referring to the judicial and exhaustive report of Mr. Dugdale, Q.C., the result of which was to cast serious blame upon the watch committee. Batty. 19,900. 20,000. 19,708. Wood. 13,911. 13,922. 14,036.

In Liverpool, the relations of the police and the publicans used to be on a very unsatisfactory footing, and charges of corruption were frequently made, but from 1889 matters have improved and the evil which in the experience of Mr. A. T. Davies has resulted elsewhere from the trade trammels in which watch committees are involved is not now to be found in Liverpool, though the police reports to the licensing authority are scarcely so full as they might be, and consequently not of the value that they would be if they were sufficiently copious. Davies. 11,506. 11,241. 11,252.

This evidence is generally corroborated by Mr. Crosfield, J.P., for the borough, who speaks of a "radical change" and the "purging" of the city, though, of course, the constitution of the watch committee is subject to the changes involved in the annual municipal elections. Crosfield. 11,883.

Captain Nott Bower also testifies to the support which he has received from his watch committee, but having heard the evidence from Wigan and Manchester, would like to have a freer hand, and is strengthened by what he has heard, in his opinion that the sanction of the Home Office should be required to the dismissal of a chief constable, who would thus be protected from any improper pressure which might be brought upon him by a watch committee. Nott Bower. 26,606. 26,611.

Similar complaints to those already detailed at much length come to us from Hull, Reading, and Lincoln, Leeds—where a publican and a large brewer are members of the watch committee, the large brewer being chairman of the police discipline sub-committee, and Sheffield—where the members of the watch committee are "largely in favour of the license-holders. Shackles. 8752. Clements. 28,720. Thornton. 13,590. Clegg. 17,918.

It is made a complaint against the watch committee of Devonport that though no members of the trade are members of the committee, it is, nevertheless, subservient to the publicans who possess great influence at elections. Richardson 19,333.

However this may be, the witness, the Vicar of St. Michael, Devonport, makes the charge "fearlessly and openly" that the watch committee do not act judicially and fairly in the discharge of their duties, and declares that this is a matter of common knowledge in the place, and has been so for years. Mantle. 18,717. 18,736. 18,806.

Certainly in the year 1877–78, the Lords Committee on Temperance specially mentioned Devonport, and thought that the interference of the watch committee with the free action of the chief constable in deciding upon what prosecutions of publicans should be instituted was carried too far, and amounted to undue interference with the proper action of the law.

The above evidence of Mr. Mantle is objected to by the chairman of the Devonport watch committee, who comes specially to traverse the statements made, though he is

not quite sure whether a resolution was passed specially authorising him to come, and denies that the chief constable has ever complained of being fettered by the watch committee, and denies that the latter is open to corrupt influences. But he admits having been told by the chief constable that a licensed house on one side of a street is allowed to remain open while another is closed; and this is one of the statements which Mr. Mantle made, and which the chairman came before us to challenge. He also gives some very unsatisfactory answers to a direct question as to the sobriety and conduct of some members of his watch committee.

Hornbrook, 34,730.

34,718. 34,728. 34,729.

Harris 17,081. 17,038. 17,073. 17,100.

The chief constable of Wakefield not trusting the watch committee "under certain conditions," suggests that the chief constable should be made more independent of local influence which acts through the watch committee, and should not, as now, hold his office at the discretion and "during the will" of that body.

Mabbott. 24,510.

It is suggested by Mr. Mabbott of Penzance, formerly chairman of the watch committee of that town, that the chief constable should have absolute power in the matter of prosecutions, and power to commit the borough to costs, though he subsequently admits that some limit should be imposed in this respect.

His reason for advocating the entire independence of the chief constable on the watch committee or council in the matter of prosecutions is remarkable. "There are," he says, "cases where it is very desirable that the evidence should be kept private."

iii. *Recommendation.*

We think that the same disqualifications should apply to members of a watch committee as now apply to members of the licensing authority, and further that any person acting as solicitor or valuer for any brewing company or trade organisation should also be disqualified. The matter is one of the most serious importance, and the evil aimed at amounts to a gross scandal.

We further think that the Chief Constable should hold a more independent position —as in Scotland—and, as in the counties of England, should not be removable without the sanction of the Secretary of State.

iv. *Justices on the Watch Committee.*

H. Marsden. 17,273. Robotham. 25,253. W. H. Marsden. 42,778. Hornbrook. 34,660.

Opinions have been given by some witnesses on the subject of justices of the peace being members of the watch committee, and objections have been taken to the practice as inconvenient, by putting the justice in the position at one time, it may be, of directing the chief constable to prosecute, and at another time of hearing the case in which he has directed a prosecution.

Mr. William Henry Marsden, alderman, justice of the peace, and ex-mayor of Derby, sees no harm whatever in a justice being on the watch committee, as he can retire from the committee in the same way as they retire from the sanitary committees when prosecutions are undertaken by the officers of those committees.

It would seem advisable, that if in any particular case a justice has taken part in advising a prosecution, he should not try the same case at a subsequent stage, but if the suggestion is adopted that the chief constable shall be, more or less, absolutely left to his own initiative to prosecute, there would be little necessity for providing against a double hearing by a justice of the same case.

v. *Cost of Prosecutions, &c.*

In prosecutions, legal assistance should be provided for the police, and it might be feasible to allow the chief constable to incur expenses up to a certain sum, both in prosecuting and in defending appeals, acting on his own initiative, and without the authority of the watch committee.

Further, it would be advisable that the costs of the police should be provided, and that they should have legal assistance, if necessary, in opposing new licenses, transfers, or renewals.

According to the judgment of the Court of Appeal in A. G. *v.* Corporation of Tynemouth, the borough fund cannot be applied to the costs of opposing the renewal of a license. The police may appear as witnesses, but according to the judgment they cannot take other witnesses or do anything to get the case against renewal properly represented.

If this is the law, a most unfortunate state of things has been arrived at for hardly anything can bear more directly upon the public order of a place than renewal or non-renewal of a public-house license, and therefore the police are directly concerned in the matter.

CHAPTER XVII.

ADMINISTRATION BY THE POLICE.

1. Some Causes tending to Laxity.

We have dealt with some of the causes which impair the efficiency of police administration in the boroughs.

The need for legal advice in prosecutions is felt as much in the country as in the towns. The police are hampered in many instances by their scanty knowledge of complicated laws.

Mr. Lee Warner makes the good suggestion that some general code of instructions, as clear as possible, should be issued to the police as to what they should do under varying circumstances, *e.g.*, dealing with drunken men, &c., on the model, for instance, of those issued by the chief constable of Ipswich. 24,912.

Sometimes the police are hampered by the lack of interest taken by chief constables in licensing matters. But we have had occasion to remark upon the activity and thorough efficiency of more than one chief constable in boroughs and counties.

2. Duties of the Police.

The duties of the police in regard to the Liquor Laws are threefold.

I.—In relation to the prevention and prosecution of offences which may be committed by the public.

II.—In relation to the supervision of licensed premises and the detection and prosecution of offences committed by licensed persons.

III.—In reporting the conduct of licensed premises to the licensing authority, and in objecting to the grant of licenses when necessary in the interests of public order.

i. *In regard to Drunken Persons.*

Police statistics of drunkenness are, as we have had occasion to show, usually unreliable owing to the variety of practice which exists.

A drunken person may be taken or carried to the police station, but there is no power of apprehending him, and if the form of binding him over to appear is gone through, it is a mere form, and in most cases nothing more is heard of him. McWilliam. 3936. Bridge. 2481.

It may happen that a summons is ultimately obtained, at the cost of a waste of time amounting to three or four days for one policeman. De Rutzen. 3529.

Simple drunkenness should be an offence rendering the person liable to arrest, and the law should be made uniform and general, there being at present in operation local laws in some towns which are intended to supplement the deficiency of the general statute law. Thornton. 13,387. Anson. 7081. Thornton. 13,387.

Boroughs and populous places have their own byelaws: but as far as the chief constable of Staffordshire can ascertain there is only one town under his care in which power is given to arrest a person drunk though not disorderly, the offence charged being expressed as "drunk in the street." M. Wood. 14,008. Fenwick. 28,036.

The Manchester Police Act, 1844, also provides for arrest for simple drunkenness, the word "incapable" even being omitted. Fisk. 31,502.

Police magistrates, chief constables, superintendents of police, clerks to justices and others recommend, and we endorse their recommendations, that a general power of arrest should be given for simple drunkenness, independent of disorder.

ii. (A.) *In regard to Supervision of Licensed Houses.*

Rathbone, 74,346. Anson. 6936. 6954. Sowerby. 17,342 17,411. Mabbott. 24,483. Shackles, 8222.

It is difficult to overrate the importance of strict supervision over licensed houses, for if it is true that a licensee should be absolutely responsible for the good conduct of of his house, any breach of such good conduct should be as soon as possible recorded and brought to the notice of the authorities. Good results follow strict supervision, for the publicans are thereby encouraged to abstain from selling to drunken people, and to turn them out of their premises, and generally to be much more careful in the conduct of their houses. In Plymouth, where the chief constable personally inspects the public-houses, the good result has been remarkable, and the system of visitation in force in Penzance has produced such an improvement in the conduct of the houses that in 1896 there was not a single conviction.

The improvement noticeable in Hull is put down by Mr. Shackles, the clerk to the borough justices, among other causes, to this in particular, that, at the request of the justices, the chief constable allocated a sergeant and a constable for the special duty to which they were to devote their whole time, in visiting and inspecting the licensed houses. He regards this inspection as a real deterrent to illegal practices. The men are in plain clothes and make surprise visits morning, noon, and night.

8271.

But several causes tend to weaken the efficacy of this supervision; even where the police are zealous and where they are encouraged by the action of the authorities there are adverse influences at work which counteract their endeavours, such as the excessive number of the licensed houses, their faulty position and construction, in country districts the long distances to be covered, the temptation to which individual constables are exposed, and the odium which might be incurred in the neighbourhood by taking proceedings against a favourite publican.

(B.) *In regard to Prosecutions.*

In discussing the administration of the watch committees and the question of costs we have mentioned some of the difficulties attending action by the police.

Special complaints are made against the police for inactivity in prosecuting for the offence of committing drunkenness. Their practice varies very much, for while in East Sussex it is the rule to prosecute the publican in whose premises a drunken man obtained his liquor, and 20 per cent. of such prosecutions are successful, in Brighton, Mr. Prince tells us that the exact opposite is the case. But we shall return to this subject later.

iii. (A) *Objecting to Grant of Licenses.*

We have alluded already to the judgment in the Tynemouth case, in which it is laid down that the watch committee have nothing whatever to do with the carrying out of the licensing laws, and that to oppose the renewal of a license is no part of the duty of a police constable or of the watch committee. We respectfully repeat that if such is the law we do not see how the licensing laws in boroughs can be properly administered.

(B.) *The Police and the Licensing Authority.*

The correspondence between the police and the licensing authorities does not appear to be sufficiently close. Police reports are often very meagre, though probably if the justices where more zealous themselves they could get better work done by the police.

Then the police do not, as a rule, make sufficient inquiries, and the testimony as to character of a proposed licensee is often of a negative character—the usual answer, "he is a respectable person, sir," rather implying that nothing is known against him than that anything is known in his favour. Again, while the register of licenses, which is kept by the clerk to the justices, contains or may contain any fact in connexion with the license, it does not necessarily contain all the information which the police are able to supply, such, for instance, as a conviction made by a different bench to the one which deals with the licensing.

Whiteley. 2931. 3369. 2921.

It is to be noted that the register, such as it is, is not necessarily produced before the justices, unless somebody asks for its production. It should be before the bench, as a matter of course.

3. Proposal for Special Inspectors of Public-houses.

Here properly arrives the question of special inspectors.

i. *The Police and the Publicans.*

We have already alluded to the temptations which may be held out to the police. Especially in a small force, or in one scattered through wide rural districts, the familiarity which springs up between police and publicans must tend to relax the springs of discipline and to hush up many irregularities on both sides.

Superintendent Smith of the St. James Division of the Metropolitan Police gave it as his opinion that the publicans held out no temptations at all to the police. Mr. Hall, however, speaking on behalf of the Working Men's Club and Institute Union, declares that licensed victuallers' subscriptions to police sports, &c., and to testimonials for retiring superintendents, as well as beer given to constables, do influence the police. 16,296. 16,448. 16,577.

This is confirmed by Mr. Martineau, chairman of the Licensing Justices in the Tower division. He objected particularly to testimonials to retiring inspectors of police. In his own personal experience he had known five cases where these had been mainly got up and subscribed to by publicans. His bench felt very strongly about it. 10,400.

The position of a constable in East London was very difficult; the temptation was "almost more than a man can bear." He had known cases where a policeman, when on duty, took off his armlet, went into a public-house and was served. No policeman in uniform ought to be served in any licensed house. 10,399. 10,471.

Captain Nott-Bower also strongly recommends that no constable in uniform should be served at all. Harbouring constables was an offence somewhat prevalent, and it sapped the foundations of the efficient administration of the law. 26,422.

We think that this regulation should be at once adopted, and that the practice of testimonials to retiring inspectors should be completely discontinued.

ii. *Proposal for Special Inspectors.*

Special inspectors are strongly advocated by the Church of England Temperance Society, through their witness Mr. Stafford Howard, to meet the objections of alleged present inadequacy of supervision.

The police are too much occupied already, are too well known—too familiar with the publicans. Stafford Howard. 65,988.

The inspectors should be in plain clothes; should be interchangeable within the limits of the county—to be appointed by the licensing authority subject to the borough or county council, and their expenses to be paid out of the funds at the disposal of those bodies. 65,994

Lady H. Somerset also recommends their appointment, and suggests a central body of inspectors dissociated from the local police, but placed under the same legislation which governs the police—told off, as detectives are, for the special duty, and standing possibly in the same relation to the central department as factory inspectors do now.

Mr. Batty thinks that the police efforts should be supplemented by the appointment of special inspectors. 19,688. 19,706.

Mr. L. S. Gibbard also approves of such special constables, who might be police or not. He is clear that the Licensing Acts can no more dispense with such a body to enforce them than the Factory Acts and the Act for the prevention of cruelty to children. 22,995.

The want of some officers of this kind is probably more apparent in dense populations, such as in East London, where Mr. Martineau very strongly recommends them, and urges the advantage of the licensing authority not being solely dependent for information upon a body of men who as now are not their paid servants. They need not be in permanent employ, but might be told off from the ordinary staff to the several licensing authorities as these might require their services. They might probably be of use in exercising independent observation, and in reporting their impressions to their employers.

The plan is objected to by Mr. Davies on the ground that it was tried and failed in Liverpool, where it was regarded as "ineffective and expensive," and as "a comfortable "sort of inspection." The plan was given up "in consequence of the agitation of the "citizens." The superintendents of the different divisions are now charged with the responsibility of inspection by a standing order. 11,506. 11,532.

It seems to be unnecessary, inconvenient, and financially undesirable to have a central body of detective officers specially devoted to this particular service, and it is quite possible that between these special officers and the ordinary police the work of supervision might be relaxed, owing to the duality of responsibility and control. But there is no reason why the licensing authority should not have in their own service an officer or two of high rank, who might visit and occasionally report to them upon the general condition of licensed premises, it being understood that the ordinary police should continue to discharge their present functions; one or two men would suffice—directly under the orders of the licensing authority—watching and reporting, where it would be impossible and undesirable that the justices themselves should undertake those duties. These officers should not be permanent, but changeable, so as to avoid becoming too well known.

CHAPTER XVIII.

OFFENCES COMMITTED BY LICENSE-HOLDERS.

i. *The Law.*

Under the Act of 1828 the form of the license granted by the justices contained the conditions and regulations subject to which it was granted—as is now the case in Scotland, and penalties were assigned for breach of the conditions. Now, however, the offences which a license-holder can commit are separately laid down with their respective penalties.

The prineipal offences may be enumerated as follows:—

1. Permitting drunkenness.
2. Serving drink to a drunken person.
3. Harbouring prostitutes.
4. Harbouring or supplying drink to a constable on duty, or bribing a constable.
5. Permitting gaming, or keeping a betting house.
6. Permitting premises to be a brothel.
7. Harbouring thieves, or permitting them to assemble—or receiving stolen goods.
8. Infringement of closing regulations.
9. Not selling by standard measure.
10. Illegal sale to children.
11. Selling liquor without a license.
12. Selling contrary to license, *e.g.*, *on* instead of *off*.
13. Illicit storing of liquor.
14. Making internal communications.
15. Offences against the Adulteration Acts.
16. Resisting entry of constable.
17. Not affixing name to premises.

Nott Bower, 26,416. Convictions for Offences Nos. 1, 2, 3, 4, 5, 8, 12, 15, and 16 may be endorsed by the justices upon the license, and a conviction following two such endorsements within five years carries forfeiture of the license, and disqualification of the licensee and the premises for certain periods.

An appeal lies to quarter sessions both against conviction and the endorsement of the conviction upon the license.

ii. *Penalties.*

The penalties for these offences vary. In some cases the first offence causes forfeiture of the license. in all the other cases they are cumulative for repetition of offence. It would seem that they are adequate as far as the maxima go, unless it is in the case of illegal sale to children, as we have already pointed out.

Hicks, 67,714. A witness complained to us that there was too great a discrepancy between, to use his own words, the "moral penalties" and the "revenue penalties," or, in other words, that the Legislature has taken more care of the revenue than of the morals of the

people, and that, for instance, a publican who commits the excise offence of watering the whisky is liable to 50*l.* penalty, or to imprisonment, while, if he permits drunkenness, or harbours a constable, he escapes with comparative impunity, and runs no risk at all of imprisonment.

It must, however, be recollected that conviction for offences against the justices licenses may entail very serious consequences in weakening the chance of renewal, and even in forfeiting the license; and importance is to be attached not so much to the severity of penalties as to the certainty of conviction.

We suggest that in some cases, instead of the imposition of a fine, the license may be temporarily suspended.

iii. *Permitting Drunkenness.*

In regard to the offence of permitting drunkenness there is a striking disproportion between the number of apprehensions for drunkenness and the prosecutions for permitting it; and after making every allowance for the ease with which the offence is committed and the difficulty of detection, still the infrequency, or rather rarity, of the prosecutions, point to some defect either in the law or in the activity of the police, or in both.

The police magistrate, Mr. Hannay, is struck with this discrepancy, and thinks there is no hardship in making the landlord distinctly responsible for the acts of his barmen, as he is not now by any statutory enactment. 3687. 3883. 3924. 3925.

The present law, in the opinion of Captain Nott Bower, head constable of Liverpool, makes it almost impossible to convict a publican of this particular offence; and the onus should be thrown on the licensee who, in return for the monopoly of his valuable trade, should be made responsible that no drunkenness should take place in his house.

The mere fact of a person being found drunk on licensed premises should, thinks Mr. Jackson, justices' clerk at West Bromwich, be an offence, and the publican punishable therefor, unless he could prove that the person found drunk had not been supplied with any intoxicants on his premises. 9028.

The chairman of the licensing committee at Leeds had, at the last meeting, called attention to the infrequency of these prosecutions, and, indeed, there is no doubt of the facts. Thornton. 13,601.

There are two cognate offences which a publican can commit: he may sell to a drunken person, or he may permit drunkenness. He can, of course, protect himself from having a drunken person on his premises by at once ejecting him, and he can call in a constable to aid him in so doing.

But as between the two offences, selling to a drunken person, and permitting drunkenness, there is an ambiguity in the law, or in its interpretation.

In the first case it is no defence for the publican to say that he was, or his servants were, ignorant that the person was drunk. In the second case, the plea of ignorance is permissible, and Mr. Wontner, of the well-known firm of solicitors, clearly stated the state of the law, or rather, the interpretation put upon the section of the statute, 13th section of the Act of 1872.

Knowledge, in one part of the section, is immaterial, while in another part of the section, for the other offence, it is held to be essential.

Mr. Wontner would remedy the ambiguity caused by the interpretation of the law by making it clear to the publican that he is liable absolutely, whether ignorant or not, for both offences—selling to a drunken man, and permitting drunkenness; or, at any rate, that if a distinction is to be made between the two cases, the statute should clearly state the distinction.

To meet the difficulty created by the section referred to, Mr. Barradale, clerk to the licensing justices of Birmingham tells us that, "whenever a man is charged with "permitting drunkenness we also charge him with selling to the drunken person. If "the weak part of the case turns out to be that you cannot prove knowledge, we "simply then charge him with selling, and, if he sells, the question of knowledge does "not come in." Barradale. 5794.

Mr. Rogers, a J.P. for Somersetshire, would also throw the onus on the publican, but in this way: he would put "suffer and allow" in the section, and then, he thinks, "he would have him (the publican), certainly." He "suffers and allows it," if it is going on on his premises. Rogers. 27,422.

Roundell, 21,574. Mr. Roundell quotes, with approbation, the remark of the metropolitan magistrate, Mr. Curtis Bennett, in a recent case, that, "if in every case where a man was found "drunk on licensed premises, or was seen to leave the premises drunk, the publican "was proceeded against, that" in his opinion, "would do more for the cause of "temperance than any other legislation that could be brought about."

Gore. 33,091. Mr. Grove, too, thinks the only way to get out of the serious difficulty which now exists would be to enact that it shall not be incumbent on the prosecution for permitting drunkenness to prove that the publican knew the person to be drunk or had supplied him with drink. The only evidence required should be that the person was drunk, and on the premises, no matter where he got drunk.

Maitland. 36,644. 36,652. Burland. 39,766. Deakin. 35,666. Mr. Maitland, solicitor to the Licensed Victuallers' Protection Society, thinks that in all cases of offences against the Act, whether selling to a drunken person, or permitting drunkenness, knowledge in the licensee or his servant should be an essential element, and with him agree Mr. Burland, chairman of the Beer and Wine Trade National Defence League, and Mr. Deakin, a licensed victualler of 34 years' standing, who urges the retention of the word "knowingly," to remedy the hardship with which the law at present presses upon the licensed victualler.

We agree with those who think that the onus in the case of permitting drunkenness should be changed, and that whether a person were found drunk on the premises, or were seen leaving the premises in a drunken condition, it should be incumbent on the publican to show that neither he nor his servants knew of the drunkenness, and that he did not with such knowledge permit him to remain on his premises.

iv. *Endorsement of Convictions.*

A proposal has been made and supported by several witnesses that the present system of endorsements shall be abolished, and a record substituted for it, which shall give particulars of all convictions for offences of all kinds, and which shall be entered in a register without entailing the consequences now attaching to a third endorsement.

Wontner. 5221. 5315. Godden. 37,426. The present system is defended on the ground that the power to endorse enlarges the scope of the power of punishment by the justices, and that though rarely used, it acts as a real deterrent, and is much feared by licensees and by owners, as tending, when exercised, to seriously depreciate the value of their property. If the endorsement is made it is made when the facts are fresh, and when the justices have ample material on which to decide, with contemporaneous evidence and the actual witnesses before them.

While, on the other hand, if all convictions and complaints are to be decided and a certain amount and character of accumulated facts are to constitute a ground for serious punishment, the judgment would have to be given upon facts removed, possibly, by a long interval of time, and the review of the circumstances would be all the more difficult, owing to the inability of the justices really to test and sift the truth of the record.

Barradale. 5522. 6007. 5538. Fenwick. 27,777. The reply to all this is that an endorsement is but a clumsy method of giving a record of a house or of a licensee, and that something far short of such a drastic and salient punishment may be as good a guide to the character of house or publican; after one or possibly two endorsements, the occupier would be changed and the new tenant would come in with a clean sheet, with the adverse record effaced.

Lee Warner. 24,929. Endorsements too, unless conducted on fixed principles, or the first imposition of the penalty, or by quarter sessions, on appeal may operate unfairly and unequally, the real desideratum being a continuous history of the house and a register passing on the record from year to year.

If it is urged that endorsement is required in the interest of publicity to give notice to all concerned of the peril impending on the house, it is answered that the circumstances attaching to a house can be as well or better ascertained by inspection of a continuous register, than by the fitful and intermittent occurrence of an endorsement acting as a warning advertisement.

Anson. 6973.

Sir John Bridge would have the publican treated exactly as a cabman; when a cabman is convicted of an offence under the Cab Acts, no discretion is allowed the magistrates, who must endorse their conviction of the cabman *quâ* cabman, and so he argues the offence against the licensing laws should necessarily be endorsed on the license, so that it be plainly known to all that a conviction has happened.

Bridge. 2539. Martineau. 10,288.

In our opinion it is preferable to substitute for the system of endorsement a record of all convictions, not necessarily to be attached to the license, but kept, as in Scotland, in the register which should be produced before the licensing authorities. This entry should state the offence, the conviction, and the penalty, it may be its reversal on appeal; it would be open to all on payment of a trifling fee, and would thus be a sufficient notice to the owner of the premises, to the brewers to whom the house is tied, and to all concerned. In Scotland the court deals with the holder of the certificate (license) and with no one else; and not only holds but acts upon the theory that the owner of the premises has nothing to do with the license.

But whether the Scottish theory holds good in England or not, the entry in the register should be held to be sufficient notice, which anyone, with a little trouble, can ascertain for himself.

It is, however, most important that a mere change of tenant should not white-wash the house of a character which has, perhaps, been deteriorating for years, the successive stages of which deterioration are marked by the entries on the register. It must lie within the discretion of the licensing authorities to say:—"the conduct of this "house, in spite of change of tenancy, remains unimproved, and we refuse to continue "a license to premises which are habitually disreputable." Certain offences would, of course, continue, as now, to entail disqualification of licensee, and even forfeiture of license to a particular house.

v. *Summary of Legal Regulations to be hung up in Public-houses.*

Mr. Wontner made a suggestion, which seems eminently worthy of acceptance, that in some conspicuous place on the premises of licensees there should be hung up a summary of their duties and responsibilities; both they and their customers would be informed thereby of many things of which they are now ignorant or negligent; and, if it is true that in the majority of cases where conviction takes place it is the servant and not the publican himself who does the offending act, there would be no excuse for either one or the other that he acted in ignorance of the law.

Wontner. 5392. 5394.

Reed. 56,923.

CHAPTER XIX.

OFFENCES BY THE PUBLIC AND PENALTIES.

These may be classified under two heads:—

1. Those connected with the illicit sale of liquor.
2. Those connected with drunkenness.

1. Illicit Sale.

Reserving a more particular examination into these offences till we come to consider "clubs" and "shebeens," we may state them here in general terms as—

1. Selling liquor without a license; the penalties for which are—
   First offence, 50*l.* fine or a month.
   Second offence, 100*l.* fine or two months.
   Third offence, 100*l.* fine or three months.
2. Being found on unlicensed premises where intoxicating liquors are being illicitly sold; penalty 2*l.*
   Note.—There is a power to arrest such frequenters of shebeens as do not satisfactorily answer questions as to name and address. The power of arrest should be made general.
3. Being on licensed premises during closing hours; penalty, 40*s.* fine.
4. Giving false name, when so found, to constable; penalty, 5*l.* fine.
5. Falsely pretending to be a *bonâ fide* traveller; penalty, 5*l.* fine.

2. Drunkenness and its Penalties.

i. *The Law.*

The principal offences are :—

1. Being found drunk in a public place or on licensed premises.
   Maximum penalties :
   First offence, 10*s.* fine.
   Second offence (within 12 months), 20*s.* fine.
   Third offence (within 12 months), 40*s.* fine, or, in default, imprisonment.
2. Being drunk and disorderly in a public place.
3. Being drunk when in charge of—
   (*a.*) Loaded firearms; or,
   (*b.*) Of a horse, carriage, &c.

   Penalty for Nos. 2 and 3 (*a*) and (*b*), 40*s.* or a month.

ii. *Recommendations.*

Sampson, 12,204. 12,207.

We think that for a person, whether a parent or not, to be found drunk when in charge of a child of tender years should constitute an offence with a penalty attached higher than for simple drunkenness.

De Rutzen. 3538. Davies, 11,348.

A woman may now be, and has been, found incapably drunk in the gutter, with a child of two months in her arms, and yet she is not chargeable under the Act of 1872; while a person found drunk in charge of a horse and cart is liable to be severely dealt with.

We have already suggested that the police should have power of arrest for simple drunkenness.

iii. *Drunkenness as Cruelty.*

George. 30,503. *See* Daly. 63,393. 63,442. 63,443.

We agree with Mr. William George in the opinion which he expressed that habitual drunkenness should be treated as cruelty within the meaning of the Summary Jurisdiction (Married Women) Act, 1895, and entitle the wife to separation and protection for herself and her children

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CHAPTER XX.

Habitual Inebriates.

i. *The Inebriates Act.*

Hannay. 3772. Roberts 7681. 8069. Sampson. 12,262. Touchstone. 68,083.

It is universally acknowledged that repeated fines or committals to prison for short periods entirely fail in curing the habitual inebriate. It is a matter of congratulation that a step has at length been taken in the right direction by the Habitual Inebriates Act 61 & 62 Vict. c. 60. Under that Act persons convicted of an indictable offence, or convicted a fourth time within a year of any form of drunkenness, and proved to be habitual inebriates, can be detained for a period of three years.

Many habitual inebriates, however, are never convicted at all, and can now only be confined with their own consent.

It should be provided that their consent should not be necessary, and that they should pay, as far as possible, towards the cost of their maintenance.

Dr. N. Kerr, 74,152. 74,153. 74,154.

A considerable length of time is necessary to break the habit, ranging, we are told from one year to two or three; and Dr. Norman Kerr asserts that where the results are properly tested, after open and scientific treatment one-third of the inmates of any proper home are, after a year's detention as a minimum, restored permanently to their ordinary avocations in life.

A petition from a member of the family might initiate investigation, and a period of one year's imprisonment of a curative character might be imposed by the magistrate.

3772.

This is the advice of Mr. Hannay, the metropolitan police magistrate, who speaks with an experience as such of 25 years, and who, though not at all hopeful of the cure of an habitual inebriate, still advocates the attempt, in the interest alike of the individual and of the public generally.

Three months or six months might break the habit in some instances, in others a year's detention might be insufficient, and power might be given to a magistrate on proper investigation to extend the period.

ii. *Recommendations.*

The recent Inebriates Act might also usefully be extended so as to provide that any person convicted ten times of any form of drunkenness within any period, and proved to be an habitual inebriate, should be treated like a person convicted four times within a year. Immense mischief can be inflicted upon society by persons of inebriate habits, though they may not be convicted four times within a period of 12 months.

We are also of opinion that some scheme should be adopted, with proper safeguards resembling those in force in the case of lunatics, by which habitual inebriates should be confined without their own consent.

We are glad to call attention to the Report of a Departmental Committee on Habitual Offenders (including Inebriates) of 1895, which was presided over by Sir Charles Cameron, a member of the present Commission, and which contained a number of valuable recommendations on temperance legislation, and specially upon the detention and reclamation of the habitually intemperate.

iii. *A Black List of Drunkards.*

The recommendation has been pressed upon us by several witnesses that an habitual drunkard (to be defined hy the number of convictions) should be placed on a black list, and that the publicans should be warned by the police not to supply any intoxicant to any person so notified. In large towns the difficulty of carrying out the plan is obvious, while in smaller towns, as in Penzance, where it was partially tried, or in sparsely populated districts, some success may attend the experiment, especially if there is co-operation between the police and the publicans. The list is not hung up in a public place, nor need the names be known to anyone but the police and the publican. However difficult to work, the trial seems worth making, as the publican would thereby be advertised of the habits of the person indicated, and would avoid the risk of supplying drink. No personal consequence should attach to the publican, unless, where having had due notice by the proper authority that a particular person was an habitual drunkard and had been convicted so many times, he nevertheless "knowingly" served him or her with intoxicating liquor.

Rathbone. 74,357. 74,365. Mabbott. 24,451. George. 30,497. Touchstone. 68,319. Malins. 72,061. Mordaunt. 69,787.

Such a provision would, to a certain extent, meet the objection of Captain Nott Bower that the scheme would not be practicable in such a town as Liverpool. It could not, perhaps, cover the whole ground, but so far as it worked the effect would be good, and whatever success might be obtained, would *pro tanto* benefit the publican.

Nott Bower. 26,299. 26,300. Morell. 57,437.

PART II.—SCOTLAND.

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CHAPTER I.

PREVALENCE OF INTEMPERANCE, &c.

i. *The Increase or Decrease of Drunkenness.*

Taking a general survey of the condition of Scotland, it is satisfactory to note that allowing for fluctuations in drunkenness correspondent to fluctuations in trade, many witnesses speak of improvement in the habits of the people.

55,512. 55,565. 55,693. Thus, in Edinburgh, Bailie Pollard says there is a decrease of drunkenness, though there is still a great deal to be ashamed of, and he admits that the arrests have increased during the last four years.

50,298. Mr. Lewis, J.P., of Edinburgh, says that there is a great deal of pauperism in the city, two-thirds of which is traceable to drink.

Boyd, 43,682. Dewar, 43,919. In Glasgow, notwithstanding occasional interruptions, the percentage of arrests for drunkenness has considerably decreased since 1867, and a similar decrease has been noticed since 1844 in Dundee.

Though there is still a good deal of drunkenness in Greenock, the chief constable, deploring the present state of things as very bad, notices a great diminution of drunkenness during the last 20 or 30 years.

In Berwickshire and Roxburghshire a great improvement in the general sobriety is

Porter, 45,308-9. nevertheless found coincident with an increase in the class of habitual drunkards, though the chief constable puts this to the account not of the resident population, but to the tramps and vagrants who are habitually wandering about.

51,846. In Perth, Bailie Wright urges a similar explanation of the arrests for drunkenness, and would "almost say" that 50 per cent. of the drunk and incapable are tramps who visit the city as being on the highway between Glasgow and Dundee. He concludes, however, that drunkenness is on the increase in Perth.

Haig, 5,824. In the county of Banff the chief constable admits that the arrests for drunkenness have increased in number, but he goes on to observe that, consequent on the adoption of the Police Act of 1892, the number of the burgh police courts in the county has increased and the constabulary been strengthened by the addition of nearly one-third, so that small cases which would not have been heard of before are brought to notice owing to the facilities of detection and adjudication.

Col. McHardy, whom we have already had occasion to quote, and whose great experience makes his opinion of great value, takes a very gloomy view of the prevalance of intemperance. His figures incidentally are a very powerful illustration of the unhappy connexion between drink and crime. He is struck by the large number of committals to prison in Scotland. While in England committals to prison are 5·35 per 1,000 of the population, and in Ireland 7·23 per 1,000, in Scotland they

48,339. are 12·64 per 1,000. On examination he finds that the high number in Scotland is due to the offences connected directly with drunkenness, *i.e.*, all forms of drunkenness, and petty assaults, breaches of the peace, &c., which are practically all due to drink. Out of 53,000 committals in all, 38,000 are due to these offences.

These have increased from 33,000 in 1892, and though the increase may be partially explained by the increase of offences under the Burgh Police Act, increase of the numbers and efficiency of the police, and greater strictness of the public conscience, the witness does not think that these explanations fully cover the ground.

He further states that he has, personally, questioned many thousands of prisoners,

48,369. and he finds that 90 per cent. of the whole number attribute their position directly or indirectly to drink.

It must not be supposed, however, that Scotland is as much more drunken than her neighbours as this comparison would seem to show. Arrests are, as we have shown, an unreliable basis of comparison, and the existence of public prosecutors in every district with an active police, backed by a strong public opinion, would easily give a really less drunken place an alarming position in statistical tables. There are, too, in Scotland, as we shall see, special causes of open drunkenness.

While in comparing the state of things in Ireland it must be remembered, as Col. McHardy points out, that one-third of the committals to Scottish prisons are commitals of Irishmen. 48,455.

ii. *Connexion between Drink and Crime.*

In investigating the connexion between drink and crime we find evidence in Scotland converging to the same conclusion as in England.

Mr. Dewar, the experienced chief constable and procurator-fiscal of Dundee, who has carefully and patiently observed the operation of the liquor laws over a long period of time, says that at least 88 per cent. of persons taken up for all offences are under the influence of liquor when apprehended, and of the remainder half owe their position to drink. This statement is all the more remarkable when it is remembered that persons drunk and incapable, but under the charge of their friends, are not apprehended. 43,938. 44,214.

The chief constable of Dumbartonshire states that 63 per cent. of all offenders are under the influence of drink when arrested, and 80 per cent. of the crime is due to drink; and here we must remark the fact that one town in the county, Clydebank, seems to have an unenviable pre-eminence, though an improvement is noticeable since the Early Closing Act came into operation. The witness, speaking of the state of things before that Act, and including Dumbarton and Clydebank in his reference, says that at a certain hour of the night between 10 and 12 almost every fifth person met with in the streets was under the influence of drink. He went on to ascribe much of the mischief to the newness of the whisky, which, while generally new throughout Scotland, appears to be especially new in Dumbartonshire, and consequently to have immediate and lamentable effects upon the disposition of the consumers. Charles A. McHardy, 45,801. 45,809.

Mr. Kirk, however, a councillor of the royal burgh of Dumbarton, and representative of the licensed trade association in the county, himself once a license holder, combats the view of the chief constable, but while not admitting that there is a good deal of drunkenness in Clydebank, would say there is a lot of drink consumed. 54,807.

In the county of Aberdeen, out of the number of offences reported in 1896 to the police, just one half of the persons charged were under the influence of drink when the offences were committed, and Mr. Keith, licensed grocer, of Hamilton, attributes two-thirds of the crime to drink; crime, however, is decreasing in the burgh. Gordon, 48,561. 53,224.

In view of the striking evidence given by Col. McHardy, to which we have already referred, it is unnecessary to quote more evidence on this point. There can be no doubt as to the facts.

iii. *Special Causes of Drunkenness.*

As the subject of whisky has been referred to, it is obvious that the national beverage of Scotland is more potent in producing disorderly drunkenness than the national beverage of England, and many witnesses, while maintaining the wholesomeness of whisky, declare that a detention in bond for two or three or more years would be beneficial.

The effect of climate and occupation on the consumption of drink must be taken into account in considering the habits of the people.

Thus, in Fife, there is a large body of miners, and, superior as we are willing to believe this class of men may be in several respects, there is much drunkenness among them; and though Fife miners are not more drunken than miners in other counties, it is affirmed that there is little or no improvement among them during the last 20 years. The action of climate and conditions of labour, and special kinds of work, must be considered as factors conducive to indulgence. Nasmyth, 52,326.

A comparison has been instituted between the East and West of Scotland, and Colonel McHardy is of the opinion, which he says is shared by many, that climatic influences, especially humidity, conduce to drink, and so to crime. But a good many circumstances other than climatic would have to be considered in estimating the tendency of classes of men to indulge in drink; though it may well happen that a bad climate, high wages, exacting and dangerous occupations, and adverse domestic circumstances, may severally or unitedly, afford every temptation to indulgence in drink. 48,372.

iv. *Female Intemperance.*

Comparing, as we did in the case of England, the condition of women with that of men in regard to drinking habits, it is lamentable to find that out of 100 persons who Wyness, 45,470. 45,752.

have been convicted of drunkenness in the city of Aberdeen from 20 to 150 times the majority are women, and that the highest number of convictions in one year was reached by a woman.

Dewar, 43,934. In Dundee one-third of the persons apprehended for drunkenness during 1896 were women, and while 433 of the persons convicted more than once were males, 277 were females, and Mr. Dewar handed in a table, which, recording the convictions 43,935. referred to above, established the fact that out of those who were brought before the court seven times and more in a year the proportion is 18 women to 1 man.

In other words, the evidence of statistical tables shows that women are the more habitual drunkards.

43,929. It must be remembered that the female population in Dundee exceeded the male at the last census by 17,000, and that female intemperance is not greater among the 44,360. women in Dundee than in other large cities in Scotland; one woman in Dundee has 44,601. been convicted from 190 to 200 times, and such cases would swell the number of 52,712. individual convictions. Mr. D. H. Saunders, a resident in Dundee, alluding to a Bill for dealing with habitual offenders, remarks that "in Dundee we have 70 or 80 women "who practically have lived in prison. Those women come out after they have been "in about a fortnight, and they go back and pollute with moral contamination the "whole place."

An eminent authority in Scotland, on the subject of lunacy, though not a witness before us, is quoted as having stated, in his report for 1896, that among the causes of diseases in cases admitted to the Royal Edinburgh Asylum, the prevalence of drink in both sexes was more than usual, and that women in whom this was the cause, were 40 in number, "making a percentage for that sex of 18, which is absolutely unprecedented."

We state the facts here, reserving the examination of the causes of female drunkenness for a later portion of our report.

v. *Juvenile Intemperance.*

D. Lewis, 50,330. An equally sad feature is juvenile drunkenness; and it would appear from the evidence of ex-Bailie Lewis, a J.P. for Edinburgh, that 75 per cent. of persons arrested under the age of 20 were under the influence of drink when arrested.

55,576. Baillie Pollard speaks to an increase in the same city in 1896 of the same class of drunkenness.

Angus, 44,777. The Chief Constable of Greenock being asked whether he had witnessed juvenile drunkenness replies:—"There is no class of drunkenness that we are more troubled with"; and he says that there is a very large body of highly paid lads, he is speaking of youths of 18 to 20, who on pay days go away and get drunk when once they have got the money in their hands.

vi. *Changes for the Better.*

Very high testimony is given to the sobriety of the fishermen on the North-east Coast as well as to the population generally of the Lewis, fisherfolk, farmers, cottars, and squatters.

Exposed to cold and storm, the fishermen are an abstemious class of men, not taking Smith, 46,209. liquor on board, though out at sea for days together. A great change has come over the fishermen of Lewis in this respect during the last 20 or 30 years, while the Anderson, 47,425. same can be said of the North Sea fishermen. An "immense change" very noticeable during the same period, and a strong public feeling having grown up among them which has been largely created, aided and stimulated, by religious influence.

vii. *General.*

Turning, then, from details which in some instances and amid contributory circumstances present an unfavourable picture, and having fairly sketched the improvements as well as the drawbacks, we cannot refrain from paying a tribute to the efforts made by the churches and other agencies, by means of whose activity and energy a mass of public opinion has been formed, largely on the side of temperate and sober habits, and which looks to further improvement as an essential factor in the prosperity of the country.

If we can enlist the approval of this sound and healthy growing opinion in furtherance of such changes as we hope to recommend, our task will, in a great measure, have been successful, and some necessary changes may be regarded as nearing, if not attaining, accomplishment.

CHAPTER II.

HISTORICAL SKETCH OF THE LAW.

(i.) Early History.

Up till 1756 there was little or no restraint upon the sale of intoxicating liquors in Scotland, but in that year an Act was passed extending the English system of licensing to Scotland, and constituting the justices of the peace the licensing authority in the counties, and the magistrates or bailies in Royal burghs. The Scottish licensing law has since then tended very steadily in the direction of greater restriction. There has been no period of legislative free licensing, and the law has in a large measure, compared with the English, preserved the simplicity and directness of its original form. 29 Geo. 2 c. 12.

Between 1756 and 1828 several Acts were passed, whose tendency was to strengthen the control of the justices over the retail sale of intoxicating liquors, but there is nothing worth noticing till we come to the Home Drummond Act of 1828 (9 Geo. IV. c. 58), which is still the foundation of the present law.

(ii.) The Home Drummond Act of 1828.

The Act of 1828, which repealed and consolidated the previous Acts, made no change in the licensing authority. Only one form of certificate was issued at the two half-yearly licensing meetings, which authorised the sale of all intoxicating liquors when the necessary excise licenses had been obtained. Neither the certificate nor the excise licenses made any difference between *on* and *off* sale, and in respect of the excise license duties, this continued to be so until the Revenue Act of 1880. These licenses were very commonly held by grocers or general merchants. The licensing authority had full discretion to grant or refuse any certificate, subject to an appeal to the quarter sessions of the county; there was no distinction between new and renewed certificates, which alike lasted for one year, and no longer. 9 Geo. 4. c. 58. 43 & 44 Vict. c. 20.

The form of certificate appended to the Act contained provisions against adulteration, against the use of illegal standards of weights and measures, against permitting any breach of the peace, knowingly permitting men or women of notoriously bad fame, or dissolute boys and girls to assemble, and against permitting unlawful gaming.

No regular hours of closing were laid down, except during hours of divine service on Sundays; there was also a rather vague prohibition against keeping open during unseasonable hours.

(iii.) 1828–1853.

It appears that before 1828, entire Sunday closing was enforced by the Common Law of Scotland, but this was rendered inoperative by a judicial interpretation of the Act of that year. Report, Royal Commission on Licensing, 1859, p. xx.

About 1850, the Glasgow magistrates tried to enforce Sunday closing by inserting a condition to that effect in the certificates, but this was recognised as illegal.

In 1846, a Select Committee of the House of Commons, presided over by Mr. Forbes Mackenzie, inquired into the system for granting certificates to public-houses in Scotland. Dickson, 43,209. 1846 (457) xv. 149.

To judge by this report the law had not been very stringently administered. Certificates were granted with great facility to all sorts of inferior premises. The committee found that the combination of the trade of grocers, &c., with the trade of vendors of spirits for consumption *on*, was, especially in towns, injurious to the working-classes, and they accordingly recommended the separation of the trades, though they also were of opinion that no certificate should be required for an off-spirit retail license.

They further suggested restrictions on the grant of new licenses, and made proposals for a system of local licensing committees, including an abolition of the appeal to quarter sessions in case of refusal both of new or renewed certificates.

(iv.) The Forbes Mackenzie Act of 1853.

16 & 17 Vict. c. 67.

This Committee at last resulted in the Forbes Mackenzie Act, which introduced some very important changes.

Dickson, 43,211.

Before 1853 the licensing authority had apparently the right of confining the sale of spirits by grocers to off-consumption only by inserting a condition in the certificate to that effect. This practice was now made statutory. A new form of certificate was instituted for grocers or provision dealers selling intoxicants by retail for consumption off the premises only, and the sale of provisions for consumption elsewhere than on the premises was forbidden to all on-license holders.

At the same time a separate form of certificate was added for inns and hotels, which were defined as "houses containing at least four sleeping apartments set apart for the accommodation of travellers."

There were thus three forms of certificates for inns and hotels, public-houses, and licensed grocers.

Stricter regulations were made to insure suitability of premises and good character of license holders, and the conditions of the certificate were further amended.

Permitting boys and girls (without the qualifying epithet 'dissolute') to assemble was forbidden, as well as the sale of liquor to children apparently under the age of 14 years; but this has been decided not to apply to child messengers for liquor.

Sale to intoxicated persons was also prohibited.

Besides these changes, the Forbes Mackenzie Act introduced a perfectly new set of closing regulations. Sale on Sundays was forbidden, except in hotels to travellers and lodgers. Hotels and public-houses were to be opened on week days only from 8 a.m. to 11 p.m., grocers from 6 a.m. to 11 p.m.

The licensing authority was given a discretion to fix other hours in special localities, not being earlier than 6 a.m. or later than 8 a.m. for opening, not later than 11 p.m. or earlier than 9 p.m. for closing.

(v.) 1853–1862.

Dickson, 43,217

The Rothesay magistrates, relying on the discretionary power above mentioned, tried to fix an earlier closing hour for all the hotels and public-houses in the burgh, but it was held that the whole of a licensing district could not be a special locality in this sense.

1860 (2684) xxxii. 1. 1860 (2684, I.) xxxiii. 1.

The Royal Commission of 1859–60 reported in favour of the operation of the Forbes Mackenzie Act, and made a number of recommendations, most of which were carried into effect by the Act of 1862.

(vi.) The Public-Houses Acts Amendment Act of 1862.

25 & 26 Vict. c. 35.

The Act of 1862, as may be inferred from its title, introduced no new principle, but was designed to elucidate as well as to complete and render more effective the existing law.

The forms of the certificate were modified in a few particulars. The qualification for hotels was reduced to two rooms in country districts, and on-licensed holders were allowed to sell cooked provisions for consumption off the premises. Licensed grocers were required to conform to the same closing regulations as other licensed persons, although the premises were still allowed to keep open for the sale of other goods during closing hours on week days.

The chief magistrate or two magistrates or justices were empowered to grant special permissions to extend the hours of opening, or to sell in other than licensed premises on special or public occasions.

The procedure in granting certificates was improved. New application forms were prescribed, and new forms of certificates to the suitability of the premises or the applicant, requiring to be signed by one justice or magistrate. These three forms applied alike in case of all premises whether previously licensed or not, but a slight distinction was introduced between new and renewed certificates, by the advertisement of all new applications 10 days previously to the licensing meeting in the local papers.

Any occupier or owner of property in the district might object to the grant on giving three days' notice of the objection, but this did not interfere with the right of officials to object without notice given.

The Act contained numerous provisions to check shebeening and the illicit sale of liquor. It imposed penalties for being found drunk and incapable and not under

proper control in a public place, and, for the better regulation of licensed houses, laid down that the police were to report to the Procurator Fiscal houses from which drunken persons were frequently seen to issue.

Lastly, an important change of licensing jurisdiction was made, and by a new definition of "burgh," licensing authority was conferred upon the magistrates of Parliamentary burghs in addition to those of Royal burghs.

(vii.) Dr. Cameron's Acts of 1876 and 1877.

The Acts of 1876 and 1877 extended to Scotland some of the restrictions on the grant of new certificates contained in the English Acts 1892–94. 39 & 40 Vict. c. 26

A new certificate was defined as a certificate for premises not certificated at the time of application. All grants of new certificates had to be confirmed by a confirmation committee, and the appeal to quarter sessions against the refusal of a new license was abolished. At the same time the obligation of obtaining a certificate for the table beer license was imposed. This license had been introduced in 1861, and made subject to the ordinary conditions of a certificate, though not to the necessity for a certificate itself, by the Act of 1862. 40 & 41 Vict. c 3.

(viii.) Dr. Cameron's Early Closing Act of 1887.

By the Act of 1887 the licensing authorities, except in the towns of over 50,000 inhabitants, were given discretion to vary the hours of closing so as to be not earlier than 10 p.m. or later than 11 p.m. 50 & 51 Vict. c. 38.

(ix.) The Licensing Amendment Act of 1897.

The last of the series of Scottish Licensing Acts is the Act of 1897, by which the retail sweets excise licenses are not to be granted without a certificate, and premises so licensed are to be subject to the same rules and regulations as other licensed premises in Scotland.

(x.) Miscellaneous Acts.

These seven statutes already mentioned form the Licensing Acts (Scotland), 1828–97; but in addition to these there are 24 Public General Statutes bearing on the Liquor Laws, nearly 20 Inland Revenue Acts, and 10 Local Statutes relating to the great towns. Although this number is small compared with the number in England, and although the Licensing Acts themselves are clearer and more concise, there is none the less a great need for consolidation, which grows greater every year.

CHAPTER III.

THE PRESENT LAW.

(i.) *Outlines of the Law.*

The licensing law of Scotland, as it exists after these changes, may be briefly summarised.

No retail Excise license can be issued without a certificate issued by the licensing authority. These certificates are four in number—for inns and hotels, public-houses, grocers' licenses, and table beer. Of these, the grocers' and table-beer licenses permit sale for consumption off only.

The licensing authority consists of the magistrates (*i.e.*, provost and bailies) in Royal and Parliamentary burghs, and the justices of the peace in counties.

Two half-yearly meetings are held for the granting of certificates, in April and October. Certificates so granted remain in force for one year, and no longer, except in case of certificates granted in October, which remain in force for six months only.

At the licensing meeting applications are heard under five heads :—

(1) When an applicant already holding a certificate applies for its renewal for the same premises;

(2) When a new applicant applies for a certificate for a house previously licensed;
(3) A completely new application for a house not previously licensed;
(4) Application for a renewal of a certificate transferred to the applicant since the last half-yearly meeting;
(5) When an applicant already holding a certificate applies for a certificate of a higher grade, *e.g.*, hotel instead of public-house.

In cases (3) and (5) the grant has to be confirmed by a committee elected by quarter sessions in counties, and in burghs by a joint committee of justices of the county and magistrates.

All persons applying must make application on a statutory form, and, except in case (1) must produce a certificate of character and qualification, signed by a justice or magistrate. Beyond this, all applicants for new certificates must produce a report from a justice or magistrate as to suitability of premises.

There are other minor differences of procedure between the granting of new and renewed certificates, but the absolute discretion of the licensing authority to deal with the application is precisely the same in all cases, subject to an appeal to county quarter sessions, except in case of refusal of a new certificate to a new house.

Between the half-yearly meetings a certificate may be transferred from one holder to another—

(*a.*) When the holder dies, to his executors, &c. by two justices or magistrates sitting anywhere.
(*b.*) When the holder, his executors or disponees, yield up possession, by any two justices or magistrates sitting in their ordinary place of meeting.

Such transfers remain in force till the next half-yearly meeting.

The law as to transfers is somewhat obscure, but it would appear that they can only be refused on the ground of the unfitness of the applicant.

Special permissions for an extension of hours or for sale of intoxicating liquors on other than the licensed premises, can be granted on special occasions as already mentioned; but any license-holder in the same or an adjoining parish has still the privilege of selling in any house or booth, at fairs, and races.

It should be added that the justices and magistrates at their half-yearly meetings have the power to make regulations as to method of granting special permissions and transfers, and also as to the manner of making applications, ascertaining character of applicants, and the expediency of granting certificates applied for.

On Sundays all licensed houses are closed all day, and on week days they may be open from 8 a.m. to 11 p.m., but the licensing authority has two distinct discretionary powers, one to vary the hours of opening and closing within certain limits in special localities, the other to order early closing at 10 p.m. in any district except the seven cities of over 50,000 population.

An hotel may sell to lodgers and travellers during hours of closing, but it may take out a six-day certificate, in which case no exception is made in favour of lodgers, as in England Any hotel or public-house may take out an early closing certificate on the same terms as in England.

The law as to the *bonâ fide* traveller is even more vague than in England, and no limit of distance is laid down.

Most of the regulations to which a license holder must conform are contained in the terms of the certificate as already explained. The maximum penalties for breach of these conditions are—

1st offence	5*l.* fine, or (in default)	1 month.
2nd „	10*l.* „	„	2 months.
3rd „	20*l.* „	„	4 „

a third conviction of the same certificate holder forfeits the license, but there is no endorsement of conviction, as in England.

There are, besides these, penalties for harbouring or refusing to admit a constable.

There are also penalties for selling intoxicating liquors without a certificate, hawking, frequenting shebeens, &c., as well as for different forms of drunkenness, which we shall deal with in detail later.

(ii.) *Excise Licenses in Scotland.*

The wholesale licenses are the same in Scotland as in England; of the wholesale dealers' additional retail licenses, only the liqueur applies to Scotland, and that is, practically, non-existent.

Under the Revenue Act of 1880, a person holding the full on-spirit certificate (*i.e.*, for a public-house or hotel) can take out the spirit-license, varying in cost according to the valuation of the premises as in England, or he may take out a beer only, or a beer and wine license. 43 & 44 Vict, c. 20.

A person holding the full grocer's certificate may take out the grocers' spirit license (peculiar to Scotland) at a cost varying from 4*l.* 4*s.* to 13*l.* 13*s.*, according to the valuation of the premises. This license permits the sale of beer, but not wine. The licensed grocer must take out an additional license for wine, costing 2*l.* 4*s.* 1*d.*; or, if he wishes to sell beer only, he can take out the grocers' beer license, costing 2*l.* 10*s.* or 4*l.* 4*s.*, according as the house is valued at under or over 10*l.*; or, if he wishes to sell beer and wine, and not spirits, he can take out the beer and wine off-license costing 3*l.* as in England.

Besides these, there are the sweets licenses, authorising sale on or off the premises, costing 1*l.* 5*s.* as in England, and the table-beer license.

(iii.) *Effect of Legislation on the Number of Licenses.*

In 1829, the year after the Home Drummond Act, the number of publicans' licenses taken out was about 18,000, roughly. In 1852, the year before the Forbes Mackenzie Act, they numbered about 15,000. In 1862 (the distinction between on and off certificates having been then 10 years in force), they were about 12,000 in number, and remained at about this figure till 1881, unaffected to any serious extent by legislation, though a tendency to increase was observable before the Act of 1876.

In 1882, when the distinction between publicans' and grocers' licenses was made effective for excise purposes—

Public-houses and hotels, &c., numbered	7,846, about.
Grocers' licenses	4,350 ,,
Total	12,196

In 1896, a similar summary shows—

Public-houses, hotels, &c.	7,362
Grocers' licenses	4,059
Total	11,421

The most remarkable effect of legislation appears in the case of the table-beer licenses.

By 1870, nine years after their introduction, they numbered over 1,000; but, on their being subjected to a certificate by the Act of 1876, they fell immediately in 1878, to 275, and have since dwindled down to 75, in 1896.

(iv.) *Principal Differences between the English and Scottish Licensing Systems.*

It is advisable to call attention to some of the most important points, in which the Scottish system differs from the English.

(1.) In Scottish burghs the licensing authority is chosen by indirect popular election.

(2.) In Scotland the licensing authority have much more extended powers—

(*a*) in their complete and unlimited discretion over all certificates, without any exception as to any class of certificate:

(*b*) in their power to make binding regulations as to the method and expediency of granting certificates, and as to the granting of transfers and special permissions:

(*c*) in their double discretionary power to vary the hours of opening and closing.

(3.) In Scotland there is complete Sunday closing, and the hours of opening on week days are shorter, apart from the discretion already mentioned.

There are many other differences in detail, and the Scottish law is generally more simple and consistent, as, for instance, in the number of classes of certificates.

The certificate, too, is regarded in Scotland as attaching less to the house and more to the man than is the case in England, and this tends as one of its effects to keep down complication in the law.

In the prosecution of complaints an important difference is made by the office of procurator fiscal. He acts as a public prosecutor, and may also object to the granting

of certificates. Sometimes, however, the chief constable of a burgh is also procurator fiscal.

CHAPTER IV.

NUMBER OF LICENSED HOUSES—AND THE TIED-HOUSE SYSTEM.

We dwell upon these points in the first instance because of the prominence which, as we have seen, they occupy in the administration of the law in England.

(i.) Number of Licensed Houses.

Vol. V., p. 171.

In comparison with England the number of licensed houses in Scotland in proportion to population is very much less. Taking the whole country the proportion is about 1 to 333 in Scotland as against 1 to 219 in England. All the counties except 3 have a ratio of licensed houses to population of 1 to over 300, and though there are 40 Royal and Parliamentary Burghs where the proportion is 1 to under 200, these are mostly the smaller ones, and among the 10 burghs where the ratio is 1 to over 350, 6 out of the 7 largest burghs are included.

The ratio is steadily improving, but these figures admit of further reduction in many localities, and the general average does not prevent a great congestion in particular districts.

Angus, 44,818. 44,819.

In some parts of Greenock, indeed, there are too many houses, although in the last 20 years there has been a very large reduction in the number of licenses, and while 80 per cent. of the public-houses are well managed, the balance might well be got rid of in the interests both of the licensees and of the public.

Dewar, 44,521. 44,524.

In Dundee, though there are some licenses where the magistrates now would not think of granting them, yet on the whole the houses are well located, and the proportion not excessive.

Smith, 46,124. 46,126.

In Peterhead the houses are in excess of the requirements, and if they were fewer in number and somewhat further apart the evils of drinking would be abated.

Lewis, 50,331.

In Edinburgh, though it is naturally difficult to compare wards when the general conditions are not uniform, there is, undoubtedly, an excess of licenses in some wards as contrasted with others.

Wright, 51,800.

In Perth the total number of licenses, 101, establishes the proportion of 1 to 300.

Harding, 45,184.

Turning to the counties—in Renfrewshire, while in some districts the licensed houses are far too many, in others a fair proportion to requirement is maintained.

Captain McHardy, 47,682.

In Ayrshire, excluding Ayr and Kilmarnock, but including the Royal burgh of Irvine (population 10,000), the licensed houses bear a proportion to the population of 1 to 289.

Rev. P. R. Mackay, 50,876.

There is an unequal distribution of licenses in Haddingtonshire, and in the populous places there is over-licensing.

Rev. J. Hunter, 49,244. 49,311.

A minister of the Free Church testifies to the dissatisfaction felt at the unequal administration of the licensing laws, and to the impossibility of discovering any uniformity of principle in the procedure of the various licensing authorities, not only in regard to the number but in regard to the class of licenses granted.

That evil results follow on over-licensing we have shown already in the case of England, and at a later stage we shall discuss the methods suggested for a reduction of licenses. Here we would only note that the number of licenses is excessive in Scotland also, but that, except in certain localities, the excess is not so marked as in England.

(ii.) The Tied House System.

[Dewar, 44,012. 44,461. Pollard, 55,525. Boyd, 43,728.

In Scotland this system, as understood in England, does not generally prevail.

Brewers and companies advance money to persons to start in business, and where brewers or distillers advance the money, the publican is often compelled to take his liquor from the firm till the loan is paid off; but in Glasgow Mr. Boyd, the Chief Constable of Glasgow, does not know of any public-house tied down absolutely

to any particular firm, and Dr. Walker says that tied houses, as known in England, scarcely exist in the north of Scotland, and in Aberdeen there are very few which are tied, either to distillers or to brewers. Walker, 54,517. Dickson, 43,728.

It may be affirmed that there is a great difference in respect of the tied system in Scotland from that which so largely prevails in England, and reasons for this difference may partly be found—

1. In the care exercised by the magistrates in the large towns.
2. In the law itself.

In Scotland no person is recognised by the law as having any right in a license beyond the occupier. The certificate holder and no one else is regarded, and this non-recognition is illustrated by the Solicitor-General, who points out the difference between Scottish and English law, in the respect that, in Scotland, in case of conviction no notice is required to be sent to the owner of the premises, and the court deals with the holder of the certificate, and with no one else, though it would appear, from the evidence of the same witness, that in the case of a refusal of a renewal the owner possesses a right of appeal. Dewar, 44,315. Dickson, 43,345. Dickson, 43,550.

It is argued that the Act of 1876, by imposing the necessity of confirmation on a new certificate, and by defining a new certificate as one for premises not previously certificated, has the effect of making the certificate less personal to the holder, and more attached to the house, because it increases the difficulty of removing the certificate to other premises. It is, of course, possible that when a certificate holder applies for a certificate for new premises under such circumstances, the owner of the old premises might apply for a transfer of the still unexpired certificate, but the grant of such a transfer, either in the first instance or on appeal, would be a gross breach of duty by the licensing authority, unlikely to be committed, and does not by itself afford a reason to amend the law. It is obvious, however, that the necessity of applying for a new license requiring confirmation and carrying with it in case of refusal no right of appeal affords the owner a powerful leverage for raising his rent, and gives him thus an indirect interest in the license which could not grow up if provisional certificates sanctioning contemplated removals were permitted as in England. Dewar, 44,426.

We recommend, therefore, that in the matter of provisional certificates in cases of contemplated removal, the Scottish law should be assimilated to the English.

It is a great advantage that the certificate holder should be the only person who has any right to the certificate during its currency, and that he should be independent of all obligations in respect of his business, other than those which he is under to the licensing authority.

That the licensing authority should use every legitimate means to check the introduction and the spread of the tied house system is the more necessary, inasmuch as in some places it has begun to show itself in a form detrimental to the free action of the justices and the full independence of the licensee. Angus, 44,836. 44,841. 44,857.

The Chief Constable of Greenock speaks with apprehension of the spread of this system, which appears already to have gained a footing in that borough, and he cites two cases in which very reckless prices have been given, "and the effect of that will "be, if it goes on, to undo what good we have been doing by the reduction of the "licensed houses, and to reduce the licensee to the position of a slave." He argues that a reduction of licensed houses reduces the competition, and so renders the certificate-holder more able to conduct his business properly; but that if the burdens of the tie expose him again to the same difficulties, the evils of the former pressure from without are only reproduced by the new pressure from within.

The witness put in a form of agreement now used by certain firms, and in force to a considerable extent, where an incorporated company deals with and advances money to a man.

Better, he concludes, than that the practice which has grown up in England of brewers and wholesale merchants acquiring houses should extend to Scotland, would it be that brewers and merchants should carry on the business directly and in their own names. He thinks that then there would be no difficulty.

In Perth the tied system seems fairly established, on the testimony of Bailie Wright. The prices have become inflated; the license is in one name; the real holder is another man or firm. A man of moderate means cannot acquire a public-house, and of late nearly every licensed house which has changed hands in Perth has been bought by a distiller, a brewer or a wholesale dealer. Wright, 51,804.

In the hope of limiting the dependence of the license-holder upon any person or body of persons other than the licensing authority, we shall propose some changes in the law and practice of transfer, which will tend to promote that desirable object. Meantime the justices and magistrates can and ought to use their undoubted powers to protect the independence of certificate-holders from all dangerous and burdensome obligations.

CHAPTER V.

ADMINISTRATION OF THE LAW BY THE LICENSING AUTHORITY.

1. Constitution of the Licensing Authority.

In Counties, the licensing authority is composed of justices of the peace for the county. They have the power of dividing the county into districts corresponding to the petty sessional divisions in England, but this power is exercised in some counties only.

In Royal and Parliamentary Burghs the magistrates, *i.e.*, the provost and bailies, are the licensing authority. They are elected by the town council from their own body.

i. *The Police Burghs.*

Besides the two classes of Royal and Parliamentary Burghs, there is another class called Police Burghs, which are, at present, subject to the licensing jurisdiction of the county justices, but which are anxious to obtain the same right as those possessed by Royal Burghs.

Kirkwood, 48,949. Donaldson, 49,087.

The Provost of Govan and Mr. Donaldson, the Town Clerk of Partick, who represents the convention of Royal and Parliamentary Burghs, appeared before us to urge the claim of the Police Burghs to be invested with licensing authority.

It had been thought that under the Burgh Police Act (Scotland), 1892, sections 38, 515, 454, this power had been conferred, and, indeed, both Govan and Partick had acted upon such interpretation, but the case of Tennant *v.* Partick, tried before the High Court in 1893, decided that as licensing authority was not specially mentioned it was not conferred.

Cf. Vol. VI., App. 8. Kirkwood, 49,015. Anderson, 47,583.

Some of the Royal Burghs contain a very small population, such as Dornoch, with a population of 514, Culross, 370, Western Anstruther and Earlsferry, while many of the Police Burghs have large populations, ranging from 5,000 to 10,000, and others such as Govan, Partick, Motherwell, Wishaw, Kinning Park, Clydebank, Pollockshaws, Johnstone, etc. range from 10,000 up to 70,000. The approximate population of all the Police Burghs for 1897 amounted to one-seventh of the entire population of Scotland. The commissioners of these Police Burghs are as much direct representatives of the people as the magistrates in Royal Burghs, and the same licensing authority should be given to the one class as is now possessed by the other.

Irons, 49,985.

A suggestion has been made that no Burghs, whether Parliamentary, Royal or Police, where the population is under 10,000, should have a separate licensing jurisdiction, but that they should be subject to the county licensing authority.

The smaller Royal Burghs, many of which fall below that limit, would stoutly resist interference with their privileges, but it appears to us that a population of 7,000 would, under the circumstances, be a reasonable condition of exercising separate licensing jurisdiction.

ii. *Disqualification of Justices or Magistrates and their Clerks.*

9 Geo. 4, c. 58, s. 13.

The disqualification of licensing magistrates appears to be based on sound principle, and there is no necessity for an alteration of the law. The disqualification is somewhat wider than in England. Thus, all persons engaged in the liquor trade anywhere are precluded from acting for any purpose under the Acts. The disqualification extends in England only to the district (or adjoining districts) in which the justice usually acts. There appears to be a doubt whether shareholders in a brewery are disqualified, but the disqualification which, in England, attaches to railway shareholders does not apply in Scotland.

No one who is proprietor or tenant of premises for which a certificate is applied for can act on the licensing bench. Mr. Mackay suggests that factors of such property should be similarly disqualified, which seems reasonable. Rev. P. R. Mackay, 50,964.

Clerks to the licensing authority should be, no less than the justices, unconnected with the liquor trade. Haig, 55,885.

An instance has been cited in evidence of the deputes of the principal clerk (who himself did not act) acting as agents for the license-holders, and applying for a license before the magistrates to whom he is a clerk depute. This is a very undesirable practice, and one not conducive to justice. Harding, 45,252–3.

The policy of allowing gentlemen with pronounced views and under binding pledges to sit and act on the bench is discussed and objected to by Mr. Purves and Mr. Watson, but we have already sufficiently examined and given our opinion upon this point. 55,036. 54,862.

2. General Administration by the Licensing Authorities.

i. *Causes of Efficient Administration.*

There is a very strong force of public opinion in Scotland which operates upon the administration of the licensing laws, but we may specify three causes as particularly effective in producing good administrative results:—

1. The licensing authority have always had complete control over the retail sale of intoxicating liquors; with only a few unimportant exceptions there is no class of privileged houses either for *on* or *off* retail sale, and there has been no legislation corresponding to the English Beerhouse Acts.

The absolute discretion of the justices in granting or refusing certificates has never been questioned, and a "Sharp *v.* Wakefield" has never been needed in Scotland to decide what was already abundantly clear.

2. The comparative infrequency of tied houses already alluded to.
3. The licensing authority has never been regarded as a mere judicial court, but has been fully recognised as possessing administrative functions.

Thus it has always been the custom for the licensing authorities to bring their personal knowledge of circumstances to bear upon the particular case—and, though there is a power to hear evidence on oath in cases where objection is offered to the renewal of a license, such sworn evidence is very seldom heard, and the justices or magistrates themselves may, without notice, initiate objections. The licensing authority have power under the Act of 1828 to make regulations as to their own conduct in granting certificates, and the mode of procedure on transfers. They have a similar power as regards special permissions. 9 Geo. 4. c. 58. s. 11. 25 & 26 Vict. c. 35. s. 2.

Again, they have a double discretionary power over closing hours under the Acts of 1862 and 1887. It is clear, therefore, that the law regards the licensing authority as an administrative body, and has invested them with large powers of an administrative character. 50 & 51 Vict. c. 38.

ii. *Exercise of Powers.*

That advantage has been taken of these powers is evident from many instances. Dewar, 43,967.

Thus the magistrates of Dundee have adopted a policy for many years past of, for example, one man one license; of opening to view, as much as possible, public-houses and grocers' licensed premises; of abolishing dark rooms or boxes; of insisting, except in case of inns or hotels, on non-residence in the licensed premises, and of gradually reducing the number of licenses.

The salutary condition forbidding communication between licensed premises and dwelling-houses is very generally enforced. Great care is exercised in preventing back and side doors, and, generally speaking, it may be asserted that special conditions are much more common in Scotland than in England.

iii. *Reduction of Certificates.*

Generally speaking, there is a decrease, or, at least, no increase, in the number of licensed premises. Only six counties and five burghs show an increase, and this only slight in each case, during the last 10 years. Vol. v., pp. 174–5.

There has been a diminution in the number of licensed houses in Edinburgh and Leith, or, at all events, no increase relatively to the population; and in Greenock, since 1876, no real new houses have been set up, and in 20 years a total decrease of 66 has been effected. Irons, 40,955. Angus, 44,806.

Dewar, 43,920.

We have mentioned the administrative activity of the magistrates in Dundee. In that city there has been since 1853 a steady decrease in the number of licensed houses, from 636 to 432.

There has also been a diminution is some counties, though in a less degree than in burghs; but in the latter it must not be forgotten that some results must be credited to city improvements and the consequent demolition of houses.

On the other hand in the counties a good deal of the diminution of licenses is due to the action of the ground landlords.

Rev. J. Hunter, 49,508. McCormick, 59,640. Vol. V., p. 174.

In the county of Nairn, excluding the burgh of Nairn where there are 15 licenses, there is only one hotel and one public-house to a population of 5,378, and neither hotel nor public-house sells spirits. The burgh is said not to compare favourably with the landward part of the county. In the island of Tiree, where drunkenness once prevailed to an alarming extent, now, in consequence of the removal of all places for the sale of strong drink, drunkenness is exceedingly rare, and the action of the Duke of Argyll is strongly approved. In Banffshire, 34 licenses appear to have been voluntarily abandoned in the course of 10 years.

Vol. VI., App. XI., p. 451.

The reduction in the number of licenses in Haddington county, as given in a return put in by the Rev. P. R. Mackay, is remarkable. In 1828, the licenses numbered 210. They have fallen steadily from that time till at intervals of 10 years they amounted in 1871 to 77, in 1881 to 72, in 1891 to 66, and in 1897 to 64.

50,846 Vol. VI., App. XI., p. 452.

In one of the districts of the county, this reduction is partly attributed to the controlling action of a few proprietors, but a large portion of the result must be due to regulations which the licensing authorities drew up for their own guidance in 1863, and which have governed their policy ever since.

It is sufficient to refer to two articles of these regulations: (1) that all licenses should be granted for the accommodation of the public, and not for the purposes of charity to individuals. (2.) No new certificates to be granted until the licensed houses be reduced to 64 in the landward part of the county, which number is the present number, exclusive of the Royal burghs.

iv. *Excessive Number of Licensing Justices.*

Craig, 46,545. 46,547.

There is a feature, however, in the administration of the law in the counties which cannot be disregarded, namely, the excessive number of justices. A varying number of justices sitting in the licensing bench results in variable decisions, and the execution of a uniform policy becomes impossible. Taking the county of Midlothian, out of a possible total of about 286, inclusive of *ex-officio* members, a large number, say 170, would be qualified, and are competent to act, and of these, 130 do actually take part in justice of the peace work. The decisions given by a court of 45, increased sometimes to 60, and differently composed at different times, must necessarily be not only not uniform, but sometimes contradictory, so that persons are encouraged to make repeated application, in one instance on 12 consecutive occasions for a license, in the hope that a freshly composed court may give a decision in their favour.

Harding, 45,198. 45,202

In Renfrewshire the chief constable regards the number of *ex officio* justices as a "danger to the licensing system of the county." They attend where there is an appeal, possibly never having been in a licensing court before. They are liable to be canvassed, they are canvassed, and "some of them canvass with the publicans."

Stanford, 46,031.

A justice of the peace for Dumbartonshire recommends delegation of the licensing business to a committee. One hundred and eighty justices form a large body, from which the courts are constituted, and the decisions are "not at all what they ought to be." The decisions are given by justices from a distance on cases which mostly centre round the populous and drinking district of Clydebank.

v. *Canvassing.*

We reserve, for the present, the question of the reconstitution of the licensing authority, but must dwell upon an abuse which is largely prevalent and loudly and justly complained of.

The evil habit of canvassing is encouraged in the counties as we have just seen by the fact that the varying composition of the court holds out hopes of a reversal of its decisions.

Licenses have been granted in the police burgh of Partick by the county justices in a manner which has excited chronic indignation and agitation during the last 10 years. Donaldson, 49,206. 49,212.

It is a very common thing in certain counties for canvassing to be practised about the time when the licensing court is coming on. The evil, however, is not by any means confined to the counties. Nasmyth. 52,388. 52,392.

The chief constable of Glasgow comments on and condemns the practice, and thinks that any magistrate who encourages anything of the kind should be removed from the commission, and Bailie Pollard, member of the city council of Edinburgh, complains of constant pressure being put upon the bench by both parties, though he thinks the greatest pressure comes from those who oppose the grant of licenses. Nor is the evil felt in the larger burghs only, the circumstances of the smaller burghs rendering them peculiarly open to the practice, since there is a comradeship of personal acquaintance, and perhaps of mutual business relations. The Provost of Peterhead had only escaped solicitation for two or three years past because he had resolutely put his foot down and denounced the habit from the bench, since which time he has been freed himself, though he is not sure that his colleagues have not been approached. Boyd, 43,855. Pollard, 55,523. Smith, 46,153.

It is possible that this system of canvassing may give rise to that imperfect administration of the law which is particularly complained of in some of the smaller burghs.

Statutory prohibition of canvassing by making it a penal offence is recommended by several witnesses, and two, looking especially to the judicial functions of the licensing bench, would constitute canvassing a contempt of court and punishable as such. Craig, 46,564. Purves, 55,041. Carlow, 49,647.

While we are unable to agree in this purely judicial aspect of the licensing authority, and have already insisted upon the great importance of its administrative functions, and while we recognise the advantage derived from personal knowledge and from information derived through petitions, deputations, and other channels of the like nature, it is also our view that solicitation of magistrates or anything approaching to undue or improper influence is worthy of the severest condemnation.

But canvassing is alike difficult of definition and detection, and we are unable to agree with those who think that the creation of a statutory offence would be an efficacious remedy, or that the law could follow the practice through its manifold passages and intricate and subtle varieties with any chance of successfully combating it. Dick, 51,215. Irons, 49,967.

A remedy must rather be sought in the moral rectitude of the authorities which are assailed by this gross form of corruption, and a few instances of resolute stand and fearless exposure of the attempt would prove, as we are glad to know they have already proved, the best safeguard and the best corrective of the abuse.

Passing over for the present the appeal to quarter sessions and the hindrance thereby frequently presented to good and efficient administration, we now proceed to consider some particular details of practice and the law which governs them.

CHAPTER VI.

DETAILS OF LICENSING ADMINISTRATION.

1. Grant of New Certificates.

i. *The Law.*

New certificates are granted by all the qualified justices or magistrates sitting together. If there are less than two qualified magistrates in a burgh, the county justices may act. All applicants must fill up a statutory form and lodge it with the clerk of the peace or town clerk 14 days previous to the licensing meeting. Certificates to the good condition of the premises and the good character of the applicant in statutory form, and signed by one justice or magistrate, must also be produced. The clerk must advertise the list of applications 10 days before the meeting in a local paper, and all applications must be notified to the registrar of the parish in which the premises are situate. Any person owning or occupying property in the neighbourhood may object on giving five days' notice to the clerk and to the applicant, specifying the grounds of objection. But no notice is required of objection made by a justice or magistrate, procurator-fiscal, chief constable, or superintendent of police. 9 Geo. IV. ss. 6, 7. 25 & 26 Vict. c. 35. ss 8, 10.

39 & 40 Vict. c. 26. ss. 7, 8, 9.

The licensing authority has full discretion to refuse all new grants, and such refusal is absolute and final, but all grants of new certificates to premises not previously certificated must be confirmed by a licensing committee consisting, in the counties of three up to 12 justices, and in the burghs of three (or two) magistrates and three (or two) county justices appointed annually.

The chairman of the confirming committee (who in burghs is the provost or senior magistrate) has a casting vote.

No one may object to the confirmation who has not objected to the original grant, except the procurator-fiscal.

Besides these statutory regulations, justices or magistrates have power under the Act of 1828, s. 11, to make rules not inconsistent with the Licensing Acts, as to the manner of making applications, ascertaining the character of applicants, and the expediency of granting the certificates which may be applied for.

ii. *Number of New Certificates granted.*

The number of new certificates granted is not large.

Vol. V., p. 180.

In the decennial period, 1886–96, 536 new certificates were granted in counties and 742 in burghs, but in many cases these are not really new grants.

Thus, in Glasgow, out of 261 new certificates granted and confirmed, only 10 apply to really new premises, 168 being late applications which had to be treated as "new,"

Chisholm, 46,879.

55 were for premises altered or extended, as in cases of considerable alteration or extension of licensed premises the application is technically for new premises, and the certificate is treated as a new certificate. Of the 55 certificates just referred to, five were for spirit bars in theatres, which, prior to 1893, sold under their theatrical

55 & 56 Vict. c. clxv.

license, but which in 1892 were brought by a local Act under magisterial control; 28 were granted to persons in lieu of certificates taken away from or surrendered by them.

The commendable practice of treating applications for alterations or extensions as applications for new certificates considerably swells the number of the class of "new" licenses, both in counties and burghs, as, for instance, in Coatbridge, where 29 out of 37 new certificates in 10 years were new in this technical and restricted sense.

Inasmuch as alterations and extensions are questions of degree, we think that the fullest control over them should be conferred upon the licensing authority.

iii. *Surrenders.*

Vol. V., p. 181.

The practice of "surrender" prevails in 20 counties and in 39 burghs, but it must be observed that these surrenders are mostly cases of removal and not surrenders of several certificates in exchange or by way of barter for a new one.

But simple removals, say, from a congested district to a suburb or less populated quarter, give rise in some instances to great dissatisfaction.

Lewis, 50,393. 50,408, *et seq.*

Thus, in Edinburgh, on the evidence of ex-Bailie Lewis, the practice of removals of this nature is springing up, and the certificates are removed from districts full of licensed houses to quarters of the city where working men have invested their savings in the purchase of residences, and have been induced to go owing to the absence or the fewness of licensed premises. They feel greatly dissatisfied at the planting among them of a licensed house, and this in spite of their protests and adverse plebiscites.

Pollard, 55,509.

Mr. Pollard, however, a magistrate of the same city, declares that the fullest respect is paid to expression of opinion as contained in petitions or other representations, but that it is very difficult to gather the real opinion with any accuracy.

Chisholm, 46,884

Where, however, it comes to a surrender of many certificates for the grant of a new one in a new district, Bailie Chisholm of Glasgow has the strongest objection on principle to such a bargain. Last year the agent of the opponents (publicans) of an Improvement Bill promoted by the Corporation offered on behalf of his clients to close 100 existing public-houses in congested areas if 30 would be allowed to be placed in the outer ring, where few or none were to be found. Even though the pecuniary balance might be a fair one between the 30 and the 100, he (ex-Bailie Chisholm) has never sanctioned nor would ever sanction such an arrangement.

We refer here to our remarks on the practice in England.

iv. *Changes of Procedure on granting New Certificates.*

Rev. P. R. Mackay, 50,983.

In the case of all new certificates, a witness suggests that a vote of the inhabitants of the district should decide for or against, while in the opinion of others the right which

the law recognises of owners and occupiers to object to a license being granted in their neighbourhood is rendered nugatory by the shortness of the notice of application or by the imperfect way in which advertisement is published. 50,937. Wright, 51,813.

In England 21 days' notice is required, or 28 at least in the case of beerhouses, and on both these points we may refer to the English part of our report.

v. *Certificates to Character or Suitability of Premises.*

The duty of certifying to the character of an applicant, which now rests upon a justice or a magistrate, should be transferred, thinks Mr. Irons, to the chief constable, and he thinks that the duty is more appropriate to that officer, and more likely to be properly discharged by one who has the means and machinery for investigation. Irons, 50,060.

The law also requires that one justice shall certify to the suitability of premises, and the chief constable of Ayrshire testifies to the existence of numbers of houses in the county which are not fit to be licensed either in respect of construction, situation, or accommodation. They must have obtained the certificate of a justice, who, in one instance must certainly have been very negligent, for in a house in one occupation a baker's shop and the public-house are in direct communication, and the chief constable states that he is not taking an extreme view of what is suitable. Captain McHardy, 47,699.

Dr. Nasmyth, a Medical Officer of Health, also speaks of the imperfection of the present system of inspection, and rightly observes that by improving the condition of the house you improve the condition of the people, giving them a higher respect for themselves and making them more respectable and law-abiding. Nasmyth 52,376.

These duties might, we think, be transferred to the chief constable, but this transference of duty should in no way preclude the licensing authority from satisfying themselves by personal inspection of the premises whether they are fit for a certificate or not.

vi. *Date of Licensing Meetings.*

Licensing sessions are held in Scotland in April and October. Transfers and new applications are considered at both sessions, but all certificates have to be renewed in April, and it is the opinion of Sir James Gibson Craig, the experienced chairman of the licensing courts in Midlothian for many years, that it would be very convenient if all applications for new licenses could be heard at the April sitting, and that once a year would be sufficient for such hearing. Then renewals and new licenses would come up together. Craig, 46,569.

In this opinion, Mr. Irons agrees with the preceding witness, remarking that in Scotland there is practically one term, Whitsuntide, when parties enter into these new premises, and that there would be the additional advantage of getting the bench to consider the whole of the applications for new certificates at one court. Irons, 50,057

If this change should be adopted, as we think it should be, the October session would be left for transfers.

vii. *Term of Certificates.*

It has also been pointed out to us, that it would be convenient for certificates to run from May 28, so as to correspond with the ordinary removal term, instead of from May 15, as at present.

viii. *Confirmation.*

During 10 years 69 new certificates were refused confirmation in counties and 87 in burghs. Vol. V., p. 181.

The chief constable of Dundee speaks of the rarity with which the confirmation court refuse to sanction the decision of the court below, and in Ayrshire the confirming committee never refuse confirmation at all; they take the view that no objection can be raised which was not raised in the lower court, and hold that the question of local needs is one best decided by the lower court, and is not for them to consider. Dewar, 44,337. Captain McHardy, 47,945, *et seq.*

Such an interpretation of the provision of the statute is, we believe, entirely in opposition to the spirit of the law, and if it were the right interpretation, the statute would require amendment.

It would appear, however, from the figures that the confirmation court acts as a useful check upon the grant of new certificates.

2. Renewals.

i. *The Law.*

9 Geo. 4. c. 58. s. 11. 25 & 26 Vict. c. 35. s. 9–11. 39 & 40 Vict. c. 26. ss. 15, 16.

Renewals of certificates to the same applicant for premises already certificated are likewise subject to the complete discretion of the licensing authority. A grant does not require confirmation, but a refusal is subject to an appeal to the county quarter sessions.

The application for renewal stands on the same footing as an application for a new certificate, except that the certificates as to the condition of the premises and the character of the applicant are not required, and the applicant need not attend unless specially required, while applications for renewal have not to be advertised.

Should an objection be raised without notice, the hearing may be adjourned.

The power to make regulations applies to renewals equally with new certificates.

ii. *The Practice.*

There has never been any doubt in Scotland as to the powers of the licensing authority to refuse renewals, and it does not appear that any change in the law is necessary.

iii. *Omissions to apply for Renewal, &c.*

Some provision would seem to be required in Scotland to meet cases of inadvertent omission to apply for renewal of the annual certificate, and also where death occurs in the interval between the statutory date for lodging application and the holding of the licensing meeting.

3. Special Regulations.

9 Geo. 4. c 58 s. 11.

We have mentioned the powers conferred by the Act of 1828, s. 11, of making regulations as to the manner of applying, of ascertaining the character of the applicant, and of granting the certificates applied for.

These powers, which refer alike to applications for new as well as for renewed certificates, do not appear to be much exercised at present, except that in some places *e.g.*, Dumfries county, all applicants are required to attend in person, but judging from the regulations laid down by the justices of Haddington county in 1863, the section confers very wide powers, of which more advantage might well be taken.

Vol. V. p. 228.

We have already referred to these regulations, which are to be found in Vol. VI., Appendix XI., Table 2, as put in by the Reverend P. R. Mackay.

Craig, 46,548. Dunnachie, 48,774, 48,775, 48,776.

The licensing authorities do not appear to be fully cognisant of the powers thus conferred upon them. If these powers do not include dealing by regulation with the acknowledged evil of repeated applications for a new certificate to the same premises, the section may be usefully amended to that extent, or beneficially applied if such a power is actually conferred.

4. Transfers.

i. *The Law.*

9 Geo. IV. c. 58, ss. 19, 20. 39 & 40 Vict. c. 26. s. 16.

Transfers are of two kinds—transfer grants and temporary or intermediate transfers.

Transfer grants are made at the two half-yearly meetings. They are grants of certificates to a new applicant for the first time, or to a new applicant who has obtained an intermediate transfer since the last licensing meeting—both for premises previously certificated.

Applications for such grants are treated exactly as new applications, except that they do not require to be accompanied by a certificate of the fitness of the premises, and the grant does not require to be confirmed. The licensing authority has full discretion to refuse them for any reason.

In the interval between the licensing meetings a certificate may be transferred:—

1. On the death of the certificate holder to his executors, representatives, or disponees, by any two justices or magistrates sitting anywhere.
2. When the certificate holder, or his executors, or disponees yield up possession, by any two justices or magistrates sitting in the ordinary place of meeting.

No notice of application is required, and a prior refusal by two justices does not invalidate a subsequent grant.

It appears that these intermediate transfers can only be refused on the ground of the unfitness of the applicant, but it would seem that the powers to make rules and regulations conferred by section 11 of the Act of 1828 as to the mode of procedure in

transfers considerably enlarge the scope of magisterial discretion, as to time and mode of granting transfers.

ii. *Differences from English Law.*

In Scotland the transfer system differs materially from the English system.

In England transfers are granted at special sessions held from four to eight times in the year, and temporary transfers are granted in the intervals between the special sessions.

In Scotland permanent transfers are only granted at the two half-yearly meetings, and what are really temporary transfers are granted at other times.

The Scotch law in these respects is clear and simple as compared with the English law.

iii. *Special Regulations.*

Special regulations as to procedure in transfers are made in some places, but not apparently in more than 12 counties or burghs. Vol. V., c 228.

The rules in Falkirk burgh are the most particular :—

I. The transfer courts are to be held on the third Tuesdays of January and July each year.

II. Fourteen days' notice is required, of applications.

III. Notice of such applications must be advertised 10 days before the court day.

IV. And no transfers other than on death or bankruptcy can be granted at other times.

In other places applications are only considered at quarterly meetings, as in the counties of Renfrew and Dumbarton with a reservation for transfer on death of license-holder, or once a month as in Dundee, Arbroath, Hamilton, or at special fixed dates as in Galashiels, or at a quarterly called meeting as in Elgin burgh, or only in open court as in Kirkcaldy.

Notices of application are required of eight days in Dumbarton county, four days in Dundee, two days in Arbroath.

In the county of Banff and the burgh of Elgin special information and reports from the police on the application are required.

iv. *Complaints as to Transfers.*

In Glasgow, where the convenient classification is made of tranfers on death or bankruptcy, and on the wish of the holder to part with or sell his holding, there is no difficulty with the first two classes, as the discretion of the magistrates is limited by the express provisions of the statute. But in the case of the third class five intermediary courts are held for their special consideration. If the applications are made in April at the statutory court they come up in the form of new applications for already certificated premises, and the public have full opportunity through advertisement of knowing what is going to take place. But applicants who come up at the intermediary courts give no notice to the public and escape all advertisement. Chisholm, 46,817. 46,820. 46,826.

The vigilance of the magistrates, however, prevents the abuse which once existed of undue facility of granting transfers at these intermediary courts, so that in 1896 out of a total of 186 applications for transfers 71 were at the statutory courts and only 65 at all the intermediary courts. That this vigilance is needed is obvious from the fact that it is of frequent occurrence that parties who have got the license in April come up in June and try to get it transferred, and repeat the attempt at the other courts, whether with the object, certainly with the result that they escape the publicity which should attend transactions of that kind.

Mr. Lewis holds that in Edinburgh transfers are too easily granted, and that something like a traffic in licenses is going on in the transfer courts, and so strongly does the chief constable of Aberdeen feel the abuse in granting transfers that he would amend the 19th section of the Home Drummond Act of 1828, and forbid all transfers during the current year, except in the event of death or bankruptcy. The evil he complains of is that a license holder, conscious of the committal of some offence, transfers his license, which is in peril, to another man, and that thus licenses are prolonged, which would otherwise lapse owing to the misconduct of the holder. Lewis, 50,389. 50,391. Wyness, 45,532.

A similar complaint comes from Perth that, inasmuch as when once a license has been granted at the annual court nothing but the character of an applicant can be considered on subsequent transfer, a practice has sprung up whereby licensed premises are sold to a new proprietor previous to and in time for the usual notice for the annual licensing meeting, but a transfer is not applied for till after the meeting, when no one can Wright, 51,816.

appear to object, as the house has been licensed for 12 months, nor can the magistrates refuse except on the one ground of character.

Irons, 50,068. The law which regulates transfer on the death of a holder is said to be evaded, in spirit as well as in letter, by two magistrates sitting in their private room granting a transfer not to the executors or the representatives of the deceased but to a perfect stranger.

A complaint, very much resembling that which we have cited from Aberdeen, of the undue prolongation of a certificate by reason of its intermediate transfer to a man of good character comes from Major Campbell, justice of the peace for Perthshire, who has known cases where, a certificate holder having been convicted, a transfer has been applied for and granted before the next April court, by which time a man of excellent character is in possession and the court is thereby debarred from what would otherwise be a legitimate opportunity of abolishing the certificate.

v. *Recommendations.*

Further restrictions and regulations in the mode of dealing with transfers would seem to be a desirable addition to the law and practice under which they are now conducted, and we are of opinion that the opportunity offered by a transfer should be availed of by the licensing authority, and further powers conferred upon them for reviewing the circumstances under which the application for transfer is made, and for specially inquiring into the terms upon which the transfer is proposed to be effected.

The reasons which are alleged or which may be supposed to influence the transfer should be thoroughly scrutinised, as also the real status of the applicant. Thus the condition of the house or the character of the outgoing man, as well as the character and the circumstances of the incoming, would pass under review, and any expansion of the tied house system to an extent detrimental to the public interest would be checked by inspection of agreements or engagements between the applicant and the brewer or other wholesale dealers.

Transfers offer at present an easy method of escaping that magisterial scrutiny and exercise of discretion, which, as far as possible, in transfers or in original grants, should be the attribute of the licensing authority.

Except in the cases of death or bankruptcy, transfers should only be granted at the annual half-yearly meetings, and in the cases excepted they should be granted at fixed dates once a month, and the business be permitted to be carried on temporarily till the next transfer sessions by a provision similar to that which is contained in the English law.

Angus, 44,788. At present, as is pointed out by Mr. Angus, chief constable of Greenock, on the death of a certificate holder, no fresh certificate is given possibly for five or six weeks, and the business that is carried on during that interruption is unlawful and practically amounts to shebeening.

5. Imposition of Special Conditions.

i. *General.*

In Scotland the imposition of special conditions upon certificate holders is believed to be general—more general than would appear from the answers given to our inquiries on the subject and tabulated in Vol V. pp. 182–3. Considerable powers are possessed at present by the licensing authority, but to clear up any doubt as to the extent of these powers, or any ambiguity of interpretation that may attach to the provisions of section 11. of the Act of 1828, it would be well expressly to confer power to lay down byelaws on such points as sanitary and structural requirements.

Chisholm, 47,336. Smith, 46,185. Under the general discretion recognised as belonging to the licensing authority conditions are imposed upon the licensee not to reside on the licensed premises; the plurality of licenses is restricted and other important details are regulated. Wherever these powers need to be strengthened and rendered more explicit, the proposed byelaws should cover the ground. They should be drawn up in the first instance by the licensing authority, and might require sanction by the Secretary for Scotland.

Closing hours which are also the subject of regulation will be dealt with at a later stage.

ii. *Non-residence of Certificate Holder.*

Separation of the licensed premises from the dwelling-house is very generally enforced, and provision made for absolute severance of communication with the same except through the regular entrance. This provision is especially useful in preventing sales during prohibited hours, secret drinking, and other abuses, and also tends to encourage in the mind of the certificate holder a strong predilection in favour of Sunday closing, as, like other traders, he is unwilling to leave his residence for his place of business on that day. In many places he is not allowed even to reside on the same premises, however separated from the licensed portion—but in some country districts this might not be possible. Vol. V., p. 182.

Greenock was one of the first towns to enforce non-residence and now in all large cities and in many counties the rule prevails. That the condition should be statutorily specified is advocated on high authority, and we agree in the suggestion, though exceptions would have to be made in the case of hotels as the witnesses admit, and in some country places; otherwise the rule should be of as universal application as possible that license-holders should reside apart from the licensed premises not even in adjoining premises when this can be carried out, and this should also apply to licensed grocers. Angus, 44,753. Dewar, 43,952. Captain McHardy, 47,796. Harding, 45,189. Rev. P. R. Mackay, 50,987.

iii. *Construction of Premises.*

Besides the separation of the premises already referred to, a great number of licensing authorities impose conditions prohibiting back or side doors, boxes, closed rooms, partitions and barricades, which prevent easy supervision over the entire premises. This is more common in burghs than in counties. Vol. V., p. 132.

In some quarters a statutory definition of a public-house is advocated, but on different grounds, one being that such a definition would protect the certificate holder from variation in requirements according as the justices or magistrates might vary—or as the chief constable might hold to be necessary; no rateable test of value being now required for either a public-house, grocer's certificate, or a hotel, the condition of "suitability" is, it is contended, open to constantly changing opinion, and the changes are or may be harassing and vexatious to the certificate holders. Angus, 44,783. Wyness, 45,404. Haig, 55,907.

Another ground for desiring a definition is that many public-houses are so constructed that supervision by the police is rendered very difficult. In counties such as Banff a great many of the ordinary dwelling-houses are used as public-houses, have no bars properly fitted up—no special place set apart for drinking—with the result that drinking goes on in kitchens and other rooms, to which the police take objection.

But there seems to us to be no sufficient reason why properly exercised discretion on the part of justices and magistrates should not have free scope in dealing with irregularities and gradually enforcing a standard of suitable requirements.

6. Extension of Powers of the Licensing Authority.

There are a few exceptions to the complete control of the licensing authority over the sale of intoxicants, which it is advisable to remove.

i. *Wholesale Licenses (excepting those required by Brewers, Distillers, Wine Merchants, and Blenders).*

The excise licenses for wholesale beer and spirit dealers are now taken out directly from the excise, no justices' certificate being required.

Persons frequently take out the wholesale license as a cover for shebeening, and because they are entitled under it to keep liquor, the police are not able to get a warrant to search the houses, though they are satisfied that a surreptitious retail sale is going on, and an illegal traffic being practised.

Mr. Dewar says that the holders of these wholesale beer and spirit licenses, from whom no qualification of conduct or character is required, are entitled to sell during the night and on Sundays, and it is easy to understand that they sell in less quantities than the $4\frac{1}{2}$ gallons of beer, and the 2 gallons of spirits which constitute wholesale dealing; that, in fact, they act with double illegality, selling by retail and selling for consumption on the premises as well. Dewar, 44,127.

In Dumbartonshire they are largely availed of by bottling-store keepers, who hawk the villages and colliers' rows without keeping a proper record to show that orders have been previously given. C. A. McHardy 45,761.

The chief constable of Greenock strongly condemns these "licensed shebeens." A person, frequently a thief, pays 3*l.* 6*s.* 1*d.* to the Inland Revenue for the wholesale beer license, and obtains from the same department leave to sell at a specified place, where in some kitchen or back room he carries on a retail sale in beer and whisky, and defies a search warrant, as being authorised to keep and to sell.

Angus, 45,107. 45,108.

He suggests that the supervisor of excise should be required to give notice at a proper time to the chief-constable of all applications for these licenses. There would then be an opportunity given of raising objections, and an objection to an applicant on the ground of character or inability to carry on a wholesale business should preclude the supervisor, in the event of the proof being sufficient, from issuing the certificate. Such is the suggestion of the chief constable of Greenock.

Anderson, 47,540.

Whether by this means, or by what appears to be even preferable, namely, making a justice or magistrate's certificate a condition precedent to the issue of a wholesale license by the excise, much, if not all, of this grave abuse would be abated.

We are of opinion that as the licensing authority should have complete control over the retail trade, they should also have full discretion over such licenses as those above referred to, whereby gross illegality is rendered easy and the legitimate trade seriously affected.

ii. *Sale in Theatres.*

5 & 6 Will. 4. c. 39. s. 7.

No certificate is required for the sale of liquor in theatres or other licensed place of public entertainment; but, in Glasgow, certificates have been required since 1893, as we have already explained.

Cf. Irons, 50,088.

All these places should equally be under the regulations of the licensing authority, and should require their certificate.

iii. *Sale on Packet Boats.*

43 & 44 Vict. c. 20. s. 45. 45 & 46 Vict. c. 66. s. 1.

The excise licenses for sale on these boats are the same as in England, but they are endorsed with a condition forbidding sale during a voyage commencing and terminating during the same Sunday.

Since the passing of the Passenger Vessels Licenses Amendment Act, 1882, which imposes this condition, the disorderly scenes which were frequent on Sunday nights in Glasgow on arrival of the vessels have entirely ceased, and, says the chief constable, "it is all quietness."

Boyd, 43,718.

But all such licenses should require a previous certificate from the licensing authority of the port of departure, and the authorities of the ports of call and arrival should be given a power of objection.

In Dundee and elsewhere byelaws are in force prohibiting the sale of intoxicating liquor within the harbour, and the terms of the certificate to licensed vessels should certainly prohibit such sale, and the byelaw of Dundee might with advantage be extended to other ports

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CHAPTER VII.

CLOSING REGULATIONS.

1. Hours of Closing.

i. *The Law.*

25 & 26 Vict. c. 35. s. 2. 50 & 51 Vict. c. 38. s. 10.

On Sundays, licensed houses are closed all day, an exception being made for hotels, where lodgers and *bonâ fide* travellers may be served.

On week-days, licensed houses open at 8 a.m. and close at 11 p.m.

Except in burghs and populous places, having a population of over 50,000, the licensing authority may fix the hour of evening closing at 10 p.m. instead of 11 p.m. by an order remaining in force for one year, and in any particular locality of any licensing district the licensing authority may insert in the certificate an earlier hour of opening, not earlier than 6 a.m., or an earlier hour of closing not earlier than 9 p.m.

Licensed grocers are not obliged to close their premises during closing hours but only to abstain from selling intoxicating liquors.

ii. *Sunday Closing.*

The practical unanimity of Scottish opinion renders it impossible to question the success and unnecessary to discuss the policy of Sunday closing. No single class has asked for the repeal of the Forbes Mackenzie Act, and it is universally considered that it should be maintained. Dewar, 44,257. 44,258.

There is no person of experience and knowledge of Scotland who would think of going back. Boyd, 43,796.

There has been no agitation among the members of the Trade to repeal the Act. Purves, 55,302.

The re-opening of public-houses would not be listened to for a moment. Dick, 51,347.

There is no tendency in Glasgow to go back, but the very reverse. Chisholm, 46,905.

Not half-a-dozen publicans in Edinburgh would assist or encourage an agitation for the repeal of the Act, nor is there a constituency in Scotland which would return a member who announced himself as in favour of such repeal. E. Lewis, 50,470. Rev. J. Hunter, 49,300.

The success of the Act is so generally recognised that the Free Church has ceased to record it in their reports. Wyness, 45,486.

Publicans would object to its repeal more strongly than any other body. Dr. Kerr, 74,132.

The effect of Sunday closing on arrests for being drunk and incapable is well shown by a table put in by Mr. Wyness, chief constable of Aberdeen, of arrests in that city. Sunday is reckoned from 8 a.m. on Sunday to 8 a.m. on Monday. The figures are: — 45,463.

Number of Persons who were Drunk and Incapable.

Year.	On Week Days.			On Sundays.			Total.
	Male.	Female.	Both Sexes.	Male.	Female.	Both Sexes.	
1890	205	104	309	1	1	2	311
1891	206	94	300	1	0	1	301
1892	264	112	376	2	0	2	378
1893	195	94	289	0	0	0	289
1894	259	116	375	2	0	2	377
1895	247	110	357	3	0	3	360
1896	217	104	321	2	0	2	323

Similarly, Mr. Dewar tells us that the average number of persons arrested in Dundee for all offences from 8 a.m. on Sundays to 8 a.m. on Mondays is 2, whereas for the same period on other days it is 10. 44,283.

It is unnecessary to quote more evidence.

iii. *Hours of Closing on Week-days.*

The discretionary power of early closing, conferred by Sir Charles Cameron's Act of 1877, has practically been everywhere put into operation, and, here again, there is an overwhelming concurrence of favourable testimony.

In Perth, where, from the beginning, the magistrates have unanimously closed the public-houses at 10, the results have been beneficial all through, and quite a number of license-holders themselves approve of the Act. Wright, 51,795. 51,798.

Provost Smith, of Peterhead, says the substitution of ten for eleven o'clock in the smaller burghs has been a positive blessing to the community. Smith, 46,180.

There are no two opinions in Ayrshire as to the highly beneficial effect of the Act. Captain McHardy, 48,034.

A representative of the Licensed Trade Associations in Dumbartonshire speaks to the good result of 10 o'clock closing, in such communities as the Royal burgh of Dumbarton where it appears to have been the rule even before Sir Charles Cameron's Act came into operation. The license-holders have nothing to complain of, one way or the other. 48,035. Kirk, 54,784.

A similar opinion is expressed by a licensed grocer and wine merchant of Callander, Stirling, and other places. Speaking as provost of Callander (a police burgh), he declares that no objection is entertained nor inconvenience felt in his district, and goes further by suggesting that if grocers close at 10 p.m. for the sale of intoxicating McEwen, 54,373.

liquor, they should not be allowed to keep their shops open for sale of groceries after that hour, when black sheep might be and are tempted to do an illicit business.

Rev. P. R. Mackay 51,057. The Dunbar magistrates, who, for the convenience of residents, in summer, have closed at 10, for all but two months in the year, are now contemplating following the example of North Berwick and closing at 10 throughout the year.

Craig, 46,684. All through Midlothian early closing prevails with beneficial results.

Further testimony was presented to us, but the above will not only suffice to show the successful working of the Act of 1887, but warrants the opinion that statutory enactment may replace discretionary powers, that 10 o'clock should be the fixed hour of closing, and that discretion may be left to the licensing authority to close an hour earlier, at 9 o'clock. The experience of 10 o'clock closing is conclusive in its favour.

iv. *Early Closing for the exempted Towns.*

In the Public-house Closing Act of 1887, the effects of which we have just been describing, there was a provision by which seven large towns were exempted from the 10 o'clock option.

The seven towns thus exempted by reason of their excess of population over 50,000 are—

Edinburgh.
Glasgow, with adjoining districts.
Greenock.
Leith.
Aberdeen.
Dundee.
Paisley.

All the exempted burghs have petitioned for the discretion of closing at 10.

Pollard, 55,558. In Edinburgh the city council have petitioned for discretionary power of closing at an earlier hour than 11, and the bench, speaking of them in their collective capacity, would, it is believed, favour the grant of such discretion, whether in the suburbs or in the centre of the town.

Boyd, 43,704. 43,815. Chisholm, 46,890. Mr. Boyd, the chief constable of Glasgow, thinks restriction to 10 o'clock would be both desirable and practicable in that large city. Bailie Chisholm speaks of the dissatisfaction in Glasgow at the absence of the discretionary power.

Dewar, 44,056. Appendix XIX., Vol. VI., p. 465. Mr. Dewar says Dundee would reap advantage if possessed of the same power as the smaller burghs, and a letter, addressed to our Commission by the town clerk of that city on behalf of the Lord Provost and magistrates, expressly asks that the Act of 1887 may be so amended as to include the scheduled (exempted) burghs. This recommendation is endorsed by the town clerk himself, as an experienced justice.

Wyness, 45,487. The magistrates of Aberdeen desire to be possessed of the discretion to close earlier, and have passed resolutions to that effect, and here, too, the chief constable is in favour of such an amendment of the law.

Angus 45,105. The chief constable of Greenock would like to see the trial made, and, though not sure of what the result would be, sees no objection to the grant of the permissive powers.

Considering the fact which we have already noted, that the power is discretionary, and that, if the Act is adopted, the closing order endures for only one year; and taking into account the good results which have attended the adoption of the Act, and the strong public opinion in its favour, we think that the exempted burghs should be brought into line with the others, and the magistrates be invested with a power of making the experiment which has so signally succeeded elsewhere.

v. *The Discretionary Power to alter the Hours of Opening and Closing under the Act*, 1862, *s.* 2.

The magistrates in Rothesay attempted, in 1872, to exercise the discretion conferred upon them by the Act of 1862, of deviating in special localities from the laws of opening and closing, which were the general rule, by drawing a line which included every licensed house, by declaring the area so included a special locality, and by closing all licensed premises therein at 10 p.m. They were defeated on appeal to the House of

Lords, which confirmed the decision of the court of session, that the area, so created, was not a special locality under the Act.

Since that decision the powers invested by the Act do not appear to have been exercised, though it may excite surprise to find that the magistrates in the exempted burghs have never, by the creation of lawful special localities, made the experiment of reduction of hours in some of the worse portions of those crowded cities.

vi. *Closing on New Year's Day, Holidays, &c., &c.*

At present the licensing authority frequently issues recommendations to certificate holders to close entirely at or after certain hours on New Year's Day. Dewar, 44,445.

In Dundee the magistrates have for years recommended the closing of houses on New Year's Day, and have provided free concerts for the people on that day. Boyd, 43,889.

The majority of the houses closed in Glasgow, on the recommendation of the magistrates, but round those which did not close disgraceful scenes have occurred. 43,890.

Partial closing, *i.e.*, after 5 p.m., as recommended by the magistrates, has been universally observed, to the improvement and promotion of sobriety in Aberdeen. Wyness, 45,417.

In Perthshire a similar injunction has had good results. Campbell, 48,143.

In Renfrewshire some collision of opinion occurred between the Licensed Victuallers' Association and the justices who had recommended entire closing, but a compromise was effected, and 12 noon to 6 p.m. are now the open hours on New Year's Day. Harding, 45,291.

A wine and spirit merchant in Edinburgh objects to entire closing, and says that the magistrates do not think the experiment very successful, and, though he admits 4 o'clock p.m. was approved of as the closing hour, objects to magisterial discretion and prefers statutory obligation strictly limited and defined. Robertson, 54,261. 54,262.

In Dumbarton the closing of the public-houses drove the people into the hotel—when confusion and rowdyism resulted—and it was felt that it was impossible to close the one class of licensed house and leave the other open. Kirk, 54,762.

Some of the above-cited witnesses, it will be seen, disapprove of closing, others advocate discretionary power to close on certain days. The best solution of the question would seem to be to give the licensing authority discretionary powers to close on New Year's Day, holidays, and election days, either for the entire day or during certain hours.

vii. *Hours of Closing and Evasions of the Law.*

It is often asserted that restriction on the hours of sale must be followed by an outburst of bogus clubs and shebeening, and that drinking is only driven into illegitimate channels of supply. Undue restriction may doubtless lead to such a result, but no such effect has followed in Scotland, where clubs are very few, and where complaints are rare. Shebeening does not prevail to any considerable extent, nor does early closing appear to have promoted that offence.

Thus, the chief constable of the county of Aberdeen says, that, so far as he knows, no increase has taken place in shebeens since early closing, nor has he heard any complaint either against Sunday or early closing hours. Gordon, 48,589. 48,708.

In Dundee, shebeen convictions average 31 a year over 33 years, and last year there were 14 only, and at the present time there are only 10 suspected shebeens; Mr. Dewar says, "They have got to a very low ebb." Dewar, 44,024. 44,016.

The chief constable of Glasgow, admitting that shebeening would go up by leaps and bounds, if it were not strictly kept under by the police, states that a general all-round improvement is noticeable, and advocates 10 o'clock closing on Saturday night. He does not think it would increase shebeening; and, if it did, the evil could be satisfactorily grappled with. We have already quoted this witness to the effect that the majority of the people of Glasgow, were they asked, would be in favour of the earlier closing hour of 10 p.m.

2. Bonâ fide Travellers and Six-day Licenses.

i. *The Law.*

Hotels are not allowed by the terms of their certificate to permit or suffer any drinking on any part of the premises, or sell or give out therefrom any liquors before 8 o'clock in the morning or after 11 at night of any day, with the exception of refreshment to travellers and lodgers, nor at any time on Sundays, "except for the accommodation of lodgers and travellers." 50 & 51 Vict c. 38. s. 4.

The statutes contain no definition of a traveller, and there is no necessary limit of distance, as in the English law.

3 R. (J.C.) 34 (1896).

In Oliver *v.* Loudon it was held by the court, on review, that a traveller is entitled to get drink on Sunday, not only for his own consumption, but for consumption by his friends, though they may be resident in the place where the liquor is supplied.

Dickson, 42,293. 42,294.

14 R. (J.C.) 13 (1886).

In Dickson *v.* Linton it was held that persons who had walked only two or three miles were travellers in the sense of the statute and were entitled to get drink.

Captain McHardy 47,747.

13 R. (J.C.) 61 (1886).

In Welsh *v.* Stewart, it was held that a traveller may not only consume drink on the premises, but may take away what he wants.

ii. *The Traveller Nuisance.*

The vagueness of the law, coupled with the interpretation put upon it, as in the above decisions, has afforded wide scope for the evasion of the spirit of the Act, and the so-called *bonâ fide* traveller has not failed to become a very considerable nuisance in many places. The opinions of our witnesses were nearly unanimous on the point:—

Dick, 51,494.

The *bonâ fide* traveller is an obstacle to the effectual carrying out of Sunday closing in Scotland.

Smith, 46,532.

He pleads his *bonâ fide* character after a walk of a mile or two.

Dewar, 44,184.

An hotel in Broughty Ferry, a suburb of Dundee, was visited by them in such numbers that it had to be done away with.

Angus, 44,724.

The same thing happened to an hotel in Pollockshaws 30 years ago, for the same reason of crowds and disturbances, and the Paisley magistrates have recently attempted to confine the accommodation in hotels to lodgers only, by striking out from the certificate the words "and travellers."

Captain McHardy, 47,695. 47,715. 47,740.

In Ayrshire these travellers are a great nuisance in the little villages where there is no need for an hotel, and where houses have been licensed as hotels which are nothing more than public-houses, with a seven-day license. The Sunday Closing Act is thus defeated and an unfair privilege granted to these so-called hotels over the ordinary public-house.

Carlow, 49,655.

The creation of these merely nominal hotels is due to the influx of these travellers, who have gone a three miles' journey.

Mackay, 50,958.

It is an abuse that a man who has himself walked a certain distance should meet people out in the street and be able to bring them in and all drink together.

50,896. 50,916.

From Edinburgh to Portobello the magistrates have granted to the hotels along the road six-day licenses only, thereby preventing supply to the so-called *bonâ fide* traveller, and in Haddington burgh considerable success has attended an arrangement between the magistrates and the hotel-keepers, that only a certain number should open; two on one Sunday, and three on the next.

iii. *Effect of a Six-day License in Scotland.*

It is necessary here to explain the effect of granting a six-day license.

The Revenue Act, 1880, extended to Scotland the provisions relating to six-day and early closing licenses contained in s. 49. of the Act of 1872, and ss. 8–9 of the Act of 1874, but did not so extend s. 10. of the latter Act which allows sale on Sundays under a six-day license to lodgers in the house.

In Scotland the only licensed houses which can sell at all on Sundays are hotels and inns, and the result of the application of the above provisions to Scotland is, that if a hotel takes out a six-day license it is reduced to the position of a public-house, and can sell neither to travellers nor to lodgers on a Sunday.

iv. *Recommendations.*

Vol. VI., p. 426.

The action of the Paisley magistrates already referred to, and the similar proceeding in Glasgow of striking out from the certificate the words "and travellers" has been held to render the certificate invalid; and it has been suggested, and it appears to us to be a satisfactory way of solving the difficulty, that statutory power should be given to the licensing authority to strike out the words "and travellers," and thus retain the privilege of sale to lodgers in the house.

Dickson, 43,397. Craig, 46,683.

This discretion might include the power to fix certain hours during which the *bonâ fide* traveller might be served, instead of letting them, as now, have "the whole of the run of Sunday." Dove Wilson, 70,168.

A minimum distance, say seven miles, should be fixed as qualifying the traveller for refreshments.

By these alterations of the law the nuisance caused by the *bonâ fide* traveller, under the present system might be sensibly abated.

CHAPTER VIII.

APPEALS TO QUARTER SESSIONS.

i. *The Law.*

There is an appeal to county quarter sessions against refusals to renew or transfer a certificate both in counties and burghs. 9 Geo. IV. c. 58. ss. 14, 25.

There are no burgh quarter sessions as in England, as there are no burgh justices, but three cities are also counties with a separate commission of the peace and in these, viz.: Edinburgh, Glasgow, and Dundee, the appeal lies to the city quarter sessions. 39 & 40 Vict. c. 26. s. 16.

Glasgow and Dundee have only been counties of cities since 1893, and Edinburgh since 1882.

ii. *Appeals from Burghs.*

During 10 years 1886–96, there have been, excluding Inverness, which sent in no returns, and Edinburgh city, which during the whole decennial period had its own quarter sessions, and Glasgow and Dundee cities during 1894–6, when they had their own quarter sessions, 490 appeals, of which 235 were allowed, and 255 dismissed or abandoned. Vol. V., p. 197.

A great discrepancy of opinion is thus manifested between the decision of the local and of the external authorities.

As in England the appeal from the burgh magistrates to county quarter sessions is felt to be a great grievance.

The feeling on this subject is very strong in Aberdeen, and in 1891 the town council memorialised the Prime Minister that the county justices should no longer have the power to interfere in licensing matters affecting the city. If there is to be an appeal it should be made, thinks Bailie Kemp, to men within the city. Kemp, 72,838, 72,849.

Mr. Wyness, chief constable of Aberdeen, speaks very strongly. He said that during the last 9 or 10 years the efforts of the magistrates had been constantly thwarted by the county quarter sessions. Justices were whipped up to attend from all parts of the county by active canvassing. From 1880–90 the average number of justices attending quarter sessions did not exceed 10. But when the Aberdeen magistrates took a strong line in reducing the number of certificates, the attendance immediately jumped up to 60 or 70. When a case in which they had been particularly interested had been disposed of, 10 or 12 justices would disappear together in a batch. 45,538. 45,373.

As far as Peterhead is concerned, the provost thinks that the appeal to quarter sessions is of no use, and that its tendency is rather injurious than otherwise—but subsequently he modified this opinion; and said he would be content with an appeal committee, instead of for the present haphazard gathering. This select court of appeal would do away with the whipping-up which is a feature of the present system. Smith, 46,138. 46,510.

The chief constable of the county of Aberdeen mentions a case where the justices came together with the evident intention of reversing the decision of the burgh magistrates, leaving the court in a body after that particular matter had been decided, and not stopping to attend to the remaining business. Gordon, 48,596. 48,600.

He advocates a court of appeal constituted of justices of the peace elected by quarter sessions, county councillors elected by the county council with other

representative members and with the sheriff or substitute to act as chairman. The number of the court to be fixed according to area, population, valuation, and other considerations by the Secretary for Scotland.

Bailie A. Wright, 51,857. 51,861. 52,077.

A complaint comes from Perth that at least 50 per cent. of the certificates withdrawn by the local magistrates are re-granted by the quarter sessions. None of these were withdrawn on the ground that there are too many, but were all of them cases in which the reasons for withdrawal had been misconduct of the licensee or unfitness of the house. The witness thinks that a court of appeal is quite unnecessary, but if there is one, it should lie to the justices resident within the borough.

iii. *Appeals to City Quarter Sessions.*

In Edinburgh, where during the above period, 1886–96, appeal lay from the magistrates to the city quarter sessions, of 51 appeals, 40 appear to have been dismissed and 11 allowed.

Not sufficient time has elapsed since Dundee become possessed of its own quarter sessions to enable a comparison to be made or a judgment formed as to the effect of the change, but from 1894–96 five appeals have been allowed and five have been dismissed.

Dewar, 44,545.

In fact it was the dissatisfaction in Dundee at the results of appeals to the county bench which in a great measure brought about a change, otherwise Dundee might not have been as it is to-day, a county of a city.

In Glasgow appeal even to the city justices is felt to be a grievance.

Chisholm, 46,860. 46,872.

For instance, in 1893, 14 appeals were so taken, and the magistrates' decision was reversed by the justices in 7 out of the 14. In 1894 out of 21 appeals the previous decision was reversed in 15, and out of 22 appeals in 1895 15 were successful, and 34 out of 37 in 1896. In 1897 the justices reversed the magistrates' decision in 31 out of 34 appeals.

Dick, 51,255, *et seq.* 51,555. 51,591.

It is indeed alleged that the decisions which were thus reversed on appeal were taken on narrow grounds and created hardships which the court of appeal felt it to be their duty to rectify.

But the same witness who makes or admits this suggestion would limit the number of the court of appeal which he says is so numerous that it cannot be properly called a court, and recommends a court of, say, 14 elected out of their own body by the justices, who are becoming more and more representative of the citizens at large. The court of appeal would then be greatly reduced in number, and would constitute a workable court composed entirely of justices to hear appeals from a court composed entirely of magistrates.

iv. *Appeals against refusals of new Certificates before* 1876.

Chisholm, 46,866.

Before the Act of 1876 there was an appeal to quarter sessions againt the refusal of a new certificate. The year before this was abolished there were 25 such appeals from burghs in Scotland allowed, including 14 from Glasgow.

The history of the Stornoway certificates shows a similar instance, in which the decisions of the local authority in refusing new certificates have been reversed. It is clear that the grievance against quarter sessions is not a new one.

v. *Appeals from Counties.*

Vol. V., p. 79.

There is also a good deal of dissatisfaction as regards appeals from counties where —excluding Inverness-shire, from which county no reply has been received to our inquiry—out of 368 appeals 179 have been allowed and 189 dismissed or abondoned.

It will be noticed that the same general results are to be found in the counties as in the burghs.

The appeal in counties which have not been divided into separate licensing divisions has been rightly described as "an appeal from one scratch gathering of county justices to another scratch gathering."

Captain McHardy, 47,809. 47,813.

In Ayrshire there are 400 justices. As many as 84 have attended on an appeal case, and an attendance of 50 or 60 is not at all unusual. The number therefore is too great and the constitution of the courts too uncertain; a regular body guided by uniform principles would be an advantageous substitute for a fluctuating body liable to be canvassed.

In Stornoway and the Lewis the licensing question has been a burning one for 30 years. In 1868 there were in all 13, *i.e.*, 7 hotels and 4 grocers' licenses in the burgh of Stornoway and 2 hotels in the landward part of the island; three new applications for certificates were heard and refused, but, on appeal, were granted by quarter sessions, and the hour of closing for these 3 was fixed by quarter sessions at 11 p.m., although 9 p.m. was the closing hour for the other houses. The inequality in the hours of closing produced "a lot of abuses." In 1872 a grocer's license was applied for at the Stornaway court, was refused, and was granted on appeal.

In 1877 the action of the proprietor suppressed the 2 landward hotels and turned them into temperance hotels, so that in Lewis, since 1877, no intoxicating liquor could be procured outside the burgh of Stornoway. By the year 1890, through death, voluntary retirement, and transformation into coffee-houses, only 3 hotels and 2 grocers' licenses were left, all situated within the burgh.

A very large number of ratepayers and other residents from the whole district, the burgh and the landward part, then petitioned against the renewal of the existing and against the grant of new certificates. The old certificates were renewed, but 4 new applications were refused by the local justices.

In 1891 the existing certificates (5) fell, as the local court was equally divided. In all five cases an appeal was successful. In 1892 the same thing happened, but the 2 grocers' licenses were not restored by quarter sessions.

In 1893 the justices objecting to the increased long bar accommodation in the three remaining hotels, and the licensees refusing to comply with the request for restriction, all the certificates were refused and restored on appeal.

In 1894 precisely the same thing happened, and in 1895, 1896, and 1897, refusal and restoration on appeal followed as before. 47,427.

Such is a history of the Stornoway and Lewis case, as stated by the witness, Mr. Anderson, provost of Stornoway and ex-officio justice of the peace. The case is claimed both by the supporters and opponents of the appeal to county quarter sessions as a startling vindication of their views. 47,537.

The supporters of the appeal argue that this is a striking case of the wrongs committed by local prejudice and extravagance being set right by a superior and unprejudiced court. On the other hand, it is replied that here is a body of local justices alive to the feeling prevalent in their district, and acting to the best of their belief for the interests of the locality, and yet their decisions year after year are reversed by another body of justices, sitting at Dingwall, distant 60 miles by sea, and 65 by land, 125 in all, who know nothing, and care less, for the needs and feelings of the district.

Without deciding on the merits of the present stage of the dispute, there must be something greatly wrong in this constant reversal of the local authority, which has been going on over so many years. It does not follow that the local justices have been invariably right in their decisions, but we may reasonably draw two inferences from the story:—(1) that there should be some appeal, or at any rate, a rehearing, to avoid the dangers of a hasty decision; and (2) that some reform should be introduced to prevent local sentiment and feeling from being altogether disregarded.

Suggested Reforms.

It is impossible to resist the conclusion, upon a survey of the whole subject, that, as at present constituted, the appeal to quarter sessions has not generally worked satisfactorily. Chisholm, 47,365. Wright, 52,076. Hunter, 49,393. Kemp, 72,849. Smith, 46,510. Craig, 46,672. Dick, 51,255. Captain McHardy, 47,811. 47,812. Gordon, 48,600. McEwen, 54,364. Haig, 55,865

The principal suggestions for reform which have been made to us by various witnesses are—

1. The entire abolition of appeal. This is advocated rather as an ideal than a practical principle, the witnesses generally consenting to modify their views to some second best but feasible reform.
2. A special committee of justices, which might be elected from their own number, as the confirmation committees are.

   Such a court as the county licensing committee would be preferable to the present quarter sessions. They might be chosen from the different districts of the county and so retain local knowledge and control.
3. A specially constituted committee, *e.g.*, justices, county councillors, representatives of Royal and parliamentary burghs, with sheriff or substitute as chairman; or its composition might include chairman and vice-chairman of the county council, chairman of districts and parish councils, with a sheriff principle as a legal guide.

Rev. P. R. Mackay, 50,965. 50,993. Wyness, 45,542. 45,543.

4. Appeal to lie to the sheriff from a licensing committee, composed like the resent standing joint committee of the county, or from nominated boards. The sheriff would be, thinks Mr. Wyness, "a very safe appeal court."

The extent to which a court of appeal may be necessary is intimately connected with the constitution of the licensing authority in the first instance.

CHAPTER IX.

THE RECONSTITUTION OF THE LICENSING AUTHORITY.

There does not appear to be any general wish to change the licensing authority in burghs, but as regards the counties it is generally felt that licensing matters should be in the hands of a fixed committee of some kind. A body that is constantly fluctuating loses its sense of responsibility and ceases to act on definite and uniform principles.

Campbell, 48,114. Carlow, 49,650. Irons, 49,666. 49,986. Gordon, 48,583. Harding, 45,201.

A strong wish is also entertained for the introduction of the popular element, whether by a joint committee of justices and county councillors, a committee of the county council, or a board directly elected.

The analogy of the election of magistrates would seem to recommend the election of a committee of the county council, but on the whole the best course appears to be to adopt the plan of a joint committee of county council and justices. A similar joint committee should constitute the appellate body.

Rev. P. R. Mackay, 50,938. 51,051. Haig, 55,863. Nasmyth, 52,394.

In counties of cities the appellate body should be elected, one half by the justices of the peace for the county of the city, and one-half by the town council; and in burghs, whether Royal, Parliamentary, or other, one half by the town council, or Police Commissioners, and one half by the justices of the peace for the county in the district in which the burgh is situated.

An appeal to the court of session on a stated case on points of law should be allowed.

There would be no necessity for having two bodies, one for confirmation and one for hearing appeals. The appellate body as sketched above would be quite competent to discharge both functions.

CHAPTER X.

SPECIAL PERMISSIONS.

i. *The Law.*

25 & 36 Vict. c. 35. s. 6.

The chief magistrate, or the two senior acting magistrates of a burgh, or any two justices in a county, may grant special permissions to hotel or public-house keepers to keep open after closing hours, or to sell in some other premises for a public or special entertainment, except on Sundays. The entertainment must be for a public or special occasion, of a legitimate and proper character, and not originating directly or indirectly with the person who holds the certificate. Twenty-four hours' notice of the entertainment must be given to the police by the person who obtains the special permission.

The justices or magistrates have power to make general regulations, as they shall think fit, to which such special permissions shall be subject.

When the sale is elsewhere than on the licensed premises, an occasional license has to be taken out from the excise.

ii. *Special Regulations.*

Special regulations are in force in many places.

A very common provision is, that applications should be made only on a specified form, to be procured from the clerk of the peace or the police, thus ensuring some kind of notice, whereas in some places a certain amount of notice is required, *e.g.*, in Berwickshire, 6 days; Haddingtonshire, 6; Selkirk county, 4; Aberdeenshire, 4; and so on. Vol. V., p. 228.

Limitation of hours is laid down, *e.g.*, Perthshire, not beyond 3 a.m.; St. Andrews, 2 a.m. in the case of balls, &c.

If a justice in Clackmannan, and other localities, refuses the application, he must write "refuse" across the application, thereby precluding another justice from granting the permission asked for. Under some regulations the nature of the entertainment must be defined (Paisley), and in Haddington county the provision is inserted that a "sufficient supply of food and non-intoxicating drinks be provided at reasonable prices."

iii. *Complaints.*

It is complained that in Aberdeen special licenses are granted too freely under the Act, and that picnics and social gatherings for which they are granted are not such as the Legislation contemplated. The young of both sexes are thus led into drunkenness. Wyness, 45,426.

In the county of Banff they are obtained, and without any restriction of hours, for displenish sales, which are not proper occasions for their grant. Haig, 55,954.

Mr. Lewis questions the practice in Edinburgh, and asserts that these licenses are granted by one acting magistrate, and not as provided for in the Act. Lewis, 50,378.

Mr. Irons also speaks of the laxity with which they are granted in Edinburgh, as compared with Leith. 50,382. Irons, 50,077.

An abuse is mentioned in Perth, where it is stated that a committee, say of a cricket club, purchase liquor in considerable quantities, sell it by retail on the ground to their own members, who bring in their friends, a good annual profit being thus obtained. Wright, 51,828. 51,868.

The Perth magistrates have tried to charge special fees for their licenses, increasing as the hours are extended, but they have been advised that this is not legal. 52,011.

The power to make regulations should be maintained, but while we doubt whether a further definition of special occasions is possible, we would suggest—

(i.) That special permissions should be granted only in open court; refusal to be final.

(ii.) That 6 days' notice should be required.

CHAPTER XI.

SERVING CHILDREN.

By the terms of the certificate no child under the age of 14 can be served with liquor for its own consumption; but children are allowed as messengers—if messengers of an adult—though it has been held that a child messenger frequently going for drink establishes a kind of "use and wont," and that no special inquiry is needed in that case, whether he is messenger of an adult or otherwise. 25 & 26 Vict. c. 35, Schedules. 13 S.L.R. 163.

Though it appears from the decisions (*see* Donaldson *v.* Linton) that the burden of proof is on the accused to show that the child was a messenger, yet the loopholes are so large that, as Captain McHardy asserts, it is as easy as possible for children to obtain liquor under the guise of messengers. Captain McHardy, 47,755. 47,758.

On the very next day after the witness, the Rev. J. Reid, had tendered his evidence on the point, a petition was to be presented to the Dundee magistrates, urging 14 as the limit below which no child should be served for consumption off the premises. There is no legal power on the part of the magistrates to enforce this provision, but it was hoped that the recommendation, if made to the license holders, would meet with their sanction and co-operation. Ministers, and working-men representatives of trade councils, school board, charity organisations, and chambers of commerce, had signed the above memorial, in the interest alike of the community and of the children. This memorial was presented in February 1898, and on March 23 the town clerk addressed to us a letter on behalf of the Lord Provost and magistrates, urging, among other reforms, that the selling or supplying of liquor to children under 14 years of age, even though they be messengers, should be absolutely prohibited.

See Letter, Vol. VI., p. 465. Appendix XIX.

The judges have held that the prohibition in the certificate applies to a child purchasing liquor for its own use, which the town clerk, in the letter just referred to characterised as an absurdity unknown in Dundee, the real evil consisting "in the contaminating influences and bad example" of the public-houses.

Dewar, 44,070.

That the example quickly operates is clear from the evidence of Mr. McHardy, chief constable of Dumbartonshire, who has seen no less than six children who had been sent as messengers, and who having sipped the liquor by the way had become drunk, some of them so drunk that the doctor had to be summoned, and to apply the stomach pump, so doubtful was their recovery. Two of the publicans who had supplied the liquor were summoned, but got off under the decision of the High Court that if the child was a messenger no conviction could follow.

C. A. McHardy, 45,791, 44,798.

Captain McHardy, of Ayrshire, says that he has known some shocking cases of juvenile depravity and juvenile drunkenness arising from the ease with which children obtain liquor. No child under 16 should be served at all. He had made special inquiries among the working classes and among publicans, and could not find that it would be an inconvenience to anybody.

47,755.

Mr. Wyness could mention cases of child messengers becoming incapacited through drink, but "supposes that is quite a common thing now and again over the whole country," and though he cannot say that there have been many instances of such results in Aberdeen, yet he recollects cases of children of 12 brought to the police station drunk, who have either been sent as messengers or have themselves gone for it to the grocer who asked no questions.

Wyness, 45,545.

Mr. Angus sees great difficulty in preventing children going as messengers, though the magistrates of his burgh have differed from him in that respect, but on the other hand he would extend the limit below which no liquor should be supplied for consumption on the premises beyond the 16 years of the English statute up to the age of 18 years.

Angus, 44,772.

In the limit of 18 Bailie Wright agrees with Mr. Angus, but would allow no liquor to be sold to a young person under that age on any pretence whatever, messenger or not, as he holds that "the older one is before one learns to drink, the better."

Though Mr. Keith, licensed grocer and hon. treasurer of the burgh of Hamilton, thinks it would be rather a hardship to deprive them of the use of their children as messengers, yet if a statutory limit, 14, 16, or any other were imposed, he would not ask for the grocers who have licenses to be differently treated from publicans, and Mr. Robertson, wine and spirit merchant in Edinburgh, would, as regards drinking on the premises, go to the length of 18, and would never think of supplying a boy of 16 who came into his shop with a glass of beer, but would recommend him a cup of tea or coffee instead.

Robertson, 54,247.

On reviewing the evidence, we are of opinion that it is advisable to do away with the embarrassing distinction between child messengers and young persons who are under the age for being served with drink for their own use, and that the age of 16 be fixed as the limit below which no person shall be served with intoxicating liquor for consumption either on or off the premises.

CHAPTER XII.

QUALITY OF LIQUOR, AND THE BONDING OF WHISKY.

Rumours of spurious compounds passing as whisky have been heard of, but the inspectors under the Food and Drugs Act have never succeeded in obtaining a sample of them. Such is the report of Dr. Nasmyth, Medical Officer of Health for Fife, Kinross, and Clackmannan. Nasmyth, 52,406. 52,533.

The witness being asked if he thought it fair to say that he believed in the admixture of noxious ingredients, seeing that they had never been discovered, says he has been told by the license-holders themselves that they have made up a substance which was not really whisky for sale at race meetings, but its composition they did not disclose.

Samples of whisky have been examined in Glasgow in consequence of the rumours of impurity; 13 different districts were selected and specimens analysed from each of them with the result that nothing but pure alcohol was found. Water was there, but no deleterious ingredient, though the analyst could not speak either as to the age of the whisky, nor as to the grain from which it had been distilled. Dick, 51,367. 51,368.

Bailie Pollard, speaking as a member of the Public Health Committee in Edinburgh, says there is no adulteration of whisky, though much of it is very new. 55,552.

The chief constable of Banff, however, knows of a compound made in Banffshire, and traced in Leith and Dundee, sold in public-houses as whisky, but wrongly so called. He has warned the publicans and the whisky commercial travellers, and there has been an improvement.

There is, however, no official analyst in the county.

Upon our request that he would obtain samples he did so, but before they could be obtained the statements made by the witness before our Commission were known, he says, throughout the length and breadth of Banffshire. Of the 9 samples thus obtained an analysis made at the Government Laboratory, Strand, London, shows them to be blends of pot-still whisky with patent-still grain spirit. In most instances the samples consisted of fairly mature and clean spirits, a trace of kerosene oil slightly contaminated one sample, and three samples were below strength. No methylated spirits nor metallic or noxious ingredients were found, but only raw and even new spirit. *See* Letter, Vol. VI., p. 464. App. XVIII.

Considerable diversity of opinion exists as to what it is which makes old whisky less injurious than new. Stanford, 46,023. 46,025.

The fact is admitted with practical unanimity that the effects of new and raw whisky are deleterious in a high degree, and without going into what fusel oil is or how generated, we are satisfied of the superiority or of the less noxious effects of old as compared with new whisky, and we have to set the evidence of those who speak from observation of effects against the inconclusive evidence of experts who speak with uncertainty and hesitation. Campbell, 48,099. Nasmyth, 52,408. 52,462. 52,508. C. A. McHardy, 45,813.

Thus balancing the testimony offered on the one side and on the other, we cannot refuse our concurrence with those who advocate a period of compulsory bonding.

It is true that the question was investigated by an expert committee of the House of Commons in 1890 (Select Committee on British and Foreign Spirits) and that they reported against the compulsory bonding for any period. 1890 (316) X. 489. 1890–1(210) XI. 351.

Their grounds apparently were fear of harassing the trade and the uncertainty of beneficial results.

But Mr. McDonald, partner in a large distillery at Fort William, turning out 450,000 gallons of whisky, declares that it would be no hardship to the firm if a term of years were prescribed for whisky to be kept in bond. The average age of whisky going out of bond from malt distilleries at present is five years, and Mr. Kirk, a representative of the Licensed trade Associations in Dumbartonshire is in favour of retaining whisky in bond for at least two years. *See also* Bannister, Vol. I., 2046–2059. McDonald, 52,958. 52,959. Kirk, 54,737.

It is perhaps not within our province to recommend the bonding of whisky, nor is it within our power to suggest means whereby such bonding may be systematically carried out, but we have been so impressed with the evidence of the maddening effects of new spirit, of the pernicious and poisonous consequences of its use on mind and body, that we cannot refrain from pressing upon the notice of the Government the evidence which we have received, and from urging the adoption of some provisions which will mitigate an acknowledged evil.

CHAPTER XIII.

THE DIFFERENT CLASSES OF CERTIFICATES.

1. Inns and Hotels.

25 & 26 Vict. c. 35, s. 37.

In rural districts, or in populous places not exceeding 1,000 inhabitants, a house to be qualified for this certificate must have at least two apartments set apart exclusively for the sleeping accommodation of travellers. In towns and their suburbs the house must have four such apartments at least.

Inns and hotels have the privilege of selling to lodgers and travellers during closing hours. We have already dealt with the change which should be made in the certificate at the discretion of the licensing authority in order to meet the traveller nuisance.

Angus, 44,750.

It should be added that no hotel should be allowed to sell for consumption off the premises on Sunday. Very great trouble has arisen from this off-sale, as, for instance, at Greenock, where persons come from Glasgow, purchase liquor, carry it out, and treat the people of the district.

We have already seen that houses which are in no sense qualified are licensed through lax administration as hotels, and thus obtain the privileges attaching to that class of house.

The village hotels are generally of a very low standard indeed, and there are numbers of hotels, even in such a town as Perth, where neither a bed nor a meal can be procured.

Nasmyth, 52,379. Campbell, 48,082. Wright, 51,958. Captain McHardy, 47,716. 47,732.

A certain social status is attached to a hotel license which is looked upon as a little more respectable than the ordinary publican's license, and the privilege of accommodating Sunday travellers when all the public-houses are closed is eagerly sought for, as may be seen by the fact that in the burgh of Kilwinning, with less than 4,000 inhabitants, two hotels were added last May to the four already existing; in a number of villages, however, in consequence of the abuse of these bogus hotels, the hotel certificates have been taken away.

Recommendation.

The qualifying number of rooms should be raised, and the licensing authority should be satisfied from the police reports that the existing number of rooms do really afford the accommodation upon the assumption of which the certificate is granted.

2. Public-houses.

We have already suggested that non-residence of the certificate holder or complete separation of the liquor premises from the dwelling-house should be made a condition of the certificate, and that the general construction and alteration of the premises should be subject to the complete control of the licensing authority.

3. Grocers' Licenses.

i. *General.*

Though the grocers' license for sale off the premises dates back only to the Act of 1853, the connection between the trader in groceries and intoxicants is very much older, many grocers having long before that date sold for consumption both on and off the premises.

The certificate for "dealers in exciseable liquors and grocers and provision dealers trading in exciseable liquors" authorises the sale of all intoxicating liquors or beer only, or beer and wine or sweets to be consumed off the premises.

A person holding the full certificate can take out the excise grocers' spirit license at a cost ranging from 4*l.* 4*s.* for premises valued at under 10*l.* to 13*l.* 13*s.* for premises valued at 50*l.* or upwards. This license permits the sale by retail of beer and spirits without restriction as to the nature of the vessel or the minimum amount.

He may also take out the grocer's wine license costing 2*l.* 4*s.* 1*d.*, and permitting sale in any quantity.

If he takes out the grocer's beer license only, he pays 2*l.* 10*s.* for premises valued at under 10*l.*, and otherwise 4*l.* 4*s.* Sale in any form or quantity under wholesale is permitted.

ii. *The Grocers' License Commission.*

In 1877–8 a Royal Commission made a very exhaustive examination into grocers' licenses in Scotland.

The main question before the Commission was, in their own words, s. 57, "whether "the combination of the trade of liquor dealer with that of grocer is so inherently "bad that it calls for the entire disturbance of a trade which is of very old standing, "and which has been expressly recognised by Acts of Parliament."

To this question they returned a rather ambiguous answer.

"It has been shown in evidence that a large portion of the persons engaged in it (the trade) are accused of no offences, and are among the most respectable and long-established traders in the community. But it appears to us that the combination is fraught with great danger, and has been productive of great evil, and we are inclined to believe that the only perfect solution of the difficulty or complete cure of the evils complained of, would be the entire separation of the two trades. It cannot be doubted, however, that there are many difficulties in the way of carrying out such a proposal and seeing it is probable that these difficulties would prove insuperable, we recommend that other measures should speedily be taken to restrain the evils of which we have reported."

In the next paragraph the strong opinion here expressed is further modified and a number of recommendations of a restrictive character conclude the report.

iii. *Summary of Recommendations by the Grocers' License Commission.*

1. The provisions of section 35 of the Licensing Act (England), 1872, and sections 16 and 17 of the Licensing Act (England), 1874, giving power to the police at all times to enter on any licensed premises, should be applied to all licensed houses in Scotland.

2. The county licensing committee and the joint committee for the burgh should be empowered to fix, for a period of years, the maximum number of licensed houses for each town, district, or populous place, and the minimum rent of licensed houses in each county or town, or in each district of a county or town.

3. The following general provisions should be made conditions in granting licenses to grocers, namely that there shall be :—

(i.) No internal communication between the licensed premises and the dwelling-house or other unlicensed premises.

(ii.) No back or side entrance to the premises.

(iii.) No blinding or obscuring of the windows or door.

(iv.) No screen or partition within the premises.

4. Penalties, including forfeiture of license, as provided in section 9 of the Licensing Act (England), 1872, should be imposed for making, after obtaining the license, any such alterations in the premises as shall be in breach of the foregoing restrictions.

5. No spirits should be kept within the licensed premises except in bottles or jars, corked and sealed.

6. The provisions of the Licensing Act, England and Ireland, with respect to drinking near the premises, should be applied to Scotland.

7. Two convictions of breach of certificate shall involve the forfeiture of the license, instead of three being required, as is at present the case.

8. The entry of spirits in any pass-book or account under any other name should be considered a breach of certificate.

9. The provisions of section 62 of the Licensing Act (England) 1872, with regard to the evidence of sale or consumption of liquor, and also of section 19 of the Public-houses (Scotland) Acts Amendment Act, 1862, with regard to the proof of sale in unlicensed premises, should be made applicable to charges of alleged drinking on or near the premises of licensed grocers.

10. The penalties imposed by section 5 of the Licensing Act (England), 1872, upon the seller for allowing drinking on the premises contrary to his license, should be applied to the premises of licensed grocers, and the purchaser who consumes on the premises should also be subject to a penalty.

11. Licensed grocers should only be permitted to have their premises open between the hours of 8 a.m. and 8 p.m., and with the consent of the licensing magistrates until 10 p.m. on Saturdays.

12. Penalties, as provided by section 9 of the Licensing Act (England), 1874, should be imposed for infringing the law as to the hours of closing.

13. No sale or delivery of spirits to a child under 14 years of age should be lawful in any description of licensed house, on any pretence.

14. The rate of license duties should be raised, and the lowest rate abolished.

15. Penalties should be imposed for being drunk, in a public place, or when in charge of a carriage, horse, or steam-engine, similar to those exigible in England, and the present penalty of 5*s.* for being found drunk and incapable should be increased.

16. All articles of exciseable liquors conveyed in carts should bear the addresses of the persons by whom they have been ordered, and the person in charge should be bound to produce, when called upon, the signed order therefor.

17. Over the door of every licensed grocer, the conditions of the certificate should be conspicuously printed.

The result of these recommendations which have otherwise not been carried into effect, has been that in burghs the penalties for drunkenness have been enlarged, and by the Burgh Police Act, 1892, complete power of entry on all licensed premises has been conferred on the police.

iv. *Conduct of Licensed Grocers.*

Boyd, 43,715. 43,822. Dick, 51,388. Pollard, 55,579. 55,580. Angus, 44,927. Craig, 46,577.

There is very favourable testimony on behalf of the licensed grocers from Glasgow, Greenock, Edinburgh, and other places. In Glasgow cases of selling drink on the premises are very rare, and a witness from that city prefers the licensed grocer to the publican as less likely than the latter to spread intemperance in a social way.

On the other hand there are abuses connected with licensed grocers. They are not under the same restrictions as to closing as the publican, and the distinction is difficult of enforcement when a closing hour is imposed for buying liquor and not provisions, as drink and groceries and other things are sold over the same counter.

Mr. Irons of Edinburgh would prefer that no certificate should be granted to grocers, as an invidious distinction is thereby made between one grocer and another; the trades should be separated, but if the present system is to continue, the sale should be of specified quantities in sealed vessels, whereas now, a passing cabman can go into the shop, fill his bottle with liquor and drink outside, and he may repeat this process half-a-dozen times. If dealers with licenses sell exciseable liquor and nothing else, it is true that the same complaint might arise, but these exclusive dealers would be better looked after than the trader in mixed goods.

Irons, 50,020.

Rev. P. R. Mackay, 50,919.

In Haddingtonshire the magistrates adopted a regulation that no drinking utensils were to be supplied by the shopman. This was done in order to prevent the shop "simply becoming an open-air public-house."

Smith, 46,157.

The Provost of Peterhead thinks there is no doubt that illicit drinking goes on, and to an enormous extent, in grocers' licensed shops. Cases have been brought before him as a magistrate, but it is practically impossible to effect convictions after the Scotch Court of Session decided that grocers in their discretion might entertain their friends in their premises. If one quart as a minimum were sold in sealed bottles, the evil of drinking in the back shop would be greatly mitigated.

46,159.

Gordon, 48,680, 48,611.

The chief constable of Aberdeen county, Major Gordon, would fix a pint as a minimum to be delivered in a closed vessel. He thinks Provost Smith's statements of illicit drinking exaggerated though he does not deny them; but would not remove the jurisdiction possessed over these licenses by the magistrates, and would not like to see licenses granted by the excise merely on application.

Wyness, 45,520. 45,551.

The chief constable for the city of Aberdeen says that the spirit grocers' shops "were at one time very bad and they are perhaps not very strict yet." He recommends sale in corked or sealed vessels only.

Angus, 45,124.

The chief constable of Greenock thought that licensed grocers in that town were very well conducted, but at Inverkip he knew that intoxicants had been largely booked as other goods.

But the principal complaints of the conduct of licensed grocers arise in connexion with their travelling vans and carts.

v. *Grocers' Vans.*

Very general complaints are heard from different parts of the country of the evils attendant upon grocers' vans.

Sir J. Gibson Craig, convener of Midlothian, says that the number of licensed grocers in the county is 129, of whom 102 deliver liquor in vans; 13 were suspected

of trafficking illegally. There were also 30 bottle vans from Edinburgh, Leith, and Musselburgh, and five of these were also under suspicion. Apart from illegality these vans put temptation at every door; but for them many a woman would never have touched drink. 46,602.

The Rev. W. S. Crockett, minister of Tweedsmuir, Peeblesshire, gives a terrible account of the drunkenness and demoralisation wrought in the navvy settlement at the Talla Glen, where the Edinburgh Waterworks are being constructed. From Peebles, Moffat, and Biggar, 10, 14, and 17 miles distant, grocers' and dealers' vans bring liquor and sell it without previous order. He would like to see travelling liquor vans altogether abolished. 48,216.

Mr. Lewis, J.P. of Edinburgh, also describes the invasion of parishes by these vans. "They are working untold mischief." He confirms Mr. Crockett's account of the Talla Glen. "A state of things is going on there which is simply indescribable." 50,496.

All over the district round Blairgowrie grocers' vans travel, and groceries and drink are sold together. The witness, a justice of the peace for Perthshire, thinks the evil of which he complains would be mitigated if the trades were separated, and the temptation which is now offered would be diminished if a person could buy groceries without having liquors "under his nose." Campbell, 48,093.

In Roxburghshire 39 licensed grocers employ 25 horses and carts for distributing whisky and beer under cover of distributing provisions, and being asked how he comes by that knowledge, the witness, the chief constable for that county and Berwickshire, replies that but for the distribution of the liquor there would not be a grocer's cart on the road. An incalculable amount of harm is done, and the only remedy is to separate the trades. Porter, 45,324. 45,325.

The licensed grocers of the two counties, however, challenge the truth of the chief constable's statement, and aver that "drunkenness and its accompanying crimes" have markedly diminished "since country people have been relieved through the van "service of the necessity of visiting town for supplies." Lyon, 54,062.

The Free Church of Scotland, as represented by the Reverend J. Hunter, speaks strongly against grocers' licenses and their vans which "sadly demoralise" some districts. The licensed vendor of liquors is practically rendered ubiquitous, and the practice will counteract the benefit of any change in the licensing laws in other directions; witness advocates the separation of the trades and checks upon illicit sales. Hunter, 49,289.

A great many grocers' vans and brewers' carts perambulate the county of Banff, and the chief constable suspects that a good deal of liquor is carried speculatively. Haig, 55,931.

Captain McHardy, chief constable of Ayrshire, testifies to a great deal of business done in carts. The offence of hawking is difficult of detection, but the convictions have been sufficient to satisfy him that there is an illegitimate traffic. Captain McHardy, 47,804. 47,805.

On the other hand, three witnesses connected with the liquor and licensed grocer trade maintain that the privilege is not abused, that they would be quite willing to secure by regulations the observance of the law, and that vans are the only convenience that many rural districts possess for obtaining groceries and liquor. Lyon, 53,996. McEwen, 54,335. Keith, 53,121.

The licensed grocer, observes Mr. Lyon, is practically a part of the national constitution, meaning thereby that some of the businesses are very old, some houses in Jedburgh, for instance, having been established upwards of 100 years.

It cannot, we think, be doubted that the van system is attended with very considerable danger; all the more danger because, as provisions and groceries are sold with the liquor, no one can tell what the actual sale consists of.

These dangers may in part be obviated by imposing upon the liquor van the conditions that no liquor shall be carried without a signed order; that the liquor be addressed to the person who has given the order, and that power be given to the police or excise officers to search vans if they suspect fraudulent or illegal practices. Breach of these conditions should be an offence, and, on conviction, the license should be forfeited.

These regulations should apply to all vans carrying liquor, whether in wholesale or retail quantities, under certificate from the licensing authority.

vi. *Instances of Irregularities in Licensed Grocers' Shops.*

We have said that irregularities are very difficult of detection, and it is not to be expected that much evidence would be volunteered by those who may have infringed the law.

T. Nicol, 68,452. 68,563.

Two witnesses, however, did come forward and testified from their own action and experience that the law is evaded, and how it can be done.

One of these, now manager of the United Co-operative Association, entered the grocery business at 15 years of age as an apprentice to his father, a grocer and a licensed dealer. For nine years he helped his father, and in consequence of something that passed in the small debt court at Montrose, in some proceedings against a debtor, he received instructions from his father never to enter as *liquor*, liquor that was sold and given out on credit. It was to be entered as "goods" or as "butter" corresponding in price to the liquor actually bought. Witness followed out his father's instructions till he ceased his connexion with the shop.

He cited another case while he was in the same shop, in which he complied with the wishes of a woman customer and habitually entered upon the pass-book not the whisky but tea or butter as nearly equivalent as possible to the liquor actually sold, for fear that her husband when he came home from sea should know where her allowance went to.

He maintains that, while he will not say that every grocer or grocer's assistant does the same, every one has the same opportunity.

The experience of this witness was not of recent date; but being pressed as to what his opinion is as to the prevalence of the practice, he declares that, from what he has heard from other shop assistants and customers, he is confident that it has been, and is still, done, and he is "certain and positive sure that it is done."

R. Wilson, 68,564. 68,713.

The second witness, engaged in the grocery trade in Dundee for 25 years, went with his van into the country twice a week selling whisky, beer, and porter, with groceries, sometimes receiving for the liquors previous orders and sometimes not. He cited from the "Dundee Advertiser" three convictions of persons for a similar offence within the last three months within a radius of 30 miles. He believes hawking still goes on very largely.

As to the grocer's shop he has himself supplied liquor for immediate consumption. It was done by his principal, and he was allowed to do it too, and has seen liquor sold, and then and there consumed in other shops.

Women, he says, get a considerable amount of liquor in the grocer's shop. If goods are purchased of a certain value a glass of whisky is commonly given as a present, but not always.

The witness is still a grocer but not a licensed grocer.

vii. *Proposed Separation of the Trades.*

The main objection which is taken to the combination of trades is, however, in Scotland the same as in England, viz., the additional temptation and opportunity presented by the mere fact of the combination. It is maintained that all the arguments that can be urged against the combination in England apply with double force to Scotland, where the license is much more indulgent as to quantity of liquor and form of sale, and where the common drink is more potent and more portable.

Dewar, 44,685, etc.

The experience of Mr. Dewar enables him to conclude that the separation of the trades would be on the whole advantageous, and that under the system of dealers' licenses, which would replace the grocer's license, tippling habits would not be encouraged, fictitious sales would not be possible, and the fair requirements of the public would be amply supplied.

Wyness, 45,414.

The same general view is taken by the chief constable of Aberdeen, who is of opinion that the substitution of "dealer's" for "grocer's" license would still enable persons to supply themselves with liquor without sending their servants to the public-house, which is not always desirable, however well conducted they may be.

Stanford, 46,059.

Mr. Stanford, J.P., Dumbartonshire, tells us that in Clydebank proper, the centre of a populous district, there are no grocers' licenses, and two only at each end of the burgh. He regards them as not adapted for the wants of a large working population, owing to the facilities for drinking which they afford, for the encouragement they give to female drinking, and from the absence of magisterial control. He thinks that the evils which he specifies would be diminished by the separation of the trades.

Craig, 46,577. Mackay, 50,919. Campbell, 48,093.

Sir J. Gibson Craig thinks it would be well if the trades could be separated, but he doubts whether such a measure is practicable. The Rev. P. R. Mackay and Major Campbell, R.E. both argue strongly in favour of separation, and they are followed by other witnesses, besides those already quoted.

The injurious consequences of the combination of the trades are exemplified in their most exaggerated form by the evils which arise, as we have seen, from the distribution of liquor by vans. These, while engaged in the proper, necessary, and legitimate business of distributing provisions and grocery, bring temptation to every door when they sell intoxicants. The circumstances are such that supervision is practically impossible, and an unscrupulous tradesmen may indulge in illicit sale with small risk of detection.

On the other side there are witnesses like Professor Dove Wilson, who have no objection to the grocer's license. He thinks that they are necessary in Scotland, and that to separate the trades would mean prohibition in large districts. 70,068.

As Judge in the Small Causes Court he had had much to do with grocers. Fraudulent practices were very rare. In many cases he had struck off small items for whisky and beer, which could not be sued for under the Tippling Act, but he had hardly ever heard a man say the account was fraudulent.

In many cases he thinks it would be better, if a public-house with an *off* department were substituted for a grocer's license. But he appears to make this suggestion rather to guard against the special evil of young men clubbing together, and going of a night to a grocer's in a place where there is no public-house as there should be, than as a recommendation of general application. 70,313.

Major Gordon, chief constable of Aberdeen, defends the grocer's license on the ground that in many country districts there is not sufficient demand to maintain a good public-house. There should be some grocers' licenses to supply the want, though for his part he should prefer a good public-house to a licensed grocer's shop. Gordon, 48,608.

We have already quoted the representatives of the licensed grocers' trade in defence of grocers' licenses and of the van system of circulation of liquor. Lyon, 53,996. MacEwen, 54,303.

viii. *Recommendations.*

Whilst recognising the differences that exist between the Scottish and English grocers' licenses, we are of opinion that the separation of the premises in which the trades are carried on would be of great benefit to the community.

A dealer's certificate should be issued, empowering the sale of intoxicants only by retail off the premises, under the complete control of the licensing authority. Keith, 53,035, 53,121.

The recommendations of the Royal Commission on grocers' licenses should be carried out so far as they are applicable to premises where intoxicants are exclusively sold.

All liquor dealers' vans should be liable to search. The drivers must produce, when called upon, signed orders from customers, and carry no liquor beyond the supply of orders, each order to bear the name and address of the person who gave the order.

A breach of the conditions thus imposed should be an offence, and, on conviction, the certificate should be forfeited.

All such premises should be closed at 8 p.m. at latest, and be completely open to police entry and supervision.

So important a change as that which we recommend should be gradually carried out.

No new grocers' licenses should be issued, but existing holders should be given a preference in applying for the new class of certificate, subject always to the existing full discretion of the licensing authority, to grant or refuse. If they do not so apply, they shall not be liable to have their certificate taken away on the ground of the combination of trades during their lifetime, but the certificate shall be incapable of being transferred under any circumstances, and will, of course, be liable to refusal on any other ground as at present. On the death or retirement of the present holders, the certificate shall immediately lapse.

The new certificates would be under the complete control of the licensing authorities, and their number would be very much less than those of existing combination licenses.

A difficulty will no doubt be found in carrying out this plan in small country places; and here the discretion of the licensing authority might well be exercsied in deciding whether or not exemptions should be given where the population did not exceed 500, or where peculiar circumstances might appear to them to warrant special treatment.

CHAPTER XIV.

ADMINISTRATION BY THE POLICE, ETC.

There are two points in which the Scottish police system greatly differs from the English.

These are the more independent position of the chief constable in burghs and the institution of the procurator fiscal.

1. Position of the Police.

In counties the police are subject to the jurisdiction of a standing joint committee of the county council and commissioners of supply, very much the same as in England, but though the appointment of the chief constable has to be approved by the Secretary for Scotland, he has no appeal as in England on dismissal.

In burghs over 7,000 population in 1889, except Renfrew and Berwick, and all other burghs of over 20,000 population, the chief constable is appointed by the Police commissioners (a committee of the town council) and can only be removed by them, with the sanction of the chief magistrate and the sheriff, or in the event of their disagreement, of the Secretary for Scotland.

The commissioners of police have nothing approaching the powers of the watch committee in England, and, in particular, have nothing to do with the expenses of prosecutions, which are not borne by the local authority.

It is a strong comment upon the English system that we have received absolutely no complaints as to improper interference on the part of the police commissioners.

2. The Procurator Fiscal.

25 & 26 Vict. c. 35, ss. 12, 14, 25, 30. 39 & 40 Vict. c 26, s. 12.

The procurator fiscal is appointed by the justices at quarter sessions or in burghs by the magistrates.

He is a public prosecutor, who, along with other duties, receives reports from the police, and takes charge of prosecutions for breaches of certificate or offences against the licensing Acts. He also may object verbally, and without notice, to the grant, renewal, or confirmation of certificates.

The chief constable is thus completely an executive officer, and does not decide on the institution of prosecutions, though this condition of things is neutralised by the fact that chief constables of burghs sometimes hold the office of procurator fiscal as well.

Angus, 44,723.

Police commissioners are still less concerned in prosecutions.

3. Duties of the Police.

The chief officer of police for the district is required to transmit, every week to the procurator fiscal, a report, containing:—

1. Names of license-holders from whose premises persons in a state of intoxication have been frequently seen to issue.
2. The manner in which the granting of special permissions has been exercised.

Notices of such reports are to be sent to the license-holders within two days, and are also to be brought to the notice of the licensing authority.

D. Lewis, 50,375.

It is complained that the important duty which is cast upon the police of reporting to the procurator fiscal the name of the publican from whose premises drunken persons have been seen frequently to issue during the week, is, generally throughout Scotland, totally disregarded, and that thus very material information is kept back from the magistrates.

Hunter, 49,375. 49,378. Pollard, 55,692.

That such reports are material is shown by an example in Falkirk, where the report was duly made, and in consequence the magistrates refused to renew a certificate.

Bailie Pollard thinks that the fault, if it be a fault, has crept in through the chief constable himself being also procurator fiscal, though he rather thinks that no reports are made because there are none to make.

Rev. P. R. Mackay, 51,011.

The information obtained by the Rev. P. R. Mackay is, that the statutory regulation is not put into practice as it ought to be, and it is difficult to believe that reports are not made because there is nothing to report when we are told by Mr. D. Lewis, that in

Edinburgh 2,000 or 3000 cases occur in a year of persons not merely drunk when apprehended, but who were lying helpless and unconscious in the streets; 2700 were thus found last year in Edinburgh, and in Glasgow the appalling number of 19,765. Yet in Edinburgh only one publican was prosecuted, and in Glasgow only three. Lewis, 50,345.

Not without reason, it would seem, did the kirk session of Uphall Free Church issue a statement, that in the district of Uphall, in the county of West Lothian, men and women *are found helplessly drunk*, lying in the thoroughfares, and indeed at the very doors of the public-houses in broad daylight, as well as drunken men inside the house in the day-time. In the face of facts like these, even if only a small portion of them were true, we earnestly call attention to the provisions of the Statute Act, 1862, s. 14; and if the police are so occupied that they cannot properly discharge this duty of reporting, then it would be well if special officers could be placed at the disposal of the licensing authority if they make the request, and if they think that the independent information which they ought to have is not properly brought to their notice under the present system. Hunter, 49,245.

Our remarks on the proposal of special inspectors for public-houses in England apply to Scotland also.

4. Offences by Licensed Persons.

Nearly all the regulations for the good conduct of the certificate holder are contained in the certificate itself. The infringement of the conditions constitutes a breach of the certificate and is punished as such.

The offences are—

1. Adulteration of food or liquors.
2. Use of illegal weights or measures.
3. Knowingly permitting breach of the peace or riotous or disorderly conduct.
4. Permitting men and women of notoriously bad fame, or girls or boys to assemble.
5. Supplying drink to girls or boys apparently under the age of 14.
6. Supplying drink to persons who are in a state of intoxication.
7. Taking wearing apparel, goods, or chattels in pledge for liquor.
8. Permitting any unlawful games.
9. Infringing the closing regulations on week-days or Sundays.
10. Selling groceries or uncooked provisions for consumption elsewhere, from an hotel or public-house.
11. Allowing consumption on the premises of a licensed grocer.

The penalties for a breach of certificate are—

1st offence 5*l.* fine, or in default 1 month.
2nd do. 10*l.* do. 2 months.
3rd do. 20*l.* do. 4 months.

The first or second offence may forfeit the certificate, but the third carries forfeiture with it.

There are also penalties for—

a. Harbouring a constable on duty, penalty 5*l.* or 30 days in default.
b. Refusing to admit a constable, penalty 10*l.* or in default 60 days.

The chief constable of Dundee made some recommendations in reference to these offences and practices, and we recommend their adoption:—

I. There should be a distinct penalty for permitting drunkenness. Dewar, 44,147.

II. The section of the English law (Act 1872, section 14) relative to harbouring prostitutes, should apply to Scotland, as somewhat more stringent and clearer than the Scotch Act. 44,150.

III. The English provision about harbouring constables, or supplying them with drink, is fuller than the Scotch, and should be adopted. 44,157.

IV. The certificate prohibits any unlawful games, but an unlawful game is not defined in the law of Scotland. The provisions of the English Act 1872, s. 17, should be extended to Scotland. 44,159.

5. Offences by the Public.

These fall under the heads of—

I. Offences connected with illicit sale of liquor.
II. Offences connected with drunkenness.

i. *Offences connected with Illicit Sale.*

1. Trafficking without a certificate,—
   1st offence, 7*l.* fine, in default, 6 weeks.
   2nd offence, 15*l.* fine, in default, 2 months.
   3rd offence, 30*l.* fine, in default, 3 months.

44,132, 43,134, 44,139. Mr. Dewar would—
   a. Increase the penalties.
   b. Render the occupier of the premises liable, if privy, as under the English Act, 1872, sect. 4.
   c. Impose penalities upon illicit storing of liquor, as under sect. 10 of the same Act.

2. Hawking exciseable liquor, the penalty is 10*l.* or 60 days.

Angus, 44,742. Mr. Angus suggests, that throughout the Licensing Act, the term "exciseable" should make way for "intoxicating," and would either bring sweets and other liquors under the term exciseable or (as he prefers) make the term "intoxicating" cover the same ground as in the English Acts, which contain a better definition, and practically include all intoxicating liquors.

3. Falsely pretending to be a *bonâ fide* traveller, the penalty is 5*l.* or 30 days.

4. Being found drinking in a shebeen, penalty 10*s.* or 10 days.

Dewar, 44,132. Smith, 46,179. Both Mr. Dewar and Provost J. Smith desire more stringent provisions against being found on licensed premises after closing hours, and Capt. McHardy suggests the adoption of sect. 25 of the English Act, 1872.

ii. *Offences connected with Drunkenness.*

1. Being disorderly on licensed premises and refusing to quit, penalty, 40*s.* or 20 days.

2. Being drunk and incapable in a public place, penalty, 5*s.* or 24 hours.

Under the Burgh Police Act, 1892, the penalty for being drunk and incapable in a public place is 40*s.* or 1 month, and on a third conviction an additional 40*s.* may be imposed or 14 days, without the option of the fine.

3. Being drunk when in charge of loaded firearms, carriage, horse, &c., penalty 40*s.* or 1 month.

(This is under the Act just quoted, Burgh Police Act, 1892.)

Captain McHardy, 47,772. Dewar, 44,309. Rev. P. R. Mackay, 51,117. The provisions of the Police Act, 1892, should be extended to the country and licensed premises should be included in the definition of a public place.

The recommendations we have made in considering the English law as to offences connected with drunkenness, police power of arrest and the treatment of habitual inebriates apply with equal force to Scotland.

PART III.—IRELAND.

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CHAPTER I.

INTRODUCTORY.

i. Prevalence of drunkenness.

Sir A. Reed, Inspector-General of the Royal Irish Constabulary, thinks there is little change in the amount of drunkenness in Ireland. It is not increasing, but there is great room for improvement. Much has been done towards reducing intemperance by the clergy, but it is not considered a moral offence by the masses. 56,720. 56,726.

The country people do not take intoxicants with their meals, or at other times on ordinary days, and are naturally a remarkably sober race. Special occasions, however, frequently occur. When the people go from home to the towns, to fairs and markets, sports, races, &c., which are frequently held on Sundays, social intercourse and buying and selling incite them to a great deal of drunkenness, more especially as the mass of public-houses, situated as they are, and carrying on other trades besides the sale of liquor, form a network of temptation, which can hardly be broken through. Reed, 56,724. Waters, 62,563. Gambell, 58,044. 58,054. O'Leary, 61,537.

How much is due to the public-house may be estimated by the fact mentioned by Mr. Gambell that some years ago, for fear of riot at a great hurling meeting, the public-houses were all closed, and the whole thing passed off without any sign of drunkenness or disorder. 58,427.

Similarly, Mr. Foley, county inspector of Clare, mentions that both in Clare and in Meath he has been able to withdraw the police from a district where there were no public-houses. 58,678.

The custom of drinking at wakes is also a prolific source of drunkenness.

Mr. Gambell, county inspector, speaks of the evils arising from this source in the East Riding of Cork, and Judge Curran, who has experience of the prevalence of the custom in the counties of Kerry, Meath, Westmeath, Longford and King's County, speaks particularly strongly about it. 58,044. 61,478.

The moment a man is dead, his next-of-kin or a friend hurries to the nearest grocer or publican, and orders in a supply of from 3 to 9 gallons of whisky, and "the whole "country round is set drunk." The liquor is obtained on credit in quantities entirely incommensurate with the amount which would have been supplied on trust to the dead man. Though the priests have done their best to prevent this by insisting that the body shall be kept in church the evil continues and is deeply rooted.

It appears that the Tippling Acts do not apply, and he makes the suggestion, with which we concur, that they should be amended so as to apply to liquor supplied on credit for a wake.

In the towns more systematic drinking goes on.

In Dublin the statistics show a decrease, but Mr. Daly, chief clerk of the Dublin Metropolitan Police Court, says he is not sure that drunkenness is really decreasing. Mr. Swifte, one of the Dublin police magistrates, says that drunkenness is prevalent to a deplorable extent, and seems to him to be about stationary; Saturday night and the leisure of Sunday produce a great deal of intemperance, and on a recent Monday, 85 out of 160 cases at the North court were for drunkenness. Pay days produce similar results. Dr. Kenny, coroner for the city of Dublin, attributes most of the drunkenness to the hard conditions of life, and the wretched housing of the poor. Sometimes 16 or 17 families live in one house, and even take in lodgers. Here as, elsewhere, the circle of poverty and drink prevails. 63,555. 59,668. 59,675. 61,950.

In Cork Mr. Gambell says there is a good deal of actual drunkenness and systematic hard drinking among the artisans and labourers of both sexes; drunkenness appears to be about stationary. The men drink principally on Saturdays but Monday is the women's day and they pawn their husband's clothes for the purpose. In the city 35 per cent. of persons convicted for drunkenness are women; in the East Riding 7 per cent. Some publicans give the "small pint", a pint with a very little poured out, for 1½*d.* instead of 2*d.* to attract the women. 58,017. 58,063. 58,030.

The Rev. P. O'Leary C.C. of St. Finbarr's, Cork, confirms these statements. Intemperance among women, especially married women, is one of the worst aspects of the

61,504. drink question in Cork, certain public-houses are known as women's houses, and on Saturday nights and Monday mornings they are crowded.

On the other hand, Mr. J. O'Brien, Secretary to the United Trades Council contradicts these statements, and declares that the women are not the "terrible
65,927. drunkards" they are said to be, and that the working-classes of Cork are as sober a body as you can get in Ireland.

In Belfast, Mr. Morell, Chief District Inspector, believes that drunkenness is slightly decreasing. Though the statistical decrease is partly due to the altered practice of the
57,138. police in not arresting in cases of slight drunkenness, something, and probably much, is
57,143. to be set down to the substitution of beer and porter for whisky, besides the work of religious and moral agencies, and a decrease in public-houses.

57,146. Female intemperance, however, is increasing. This he attributes largely to the spirit-groceries, where the women get credit, and where treats in liquor are given on the purchase of groceries.

57,148. Child drinking is happily rare in Belfast, but juveniles from 16 to 20 seem to be increasingly given to intemperate habits.

The city of Londonderry affords interesting evidence on several points. An
Leatham, illustration of the habits of the people in country districts is presented by the fact
57,736. that women mostly constitute the class of habitual drunkards in the city, while men
57,795. take the lead in the country. Women never attend the fairs and markets in the country districts—which are resorted to by the men—while the pernicious elements generated in the town population drive women to drink, and women, as we have already seen, when once they take to drink easily fall into habitual dissipation. But, on the whole, in Londonderry city and county, drunkenness is on the decrease, and the reasons given for the decrease appear to be eminently likely to conduce to the good results which are stated to be owing to a number of co-operating causes, such as Sunday closing, the Licensing Acts, 1872 and 1874, temperance work, spread of education, and increase of out-door games.

The Rev. T. F. Furlong of Waterford says that drunkenness is decreasing on the
60,656. whole, and Mr. Considine, Resident Magistrate at Kilkenny, says there is practically no
60,112. change. If anything there is a decrease, but a vast amount of drunkenness still exists.

ii.—*Connexion between Drink and Crime.*

Nowhere is the connexion between drink and crime more strikingly displayed than in Ireland.

57,158. Mr. Morell says that in Belfast 75 or 80 per cent. of crime is due directly or indirectly to drink. The N.S.P.C.C. shows by its returns for Belfast that 84·2 per cent. of prosecutions have an element of drink in the case.

58,065. In Cork, Mr. Gambell says, 17 per cent. of serious crimes classed as outrages, and 60 or 70 per cent. of assaults, &c. are connected with or traceable to drink, besides 105 out of 115 convicted cases of cruelty to children in 3 years.

61,509. The Rev. P. O'Leary goes even further. He is President of the S.P.C.C. in Cork. Last year, out of 175 cases under supervision, only one was not due to gross habitual
61,516. intemperance. He adds that the governor and deputy-governor of the Cork Gaol agreed that 90 per cent. of the prisoners owed their misfortunes to drink.

62,351. Judge Orr says nearly all the crime he has to deal with is created directly or indirectly by the public-house.

61,426. Judge Curran says that serving drink to drunken or half-drunken persons is a common practice. If that were got rid of you would get rid of nine-tenths of the crime in Ireland.

61,825. Mr. Ennis, J.P., of Wexford, and a Visitor of Wexford Prison, says, that if it were not for the drink the gaols would be practically empty; 90 per cent. of the prisoners, as well as about two-thirds of the workhouse inmates, owe their position to it.

Considine, 61,111. Furlong, 60,599, &c., &c. Other witnesses speak to the same effect, and the facts are incontestable.

CHAPTER II.

SKETCH OF THE HISTORY OF THE LICENSING LAWS IN IRELAND.

1. History of the Laws.

(i.) *Early History down to* 1800.

The first licensing statute for Ireland was passed in the years 1634–5 (10 & 11 Charles I. c. 5). The reasons that led to the passing of this Act are set forth in its preamble, which runs as follows :—

"Forasmuch as it is found by daily experience that many mischiefes and inconveniences doe arise from the excessive number of ale-houses, from the erection of them in woods, bogges, and other unfit places, and many of them not in townеships but dispersedly, and in dangerous places, and kept by unknown persons not under taken for, whereby many times they become resceptacles for rebels and other malefactors and harbours for gamesters and other idle, disordered, and unprofitable livers, and that those that keep those ale-houses for the most part are not fitted or furnished to lodge or entertain travellers in any decent manner: For the redresse of these inconveniences, and many other mischiefes dayly observed to grow by the course now held and to reduce those needlesse multitudes of ale-houses to a fewer number, to more fit persons, and to more convenient places."

The Act went on to enact that no one was to keep any alehouse or tippling-house, or sell any ale or beer by retail, unless licensed by commissioners appointed from time to time for each county, from among the justices of the peace, with other persons selected by the lord deputy. These licenses were to be granted annually, at the first quarter sessions after Easter, by at least two commissioners, to persons of good character, for a proper number of houses in convenient places, and were to endure for a year and no longer. The houses so licensed were to contain at least two beds set apart for the accommodation of strangers, and the license-holder had to enter into recognisances to sell provisions to travellers and strangers at reasonable rates, not to permit drunkenness, gambling, or unlawful gaming, and not to harbour improper persons. A license duty of 5*s.* 6*d.* was also imposed.

In 1662 (14 & 15 Charles II., c. 18), the Act of 1634–5 was re-enacted and the license duty on alehouses was increased to 20*s.*, and in 1665 (17 & 18 Charles II., c. 19), the retail sale of wines and spirits for consumption, both on and off the premises, was made to require the license of the commissioners in a similar manner. The commissioners were empowered to fix the license duty within certain limits, and the license was not to endure for more than three years.

In 1695 the first Act (7 Will. III., c. 17) dealing with hours of closing was passed, it ordered all licensed premises to be closed during the hours of divine service on Sundays.

During the early part of the 18th century the licensing law apparently fell into disuse, for a Revenue Act of 1737 (11 Geo. II., c. 3, s. 15) recited that no commissions to grant licenses under the Acts of 1662 and 1665 had been issued for some time. The power of licensing under those Acts was therefore transferred to three chief commissioners and collectors of excise.

Another Revenue Act in 1759 (33 Geo. II., c. 10) introduced the distinction between the excise license and the justices' certificate, for, while it continued the authority of the Commissioners of Excise, it laid down (s. 94) that no license was to be issued without the certificate of the next justice of the peace that the applicant and his abode were properly qualified.

Between 1759 and 1791 licensing questions were very much discussed in the Irish Parliament, but nothing of any moment was done. A very large number of Revenue Acts during this period were passed, containing sections for the better regulation of the liquor traffic, or fixing the duties. Most of these Acts were passed for one, two, or three years; sometimes they were renewed, sometimes re-enacted with slight alterations, with the result that the law fell into great confusion, and no reform was effected, but things went continually from bad to worse. The fact that it was found

necessary to enact that no license should be granted to retail liquors in prisons and workhouses, or that the Revenue Commissioners should have power to refuse licenses to improper persons, shows that the law did not work satisfactorily.

At last, in 1791, a somewhat more comprehensive Act (31 Geo. III., c. 13) was passed "for regulating the issuing of licenses for the sale of spirituous liquors by retail " and for remedying the abuses which have arisen from the immoderate use of such " liquors." The Act recites that "the use of spirituous liquors prevails to an " immoderate excess to the great injury of the health, industry, and morals of the " people." No one was to hold a spirit license unless he also held an ale license, and a certificate of good character from the justices was required. Further than this, in Dublin, Cork, Waterford, and Limerick, no one was to hold a license for the sale of spirituous liquors unless he kept an inn, coffee-house, or alehouse, and *exercised no other trade.* Persons licensed to sell spirits had to enter into a bond to sell beer and victuals, and not to sell spirits before one p.m. on Sundays, before sunrise, or after an unseasonable hour in the evening on other days.

Liquor was forbidden to be given in payment of wages, and wages were not allowed to be paid in a public-house, while a debt for spirits of more than 20*s.* at one time was made irrecoverable.

The Act was only a temporary one, but it was renewed from time to time. The Act of 1796 (36 Geo. III., c. 40) while re-enacting made some important additions to the licensing authority of the justices. The Act is also important, because it enacted that in Dublin, grocers might be licensed by collectors of excise to sell spirits by retail in quantities not less than one pint for consumption *off* the premises only. This was the origin of the spirit grocers' license.

The Act of 1796 was renewed year by year till the end of the century, but an important clause was introduced into the Act of 1798 (38 Geo. III., c. 73). The justices before signing the certificates were to determine the number of houses, which ought to be licensed, having due regard to the morals and sobriety of the people. The grand jury was also to come to a determination on the point, and, if the justices did nothing, their number was to be accepted. The clerk of the peace was forbidden to issue licenses beyond the number so fixed.

ii. 1800–1833.

After the Union the existing Licensing Acts were renewed annually as before till 1805, when a consolidation Act was passed (45 Geo. III. c. 50.).

The features of the system as thus enacted were as follows:—The grand jury in each county were to fix the number of licenses, and these were to be granted by the justices at special annual sessions after due inquiry into the character of the applicants and their sureties. The clerk of the peace was authorised to renew licenses, if the justices neglected to do so, and even to grant new licenses, if two magistrates living within five miles of the applicant certified to his good character. Any two justices had power to annul a license. In Dublin the clerk of the peace issued the licenses by order of the Lord Mayor.

Persons licensed had to enter into a bond with sureties to keep a victualling house, inn, or tavern, not to sell spirits at all on Sunday, nor any other liquor before 2 p.m. on that day, except to travellers, nor before sunrise or after reasonable hours at night. The sale of victuals to be consumed on the premises was very stringently insisted on, and, in order to encourage the consumption of beer at the expense of spirits, a bounty was given to retailers of spirits who sold a certain quantity of beer. The Act also contained a number of provisions for preserving public order, and preventing the illicit sale of liquor.

One very important section forbade licenses to be held by grocers and others, but this was repealed in the following year by 46 Geo. III. c. 70. s. 1.

In 1807 the Act of 1806 was repealed, and the Act of 1805 extended to all retail licenses by 47 Geo. III. Sess. 2. c. 12. Retailers were defined, and provision made for levying the license duty by means of a stamp. In any place where the stamp duty for a license to retail spirits, &c. was not less than 22*l.* a grocer was allowed to take out a license to retail spirits, but he was not allowed to sell spirits in less quantities than two quarts or more than two gallons, or for consumption on the premises. The maximum quantity of spirits was extended two years after to 50 gallons. This was the first extension of the spirit grocer's license outside Dublin. There were at this time about 30 cities and towns in which grocers could hold licenses under this enactment.

The same Act also extended to all Ireland a provision previously confined to Dublin, that parishioners might appoint special public-house overseers, who were to have the same powers as police officers.

Acts containing various small amendments were passed in 1808, 1809, 1810, 1812, and 1813.

* In 1815, by 55 Geo. III. c. 19., previous Acts were repealed, and most of their contents consolidated. Apparently, however, the power of the grand jury to fix the number of licenses was not re-enacted, and the sections empowering grocers to hold licenses remained untouched. The justices were the licensing authority, except in Dublin, where the Lord Mayor and the police magistrates retained their licensing authority as before. The justices at quarter sessions, the Lord Mayor of Dublin, or two police magistrates, or the Commissioners had full power to annul licenses apparently without restriction. Persons licensed had to enter into a bond in the sum of 50*l.* with two sureties in 25*l.* each—

To keep victualling-house, inn, or tavern, and to provide beer, or porter, and victuals:

Not to sell spirits on Sundays or other liquors before 2 p.m. on that day except to travellers and inmates:

Not to sell liquors at unseasonable times except to travellers:

Not to sell to labourers resorting to the house to receive wages or for unlawful combination, or to persons illegally bearing arms:

Not to receive or sell any liquors on which proper duties have not been paid.

An Act of the same year (55 Geo. III. c. 104.) amended the law as to the grant of licenses in Dublin. Persons applying for a license had to obtain an order from the Lord Mayor, and the consent of a divisional justice in the division in which Dublin Castle is. The power of the Lord Mayor to annul a license was taken away and given to the divisional justices of the Castle Division. The same Act gave the Excise power to renew a license on a certificate from two justices residing within seven miles of the applicant, and to issue a new license at any time on the certificate of three justices residing within seven miles, providing that the application had not been previously refused at quarter sessions.

The Act of 1818, the Spirit Grocers' Act, 58 Geo. III. c. 57, repealed the previous enactments as to grocers, and laid down that any grocer, in any place, might take out a license from the Excise to retail spirits and other liquors for consumption off the premises, in payment of the same duty as innkeepers. The spirit-grocer was further defined by the Revenue Act of 1825 (6 Geo. IV. c. 81) which lays down that a person duly licensed to "deal in or sell coffee, tea, cocoa-nuts, chocolate, or pepper," shall be deemed a grocer, and be allowed to take out the license to retail spirits in any quantity not exceeding two quarts at one time, to be consumed off the premises. No certificate was required.

The Revenue Act of 1825 which we have mentioned, was a great consolidating Act extending to the whole United Kingdom. It lays down the rates of license duties, and provides that no person shall be licensed as a publican, without a previous certificate, to be obtained under the previous licensing Acts.

The Act, though it introduced a thorough reform in the Excise law, did not touch the law as to certificates, and it is not surprising that a good deal of difficulty existed as to the meaning of the series of licensing statutes, which had been so lavishly passed since the beginning of the century. It seems pretty clear, however, that at this time the powers of the justices to refuse or annul a license, in the absence of any limiting definition, was absolute.

iii. 1833—1874.

The Act of 1833 (3 & 4 Will. IV. c. 68) which is the foundation of the present Irish licensing law, recites in its preamble that "whereas the laws for granting such certificate "or authority by justices of the peace and magistrates in Ireland have become confused, "doubtful, and complicated, and the requiring the said certificate or authority "imposes great difficulties and hardships on persons applying to be so licensed, &c.," and goes on to limit and define the authority of the justices.

They were to have power to refuse new licenses on three grounds, either unsuitability of applicant, or premises, or the number of previously licensed houses in the neighbourhood. Transfers were regulated by the same sections as new licenses, but

* The duties on licenses ceased by this Act to be stamp duties and become duties of excise.

renewals were to be granted directly by the Excise on the production of a certificate signed by six householders to the good and peaceable conduct of the house during the past years. The Act also provides for the entry of constables into licensed premises and for certain offences.

The Act of 1836 (6 & 7 Will. IV. c. 38) added to the certificate of the six householders the certificate of the district inspector, and of two overseers of the parish. There were special overseers for public-houses appointed by the justices; they were to possess the same power as constables. The certificate is not now required.

The Spirit-Grocers' Act of 1845 (8 & 9 Vict. c. 64) re-enacted the law as to spirit-grocers, but provides that justices and constables should have a right of entry at any time when the house is kept open for sale. The Act of 1854, known as the Shebeening Act (17 & 18 Vict. c. 89) amended by two Acts of the following year (18 & 19 Vict. c. 62 & 103) contains a number of provisions against the sale of drink on unlicensed premises, &c. The same Act makes a certificate, signed by two or more justices in petty sessions to the peaceable and orderly manner in which the house has been conducted during the past year a necessary, condition to the renewal of a publican's license. The Act 18 & 19 Vict. c. 62, amended by 23 & 24 Vict. c. 35, gives a right of appeal to quarter sessions against the refusal of such a certificate.

Another Act of 1855 (18 & 19 Vict. c. 114) provides for temporary transfers.

The Act of 1860 (23 & 24 Vict. c. 107) set up the wine-refreshment houses to which allusion will be made later, and also dealt with hours of closing.

The Act of 1864, the Beerhouses (Ireland) Act (27 & 28 Vict. c. 35) amended by the Act of 1871 (34 & 35 Vict. c. 111) provides that for the grant, transfer, and renewal of a license for the sale of beer by retail, not to be consumed on the premises, a certificate signed by two justices at petty sessions is necessary. Objection may be taken to the grant of this certificate by the police, and there is an appeal to quarter sessions both against refusal and grant. The Act also deals with the offences which a licensed beer-retailer may commit.

iv. *The Act of* 1872.

The Act of 1872 was originally intended to apply only to England, but by a series of omissions, additions and modifications, it was afterwards made to apply to Ireland. The result has not been to diminish the confusion of the law.

That part of the Act which applied both to Ireland and England consolidated the law as to illicit sale, offences against public order and legal proceedings; it also dealt with endorsement of convictions, six-day licenses and miscellaneous points such as the disqualification of justices, service of notices, &c. On all these subjects the law is therefore the same as in England.

Under the sections which were added to apply exclusively to Ireland, the spirit grocers were required to obtain, before their licenses could be renewed, a certificate of two justices to the good character of the applicant, and the peaceable and orderly manner in which the house has been conducted during the past year, and the law as to offences by spirit grocers, and legal proceedings relating thereto was laid down. The Act also made new provisions as to the hours of closing, but these will be dealt with separately.

v. *The Act of* 1874.

The Act of 1874 (37 & 38 Vict. c. 69) applied exclusively to Ireland.

By it spirit-grocers and wholesale beer-dealers were made subject to the same regulations as regards grant, renewal, and transfer as beer-retailers.

The hours of sale in theatres were restricted; the publican's privilege of trading at fairs without an occasional license was taken away, early closing licenses were instituted, and the justices were authorised to grant permanent exemption orders from the hours of closing to publicans for the accommodation of persons attending markets, fairs, &c.

The date of annual licensing sessions was to be fixed by the Lord-Lieutenant by an Order in Council, and the law as to application for publicans' licenses and procedure on renewal was assimilated to the English law.

Other sections dealt with the register of licenses, penalties and endorsement of convictions, entry of constable on premises, detention of drunken persons, the *bonâ fide* traveller, and other minor points.

vi. *The Act of* 1877.

The Act of 1877 (40 Vict. c. 4), called Meldon's Act, imposed a qualification of annual rateable value on beer-retailers and wholesale beer-dealers; *i.e.*, 15*l.* in cities, &c., with a population exceeding 10,000, and 8*l.* elsewhere.

The Act applied to all existing premises, and it also gave the police a power of entry into wholesale beer-dealers' premises, at any hours during which they are kept open for sale.

vii. *The Act of* 1882.

The Act of 1882 (45 & 46 Vict. c. 34) was originally intended to apply only to England, but by an amendment it was made to apply to Ireland. It gave the justices free and unqualified discretion to refuse grant, renewal, or transfer of beer-retailers' off-licenses, and also laid down that they were to be granted only at annual licensing sessions.

viii. *The Act of* 1886.

The Act of 1886 (49 & 50 Vict. c. 56), preventing sale of intoxicating liquor to children under 13 for consumption on the premises, applies to Ireland as well as England.

ix. *Hours of Closing and the Act of* 1878.

By the Licensing Act of 1833, all houses licensed for consumption on the premises were required to be closed on Sunday, Good Friday, Christmas Day, or any day appointed for a public fast or thanksgiving, except between the hours of 2 p.m. and 11 p.m.

By the Act of 1872, section 78, the hour of closing on these days was fixed at 9 p.m. in any city or town exceeding 5,000 population, and elsewhere at 7 p.m.

The Sunday Closing Act of 1878 (41 & 42 Vict. c. 72.) imposed complete Sunday closing upon the whole of Ireland, except the Dublin Metropolitan Police District, and the cities of Belfast, Cork, Limerick, and Waterford. The hours of closing on Good Friday, Christmas Day, &c., were left untouched by the Act. In the five exempted cities the hour of closing on Sundays was fixed at 7 p.m. instead of 9 p.m.

Beer-retailers' licensed premises were brought under the same closing regulations as "on" licensed premises by the Act of 1864, and from 1872 onwards these regulations apply to all licensed premises.

By the Act of 1860 (23 & 24 Vict. c. 107.) all houses licensed for consumption on the premises were allowed to be opened on week days between the hours of 7 a.m. and 11 p.m. By the Act of 1872 the evening hour of closing was changed to 10 p.m. instead of 11 p.m. everywhere except in cities and towns with a population exceeding 5,000.

2. Fluctuations in the Number of Licenses.

It does not appear that legislation since 1833 has had much effect on the number of licensed premises, but especially in the case of public-houses some very remarkable fluctuations in number have taken place. In 1832 they numbered 18,234; in 1833, 20,629; in that year a Licensing Act was passed, and in the next year the numbers fell to 19,435. The decrease, however, was only temporary, and by 1838 the number had reached 21,326.

The figures for this and the following years are so remarkable that they deserve to be recorded. *See* Vol. I., Appendix I.

Year.	Public-houses.	Year.	Public-houses.
1838	21,326	1842	13,063
1839	20,303	1843	13,018
1840	16,199	1844	13,514
1841	14,162		

There is no legislation in this period which can account for this tremendous decrease. There can be little doubt that it is due entirely to the extraordinary effect produced by

the efforts of the Apostle of Temperance, Father Mathew. The years 1839 to 1845 were the years of his great success. During that period the consumption of spirits diminished to an almost incredible extent, and in parts of Ireland crime became almost unknown. Unfortunately the years of the great famine immediately followed. The population fell rapidly through emigration, and amongst those who remained a great deal of drinking went on, partly through the natural reaction following on the great enthusiasm, partly from despair. The lavish granting of licenses went on as before, and by 1858 the number of public-houses had sprung up to over 17,000, in spite of the great decrease of population.

In 1865 the number had again fallen to 15,404, but from that time the number has been steadily increasing. The Acts of 1872–4 had little or no effect as measured by the number of public-houses. In 1882 they numbered 16,531, and since then, in spite of a decrease in Dublin and Belfast, the total has increased to 17,300 in 1896.

Spirit-grocers' licenses in 1833 numbered 141. By 1845 they reached 542, but apparently in consequence of the Spirit-Grocers' Act of that year they fell in the next year to 190, and in 1847 to 146. In 1864 their total was 241, but 10 years later it was 787. Meldon's Act in 1877, though it only affected them indirectly, by imposing a rating qualification on the beer-retailers' licenses, which are generally held in conjunction with the spirit-grocers', reduced their numbers considerably. In 1884 they numbered 482, but since then they have largely increased, chiefly in Dublin and Belfast, and in 1896 they numbered 768.

The beer-retailers' licenses were introduced by an Act of 1863 (26 & 27 Vict. c. 33.). In 1864, 355 of these licenses were taken out, and by 1872 they had increased to 1,248. In 1873 they fell to 939, and, partly in consequence of the legislation of 1872–4, they fell to 714 in 1877. Meldon's Act of that year, already mentioned, had the effect of reducing them at one blow to 412. Since then their numbers have increased, in spite of the Act of 1882 giving the justices free and unqualified discretion to refuse a new grant, renewal, or transfer. Most of the people who formerly held the beer-retailers' license now hold the beer and wine retailers' off-license, which was invented by the Revenue Act of 1880 (43 & 44 Vict. c. 20.). For some reason this license was not generally taken advantage of till 1889, as may be seen from the following figures:—

Year.	Beer Retailers.	Beer and Wine Retailers.
1888	430	141
1889	186	409

Vol. III., Appendix II., p. 569.

The numbers in 1896 were beer-retailers 103, beer and wine retailers 658.

In 1896 the total number of licensed premises in Ireland was 18,751, viz.:—

Publicans (spirit retailers "on")	17,300
Beer-retailers "on"	57
Beer and wine retailers "on"	16
Wine and sweets retailers "on"	29
"Off" licenses	1,349
Total	18,751

CHAPTER III.

THE PRESENT LAW.

1. Outlines of the present Law.

The wholesale licenses are the same in Ireland as in England; but the wholesale beer-dealers' license is only granted on the production of a justices' certificate.

On retail licenses are the beer, the beer and wine, and the spirit licenses which are granted on the production of a public-house certificate, the wine refreshment-house license, to whose grant the justices have a power of objection, and the sweets license which does not require a certificate of any kind.

Off retail licenses are the spirit-grocers' license, the beer-retailers', and the beer and wine, which require a certificate, and the wine and the spirit dealers' additional license to retail foreign liqueurs, which do not. Only two of these liqueur licenses are taken out in Ireland; while the table beer license, though nominally extending to Ireland, is not taken out at all. Licensing authority is divided between the quarter sessions and the petty sessions. Public-house licenses are granted and transferred at quarter sessions; they are renewed, and all other justices' licenses are granted, renewed and transferred at petty sessions.

In all counties or counties of cities or towns, except Dublin, Belfast, Cork, Londonderry, and Galway, the licensing jurisdiction of quarter sessions is exercised by the justices assembled, presided over by the county court judge, but in the five places named by the recorder sitting alone.

The licensing jurisdiction of petty sessions is exercised by two or more justices assembled, except in Dublin, where it is exercised by one divisional justice.

The law as to the disqualification of justices is the same as in England.

The Lord Lieutenant has the power to fix annual licensing quarter sessions and petty sessions, and, by an Order in Council, Michaelmas quarter sessions and the last petty sessions in September are so fixed, except in Carrickfergus, where the annual licensing sessions are the July quarter sessions and the last petty sessions in June.

Certificates (commonly called licenses), to endure for a year, can only be granted at these sessions; but at interim quarter sessions or petty sessions, new licenses or transfers may be granted to endure till the next annual licensing sessions, when they must be confirmed. Beer retailers' licenses, however, can only be granted at annual sessions.

Public-house licenses are granted for the first time at quarter sessions; they may be refused on three grounds.

(i.) Unfitness of applicant.
(ii.) Unfitness of premises.
(iii.) Number of previously-licensed houses in the neighbourhood.

The applicant must give 21 days' notice to (*a*) each of the next two local magistrates, (*b*) the clerk of the peace, and (*c*) the police, and he must advertise the notice in some local newspaper. The clerk of the peace must send a list of applications to every local magistrate and clerks of petty sessions in the county.

Any justice or inhabitant of the parish, or the police, may object to the grant; and no notice of objection is required. There is no appeal against the grant or refusal of a new license, nor is any confirmation required in the English sense.

Transfers of public-house licenses are granted at any quarter sessions; the procedure and formalities are the same as in the case of a new license; but objection can only be made on the ground of the unfitness of the applicant or of the premises.

A temporary transfer or interim authority to sell may be granted at petty sessions to endure till the quarter sessions next after the expiration of one calendar month. In case of the license-holder being convicted of one of those offences which forfeit the license at the first conviction, the owner may obtain a temporary authority to sell till the next quarter sessions.

Public-house licenses are renewed on the production of certificates to the good character of the applicant and the peaceable and orderly manner in which the house has been conducted during the past year, one signed by two or more justices at petty sessions, and another signed by six householders, two being resident in the same or next adjoining townland or street.

Objection may be taken by the same persons as in the case of new licenses on the ground that one of the above conditions has not been fulfilled, and two days' notice of objection to the grant of the justices' certificate must be given to the applicant.

No notice of application is needed. The applicant need not attend, unless specially required, and all evidence must be on oath. If objection is raised without notice, the application may be adjourned.

There is an appeal to quarter sessions against the refusal to grant the renewal certificate.

New spirit-grocers' and wholesale beer-dealers' licenses are granted at petty sessions. The police only may object on the grounds of the character of the applicant or the unsuitability of the premises for purposes of sale. Twenty-one days' notice of application must be given. The same rules apply to transfers of these licenses, but objection may be taken on the grounds that the applicant is not of good character, or that the house has not been well conducted. Temporary transfers may be granted to the owner of the premises in case of forfeiture of the license on conviction for one of those offences, which forfeit it on a first conviction, to endure till the next petty sessions.

The justices' certificates for the renewal of these licenses are granted at petty sessions. They must testify to the good character of the applicant, and the good conduct of the house during the past year.

Beer-retailers' licenses are on the same footing, except that the justices have free and unqualified discretion to refuse a new grant, transfer, or renewal.

Both grant and refusal of a new license, renewal or transfer, are subject to an appeal to quarter sessions in the case of all these three licenses.

No qualification of annual value is required for a public-house or a spirit-grocer, but beer-retailers' and wholesale beer-dealers' licenses can only be granted to premises of an annual value of 15*l.* in cities, &c., with more than 10,000 population, or 8*l.* elsewhere.

Any person keeping a refreshment-house (which requires an excise license, if kept open between 10 p.m. and 7 a.m. in a place of over 10,000 inhabitants), and who wishes to sell foreign wines for consumption on the premises, can make application to the Excise for a license, which must be issued, unless an objection is forwarded within 30 days, signed by a justice or justices in petty sessions. Objection may be taken in a similar manner to renewal and transfer of the license, and there is an appeal in all cases to quarter sessions. The objection must be on one of eight specified grounds. The Acts of 1872–4 do not apply to these licenses, except in respect of hours of closing, and separate enactments as to offences, &c., are contained in the Act of 1860.

A register of licenses has to be kept by the clerk of petty sessions to record all matters relating to the licenses, and a similar register of public-house licenses has to be kept by the clerk of the peace.

The law as to sale to children is the same as in England, viz., no child under 16 may be served with spirits, and no child under 13 with any other intoxicating liquor for its own consumption on the premises.

Sale on passenger boats is regulated by the same law as in England.

No justices' license is required for the sale of intoxicants in theatres established under Royal patent, but the Excise license is only granted on condition that the place of sale is within the theatre, and accessible only to persons employed in or *bonâ fide* attending the performances, and that the sale be conducted only during the performances and for 30 minutes before or after.

The hours of closing (applicable to all licensed premises, except wholesale beer-dealers), are as follows :—

A.—*On Sundays.*

Licensed premises are closed all day except in the Dublin Metropolitan Police District, Belfast, Cork, Waterford, and Limerick, where they are open from 2 p.m. to 7 p.m.

B.—*On Christmas Day, Good Friday, or any other Day appointed for a Public Fast or Thanksgiving.*

Licensed premises are closed—

(*a.*) In cities and towns where the population is over 5,000, except from 2 p.m. to 9 p.m.

(*b.*) In other places except from 2 p.m. to 7 p.m.

C.—On other Days.

Licensed premises are closed—

(*a.*) In cities and towns where the population is over 5,000, from 11 p.m. to 7 a.m.

(*b.*) Elsewhere from 10 p.m. to 7 a.m.

The same exception is made as in England in favour of the *bonâ fide* traveller.

Permanent exemption orders, except between 1 and 2 a.m., are granted by the local authority, *i.e.*, the Chief Commissioner of Police in Dublin and two or more justices in petty sessions elsewhere. There are no extensions.

Authorities for occasional licenses are granted by one justice sitting anywhere, as in England.

The law as to offences by licensed persons and by the public under the Licensing Acts is somewhat complicated. It is, however, generally the same as in England, and we shall deal with some of the points more particularly at a later stage.

2. The Need for Consolidation.

Mr. Dunbar Plunket Barton, the Solicitor-General for Ireland, at the opening of his admirable exposition of the Irish law, referred to its complicated and puzzling condition. He quoted an opinion of Mr. Justice Fitzgerald, delivered in a judgment in 1877, which aptly describes the state of things. 56,056.

"The provisions of the numerous statutes, which regulate licenses for the use of intoxicating liquors in Ireland, are so complex, uncertain, and contradictory that it is difficult to carry them into effect, or to reach the meaning and intention of the Legislature."

The need for codification and simplification of the licensing laws is greater in Ireland than in any other part of the United Kingdom. We fully agree with the opinions of many of our witnesses on the point.

CHAPTER IV.

THE EXCESSIVE NUMBER OF LICENSED HOUSES IN IRELAND.

The number of licensed houses throughout all Ireland is, beyond all question, excessive and utterly out of proportion to the necessities of the inhabitants. Bishops and clergy, judges and magistrates, Members of Parliament and police, all unite in the same opinion. It should be observed that almost all the licensed houses in Ireland are public-houses. These number 17,000, out of a total of about 18,000; except in Belfast, Dublin, and Cork, off-licenses are rare. The following classification of licensing divisions in Ireland, according to the ratio of licensed premises to population in 1896, shows the need of a great reduction:— Reed, 57,030. Healey, 62,081. Curran, 61,735. Waters, 62,533.

Divisions where the proportion of licensed premises to population is:—

1 to Under 100.	1 to 100 and over.	1 to 150 and over.	1 to 200 and over.	1 to 300 and over.
5	42	80	152	301

But these figures do not represent the real extent of the evil. The peasantry of Ireland are, as we have seen, a sober people, except when they visit the small towns for fairs and markets, or other occasions. In these towns the congestion of public-houses is almost incredible.

In Tralee, Mr. Ball, D.I.R.I.C., tells us there are 117 public-houses to a population of 9,367. "In some cases," he says, "if a man was blindfolded, and put standing in "the centre of the street, and spun round a couple of times, and started off in no Ball, 59,389.

"particular direction, I do not suppose he could go 20 yards without striking against "a public-house." One street, 40 yards long, so narrow that two carts cannot pass in it, has 12 public-houses in it. There are also public-houses by the wayside in coun districts, which act as traps for men who are half drunk, coming back from markets and fairs.

Foley, 58,658, 58,676, 58,771. Mr. Foley, County Inspector of Clare, thinks that there are 10 times the number of licensed houses in that county required for the due accommodation of the inhabitants, and not only does the excessive number here and elsewhere defy adequate police supervision, but the remoteness of some houses enables them to escape from all reasonable control, and leads to much drunkenness. Ennis itself has over 100 public-houses, Mullough 10 to a population of 179, one house in 3; Kilmihill 8 to a population of 175, and 27 houses.

60,148. Mr. Considine, R.M., says that in Kilkenny City licensed houses are from 50 to 60 per cent. too many. Speaking of Castleisland in Co. Kerry, where the number of licensed houses is one to every 30 persons, the same witness says it is "the most drunken and the most lawless place I have ever known."

Mr. Gambell, County Inspector of Cork City and Cork East Riding, says that in the city the licensed houses number one to every 130 persons, and he gives some of the 57,972. figures for the country towns and villages:—Queenstown, one to 123; Mitchelstown, one to 35; Fermoy, one to 78; Kantark, one to 27; Mallow, one to 53; Knocknagree, one to 16; Charleville, one to 42.

57,996. Police supervision over so many houses is, he says, very difficult; some of them are very remote from police stations, and all sorts of devices have to be adopted to watch them.

The peculiar circumstances of the South and West of Ireland make the facts even worse. The Reverend Michael Ahern, C.C., of Ladysbridge, Castlemartyr, Co. Cork, says that, owing to enlistment, emigration, and so forth, the population consists largely of the very old and very young. So many males between 25 and 30 leave the country that even a much smaller number of public-houses would be excessive. At present the proportion of public-houses to males over 20 for the whole county, including Cork 62,713. City, is one to 45. In many of the villages it is one to 5 or 6. In Ladysbridge 62,732. there is one public-house to every 25 persons, and the villages all round are crowded with them.

From all parts of the country comes evidence of a similar congestion of public-houses. Mr. Gore, of Dublin, calculates that, taking one public-house as supplying adequate accommodation for 100 families,

Dublin	would have	499	instead of	1,551.
Belfast	„	416	„	1,110.
Waterford	„	44	„	232.
Clonmel	„	18	„	113.

61,870. In Waterford the Rev. T. F. Furlong, C.C., says, there are twice too many. In one street, with 83 houses on one side and 87 on the other, there are 35 public-houses, and the side streets are also well supplied.

One of the worst features of this overcrowding is, that by the decrease of population 60,481. over a great part of Ireland the congestion grows continually greater in relation to population, even when the actual number of public-houses remains stationary.

In 1845 the population of Ireland reached it maximum, 8,295,061. In that year the number of public-houses was 15,000; in 1891 the number was 17,000, but the population was no more than 4,704,750.

It is difficult to exaggerate the evils arising from this excess. On the one hand the severe competition leads to the sale of bad liquor and illicit trading, while on the other the mere number of the houses prevents the police from exercising more than the most cursory supervision. Further, as Mr. Ahern says, merely passing a public-house is a temptation to a man, even if he does not wish to drink. People begin to Ennis, 61,748. leave the fairs and markets at about 12 o'clock. It is their custom to stop and treat Curran, 61,422. each other at every public-house on the way, so that often they do not get back till Ball, 59,331. nightfall. Drunkenness, crime, and disorder are the direct consequences. 63,054.

CHAPTER V.

BAD CONDITION OF THE LICENSED HOUSES.

It can easily be imagined that when public-houses exist in such numbers the effect would be pernicious, but this effect is greatly intensified by their character and condition.

1. Rateable Value.

No value qualification is required for a public-house in Ireland. Many of them are of very small value.

Mr. T. W. Russell, M.P., quoting from a Parliamentary Return of 1871, says that at that time 8,071 out of 16,430 public-houses in Ireland were under a 10*l.* valuation. 59,859.

Sir Andrew Reed, K.C.B., states that a value qualification should be required for public-houses. In an important assize town there were public-houses rated at 15*s.*, 21*s.*, 30*s.*, and so on. The qualification should be 25*l.* in places like Belfast, 15*l.* in places over 10,000 population, and 8*l.* elsewhere. Continued suitability of premises should be a condition of renewal. 56,859.

Mr. Gambell says that in Cork City— 57,981.

		£	
13	public-houses are valued at - - -	5	and under.
130	„ „ - - -	10	„
164	„ „ - - -	15	„

In Fermoy.

13	public-houses are valued at - - -	10	and under.
23	„ „ - - -	15	„

In Mallow.

3	public-houses are valued at - - -	5	and under.
19	„ „ - - -	10	„
26	„ „ - - -	15	„

At Mullough, in Co. Clare, there are 10 public-houses whose aggregate rateable value is 39*l.* 10*s.* Foley, 58,678.

In Kilkenny City 26 public-houses are valued at under 10*l.* and 22 at under 15*l.*, on the poor law valuation, not the Excise, which is 20 per cent. less. In Kilkenny County 202 public-houses are valued at under 10*l.* (many of these being under 5*l.*), 71 at under 15*l.*, and 76 at over 15*l.* From Thurles, Co. Tipperary, a similar state of things is reported. Out of 77 public-houses in this, "a typical town," 38 are under 10*l.* valuation. Considine, 60,097, 60,101. Bruen, 59,029.

Mr. C. W. Leatham, County Inspector of Londonderry City and County, put in a remarkable table showing the connexion between low-rated licensed houses and offences. Vol. VII., App. V., Table XV.

	Valuation of Premises.						
	Over 30*l.*	30*l.* to 25*l.*	25*l.* to 20*l.*	20*l.* to 15*l.*	15*l.* to 10*l.*	10*l.* to 5*l.*	Under 5*l.*
Londonderry City -	42	7	23	36	66	50	2
Londonderry County -	12	6	19	47	79	115	68
Total - -	54	13	42	83	145	165	70
Number of prosecutions of licensees for seven years ended December 31, 1897.	8	1	5	28	71	77	39

He and other witnesses join in recommending a necessary qualification of value for public-houses. 57,759. Ennis, 61,736. Bourke, 58,525.

Recommendation.

We agree with the proposal that a rating qualification of 25*l.* annually should be required in towns over 10,000 population, of 15*l.* in towns over 5,000, and of 12*l.* elsewhere.

This should apply in the case of all newly licensed public-houses, and should come into operation for existing public-houses at the end of five years.

40 Vict. c. 4. A precedent for this can be found in Meldon's Act of 1877, which imposed a rating qualification on all beer-retailers; but it applied to all existing licenses, and had the effect of abolishing a great number at one stroke.

2. Structure of Premises.

Besides the low rateable value, many of the houses are very badly constructed and situated.

57,985, 58,419. For instance, Mr. Gambell says the structural condition of many of the houses in Cork City and East Riding is very bad. There is scanty accommodation, badly enclosed yards and back exits, and there are back doors leading into back yards and gardens which make police supervision almost impossible.

3. Lack of Accommodation.

Complaints are frequently made of the difficulty of obtaining proper accommodation and refreshment for travellers in these houses. There is no hotel license distinct from the public-house license, and in many places, especially at wayside public-houses, nothing can be obtained but intoxicating liquor, not even a cup of tea or bread and butter.

Sir A. Reed considers the question of proper accommodation for travellers a burning 56,828. question, as it concerns the prosperity of the country; the poorer class of persons are precluded from travelling owing to the wretchedness of the houses, and the want of supply of proper and necessary refreshment.

Judge Orr says that a great deal of mischief arises from the publicans not supplying 62,362. solid food. In the rural districts people start very early to market, go nearly all day without food, and then drink bad liquor in the public-houses, bad and, as he believes, adulterated.

Morell, 57,165. Ennis, 61,746. Similar complaints as to the absence of solid refreshments in public-houses come from Belfast, Wexford, and elsewhere.

4. The Combination of Trades in Public-Houses.

But, besides the excessive number and the low character of the houses, there is another feature of the public-house system in Ireland which specially tends to promote habits of drinking and drunkenness among both sexes, leads to evasion of the hours of closing, and makes police supervision a difficult, if not an impossible, task. This is the combination of the sale of groceries and other articles with the sale of liquor in public-houses.

It is said that the publican cannot make a living by his own proper business, owing to the severe competition, and so is obliged to add another trade; while a neighbouring trader, finding his own particular trade insufficient, is obliged to take out a license, which, owing to the maladministration of the law, he is usually able to do quite easily. And so the combination of the trades and the excessive number of public-houses work continually in a vicious circle, acting and reacting upon each other.

i. *Prevalence of the System.*

Gambell, 57,990. Ball, 59,315. Furlong, 60,438. Ennis, 61,732. The combination prevails very largely. In Cork City 9 per cent. and in Cork East Riding 63 per cent. combine the sale of groceries and general goods with that of intoxicants. In Tralee nearly all the houses carry on a mixed trade. In Waterford, 91 out of 228, in Wexford, 80 out of 84. In Dublin, nine-tenths of the trade is a mixed trade. In Tipperary, the majority of the public-houses are baker's or drapery establishments, drink being sold in the same room.

Similar evidence comes from all parts of the country, and Mr. Wilkinson, Secretary of the Irish Temperance League, says: "From some county districts I have been told

" that there are villages where you cannot buy even a loaf without going into licensed " premises to buy it; it is impossible to send a child on a message to get any article " without its having to go into a licensed place." He thinks it has originated in the ease with which publicans' licenses can be obtained, and the desire on the part of everyone to be equal with his neighbour. Bergin, 61,520. Breen, 59,030. 63,911.

ii. *Evils arising from the Combination.*

There can scarcely be two opinions as to the miserable results of the system.

Mr. Gambell says that his officers report very strongly against the combination of trades. It leads to evasion of hours of closing. It leads to the spread of drinking and drunkenness, especially among women, who, going in to buy groceries, are often induced to drink by the sight of liquor, and by being treated. 58,004, 58,298.

The Rev. P. O'Leary, C.C., of St. Finbarr's, Cork, is strongly opposed to the combination; he knows cases where it has led to drunken orgies on Sundays, though the houses are supposed to be closed. 61,553.

The Rev. M. Ahern says there is a strong feeling against women drinking in public-houses, but he adds that some do drink, because the mixed trade gives them an excuse for going in. 62,721.

Similarly, Mrs. Crawford, speaking of Dublin, says that women have no sense of shame in entering a grocery and having a drink while waiting for their goods. Hence, in her opinion, comes increased female and juvenile intemperance. 60,760, 60,818.

Some points in the Irish character make the combination peculiarly dangerous. " A " woman comes in to buy draperies, and Irish people are hospitable and they offer a " treat, and it encourages drink." Bourke, 58,558.

So Judge Curran, who has had great experience, and is strongly opposed to the combination, says: " It is merely a cloak; men go in there with their wives and " children (to buy something), and are looked upon as very bad fellows if they do not " cross to the opposite counter and have a drink." 61,461.

Mr. T. W. Russell alludes to the obstacles placed by this system in the way of a proper administration of the law. Especially in those parts of Ireland where Sunday shopping is the rule, it leads to much evasion of closing hours. In Co. Kerry, where the system notably prevails, the Sunday arrests for drunkenness per annum run from 150 to 200 and over, a very large number compared with other counties. 59,854.

Mr. Ball, District Inspector at Tralee, says that a hiring fair is held every Sunday, and as Sunday is also the general shopping day, people buying goods can also surreptitiously obtain drink, as nearly all the houses carry on a mixed trade. He feels very strongly about the facilities for illicit drinking thus afforded, and, with commendable energy, has done his best to put it down. Whenever he has got a conviction he opposes the renewal of the license, unless alterations are made entirely shutting off the bar; and he also raises the same point on transfers. 59,315–28. 59,372, 59,570.

It is to be feared that such efforts can be of little avail in the face of such a licensing authority as the justices have shown themselves to be, but that makes his credit the greater.

Sunday shopping in Co. Clare is also a great obstacle to the enforcement of Sunday Closing. Foley, 58,741.

iii. *Suggested Remedies.*

Witness after witness testifies to the evil and urges reform.

Sir A. Reed desires to separate the trades, but says it would " revolutionise the trade"; at any rate, the combination should not be allowed in the case of any new license. 57,014.

Others wish for the separation, though some think it a strong measure. But Mr. Bergin, representing the licensed grocers and vintners of Dublin, thinks it would be a great hardship.

iv. *Recommendation.*

Looking to the evils which arise from the combination, and to the precedent of the Forbes Mackenzie Act of 1853, which did for Scotland what it is proposed to do for Ireland, so far as public-houses are concerned, we are of opinion that immediate steps

should be taken to carry out the separation of the premises in which the trade in intoxicating liquors is carried on. At the end of five years no public-house license should be renewed to a house which supplies any other goods than provisions for consumption on the premises. In the meantime no new licenses shall be granted, nor any old ones transferred, except upon the same terms.

5. Miscellaneous.

i. *Post Offices held on Licensed Premises.*

Except in the presence of absolute necessity, we think that post offices ought not to be held on licensed premises, and immediate attention should be given to the fact that, whereas in England 33 post offices are held on on-licensed premises, in Wales five, and in Scotland 23, in Ireland 244 are so held.

Wilkinson, 63,921.

The figures as to post offices held on off-licensed premises are: England 604, Wales 15, Scotland 17, and Ireland 26.

ii. *Payment of Wages in Public-Houses, &c.*

Gambell, 58,068. Taylor, 62,061. Wilkinson 63,917. 61,529.

The law as to payment of wages in public-houses is largely evaded in Cork and, to a certain extent, in Belfast; in Cork attempts have been made to suppress the practice, but it is not quite clear that the statute (55 Geo. III. c. 19. s. 65.) is wide enough.

In Cork, the Rev. P. O'Leary says payment of wages in public-houses is very general, especially to the quay labourers. The publicans are used as paymasters and sub-employers. The men believe that they have no chance of employment unless they become regular customers at those public-houses, and the money is stopped out of their wages.

Such a practice is most demoralising to the men, and the stopping of wages in payment for drink debts amounts to a direct infraction of the Truck Acts.

Wilkinson, 63,927. Crawford, 60,778.

This is, doubtless, one consequence of the excessive number of public-houses. The general principle should be laid down that public-houses are not to be used in these or similar ways, *e.g.*, as rate collectors' offices, or as agencies for distributing tickets for poor law relief, which Mrs. Crawford says is usual in Dublin.

iii. *Lodgers in Public-Houses.*

In Cork about 10 per cent. of the public-houses are let out in tenements to working-men. In many houses five or six families are living. In most cases there is communication with the bar from within. In some there is no such communication, but the Rev. P. O'Leary says he has known of illicit sale being carried on from behind by vessels being let down from windows. The police find it impossible to exercise any supervision.

Such a state of things should be entirely forbidden. We are of opinion that the licensed part of the premises should be entirely distinct from the dwelling-house, even of the publican himself, and have no sort of internal communication. It would, further, be most advisable to follow the Scottish practice where possible, and forbid the publican to live on the premises at all. No more effective precaution against illicit sales can be found.

6. Reduction of Licensed Houses.

The urgency of the need for a reduction of licensed houses cannot be doubted. The measures which we have indicated will, if carried out, exercise an enormous effect in this direction. We may here recapitulate them:—

(*a.*) That a rating qualification of 25*l.* annual value shall be required for all public-houses in towns over 10,000 population, of 15*l.* in towns over 5,000, and of 12*l.* elsewhere.

That this shall apply to all new licenses, and shall be applied to all existing public-houses at the end of five years.

(*b.*) That at the end of five years no license shall be renewed to any house supplying any other goods than provisions for consumption on the premises; and that, in the meantime, that no new grant or transfer of a license shall be made except upon the same condition.

(*c.*) That no post office be allowed to be held on licensed premises except in a case of absolute necessity.

(*d.*) That the sections relating to the payment of wages in public-houses should be made more general and comprehensive; and that no public-house shall be used for collecting rates, distributing relief tickets, or any similar purpose.

(*e.*) That no internal communication should be allowed between the licensed part of the premises and the dwelling-houses, and that, when possible, the licensee should be forbidden to reside on the premises, as in Scotland.

If these measures are carried out, we believe that the benefit to Ireland will be very great, but no permanent good can be effected under the present licensing authority. Before, however, dealing with this subject and other reforms in the law which will promote the reduction of licenses and the maintenance of good conduct, we must look to the operation of the tied-house system in Ireland.

7. The Tied-House System.

Probably owing to the ease with which licenses can be obtained, the tied-house system is not prevalent in Ireland. The firm of Guinness and Co. declare that they do not own a single tied house. Mr. T. W. Russell, M.P., estimates that there are not 50 tied houses in the whole country: in Down, Judge Orr had never heard of one, and Mr. Bourke, R.M., is not aware of any in Waterford. In Belfast there are some cases of it, and also in Dublin. Mr. Ball says it prevails to a certain extent in Co. Kerry, and gives two instances of very badly conducted tied houses. Russell, 59,893. 62,522. FitzGibbon, 56,536. Bergin, 64,398.

In Cork City and East Riding, however, the system is largely prevalent. In the city 80 per cent. are tied, and in the Riding 17 per cent., and the system is spreading. 59,401. Gambell, 58,015.

Mr. Gambell, the County Inspector, says that several modes of tying prevail, and the tie is generally for beer only. The tied houses are rather worse conducted than the free. 58,131, 58,154.

He objects to the system as keeping alive houses which would otherwise be suppressed. The tied publican is a sort of buffer between the brewer and the law. 58,366.

Mr. M. Healy, M.P., says that publicans are put into the houses on a weekly or a monthly tenure, and, becoming thus mere brewer's agents, they are tempted by the burdens upon them to push the sale by illicit trading. 62,097.

He thinks an enactment preventing tying would be of no effect, but he would compel the licensing authority to see that the licensee had a substantial interest, and a sufficient tenure, not monthly or even yearly.

The Rev. P. O'Leary joins in the condemnation of the tied-house system in Cork. It tends, in his opinion, to increase the competition and struggle for existence among the public-houses. 61,627.

Captain Beamish, speaking on behalf of the Cork brewers, admitted that the system caused much complication as between the brewers and the licensees, and wished the license to be made perpetual to the brewer. He even went so far as to confess, in reply to a question whether the great amount of commercial relations which have sprung up between the parties in course of time is to override the express wish of the Legislature, as declared in repeated statutes, that his evidence did point in that direction, "most decidedly," but could only urge "that they were somewhat differently placed from the case of a licensee in England." 64,654.

He had no objection to the overhauling of the contract and agreement between brewer and tenant in Court by the Recorder, but would like the points to be settled by statute, looking to the uncertainty of one man's judgement. The law, which is at present not clear, should be decisively laid down as regards the value and continuance of the license. 64,713

At present the Recorders of Dublin and Cork do exercise some supervision over the agreements where it is possible. We are of opinion that the original agreement, and all subsequent arrangements, should be laid before the licensing authority, which should have power to strike out or modify any clauses militating against the public interest. Our recommendations on the subject relating to England apply equally to Ireland, but such discretion would be of little avail in the Irish counties under the present licensing authority.

CHAPTER VI.

ADMINISTRATION BY THE LICENSING AUTHORITY.

The excessive number of licensed houses in Ireland, and the deplorable condition of many of them, point clearly to radical defects either in the licensing law, or in its administration by the licensing authority, or in both. As a matter of fact, the present state of things is due to the operation of a bad law, badly administered; but no law, however good, could have been effective in its operation if it had been administered by such a licensing authority as the Irish justices have proved themselves to be, and that not only recently, but over a long series of years. We shall examine first the defects in the law, and then the conduct of the licensing authority.

I. MALADMINISTRATION DUE TO DEFECTS IN THE LICENSING LAW.

1. The Law.

Licensing jurisdiction in Ireland is divided between quarter sessions and petty sessions. As has been already explained, public-house licenses are granted for the first time, and transferred by the justices assembled at quarter sessions, and there is no appeal against their decision; not even the grant of a new license requires confirmation. Renewals of public-house licenses, and the grant, renewal, and transfer of all other licenses, for which a justice's certificate is required, are dealt with by two or more justices in petty sessions assembled; and there is an appeal from their decision to quarter sessions, except in the case of a renewal of a public-house license being granted.

In five cities or towns—viz., Dublin, Belfast, Cork, Londonderry, and Galway—The Recorder, sitting alone, exercises the whole licensing jurisdiction of quarter sessions; and in Dublin the divisional justices exercise the licensing jurisdiction of petty sessions.

The grant of a new public-house license may be refused on either of three grounds, viz.:—

(i.) Unfitness of applicant.
(ii.) Unfitness of premises.
(iii.) The number of previously licensed houses in the neighbourhood.

Transfers are granted under exactly the same sections of the Act 3 & 4 Will. IV. c. 68. as new licenses; but in the celebrated Clitheroe case it was held that a transfer can only be refused on the grounds of the unfitness of the applicant or the premises, and not on the ground of an excessive number of previously licensed houses in the neighbourhood.

R. (Clitheroe) v. Recorder of Dublin, I. R., 11 C.L., p 412

Renewals can only be refused on the ground that the license-holder is of bad character, or that the house has not been conducted in a peaceable and orderly manner during the past year. In addition to the justice's certificate, another is required to the same effect, signed by six householders of the parish, two of whom are resident in the same or next adjoining townland or street.

Transfers, and on specific grounds new licenses, may be granted at intermediate quarter sessions; but such grants only continue till the next annual licensing quarter sessions.

Besides the public-house license, there is only two other licenses authorising the consumption of intoxicating liquors on the premises. One is the wine refreshment house license. It is issued by the Excise; but the justices in petty sessions have a power of objection on specified grounds. The Act 23 & 24 Vict. c. 107. contains numerous elaborate provisions as to this license; but it is only taken out in about 20 cases in the whole of Ireland. The other is the sweets license, which is taken out directly from the Excise.

Off licenses, as we have seen, stand on a different footing. They are granted, renewed, and transferred at petty sessions with an appeal to quarter sessions. In the case of beer retailers, the justices have absolute discretion to grant or refuse for any reason, but wholesale beer dealers' and spirit grocers' licenses can only be refused on the ground of the character of the applicant, or that the premises are not suitable

for purposes of sale. New beer retailers' licenses may not be granted except at the annual licensing sessions.

2. Its Defects.

Perhaps the most prominent characteristic of the law thus outlined as to the powers of the licensing authority is its elaborate confusion. No minor amendments can be of much avail; the whole should be swept away and a clear and consistent code substituted.

Other defects are not less obvious. It seems to be the theory of the Irish law, if so perplexed and confused a system can be said to have a theory, that a public-house license once granted to a man is to be permanent until he gives it up or dies, so long as he conducts himself properly. Renewals, therefore, are more or less a formality, and are even granted by a different authority. This is very inconvenient; the original licensing authority loses all control over the licensee, until an application for transfer is made; conditions may have been imposed, but they cannot be enforced. This would be less injurious, had not the theory of the law been brought to nothing by the decision in Clitheroe's case as to transfer. The effect of this is that once a license is granted it remains for ever, subject to the condition of good conduct, and the licensing authority has no opportunity of reconsidering the number of licensed premises.

Mr. Dunbar P. Barton, the Solicitor-General, gave us a most valuable resumé of this case, and those that followed on the same point. It seems to be generally thought that the decision in the Clitheroe case was a wrong one; and subsequent judicial decisions have done their best to narrow down its operation as far as possible, and to prevent new licenses from "masquerading as transfers." Smith *v.* the Justices of Cavan was a case exactly on all fours with the Clitheroe case, which was brought before the Queen's Bench Division in 1893. It was decided that the point was still governed by Clitheroe's case, and that it could not be reopened except in the Court of Appeal, but one of the judges, Mr. Justice Holmes, said: "If this were the first occasion on which "this question was to be decided, I would be prepared to hold that the justices had "acted within their jurisdiction." Unfortunately the case was never carried up on appeal. As the Solicitor-General said, it is a very strange thing. 56,142.

The powers of the licensing authority over off licenses are with one exception equally unsatisfactory. The Solicitor-General gave us a most lucid account of the remarkable series of cases known as Marshall's cases. A grocer of that name at Ballyfatton has been trying for 20 years to get a spirit-grocer's license, and his case has four times come before the Queen's Bench, or Court of Appeal in Dublin. The result of the law as interpreted by these decisions is that the license can only be refused when the premises are unsuitable for purposes of sale, or on the ground of the bad character of the applicant, or (on renewal) because the house has not been well-conducted. There are numerous complaints of the effects of this freedom from magisterial control. Only in the case of the beer retailers' license have the licensing justices free and unqualified discretion by the Act of 1882, which also lays down that these licenses may not be granted at any intermediate sessions. 56,236.

3. Recommendations.

We agree with Sir A. Reed, and other experienced witnesses, that all licenses should come under the same jurisdiction; and that the licensing authority should have full power to grant or refuse a renewal or a transfer as well as a new license. Reed, 56,846. Fitzgibbon, 56,524. Falkiner, 61,332. Ennis, 61,712. 61,747.

In other respects the details of the law should be assimilated to the proposals which we have made for the improvement of the licensing law in England; and especially the granting of new licenses at the intermediate sessions should be forbidden.

Transfers should be subject to practically the same regulations as those proposed for England, and as now should be granted only at quarter sessions; temporary transfers except in cases of death or bankruptcy should be abolished.

II. MALADMINISTRATION BY THE LICENSING AUTHORITY.

We have described the defects of the law as to the granting of licenses, but these defects are very far from explaining the present deplorable state of things in Ireland. The justices have misused those clear powers which they do possess, and are solely responsible.

1. The Action of the Recorders.

In the five cities and towns in which the recorders are the sole authority for granting public-house licenses, they have made great efforts to administer a defective law.

Sir F. Falkiner, Recorder of Dublin, for instance, has diminished the number of public-houses, does not grant new licenses except in return for the surrender of others, or upon special conditions, examines the status of new license-holders, and generally endeavours to make the law as effective as possible. In Belfast, too, the Recorder pursues a similar policy, but his work is largely undone by the increase of spirit grocers to which we shall refer again.

2. The Action of the Justices.

i. *Canvassing.*

The facts with regard to the administration of the law by the justices are almost beyond belief. We shall examine each point in detail, but perhaps the point which best exhibits their inefficiency is the extraordinary prevalence of the habit of canvassing. Not only are they canvassed before licensing sessions, but also, in some parts of Ireland, before prosecutions.

56,820. 57,022. 57,104. 57,120. Sir A. Reed says the canvassing of justices and the packing of benches flourishes throughout Ireland, and is a most serious evil; he put in reports from several of his officers upon the prevalence of the practice.

56,517. Mr. Fitzgibbon, Recorder of Belfast, who also presides over the county bench, as county court judge, says his experiences of the justices is that they are moved by other considerations than those laid down by statute for granting licenses. Private influences are brought to bear, and they come to vote in districts with which they have nothing whatever to do. Mr. Morell confirms this from his experience in Belfast.

57,408. In Londonderry a great deal of canvassing goes on, and the justices are asked to attend at prosecutions. Sir J. A. McCullagh does not think the city justices yield to it, but some of them stay away in consequence.

McCullagh, 63,084. 63,183. Leatham, 57,708, 57,776. The difference between the administration in Londonderry city and county may be gauged by the fact that in the city, where the Recorder sits alone, the population has increased and the number of licenses has decreased, whereas in the county, where the same man is merely chairman of the bench, the exact opposite is the case.

Healy, 62,090. Foley, 58,783. Bruen, 59,000. Mr. M. Healy, M.P., says the canvassing is very notorious and dates from many years back, and similar complaints come from Clare, Tipperary, Down, Cork, Kerry, Kilkenny and other places.

Orr, 62,356. Waters, 62,536, &c. 61,396. 61,466. Judge Curran says canvassing goes on in a very gross manner. It is the same all over Ireland, and not confined to recent appointments. Once in Kerry, when he was presiding over a bench, he refused to sit any longer, and adjourned the sessions, because the bench was so packed. Licensing is looked upon as mere patronage.

59,364. Mr. Bail gives some very remarkable evidence as to the canvassing of magistrates in co. Kerry before the trial of offences, to which we shall refer again, and describes an extraordinary scene at the licensing sessions at Midleton in co. Cork, which he had witnessed:—

"There was the largest attendance of magistrates I ever saw at Midleton. There was not room for them on the bench, they were standing on the steps of the bench closely packed, they were standing in the passages, and there was at least one down in the body of the court apparently taking no part in the proceedings at all. The magistrates took the evidence in a lot of cases and retired to consult. When they were retiring a relative of one of the applicants rushed over to the magistrate who was down in the body of the court, and apparently not acting with the rest, and in my hearing said to him, 'Are not you a magistrate? go in and vote.' He got him by the shoulders and pushed him on before him up the passage until he pushed him with a final push into the midst of the magistrates who were retiring, and this magistrate went in with the others. The license in that particular case was granted there that day."

The Rev. M. Ahern says that licenses are granted in spite of protest by the clergy and police, without any evidence on behalf of the application. A great deal of canvassing goes on. He tells a remarkable story of how he was called upon by a canvasser, a relative of his own, and asked to use his influence with justices to get a particular license granted. The man represented himself as authorised by a Cork brewer to give 5*l.* by way of expenses to any justice who would go and vote for the license. The witness had written an account of this to the papers, but no one had contradicted it. On behalf of the Cork brewers, Captain Beamish denies that any agent had been so authorised, but one brewer, he said, admitted that in consequence of a canvass on the other side, he had *asked his friends to attend to see fair play.* 62,781. 62,791. 62,931. 64,736.

To such an extent has this "attendance of friends to see fair play" been carried, that it has utterly demoralised the licensing authority in many if not most of the Irish counties, and it is no wonder if, as the Rev. P. O'Leary said, the conviction has been formed in the public mind that the justices are not to be trusted in the administration of the law. 61,538.

ii. *The Fluctuating Character of the Tribunal.*

The great number of justices and their fluctuating attendance give great opportunities for canvassing and other irregularities.

Sir F. Falkiner, speaking of his experiences as county court judge in co. Dublin, says he does not wish to disparage the justices, but the present system of licensing is utterly anomalous. There is no continuity of system or judgment. Sometimes he has 60 or 70 assessors, an always changing court. The difficulty of merely getting a vote from so many justices is very great. They sit crowding the officers of the court, in the grand jury box, in the petty jury box, and everywhere. 61,268. 61,294.

When he first came to the county he agreed with the justices that they should only grant licenses at off-sessions on very special grounds, and this worked well till last January, when, by a majority of one, the justices voted to hear an application in which there were no special circumstances. He asked the applicant in the box whether he had canvassed; he admitted that he had, whereupon, as county court judge, he immediately refused to hear the case, and adjourned it. He also gives other instances to show the fluctuating character of the tribunal, which makes any proper administration impossible. 61,270.

So in co. Down, Judge Orr says there are 302 justices. In one instance he had a court of 74, sitting all over the court-house. To work with such a number he rightly declares to be an impossibility.

They never accept the county court judge's ruling, even on points of law, and after 30 years' experience, he can emphatically state that the present licensing authority is a very bad one. 62,356. 62,384.

iii. *Administration in granting New Public-house Licenses.*

Whatever may be the obscurities of other parts of the law, that relating to the granting of new licenses is perfectly clear. They may be refused on the grounds of (1) unsuitability of applicant; (2) unsuitability of premises; (3) the number of licensed houses already existing. If an examination of the facts shows that the justices have failed in their administration of the law relating to new licenses, it proves that they have failed completely, for in this matter they have complete discretion. That they have failed in the past is very clear from the state of things which we have described. In 1845 the population of Ireland reached its highest point, 8,295,061, and the number of public-houses in that year was 14,801; in 1849 the number of public-houses was as low as 13,742, but in 1896 the number was 17,187, though the population had diminished to 4,704,750. All through that period the same reckless granting of new licenses has been going on. In recent years, in spite of a decrease in the chief centres of population owing to the action of the recorders, the total number of public-houses has been steadily increasing. The total number of new public-house licenses granted from January 1887 to January 1897 was 3,031, a number which can only be described as amazing in view of the previously existing excessive number and a dwindling population. Vol. I., App. 1, Table III. Vol. V., p. 238.

In co. Mayo, one of the poorest counties in Ireland, there were in 1886 about 685 public-houses; in 1896 about 817. The number of new licenses granted during that period was 324. Vol. V., 257 seq.

In co. Sligo the number of public-houses in 1886 was 258, in 1896 it was 321. The number of new licenses granted was 143.

Similar figures are shown by many other counties, notably Cork, Tipperary, Clare, Limerick, Kerry, and Galway. Some idea may be gathered from those figures of how greatly the number of licenses would have been reduced by a mere prohibition of new grants. Even in counties which show a reduction, *e.g.*, Queen's co. (267 in 1886 to 256 in 1896, new licenses granted 33), a considerable difference would have been made. Co. Carlow has the distinction of only one new license granted during the 10 years.

59,037. Mr. Bruen, R.M., says that in Tipperary from 1890 to 1897, 211 new licenses were granted, including 36 in 1897, though the population was constantly diminishing. In Wilkinson, 63,952. Donegal in 1891 when state-aided railways were being made, 23 new licenses were granted in spite of police opposition.

Judge Curran, county court judge of King's co. and cos. Westmeath, Longford, and Meath, says that although that portion of the licensing law which relates to new licenses is perfectly clear, the justices evade their duties, and the granting of licenses has become a real farce.

Vol. VII., App. X. He produced a map of Longford town, in which public-houses are marked red. The population is 4,000, and public-houses number 63, so that the plan of the town appears to be red all over, yet fresh licenses are being granted in the town, and 61,380. recently the justices, after refusing many applications on the score of the excessive number of houses, trooped in and granted a license to a boot-shop next door to the court-house.

61,392. 61,474. Time after time licenses are granted at the intermediate sessions, even after being refused at the last annual licensing sessions. Some justices vote for every license, some vote fairly till their friends come up.

59,331. At Fermoy, co. Cork, population 6,421, there are 83 public-houses doing a large business on Sundays, but on week days practically nothing, as Mr. Ball found by visiting them, yet new licenses are still occasionally granted, though some of the houses are in a perfectly filthy state, unfit for human habitation.

58,977. Mr. Foley, county inspector of Clare, describes the miserable condition of some of the houses, to which licenses are still being granted. In recent cases, licenses have been granted to premises so arranged that the only way to common yards behind led through the bar.

To describe all the cases of maladministration in the granting of new licenses, which have been brought to our knowledge, would be an infinite task. There can be no doubt as to the facts and the conclusion to be drawn from them.

iv. *In granting Renewals and Transfers.*

We have explained that renewals and transfers can only be refused on grounds of misconduct or bad character of the applicant. The licensing authority is handicapped by defects in the law, but even so in many cases the justices do not even use the powers they possess.

The Rev. M. Ahern says that at renewal sessions in co. Cork, no distinction is made between those who have offended and those who have not; all are renewed in globo. He had written to all the district inspectors in the county on the subject: four said 62,803. they had had no instance of opposition to renewals; three said they had succeeded in 62,808. opposition; 13 said they had had no instance of successful opposition; many said it was a forlorn hope to get a renewal refused. Sometimes a license after several convictions was transferred from a husband to his wife, from sister to sister, or from father-in-law to son-in-law.

59,341. Mr. Ball quoted a letter of the Bishop of Limerick, mentioning a case in which a license-holder, after being refused renewal of his license for breaches of the law, was allowed to transfer it to his son-in-law.

v. *In granting Off-Licenses.*

The justices have practically no control over the granting of spirit-grocers' licenses, but they have complete discretion to refuse the beer retailers' license. We shall again refer to the evils arising from the spread of the spirit-grocers, but we may here note 57,347. that Mr. Morell says the magistrates could have made these licenses almost valueless,

if they had refused to add to them the beer retailers' license which they had full power to refuse. The spirit-grocers' license would not pay by itself. This is confirmed by Mr. Wilkinson, and it appears from the figures given by Sir A. Reed, that in all Ireland 766 persons hold both these licenses, while only 210 hold the spirit-grocers' license by itself. In Belfast, the figures are 364 combined, 44 spirit-grocers' only, and in Dublin 280 combined, 18 spirit-grocers' only. 63,860. Vol. VII. App. I., Table I.

Mr. Leatham mentions a case where a man who had been convicted of shebeening, got a spirit-grocer's license granted to him after it had been refused by another bench. 57,887.

vi. *In granting Occasional Licenses and Exemption Orders.*

Occasional licenses are issued in the same manner as in England, permission being given by one justice sitting anywhere. There are no extensions for special occasions, but permanent exemption orders are granted in the same manner as in England by one or two justices at petty sessions, or in Dublin by the Chief Commissioner of Police.

There are a good many complaints of the manner in which occasional licenses and exemption orders are granted.

Mr. Gambell says occasional licenses are granted anyhow, even to persons who have no certificate. 58,237.

Mr. Leatham thinks they should be granted only in open court, after notice to the police. At Coleraine some temperance people got up some races. An occasional license was applied for and refused, but was afterwards granted by one justice in his own house. 57,919.

Mr. Ball has known of occasional licenses being obtained without the consent of the publican in whose name they were applied for, and he had known bogus consents signed by fictitious or unqualified magistrates. 59,460.

In Kilkenny city Mr. Considine, R.M., tells us there are no less than 22 permanent exemption orders to open on all fair and market days at 4 a.m. There are 60 such days in the year. As "there are no refreshment houses or breakfast-houses "of any kind open, it naturally arises that with the drink there under the people's "noses, they take drink at a time when they ought not to have it, and when they "have had no food; and I have known several cases myself of persons who have "eaten no food up to 2 o'clock in the day, though they have been up all night, but "they all had drink." "With the temptation to drink before them—urged on them "almost—they naturally succumb to it." 60,122.

Occasional licenses, too, are granted with a great deal of freedom, but it is the exemptions that produce most drunkenness. Some years ago, when he first came to Kilkenny, the majority of the houses had exemption orders, and he urged upon them the desirability of doing away with them.

Mr. Gore says occasional licenses are much abused; one was granted to a publican for a total abstinence fête.

Many witnesses concur in thinking that occasional licenses should only be granted in open court, after due notice to the police, and we are of opinion that this suggestion should be adopted.

vii. *In the Trial of Offences under the Licensing Acts.*

In too many cases the justices display the same inefficiency, or worse, in the trial of offences under the Licensing Acts as they do in the granting of licenses. Sir A. Reed put in a table showing that, on the average, 60 per cent. per annum only of licensed persons prosecuted are convicted, though even this number amounts to 9 per cent. of the whole number of license holders. The complaints of maladministration by the justices in these cases, if not so universal as in the granting of licenses, are still very numerous. Vol. VII. App. I., Table viii.

Mr. Gambell, of Cork, says the ordinary justices do not give the police sufficient support in carrying out their duty. Many prosecutions, though carefully considered beforehand, are dismissed, owing to the magistrates being canvassed, and, even when convictions are obtained, small penalties are exacted, and fines very much less than the maximum. 58,102. 58,105. 58,123.

In the East Riding of co. Cork, during three years, there were 600 convictions and 325 dismissals, and in Cork city 112 convictions and 59 dismissals. Most of these prosecutions are for offences against the Sunday Closing Act.

57,778. Mr. Leatham gives some remarkable figures for Londonderry city and county; 25 per cent. of the prosecutions in the city result in acquittals, but in the county, though the police, who are under the same authority in both, go very carefully into the cases, 50 per cent. result in acquittals. The city justices, he says, are much more particular than the county justices.

61,434. Judge Curran says the same amount of canvassing and jobbery goes on in the case of prosecutions for licensing offences as of granting licenses. Under present circumstances the police should have a right of appeal against a dismiss.

58,503. 59,047. 62,815. Mr. Bourke, R.M. of Waterford, says that some dismissals are obtained by canvassing the magistrates. Some benches are very lax, but others are very strict. Mr. Bruen, of Tipperary, and the Rev. M. Ahern express similar views, and think the police should have a right of appeal.

58,679. Mr. Foley, of co. Clare, says justices are brought by canvassing to sit at licensing prosecutions. In one case a justice was drinking in the incriminated public-house before the case came on. After the case he had more drink there, and was sent home drunk. Another man was driven to the court-house by the very publican who was being prosecuted; he never attended unless sent for by this publican.

63,828. Mr. Wilkinson says that in the three years previous to February 1897, there were 294 prosecutions of spirit-grocers in Belfast, but only 166 convictions, due to the weakness of the justices. Licensing prosecutions, he thinks, ought only to be tried by resident magistrates.

But perhaps the most remarkable evidence on this subject is that given by Mr. Ball, district inspector at Tralee, from co. Kerry.

The Tralee bench is regularly canvassed and packed. In one case, says Mr. Ball, a justice came to him and tried to make him stop proceedings, but his real complaint 59,349. is, that the justices do not support the police when cases are brought forward. If the 59,468. bench is a strong one, and there is a fair percentage of convictions, it is not difficult 59,478. to get the law enforced, as the publicans get more careful, and the police are encouraged and become more active.

Mr. Ball put in a table of the prosecutions and convictions in one of the Kerry petty sessional divisions, which is very instructive.

Year.	Prosecutions	Convictions.	Percentage of Convictions.
1893	31	21	67·7
1894	37	17	51·3
1895	49	36	73·5
1896	42	23	54·8
1897	27	15	55·5

He accounts for the drop in the percentage of convictions in 1894 by the fact that a number of new magistrates were appointed at the end of 1893. In 1895, the great rise was due to the presence of a new resident magistrate who was very outspoken, and denounced the jobbery that went on.

Mr. Ball knew of a case in which the very publican who was being tried brought justices to the court-house in his own cars. The case, after repeated adjournments, was eventually dismissed in the face of clear evidence. The stories which he has to tell of the way in which the law is administered are astonishing. In one instance, a publican was reported by a constable for selling drink on Sunday; the case was clear, for the publican had a six-day license, and three men were found on the premises. A 59,369. summons was issued for the following Monday. "On the Friday, two magistrates "attended at the district inspector's office and held a court, one of these magistrates "was the brewer's agent. They sent for the constable, and heard the case in the "absence of the publican and of the three men who were found on the premises. The "constable was not sworn, but he was called upon to state his complaint. After he "had stated it, one magistrate said, 'I would fine him 1*l*.' The other said, 'No, I

" would dismiss it.' . . . On the following court-day, the following Monday, the " case was entered on the books in the ordinary way for hearing, and when it was " called on, the same two magistrates were the only ones present, and they marked the " case ' Dismissed without prejudice ' without a single witness being called or examined, " and the part of the order book—in which the names of the witnesses should be entered " is completely blank."

These are not isolated instances. Mr. Ball says: " I could give numbers of other " cases of the same class. They are all of much the same stamp, but I can give " hosts of them." 59,370.

He, too, thinks that the police should have a right of appeal if the present state of things is to continue.

Mr. Considine, on the other hand, does not think that the justices act unjustly in the trial of offences. Though he has heard of canvassing in such cases he has not known it himself. 60,183.

We think, however, that prosecutions of license-holders should only be tried by resident magistrates or stipendiaries, and a resident magistrate should be in the same position as a stipendiary. Reed, 56,877. Curran, 61,468, &c.

If the present state of things is continued, the police should have a right of ap peal.

3. Reconstitution of the Licensing Authority.

i. *Suggested reforms.*

Waters, 62,536. Orr, 62,358. Reed, 56,800. Falkiner, 61,299. Fitzgibbon, 56,511. Gambell, 58,187. Ahern, 62,861. McCullagh, 63,065, &c. Considine, 60,180. Curran, 61,408 Ball, 59,376. Bruen, 59,918. Ennis, 61,718. Bourke, 58,536.

The foregoing examination of the conduct of the justices in the administration of the law leads irresistibly to the conclusion that licensing authority can no longer be left wholly in their hands. Nearly all our witnesses, with the exception of one or two representatives of the liquor trade, are in favour of a change.

The most common proposal is that the county court judge should sit alone, like the recorders in the five towns.

Others think that the county court judge should be associated with the resident magistrates of the district, or with a select body of justices of the quarter or petty sessional division.

ii. *Recommendations.*

While we recognise that the recorders in the towns are, on the whole, a satisfactory licensing authority, we are not in favour of making the county court judge the sole authority. In some cases he would not possess sufficient local knowledge for the discharge of his functions, and there is a danger in leaving sole authority in the hands of one man under the circumstances, however capable county court judges may be as a class. The best solution of the difficulty is to associate the county court judge with all the resident magistrates of the county sitting at all licensing sessions in the county, and with two justices resident within each quarter sessional division to be selected annually by the general body of the justices of the county, and to give them full authority over all kinds of licenses in accordance with our previous suggestions.

We do not think that any change is necessary in the authority of the recorders; but, seeing the extra work that would be thrown upon them by having to deal with renewals and off-licenses, it would be well to give them the divisional justices or stipendiaries or resident magistrates as assessors. Sir F. Falkiner, Recorder of Dublin, would be in favour of this arrangement. 61,299. 62,358.

It has been suggested that an appeal should be allowed to one or two judges of assize; but, as Judge Orr says, an appeal to a judge of assize would simply constitute him licensing authority, and the county court judge knows his county far better than a judge of assize. Looking also to the fact that there never has been any appeal from the recorders or quarter sessions against the refusal of a new license or transfer, we are of opinion that no appeal is required.

CHAPTER VII.

THE DIFFERENT KINDS OF LICENSES.

1. On-Licenses.

i. *Public-houses.*

We have already given our views as to the condition of public-houses.

Falkiner, 61,273. Fitzgibbon, 56,565. The same need is felt in Ireland as in England for a separate hotel license. The Recorders of Dublin and Belfast impose conditions that the house should only be used as a hotel or restaurant, but this can only be done by the applicant giving a voluntary undertaking.

We agree with Sir A. Reed and others, that there should be a separate hotel license, and that the licensing authority should have full power to impose conditions as to restaurants, supply of food &c.

ii. *Wine-refreshment Houses.*

We have already alluded to the conditions under which this license is granted. It should be placed under the same regulations as the publican's license.

iii. *Sweets.*

All other houses in which any kind of intoxicants is sold for consumption on the premises should require a certificate from the licensing authority.

2. Off-Licenses.

Spirit-grocers and Beer-retailers.

i. *The Law.*

The spirit-grocer's license is peculiar to Ireland. It may be held by any person dealing in or selling tea, cocoa-nuts, chocolate, or pepper, and authorises the sale of spirits in any quantity up to half a gallon for consumption off the premises. The rate of license duty varies with the valuation of the premises from 9*l.* 18*s.* 5*d.* to 14*l.* 6*s.* 7*d.*, but there is no qualification of annual value required for the premises. We have already explained that the licensing authority has only a limited discretion to refuse the certificate.

45 & 46 Vict. c. 34. 40 Vict. c. 4. The beer-dealer's additional retail license is subject to the free and unqualified discretion of the licensing authority. The premises must be rated at 15*l.* in cities, &c. with more than 10,000 inhabitants; at 8*l.* elsewhere.

ii *Effect of these Licenses.*

Mr. T. W. Russell, M.P., says that in consequence of the extreme facilities for obtaining public-house licenses elsewhere, spirit-grocers are principally confined to 59,570. Dublin and Belfast. There are two classes of spirit-grocers, one, a small one, family grocers, who do not wish to sell for consumption on the premises; the other, disappointed applicants for a public-house license. They are spreading in an alarming manner, a great deal of illicit trading goes on, and all parties are agreed that they are a great evil.

The worst accounts of them come from Belfast.

57,247. 57,676. Mr. H. B. Morell, District Inspector, says there are 445 spirit-grocers and beer-retailers combined. They have increased from 265 in 1891 to 445 in 1898; 90 per cent. of spirit-grocers are also beer-retailers. Though some of the larger spirit-grocers are well conducted, the unanimous opinion of the police force is, that spirit grocers are the greatest curse any license could be. They demoralised the women, and 57,323. led to the carrying on of an illicit trade, which it was almost impossible to stop. They should be granted, if at all, on the same terms as publicans' licenses; but he 57,346. would like to abolish them entirely, and completely forbid the combination of the trades, and this is the almost unanimous opinion of the working men in Belfast.

57,340. He knows of a few cases where porter had been put down as tea, but this is almost impossible to detect, because the only two people who knew it were interested in concealing it.

The spirit-grocers are situated mostly in working-class districts. He produced a map of an area with an extreme radius of 360 yards. It contains 20 public-houses and 23 spirit-grocers, all dotted through back streets, some on premises scarcely fit to live in. Vol. VII., App. iv.

In Ballymacarratt the spirit-grocers increased in eight years from 24 to 115. They put up all sorts of erections, employ scouts, &c., in order to avoid police supervision. 57,390.

The Recorder of Belfast joins in the condemnation. "What happens very often is "that the wife of the family gets drink in the spirit-grocer's establishment. It is put "down to the account under the general head of "Groceries," and the husband knows "nothing about it." A great deal of surreptitious drinking goes on in these establishments. 56,528.

Mr. Taylor, Secretary of the Belfast United Trades Council, says, they are regarded with general abhorrence, as a potent factor in the demoralisation of women. Mr. Wilkinson also objects to the spirit-grocers' licenses, and declares that clergy of all denominations are of the same opinion. 62,584. 63,339.

In Dublin Sir F. Falkiner says there is a great deal of illicit trading by spirit-grocers, especially the smaller ones who are under a great temptation. 61,274.

Sir J. A. McCullagh, late Mayor of Londonderry, thinks there is no need for spirit-grocers, and that the licenses ought not to be issued at all; and Mr. Leatham, county inspector, says they are a great evil. They are often used as stepping-stones to a public-house license, which the magistrates think less detrimental. 63,161. 63,172. 57,887. 57,907.

Mr. Bourke, R.M., thinks they should be abolished; in country places they are a greater danger than a public-house, and Judge Curran says that to small shops the spirit-grocer's license is simply an inducement to break the law. 58,555. 61,456.

Judge Orr says spirit-grocers are the greatest evil in Ireland, and the law about them is absurd. Anybody who could not get a publican's took out a spirit-grocer's license. 62,368.

Their numbers increased enormously; many of them were in remote districts away from police supervision, and an immense amount of illegal tippling went on. If he could he would abolish them altogether, and, at any rate, the licensing authority should have full discretion over them. 62,371.

On the other hand Mr. A. S. Findlater, licensed grocer of Dublin, thinks that the spirit-grocers conduce greatly to the public good, and, that intoxicants are not booked as other goods. He proposes, however, some changes in the law. 65,638.

Mr. Shiels, representing the spirit trade in Belfast, thinks that spirit-grocers are of great value, though somewhat too numerous; and that the evils attributed to them are purely imaginary. 65,747. 65,763.

iii. *Recommendations.*

On a review of the evidence we cannot but endorse the opinion of the majority of our witnesses, that the spirit-grocers' licenses are a great evil.

We are of opinion that an off-license should be issued in Ireland similar to the grocers' license in Scotland, but for premises exclusively used for the sale of intoxicants. These licenses should be under the complete control of the licensing authority, and subject in all respects to the ordinary licensing law.

Meantime we may point out that the magistrates would greatly mitigate the evil if they would exercise their powers of refusing the beer-retailer's licenses to the spirit-grocers.

3. Proposed Spirit-dealers' additional Retail Licenses.

The minimum amount of spirits that can be sold under a wholesale license is two gallons, while the maximum amount that a spirit-grocer can sell for consumption off the premises is half a gallon. The only license, therefore, under which spirits can be sold between these two amounts for consumption off the premises, is the publican's license. Wine and spirit merchants have to take out this license, though they do not wish to keep a public-house. Now, by Lamb's case, anyone with a publican's license is obliged to sell "on," and a good deal of inconvenience is said to be caused. It is accordingly suggested that the spirit-dealer's additional retail license should be extended to Ireland. Reed, 56,831 FitzGibbon 56,558.

We are of opinion, however, that this difficulty would best be covered by a new off-license, such as we have described. Morell, 57,313.

CHAPTER VIII.

SALE TO CHILDREN.

The law as to sale to children is the same in Ireland as in England, and we are of opinion that the same alteration should be made, viz., that no child under 16 should be served with any intoxicating liquor, for consumption either on or off the premises.

Mrs. Crawford presented some remarkable tables as to the frequentation of public-houses by children in Dublin. The Rev. T. F. Furlong and the Rev. P. O'Leary speak to the existence of the same evil in Waterford and Cork; the latter says he has known several cases of child drunkenness and of women who became drunkards through hiring children for a few pence to fetch them liquor.

60,744-948. 60,479. 61,560. Leatham, 58,253. Wilkinson, 64,210. Simmons, 63,325.

Several other witnesses also advocate a change in the law.

CHAPTER IX.

QUALITY OF LIQUOR AND ADULTERATION.

There are a good many complaints of the quality of whisky sold, but, though there are a good many rumours about adulteration, no actual instance has been brought to our notice of any other adulteration than dilution with water.

Mr. Ball says that he is convinced that adulterants are used; men at fairs and markets get into a state of intoxication bordering on madness, and by general repute this is attributed to some adulterant not yet discovered. He tells a remarkable story of how a publican at a place where a large fair was held was in jail at the time of the fair. His son came to see him, and in the presence of the governor obtained the following recipe for the fair whisky :—

59,310. 59,312.

2 gallons of whisky.
1 gallon of rum.
½ gallon of finish.
4 gallons of water.
1 drachm of sulphate of copper.

Mr. Foley and Mr. Ahern both speak to the general belief in adulteration, and Mr. Foley says that at a fair when it is known that the police are taking samples the whisky is thrown out on the green.

62,841. 58,722.

Mr. Considine says that the whisky is so inferior as to be deleterious, and the Rev. T. F. Furlong says the vilest stuff is sold in many of the poorer public-houses. It is probably not adulterated, merely young blended whisky.

60,140. 60,473.

Other witnesses, as Mr. Morell, of Belfast, say the liquor is good and not adulterated, or that there is no adulteration, except dilution.

37,252. Leatham, 57,792. Gambell, 58,010

Probably a diminution of competition, through diminishing the number of houses, would do more than anything else to improve the quality of liquor, but whisky should be kept in bond, as we have already suggested.

CHAPTER X.

HOURS OF CLOSING.

The question of closing hours has aroused more controversy than any other part of the licensing system in Ireland. The two points to which most attention has been directed are Sunday closing and early Saturday closing.

1. Sunday Closing.

i. *The Law, &c.*

The Irish Sunday Closing Act was passed in 1878. It ordered complete Sunday closing over the whole of Ireland except in the five exempted cities—Dublin, Belfast, Cork, Waterford, and Limerick—where the hours of opening were reduced by two hours, *i.e.*, from 2 to 7 p.m., instead of from 2 to 9 p.m. The Act was experimental, and was passed for a period of four years; but it has since been annually renewed, and no Irish Member has ever objected to its renewal. Russell. 59,773. 59,985.

In 1888 a Select Committee was appointed to examine a Bill for complete and permanent Sunday closing in Ireland. The Government introduced an amendment to exempt the five cities; but this was defeated, and the Committee reported in favour of:— 59,779.

(i.) Complete and permanent Sunday closing.
(ii.) The extension of the *bonâ fide* traveller qualifying distance to 10 miles.
(iii.) Early Saturday closing at 8 p.m.

The Bill, however, did not become law, though it has frequently secured a majority in the House of Commons.

ii. *Operation of the Law.*

There is no evidence of any desire for the repeal of complete Sunday closing in that part of Ireland to which it applies.

There can be little doubt that the Act has operated beneficially, although several circumstances tend to obstruct the proper enforcement of the law. First, the great number of public-houses, through the competition thereby induced, encourages illicit dealing. Secondly, the combination of trades in public-houses, and the fact that in many parts of Ireland Sunday is a general holiday and the day on which people do their shopping, make violations of the law very difficult of detection. We have already made some suggestions to deal with these difficulties. Thirdly, the exemption of the *bonâ fide* traveller tends to nullify the Act; and we shall, later, make some suggestions under this head.

Mr. T. W. Russell, M.P., says that three years after the Sunday Closing Act was passed, parliamentary returns were obtained, which showed an enormous decrease in Sunday drunkenness, of which a very large proportion was undoubtedly due to Sunday closing. Since then the arrests have gone up, and in 1896 they amounted to 2,500 in the total Sunday-closing area; but these were largely in the neighbourhood of the exempted cities, or in counties like Kerry, where the combination of the trades notoriously prevails. 59,846. 59,850.

Where the law could be well administered the results were extraordinary. In county Carlow there were only three Sunday arrests in the year; and in 13 counties they did not average one per Sunday. The tremendous forebodings as to shebeens, &c. had not been verified. 58,993.

Sir A. Reed, Inspector-General of the Royal Irish Constabulary, who has, perhaps, had more opportunity of judging than any other man, says that Sunday closing has had an excellent effect. He is satisfied that it has made the people more sober. 56,727.

The evidence from Londonderry is particularly important, because Londonderry is larger than Waterford, and nearly as large as Limerick, two of the exempted cities. Everyone is agreed as to the diminution in drunkenness since the Sunday Closing Act.

The County Inspector, Mr. Leatham, says the Act works extremely well. Its results are very marked. The total of Sunday arrests for drunkenness during the five years
Vol. VII., App. V., Table 3. 1874–8 was 518; the total for the five years 1879–83 was 187, a decrease of 63·9 per cent. In the five years 1893–7 the total was 147, though the population had increased, showing a total decrease of 71·6 per cent. Shebeens had increased at first; but have now gone down to nothing at all.

65,486. Mr. Morris, publican, of Londonderry, admits the improvement, but contends that it is due to a general social improvement. But this argument is completely disposed of by the fact that the decrease on week-days is only 25·3 per cent. and 26·07 per cent. against the 63·9 per cent. and 71·6 per cent. on Sundays.

App. V., Table 12. A similar result is shown by the county figures, which during the same periods give a decrease of 39·7 per cent. and 56·7 per cent. on Sundays, as against 14·1 per cent. and 36·1 per cent. on week-days.

63,119, 63,135. Sir J. A. McCullagh confirms the statements as to the good effect of Sunday closing, and says that the general opinion in Derry is in favour of its continuation, as well as of early Saturday closing.

63,014, 63,059. The Rev. M. Ahern speaks to the improvement wrought by Sunday closing, and the diminution of drunkenness and rioting in Co. Cork, in spite of the evasions which go on.

Mr. Ball speaks of the many evasions practised in Tralee, chiefly owing to the combination of the trades; but he adds, that a few hours of opening on Sundays would have little or no effect on illicit sales; "the class of people who do this drinking
59,516. "will not have their thirst confined to the hours of 2 o'clock till 6 o'clock on a "Sunday. Their thirst goes on the whole day and the whole night."

59,315. He mentions also how, in his first station, the priest had started a Sunday Closing Act of his own, and no one dared to sell a drop.

Mr. Ennis, J.P., of Wexford, narrated a similar experience. The late Dr. Furlong, Bishop of Ferns, promulgated a diocesan law, by which all Roman Catholics were debarred from purchasing and selling intoxicants on Sundays or holidays. Five-sixths of the people were Roman Catholics, and they obeyed very faithfully. In the witness's recollection Wexford has always been a sober and quiet town on Sundays.

The same witness, however, gives a very different account of Waterford, where the
61,765. public-houses are open. Men evidently came in from the country to drink, and the houses were crowded, with semi-drunken people loafing outside.

No one seriously proposes to re-open the public-houses on Sundays.

iii. *The Exempted Cities.*

There is a good deal of division of opinion on the question of complete Sunday closing in the five cities now exempted. There is, however, a large preponderance of feeling in favour of shortening the hours on Sundays, and on the whole, the weight of opinion seems to be in favour of complete Sunday closing, though some are in favour of proceeding gradually towards that goal.

The principal arguments brought forward by the opponents of the change are two, first, that no change is needed, and, secondly, that it would lead to an outburst of drunkenness in clubs, shebeens, and so on.

Mr. Harrington, M.P. for the Harbour Division of Dublin, objects to Sunday closing
60,949–61,257. and all other further restrictions on the liquor trade. He attributes the present drunkenness in Dublin to clubs, shebeens, and home-drinking, and thinks the police are over-active in arresting drunken persons. He hopes for an improvement through better housing of the working classes and general amelioration of social conditions.

61,033. Mr. Harrington also argues that Sunday arrests for drunkenness in the five exempted cities only average 34 per Sunday for a population of 800,000, and therefore Sunday closing cannot be required.

62,033. Dr. Kenny, ex-M.P., and now coroner of Dublin, is of the same opinion. Though in favour of Sunday closing for the rest of Ireland, he is totally opposed to it for the exempted cities. The conditions under which people live in the cities are so bad that "it would be a hard thing for them if they wished to get drink on Sundays, that they

" should not be allowed to get it, and whether they have three hours or five hours in " which to do it, I do not think makes the smallest difference." 61,974.

Mr. John Simmons, secretary of the Dublin United Trades Council, in giving evidence on their behalf, said that they had always been opposed to Sunday closing and early Saturday closing, as likely to demoralize the people, who were now content with the present hours of opening. Restrictions would only encourage bogus clubs and shebeens. Mr. O'Brien, secretary to the Cork United Trades Council, expresses similar views. 63,233, 63,241. 65,849.

Representatives of the publicans object to the change, and Alderman Dempsey, of Belfast, says that Belfast would be a very desolate place on Sundays, if it were not that the public-houses are open. 65,175.

On the other hand, Sir F. Falkiner, Recorder of Dublin, presented a resolution of the General Synod of the Church of Ireland in favour of the Sale of Intoxicating Liquors (Ireland) Bill; he is inclined to think that complete closing all at once might be too great a wrench, and would rather curtail the hours at first. 61,624.

Judge Curran and Judge Orr are in favour of a restriction of hours. 61,448.

Mr. Wilkinson says that while all the Protestant and Nonconformist clergy in Belfast are in favour of complete Sunday closing, some of the Roman Catholic clergy are afraid of shebeening and bogus clubs, and prefer to shorten the hours. 62,373. 64,006.

Mr. Gambell, County Inspector of Cork, is personally in favour of shortening the hours of opening. He took steps to ascertain the opinion of 23 representative men, and 230 artizans, labourers, &c. 13 representative men were in favour of complete Sunday closing, 7 of shortening the hours, 3 of the present hours; of the artizans, 51 per cent. were in favour of the present hours, 29 per cent. of complete closing, 20 per cent. of shortening the hours. 58,165, 58,174.

Mr. Gambell, though only in favour of shortening the hours, expresses himself as confident that the police can enforce the law in case of complete Sunday closing, and he does not believe that it would result in home drinking. 58,320.

Mr. T. W. Russell, M.P., speaks of the public opinion in favour of the Bill as shown by plebiscites in the five cities. Agitation against the Sunday Closing Bill has been uniformly small and unsuccessful. 59,788. 59,838.

Mr. Wilkinson also bears witness to the strength of feeling, especially in Belfast. Mr. Taylor, secretary of the Belfast United Trades Council, though not appearing on behalf of that body, says that a majority of working men would be in favour of Sunday closing. Resolutions have been passed in favour of it in all the Protestant churches, and he has never known a meeting convened against it. 64,229. 62,618.

The Recorder of Belfast is strongly in favour of complete Sunday closing, and thinks the police would be quite capable of dealing with any shebeening there might be. 56,572. 56,629.

Mr. Morell says that the police officers in Belfast advocate shortening the hours as against total closing, but his own opinion is in favour of total closing, and so he believes is the general public opinion in Belfast. 57,203. 57,227.

Arrests for Sunday drunkenness in Belfast average about eight per Sunday, week-day arrests about 19. It must be remembered, however, that public-houses are open for 16 hours on week-days as against five on Sundays.

Mr. Swifte, divisional justice in Dublin, would like complete Sunday closing tried, and some other Dublin witnesses agree with him. 59,683.

Mr. M. Healy, M.P. for Cork, speaks very strongly in favour of complete closing, which he thinks would be most beneficial. It would be wrong, in his opinion, to say that there was a strong feeling in its favour, for there is little feeling either way, but there was no strong feeling against it. The Trades Council and the Corporation of Cork had passed resolutions against it, but these meant little, and were chiefly electioneering devices. 62,109. 62,199.

The Rev. P. O'Leary, of St. Finbarr's, Cork, says that though Sunday closing might cause inconvenience to a few, its advantages would more than compensate for this. Some people have misgivings about shebeens and bogus clubs; but no tendency in that direction exists among respectable working men. The police have and will have shebeening well in hand. Sunday is a great day for women drinking in Cork. He, 61,559, 61,613 61,616.

too, attaches no importance to the resolutions of the Trades Council and the Corporation.

60,430, 60,539. The Rev. T. F. Furlong, of Waterford, says that the Bishop of Waterford is strongly in favour of complete Sunday closing, or, at least, a shortening of the hours. All the clergy are of the same opinion, and also, he thinks, some of the better class publicans. He has frequently noticed disorderly scenes on Sundays. Men go into the public-houses immediately after dinner, and remain till closing time.

60,458. Mr. Furlong's evidence is of particular importance, because he spent some years as priest among the Irish in Dundee. His experience there of complete Sunday closing 60,432. gave him a strong impression in its favour. He never saw any disorder or disturbance of any kind on Saturday evening there, and could not help contrasting it with the state of things in Waterford.

iv. *Conclusion.*

As to the argument that there is no need for Sunday closing, because the arrests for drunkenness in 1896–7 only averaged 34 per Sunday in the exempted cities, with a total population of 800,000, it must be borne in mind that here, as elsewhere, arrests for drunkenness are no criterion of the amount of drinking and drunkenness. But beyond that, these figures show a remarkable difference between the closing and the non-closing areas. If arrests in the rest of Ireland were in the same proportion to population, they would number roughly 170 per Sunday; as a matter of fact, they average only 52 in the same year, and that, in spite of the drunkenness for which the exempted cities are really responsible in the districts immediately surrounding them.

We do not share the fears of those who anticipate great evils from an outburst of illicit drinking in shebeens and bogus clubs. It is sufficient to quote the opinion of Sir A. Reed, that, whatever is done, the Royal Irish Constabulary can and will enforce the law, a view which is also expressed by many other police officers in Ireland. The same forebodings were indulged in before the Act of 1878, but these have not been fulfilled in the Sunday closing area.

With the example before us of the success of Sunday closing, not only in Glasgow, Dundee, and other large Scottish towns containing a numerous Irish population, but also in Londonderry, which is larger than Waterford, and rapidly creeping up to Limerick, we can see no good reason for continuing the exemption of the five cities. We believe that complete Sunday closing in these cities will be a beneficial measure, and will be supported by the great bulk of public opinion in Ireland.

2. Hours of Closing on Week Days.

i. *The Law.*

Licensed premises may not open before 7 a.m. They are closed:—

(*a.*) In cities and towns where the population is over 5,000 at 11 p.m.
(*b.*) Elsewhere at 10 p.m.

ii. *Early Saturday Closing.*

When we come to the proposal for earlier closing on Saturday night, which is part of the Sale of Intoxicating Liquors (Ireland) Bill, we find a very general unanimity of opinion. It is true that Mr. Harrington and Dr. Kenny, the representatives of the Dublin and Cork Trades Councils, and the representatives of the publicans object as before, but outside these, persons of all shades of opinion and all positions unite in asking for a change.

The Recorders of Dublin and Belfast, Sir A. Reed, Mr. M. Healy, M.P., Mr. Bourke, R.M., Judge Waters, Sir J. A. McCullagh, Mr. Ennis, Mr. Foley, Mr. Ball, and many others strongly support it.

64,229, 64,024. Mr. Wilkinson says, that while some doubt as to Sunday closing, all are in favour of early closing on Saturdays, including Dr. Henry, Roman Catholic Bishop of Belfast. Mr. T. W. Russell, M.P., says, opinion is stronger and more universal in favour of it, 59,785, (*i.e.*, than of Sunday closing) all over Ireland. He is sure that many publicans would 59,845. be glad of it.

The Rev. P. O'Leary has conversed with all classes on the subject in Cork. The unanimity in its favour was astonishing, except among vintners. 8 p.m. closing would be popular. 61,547.

This is confirmed by Mr. Gambell, the county inspector. Of the 23 representative men whose opinions he obtained, 22 were in favour of closing at hours ranging from 6 to 10 p.m., of the 230 artisans, &c., 22 per cent. were in favour of the present hour, but 78 per cent. in favour of closing at hours ranging from 6 to 10 p.m. (the majority at 9 p.m.). 58,165.

Judge Orr attaches great importance to early closing on Saturdays. He knows, from evidence brought before him in cases, that the artisan and labouring classes often spend nearly all their wages on Saturday night. In a recent case, two young men had their wages paid on a Saturday night, they began to drink at 8.30 p.m., at 10.30 one had spent all but 1*s.*, the other half his wages. The witness has seen the women waiting outside the factory gates to get some money before the men can reach the public-house. 62,377.

In some places wages are paid on Friday nights as a rule, but even so, there is no doubt that, as in England, Saturday is far the most drunken day, and most of the drunkenness is in the evening.

Mr. T. W. Russell quotes a Parliamentary Return of 1879, which shows that in 19 towns of 10,000 population, while the total arrests for drunkenness numbered 30,387, of these 9,755 were Saturday arrests. 59,814.

More recent returns bring out the same result. In Belfast, Mr. Morell says there is more drunkenness on Saturday night than on any other. Trains were often late in going out, owing to the great drunkenness among the passengers. Although wages are usually not paid on Saturday, it is a half holiday, and, there being no work the next day, people go late to bed, instead of at their usual 9 p.m. 57,181.

In 1897, arrests for drunkenness in Londonderry city and county numbered 2,161, and of these 541 were on Saturday, nearly 200 more than on the next most drunken day. Of these 541, 256 were after 8 p.m. Mr. Leatham, who gave the figures, is in favour of closing at 9 p.m. 57,732, 57,741, and cf. App.

The same is the case at Kilkenny, and Mr. Considine is also a supporter of early closing. 60,146. 60,227.

iii. *Conclusion.*

It is impossible to resist the weight of such testimony as the foregoing, and we think that early Saturday closing at 9 p.m. should be adopted.

iv. *Closing Hours on other Days.*

At present the closing hour is 11 p.m., when the place is over 5,000 population. Mr. M. Healy, M.P., says he has known "cases where a movement for the extension of "the boundaries of a town was not actively engaged in, because it was apprehended "that so extending the boundaries would bring the population over the 5,000 limit, "and would thereby enable licensed houses to be kept open an hour later." 62,116.

We agree with him in thinking that a town of under 10,000 population has no need for opening later than 10 p.m., and we are further of opinion that, in view of the habits of the people, 10 p.m. should be fixed as the hour of closing all over Ireland, except on Saturdays.

3. The Bonâ-fide Traveller.

The so-called *bonâ-fide* traveller is as great a nuisance and sham in Ireland as he is in England; and he is universally denounced, not least by the publicans themselves. Morris, 65,608. McConnell, 65,358. Reed, 56,744, 57,001.

In the neighbourhood of the exempted cities he is especially obnoxious and numerous; and Mr. Foley, after remarking that parts of Clare, especially Ardnacrusha, which is three miles out of Limerick, are peculiarly overrun by these travellers, says that he does not believe that complete Sunday closing in Limerick could make any difference to the number of travellers that come out of it. Wigham, 59,192. Gore, 61,898, 58,691, 58,930.

The railway-ticket traveller is also a great nuisance in some places; and several witnesses recommend that only travellers arriving, and not departing, should be allowed to obtain drink. Bourke, 58,525. Wilkinson, 63,901.

The three-mile limit is, of course, absurd, especially as many magistrates wrongly think that merely travelling three miles entitles a man to obtain liquor. We are of opinion that the same restrictions should be applied to travellers in Ireland as we have suggested for England, viz.:—

(1.) That a separate hotel license should be created; and that only such hotels and restaurants should serve *bonâ-fide* travellers, at hours to be fixed by the licensing authority.

(2.) That a *bonâ-fide* traveller should be defined as a person who is taking a meal, or about to lodge in the house, and who has travelled at least seven miles.

(3.) That the licensing authority shall have full discretion to withdraw the privilege of serving travellers during closing hours.

(4.) That proper regulations should be made for the sale of intoxicants at railway stations.

56,696. 4. Six-Day Licenses.

Sir A. Reed comments on the fact that 80 per cent. of the public-house licenses in Ireland are seven-day licenses. Only in Monaghan and Mayo do the number of six-day licenses exceed the seven-day. In Monaghan the county court judge and the justices have left off granting seven-day licenses; and in Mayo it is largely due to the action of the Bishop.

We are of opinion that the licensing authority should have full power under present conditions to impose a six-day license instead of a seven-day license. If our recommendations are carried out, only hotels will be able to hold seven-day licenses, as is now the case in Scotland.

CHAPTER XI.

ADMINISTRATION BY THE POLICE, &c.

i.—*Administration by the Police.*

The Royal Irish Constabulary are directly under the authority of the Crown, and are entirely independent of any local bodies. Their jurisdiction extends over the whole of Ireland, except the Dublin Metropolitan Police District. The Dublin Metropolitan Police are equally under the direct authority of the Crown, although they form a separate force.

Furlong, 60,571. O'Leary, 61,611. One or two witnesses complain that the Constabulary do not exercise sufficient activity in the enforcement of the licensing laws. But, although among so large a force, amounting to nearly 12,000 men, there may be some few instances of remissness, no general charge can be brought against them. On the contrary, especially considering the difficulties under which they labour from the condition of licensed houses in Ireland, and the constant discouragement which they must experience at seeing their efforts continually frustrated by the action of the magistrates, it is wonderful with what zeal and energy they perform their duties. But for their exertions, it is difficult to imagine what the state of Ireland would have been in respect of intemperance.

One or two minor points may be noted.

59,613. There is a rule that no policeman may keep a public-house, but Sir A. Reed points out that this is evaded by licenses being granted to the wives of police officers.

In accordance with his suggestion, we think that no license should be so granted.

We are also of opinion that, as we have suggested in other parts of our report, no policeman in uniform should be served in a public-house.

64,217. Mr. Wilkinson says that in some public-houses rooms are specially allotted to policemen.

56,854. Sir A. Reed also suggests that full power should be given to district inspectors and head constables to appear at quarter sessions. In some cases they have no *locus standi* there at present, and inconvenience is thereby caused.

ii.—*Offences by License-holders.*

Offences by licensed persons are now regulated principally by the Acts of 1872 and 1874. They are practically the same as under the English law. O'Leary 61,540, 61,563.

The same difficulty is found in Ireland as in England of obtaining convictions for permitting drunkenness. Ennis, 61,756. Foley, 58,705.

Several witnesses concur in recommending that, if a person be found drunk on the premises, it should be *primâ facie* evidence against the publican of permitting drunkenness. Leatham 57,879. Morell, 57,253.

Our recommendations as to offences by licence-holders in England are equally applicable here. Considine, 60,226.

Sir A. Reed says that delivery of liquor on Sundays is now practised in Ireland, and the Sunday Closing Act is commonly evaded in this way. It should be made clear that the prohibition of sale during closing hours covers both sale and delivery. O'Leary, 61,659. Curran, 61,426. 56,910.

iii.—*Endorsement of Convictions.*

The law as to endorsement of convictions is the same in Ireland as in England.

Very few convictions are endorsed. Sir A. Reed says that only 13 per cent. are so endorsed, and the rarity of endorsement is borne out by other witnesses. 56,924. 60,221.

We agree with Mr. Considine and others in thinking that all convictions after the first should be compulsorily endorsed. Foley, 58,719. Ahern, 62,869.

iv.—*Form of the License, &c.*

We wish to call attention to Sir A. Reed's suggestion that the form of the license should be similar to that in Scotland, and set forth the prohibitions or offences under the licensing laws. He also thinks it very important that a table of the legal provisions should be exhibited in all licensed premises, in a conspicuous position. 56,923.

v.—*Offences by the Public.*

There is a good deal of confusion in the law relating to offences by the public. Some of these fall under the Acts of 1872–4 exclusively, and these are plain enough, but there are others under older Acts, as to which the law is more obscure, and sometimes the penalties are inflicted under the later Acts, while proceedings are taken under the earlier. All this part of the law needs especially to be codified.

vi.—*Offences connected with Illicit Sale.*

Sir A. Reed suggests that the police provisions contained in the Scottish Act of 1862 (25 & 26 Vict. c. 35), ss. 13, 19, and 37 should be applied to Ireland, to improve the law as to shebeening, and also s. 16 of the same Act as to hawking liquor, with which there is some trouble in Ireland. 56,907.

He also suggests that keeping liquor for sale without a license should be an offence under 1872, s. 3, and not, as now, only under 17 & 18 Vict. c. 89, s. 3. 56,893. Swifte, 59,708.

Several other witnesses of experience concur in this suggestion. The penalty under the present law is only 2*l.* fine, or one month as a maximum. Leatham, 57,869.

These suggestions should be adopted. Gambell, 58,260. Ball, 59,440.

vii.—*Offences connected with Drunkenness.*

These are the same and carry the same penalties as in England. There is a power of summary arrest for simple drunkenness under 6 & 7 Will. IV. c. 38. s. 12. We were informed that some doubt has been thrown upon this power by a recent decision in a county court; the power should be more clearly defined. Leatham, 57,877. 63,393.

Mr. E. D. Daly, Chief Clerk of the Dublin Metropolitan Police Court, urges that the sober wife of a drunken husband should have power, if her husband took away her

earnings, tools, appliances for wage-earning, &c., and sold them for drink, to go to a magistrate, represent that he did this, and was an habitual inebriate, and get a protection order for her property. She should then be able to go to a police court and get a summons against her husband for damaging or misappropriating her goods. He
63,442. thinks that the husband of a drunken wife should have a similar power in respect of her; while in case of both parents being drunken, criminal remedies should be applied to
63,443. force them to work and pay contributions (or else go to prison) for the support of their children now supported by the rates.

We call attention to Mr. Daly's views on this subject, but we do not think that it falls within the scope of our reference to suggest any legislation on the point.

viii.—*Habitual Drunkards.*

We rejoice that the Habitual Inebriates Bill of 1898 has been extended to Ireland, where, unfortunately, habitual inebriates are not unknown, and we refer to our former remarks on this subject.

CHAPTER XII.

MISCELLANEOUS.

i.—*Illicit Distillation.*

No change in the law as to illicit distillation seems to be required.

56,764, 56,778. Sir A. Reed tells us that it increases in the winter months, when the men return from harvesting in England and elsewhere. The illicit whisky is chiefly made for sale at all sorts of gatherings and to farmers, &c. One successful brew in three is enough to make it pay.

It prevails to a certain extent in Fermanagh, Londonderry, and Tyrone, and most in Donegal, Galway (West Riding), and Sligo; but in that part of Donegal within his diocese the Bishop of Raphoe has entirely suppressed it.

Mr. Leatham tells a similar story from South Derry. The number of convictions for illicit distillation which had totalled one only during the preceding six years, sprang up in 1897 to 26. The reason was that a Roman Catholic priest had had a 10-years' injunction against it, which expired at the end of 1896. The harvest, too, had been badly saved, and so was available for malt.

ii. *Ether Drinking.*

Mr. Leatham, County Inspector of Londonderry, called attention to the drunkenness caused in one particular district of Antrim and Derry by ether drinking. Intoxication by ether is very rapid, and very deleterious to health. Some ascribe the origin of the custom to the effects of Father Mathew's temperance campaign, because some persons, unwilling to break their pledge by the absorption of alcohol, resorted to ether as a means at once of satisfying their craving and (in their opinion) of still keeping faith with the apostle of temperance; others to the prescriptions of a quack doctor, who held it out as a specific for cholera.

Some restriction was caused for a time by ether being scheduled as a poison, and sold only by chemists, and in bottles labelled "Poison." But latterly people have been buying it in large quantities, and taking it home to retail, with very bad results. We think, as he suggests, that it should be treated like arsenic and strychnine, to
57,832–57,857. be sold by chemists only to persons they know for particular purposes.

PART IV.—SALE OF INTOXICATING LIQUORS IN CLUBS.

TABLE OF CONTENTS.

1. The present State of Things.

i. *Introductory.*

The subject of the sale of intoxicating liquors in clubs has been much pressed upon our attention from various quarters. Temperance reformers fear that the good effect of legislative restrictions will be nullified, if the sale of liquor in clubs is allowed to flourish unchecked. Publicans are nervous lest customers should be diverted. Police officers and many others are astonished at a new development, which has not been thoroughly understood. We have also received the most valuable evidence from representatives of the clubs, notably from Mr. B. T. Hall, Secretary of the Working Men's Club and Institute Union, who are most anxious to promote any legislation that will check bogus and disorderly clubs, while establishing the position of the genuine.

ii. *Law as to Clubs.*

The Act of 1872 imposes stringent penalties on the sale of intoxicating liquors without a license, but it has been held that the distribution of liquor in a members' club is not a sale.

Highmore, 492. The leading case is Graff *v.* Evans (1882), 8 Q.B.D., p. 373. The Grosvenor Club had 1,100 members all duly elected, the proceeds of the supply of liquor by the club went to the club funds, which were vested in trustees. No license was taken out, but liquor was supplied at a fixed price to members for consumption both on and off the club premises, and a considerable profit was made. It was held that the members of the club were the joint owners of the general property in all the goods of the club, and that the trustees were their agents; that with respect to the profit, it was immaterial whether the sum which a member paid was equal to or more or less than the cost price, the transaction not becoming more or less a sale on that account; and that there was in fact no sale, for the member was merely contributing to the funds of the club for something which belonged as much to himself as to any other member of the club.

Bowyer *v.* Percy Supper club. (1893) 2. Q. B. D., p. 154. A proprietary club, or one in which some person or persons own the liquor, and sell it to the members, stands on quite a different footing. The supply of intoxicating liquors in such clubs in return for payment is quite illegal, and the seller incurs the penalties for selling without a license.

Broadly speaking, the supply of liquor, in return for payment, to a member of a members' club, is distribution and not sale. But if the club is a proprietary club, the supply is a sale and a license is required. There may be circumstances which show that the pretended members' club is not really so, but these are questions of fact and not law. The only enactment relating directly to the sale of intoxicants in clubs is that no premises, where intoxicating liquor is supplied to members of a club or association, may be used as a committee room at a parliamentary or municipal election, or for holding a meeting at any municipal election. Permanent political clubs, however, may be used as committee-rooms at a parliamentary election.

46 & 47 Vict. c. 51. s. 20. 47 & 48 Vict. c. 70. s. 16.

iii. *Powers of the Police.*

1874, s. 17. If a club which supplies intoxicating liquors is not a properly constituted members' club, it is in the eye of the law merely a place where liquor is sold without a license: and the police may obtain a warrant, after giving information on oath that they have reasonable ground for believing that intoxicating liquor is sold, exposed, or kept for sale by retail, to enter and seize any liquor and drinking utensils, and take the name and address of any person present, and apprehend him, if his replies are not satisfactory. Excise officers have similar powers under the Excise Acts.

McKenzie *v.* Day, (1893) 1 Q. B. D., 289. All persons so found on the premises are deemed *primâ facie* to have been there for buying and selling illegally, and incur a penalty not exceeding 2*l.*

If a club is a disorderly house, the police or the vestry may proceed against it in the ordinary way by indictment.

iv. *Registration of Working-men's Clubs.*

Working-men's clubs, which are "societies for purposes of social intercourse, mutual helpfulness, mental and moral improvement and rational recreation," can be registered under the Friendly Societies Acts. No clubs can be admitted to registration, which do not make it clear by their rules that they are genuine working-men's clubs, that they provide for the proper appointment and removal of club officials (*i.e.*, committee, trustees, treasurer, and secretary), for annual publication of accounts, audits, inspection of books by members, &c. The advantages of this registration are that it makes the club a corporate body, removes the officers and members from personal liability, exempts from income tax, and confers certain privileges as to stamps, trust deeds, &c. 1896, s 8.

Political clubs are not admitted, and of course many of the clubs so registered do not supply intoxicants, or even refreshments, some being merely brass bands.

Mr. Brabrook, Chief Registrar of Friendly Societies, informed us that he regarded this registration of clubs as an excresence upon the ordinary work of the Registry. It originated with an order by the Secretary of State in 1864, and was afterwards translated into the statute. The first clubs registered were chiefly institutes. Liquor was not introduced into the clubs till 1868; it was not at first recognised in the club rules, but became so more and more. 14,927.

Five hundred and five working-men's clubs are registered in England and Wales, and most of them belong to the Working Men's Club and Institute Union; and there are three registered in Scotland and three in Wales. 14,937.

Registration in this form is little or no proof of *bonâ fides;* for, although the Registrar has refused registration even when the required rules are laid down, yet he thinks he has no power to do so, and in any case he has no machinery for finding out if the conditions of registration are properly carried into effect. 14,918. 14,948.

Thirty clubs are also registered under the Industrial and Provident Societies Acts, These must be clubs (not necessarily working men's clubs) carrying on some trade. labour, or handicraft; they are given power to raise capital by shares, pledge credit of members, &c. 14,945.

No proprietary club can be registered under any of these Acts.

v. *Number and Distribution of Clubs.*

With a view of obtaining some information about the number of clubs now existing and their condition, we addressed circulars of inquiry to all the police districts in the United Kingdom. The Return, though probably incorrect in some of its particulars, is on the whole a reliable one for that period (1896.) *See* Vol. IV.

It appears that the total number of clubs in which intoxicants were sold was 3,990; of this number 660 were in London, 1,583 in English counties, 1,291 in English boroughs having a separate police force, 122 in Wales, 157 in Scotland, and 178 in Ireland. Vol. IV., p. 180.

Among English and Welsh counties, Yorkshire with 312 and Lancashire with 383 head the list. Cheshire has 89 Hants 67, Staffordshire 60, Warwickshire 51, Glamorganshire 45.

Among the boroughs, the figures being in addition to the county figures—

Manchester 85,	Huddersfield 39,
Bradford 81,	Stockport 34,
Oldham 69,	Halifax 31,
Leeds 61,	Salford 30,
Liverpool 49,	Cardiff 29,
Sheffield 41,	

are the largest contributors. Dublin has 51.

Three hundred and thirteen out of the total number are returned as proprietary clubs, but this cannot represent the real number.

As regards subscriptions 1,098 have an annual subscription of 1*l.* and over, 1,158 from 5*s.* to 1*l.*, 1,405 from 2*s.* to 5*s.* and 329 2*s.* and under.

Rather more than one-half of the clubs open on Sunday, but in Wales the proportion is larger, 98 out of 122; and also in Ireland, 161 out of 178. On weekdays 1,582 are open after 11 p.m. or in London after 12.30 a.m. The hours given may not always be adhered to, but they show conclusively that the greater part of the clubs are not formed with the view of evading the licensing laws, to say nothing of the rest.

vi. *Increase in Clubs.*

It was unfortunately not possible to obtain exact tables as to the increase of clubs from 1886–1896. No record is kept of clubs that die a natural death, but according to our returns 352 clubs have been closed during that period owing directly or indirectly to the action of the police or the excise. Of this number 87 were in London and 124 in Cardiff, 26 in Liverpool, 34 in Dublin, 10 in Lancashire, 8 in Oldham, 8 in Dorsetshire, 5 each in Glasgow and Swansea and 4 to Dundee.

Taking these facts into account, and making allowance for other clubs that have voluntarily lapsed during the 10 years there has been a very great increase in clubs.

Of the 3,990 clubs existing in 1896, 3,160 existed in 1893, 2,788 in 1890 and 2,160 in 1887.

The rise of new clubs is most marked in London, where 362 out of 660 are less than 10 years old; in Wales (including Cardiff) 84 out of 122, Devonshire 26 out of 39, Durham 23 out of 35, Essex 19 out of 28, Northamptonshire 29 out of 43, Wiltshire 30 out of 43, and in boroughs, Leeds 27 new out of 61, Liverpool 27 out of 49, Bradford 36 out of 81, and Oldham 27 out of 69. Dublin shows 26 new ones out of 51, but both in Dublin and in Wales the total number of clubs has actually decreased.

vii. *Causes of the Increase.*

It is contended by some people that the club movement is largely due to a desire to evade the restrictions of the licensing law, and that any further restrictions would lead to an outburst of drinking clubs.

Whatever may be the truth about the future, such an explanation is wholly inadequate on the figures supplied to us. It doubtless had something to do with the outburst of clubs in Cardiff after 1882, but even in 1896 Cardiff clubs numbered only 29, and since then about half of those remaining have been closed. In Dublin Mr. Mallon told us that many clubs started in anticipation of complete Sunday closing, but in Scotland, where restrictions are greatest, clubs are fewest; and, if Oldham or Bradford be compared with Cardiff, it will be clear that some other explanation must be looked for. The same applies to London, where a large number of clubs is not accompanied by any difficulty in obtaining liquor from public-houses.

Lewis, 23,532. 15,901.

Mr. Hall told us that at Swindon dissatisfaction with tied houses and the kind of liquor they supplied was said to be a motive in forming clubs, and Mr. Parker of Barnsley mentioned the same thing. Possibly such a motive may have had some small effect.

16,299. 23,941.

The real truth is that the extension of the franchise, the spread of education, and a general improvement of conditions among the working classes have had a great effect in promoting clubs. Besides these, political influences have been at work. Mr. Bryans, secretary of the Association of Conservative Clubs, told us that the Association contained 587 clubs, of which about three-fourths sell intoxicants. He strenuously denies, as does Mr. Hall, that the activity of the club movement is due to desire for drink. "The main object of our clubs is good fellowship and education, concerts, "lectures, and that sort of thing. I do not think the main object is drink in the least."

16,746. 16,862.

The figures show that the club movement has not as yet attained any very great dimensions. 4,000 clubs selling intoxicants is not a very large total. No doubt, a certain class of club is, as we shall see, a very great evil, and should be put down with a strong hand, but these are comparatively few, and have attracted attention out of proportion to their numbers.

viii. *Complaints as to Clubs.*

We have pointed out the difference between proprietary and members' clubs in point of legality; but it does not follow that all legally constituted members' clubs are well-conducted, or that all proprietary clubs are ill-conducted.

Some of the oldest West-end clubs are proprietary, but these depend upon the annual subscriptions and entrance fees of members, and the sale of liquor is quite subsidiary. Some of them even supply non-intoxicating liquor free of charge. Still, as far as the sale of exciseables goes, they are illegal. It is true that Mr. Bourke, proprietor of one of these, says he has no anxiety as to the legal status of his club, because it would be impossible to obtain evidence against it; but all such clubs should be put on a legal basis.

Bourke, 6156. 6280. 6332.

There is another class of club, which especially flourishes in Soho; even if nominally members' clubs, these are really bogus. Mr. Hannay, then Police Magistrate at the Marlborough Street Court, and Mr. A. J. Llewhellin, Inspector of the Inland Revenue, described them to us. Many of these abominable dens are kept by foreigners. They open only at night; a great deal of liquor is consumed in them and they are practically houses of ill-fame of the worst description, and clubs only in name. Their only advantage, in Mr. Hannay's opinion, is that they keep a number of bad characters off the streets all night, but between 5 and 6 a.m. a number of drunken persons are turned out into the streets, and a good deal of disorder results. Some of these clubs are constantly being raided by the police or excise, and we agree with Sir John Bridge, Mr. Hannay, and others in thinking that the police have sufficient powers already to deal with them.

Hannay, 3712–46. Llewhellin, 14,182. 14,241. Bridge, 2693. Hannay, 3862.

Another very dangerous kind of club is that which is started by a dispossessed publican or a brewer usually in premises that have lost or have not received a license. The brewer has the club properly constituted as a members' club; that is, the club as a whole takes the retail profit, but of course he takes the wholesale profit, which may be very considerable, especially as the club is fitted up exactly like a public-house, and is free from all restrictions as to hours, &c. A dispossessed publican starts a club in a similar manner, and gets himself appointed as barman or steward; nominally the profits go to the club, but there can be little doubt as to their real destination.

Captain Anson gave us an account of a club of this sort in Staffordshire. It is a working men's club registered under the Friendly Societies' Acts. The annual subscription is 1*s.*; there are no hours of closing. The club is held in a cottage rated at 8*l.* 5*s.*, and was rented by a brewery firm, but has now been bought by a member of the firm. The club is tied to the brewery, just like any public-house. Any person over 18 "except parsons, police, and publicans" are eligible as members.

2092–115.

The expenditure shows 2*l.* 19*s.* for an entertainment, 1*l.* 6*s.* for games, 7*l.* 9*s.* for line of conveyance, 2*l.* 6*s.* 9*d.* for newspapers, 5*l.* 8*d.* for books, and 764*l.* for refreshments. The profits were expended on a "dinner" to members, a payment to the committee, a presentation to the president, and to another person who is a brewer's agent.

Mr. S. Bourne spoke of a house at Shrewsbury whose license had been refused for misconduct. The brewer owner had the place registered as a club, and the ex-publican was appointed secretary and manager. The club had all the appearance of a public-house, and there was no provision for anything but drinking. The members could sign a ticket, and send a messenger for liquor to be consumed off the premises.

16,119.

He also mentioned another club at Northampton. This was well-conducted, but the premises which had been originally built for a public-house, were owned by a brewer, who let it to the club on exactly the same terms as any tied house, *i.e.*, high price for beer and low rent. This arrangement was altered, however, after a time. The President of this club came up and confirmed Mr. Bourne's statement in all essentials, but he denied that the club was intended to be a substitute for a public-house.

16,823. 18,249.

Similar instances of public-houses being converted into clubs come from Essex, Yorkshire, Newcastle, Anglesey (2), Bangor (2), and Cardiff. Speaking of such clubs in North Wales, Mr. Owen says they are "the curse of the country." It is not surprising that people who see the evils of clubs of this sort should wish for stringent measures of repression.

Showers, 14,456. Bielby, 18,972. Vol. IV., p.154. Owen, 30,876. Roberts, 7692. McKenzie, 15,380.

Mr. Lewis, M.P., told us that some of the clubs recently suppressed in Cardiff were shown to have been run in the interest of brewers, and similar allegations came from elsewhere.

73,636.

It cannot be doubted that this is a real danger, which should be carefully guarded against. The pressure of competition may lead some of the less scrupulous members of the trade to adopt this method of gaining outlets for their business; and the results cannot fail to be disastrous. Such places are merely "unlicensed public-houses masquerading as clubs."

A good many people, however, have more general complaints to make against working men's clubs.

Mr. Martineau, speaking of the East-end of London, says that the working men's club as it exists there is not a desirable thing, and is often constituted on a wrong basis. "They are used as drinking houses and merely kept going for the sake of the "drinking that can be got there when it cannot be got at the taverns."

10,380.

The Rev. H. W. Farrar, speaking of South Shields, says that clubs as at present constituted are a source of much drinking, but he hopes for an improvement.

17,891.

13,712. 14,018. Mr. Malcolm Wood attributed a good deal of the early morning drunkenness in Manchester to clubs, but he admitted in cross-examination that he had no evidence to prove it absolutely, and might be mistaken.

14,626. 14,706. Mr. Lloyd, Chief Constable of York, speaks of a club which had been badly conducted, but was improving. He suspected that visitors sometimes came in and paid for their own liquor, but could not prove it. He was allowed to visit the club.

15,180– 15,334. Mr. Webb, Chief Constable of Leeds, says that about 25 clubs in that city might be classed as badly or indifferently conducted. He had received a great many complaints. In some, persons who were not members could walk in and get supplied. Arrests for drunkenness, however, had gone down. The clubs had little perceptible effect on the general drinking of the town; though he attributed many cases of drunkenness to them, they had lately improved.

15,375. Mr. McKenzie, Chief Constable of Cardiff, agrees with other witnesses as to the evils of badly conducted clubs, of which they had had considerable experience in Cardiff at one time.

Lewis. During 10 years 124 clubs had been closed owing to proceedings taken by the police, and as we have since seen he gave his evidence, about half of the remaining 30 clubs have been closed. The stipendiary held that the burden of proof of *bonâ fides* should rest upon the club.

Mr McKenzie gave an instance of the difficulty encountered by the police owing to the state of the law about clubs:—

15,364. On Sundays a number of persons would meet together in a field, and throw pennies into a hole in the ground, till there was enough to purchase a 4½ gallon cask of beer from a wholesale dealer; they would then drink it, and repeat the process. Prosecution failed, because it was held that there was no sale, but merely distribution, and that the club, though rudimentary, was still a club. This led to the formation of what was locally known as the "Hotel de Marl." Parties of men took barrels of beer to a piece of ground on which marl had been tipped from the Penarth dock. They drank in the manner described from 7 a.m. to 8 or 9 p.m. on Sunday. Sometimes there were 350 men and lads drinking, and 2,000 spectators. Great disorders arose, but prosecutions again failed.

At last, with the co-operation of the owner of the ground, the police succeeded in driving the people away, and the practice was suppressed. The final effort of this system of clubs was taking liquor out in a boat, and drinking it in the Bristol Channel. Even this, apparently, was a properly constituted club.

14,981– 15,031. 15,065. 15,131. Captain Burnett, Chief Constable of Wolverhampton, said that 10 clubs in that town were of an unsatisfactory character; they were fitted up like public-houses. Subscriptions were of a nominal amount, and hours of closing were not adhered to. Anyone could become a member on application. From an examination of the balance sheet of one of these it appeared that far the largest item was expenditure on intoxicants; a good deal of liquor was sold for consumption off. The clubs were very prejudicial to good order, and he had received many complaints from wives and mothers of members and others. He did not think, as he had thought, that the clubs were entirely responsible for the increased drunkenness, but still they were for some part of it. As a rule these clubs were started and financed by brewers for their own profit.

One firm in particular had financed and tied several clubs in the district. He felt, however, that a well-conducted working man's club supplied a real want, a want of amusement and social intercourse which was much felt among young men.

16,301. Nine of these clubs belong to the Working Men's Club and Institute Union, and Mr. Hall, speaking on behalf of that body, entirely denies the allegations made as to tying to brewers, etc.

15,612-90. Mr. Collett, ex-superintendent of the Wiltshire police, drew a very bad picture of the clubs at Swindon. Eighteen out of 20 he says were badly conducted, and produced a great deal of drunkenness. They competed unfairly with the publicans, and he believed that they were started by brewers from a distance. He knew no other reason for the existence of these clubs.

Mr. Collett's evidence is probably rather highly coloured. Mr. Hall shows that he did not mention these things in his unnual reports, and controverts other of his statements. He explains the number of clubs by the fact that all the men belonged

16,297. to the G.W.R. works, and that made it very easy to start a club; most of the responsible officers of the G.W.R. at Swindon belonged to the clubs.

In Bristol and Birmingham no difficulty has been felt. In Liverpool before 1890 Captain Nott Bower said they had had a good deal of trouble, but they had got rid of many undesirable clubs, though by rather objectionable means. Gore, 9336. Barradale, 5550. 26,384.

There are some complaints from Bradford, Oldham, and other places in Lancashire. Mr. Hannay thinks that working men's clubs, even when badly conducted, are not an unmixed evil. 3749. 3904.

Sale of liquor to members for consumption off the premises is practised in clubs in some parts of the country. Members send children or messengers for it, as, for instance, in Wolvernampton, Leeds, Maidstone and elsewhere. Such a practice should certainly be made illegal, for under these circumstances the club becomes a mere shop, without a license, and the door is opened in a good many possible irregularities. Llewhellin, 14,314. Webb, 15,214. Hall, 16,430.

ix. *Evidence in favour of Clubs.*

Besides the individual clubs themselves there are unions of clubs which bind their members together by ties of various stringency, and impose conditions on the clubs joining.

The Working Men's Club and Institute Union consists of some 600 clubs and institutes, with a membership of 250,000. Its object is to promote the formation of working men's clubs, to give legal and other advice as to management, provide circulating libraries, organize competitions, &c., assist in keeping proper accounts, and to act as arbitrator in case of disputes. Hall, 16,233.

All clubs seeking admittance must submit their rules and balance sheet, and must, if possible, be registered under the Friendly Societies Acts, because the annual publication of accounts was regarded as a great guarantee of *bonâ fides*. 16,238.

The following conditions are necessary for membership :—

(*a.*) The club must be governed entirely by its members or by a committee properly appointed.

(*b.*) No person must have directly or indirectly a financial interest in the sale of liquor.

(*c.*) Committee meetings must be held once a week.

(*d.*) Gambling and drunkenness must be practically, not nominally, forbidden.

(*e.*) If a member introduces a visitor who should purchase on his own account, the member must be liable to expulsion. 16,240–5. 16,259.

A proper interval between nomination and election as a member was also considered necessary.

In case of complaints of gambling, excessive drinking, or any looseness of management in any of the clubs, inquiries were made, and the offending club removed from the Union if necessary. 16,231.

By an arrangement with the Inland Revenue a system of affiliation is permitted, by which a card can be issued to a member of one of the clubs, giving him honorary membership of all the other clubs in the Union. This privilege is carefully guarded and precautions are taken to insure identification. 16,243

We have described the rules of the Union at some length because they are a good indication of the lines on which legislation will be gladly welcomed by the better class of working men's clubs. The Conservative Union of Clubs is rather less stringent in its rules, but it is still comparatively in its infancy, though it numbers 587 clubs. This association is primarily political in its objects, but it also aims at developing the social and educational side of club life. The conditions of membership are (1) absolute *bona fides*, (2) satisfactory rules guarding the interests of members, (3) the proper and regular keeping of accounts. Great pains are taken by the central body to enforce these conditions. Mr. Bryans, the secretary, says that all the clubs are well-conducted, but no questions are asked as to whether the clubs are tied or not. Affiliation exists under stringent regulations. Bryans, 16,746.

We also received evidence from the Yorkshire Federation of Liberal Clubs, which supplied us with a great deal of information about the 119 clubs which compose it, through the secretary, Mr. May. Politics are the main object of the Federation, but only 64 of these clubs sell intoxicants, none are tied and drunkenness is rare. The average expenditure on intoxicants per member per week (presumably including the whole of the clubs) was 5*d*. Only four clubs close as late as midnight, and many are closed or close their bars entirely on Sundays. May, 16,629–700.

Mr. B. T. Hall, Secretary of the Working Men's Club and Institute Union, who gave his evidence with remarkable lucidity and ability, spoke very strongly of the

many social and educational advantages which arose from properly conducted working men's clubs. The clubs felt very strongly the evils of bogus clubs, and desired to put them down. It would be hypocrisy to say that drunkenness did not exist in their clubs, but it was rare and always discouraged. The average expenditure on exciseables per member per week was about 1*s.*, including tobacco and mineral waters; food was seldom supplied, because the men were not there at meal-times. The Union would pledge themselves to the statement that where *bonâ fide* working men's clubs existed drunkenness declined both statistically and really.

Hall, 16,303
16,259.
16,250.
16,368.

x. *Clubs in Scotland.*

Clubs in Scotland are few. Under the Borough Police Act of 1892, the police have power to enter a club if they suspect that liquor is being illegally trafficked in; or that gaming is going on. No warrant is required, so that the police have somewhat wider powers than in England.

55 & 56 Vict. c. 55. ss. 380, 401, 407.
Dewar, 44,090.

The chief complaint comes from Hawick, where there are four clubs, of which the Chief Constable, Mr. Macdonald, gives a very bad account. In Glasgow two clubs are said to be doubtful, but in Dundee there has been no trouble since the suppression of a bogus club 10 years ago.

Macdonald, 18,353. 18,296–698.
Boyd, 43,706.
Dewar, 34,399.

Several witnesses favour some scheme of registration or control though they regard the police powers as sufficient.

xi. *Clubs in Ireland.*

Clubs have been a serious evil in Dublin, and Mr. Mallon, Assistant Commissioner of Dublin Metropolitan Police, says that 10 out of the 51 existing are irregular drinking clubs.

15,697.
15,920.
15,758.

In Waterford the Rev. T. F. Furlong says that a good deal of harm has been done to young men by drinking in clubs, which only contrive to exist by means of the profit on liquor.

60,490.

In Cork there are some doubtful clubs (two bogus ones have already been suppressed), and one is supposed to be tied to a publican.

Gambell, 58,070.

But the club movement has not got much root in Ireland. Mr. T. W. Russell, M.P., says the Irish are very much a family people, and he thinks the police have sufficient powers for dealing with bogus clubs. Mr. Morell, D.I.R.I.C., of Belfast, also says the character of the people is averse to clubs.

59,827.
59,868.
57,219.

xii. *Summary.*

We fully agree with all that has been said by Mr. Hall and others as to the benefits to be derived from properly constituted and well-conducted clubs. We believe that such clubs can and will do much to meet the needs awakened among the working classes by education and general improvement of conditions for some better means of social intercourse and recreation than those provided by the public-house. Happily the days are passing when the public-house can be complacently described as the poor man's club. But there is, unquestionably, need for legislation to assist the movement, and check accompanying abuses.

It is unhappily true that too many working men's clubs are cast naturally in the mould of the public-house, and old associations are not easily discarded. Two many clubs depend too much for their existence on the profits from the sale of intoxicants. But even at the worst a club is more capable of improvement than the public-house, for a club, unless ostensibly formed for drinking purposes, in which case it should be summarily suppressed, has better objects in view, which sooner or later a public opinion will spring up and enforce. Under proper regulation great things may be hoped for from the club movement.

2.—Proposed Legislation.

i. *The need for Legislation.*

It is probable that, in case of greater restrictions being imposed upon the public sale of intoxicating liquors, at least a temporary stimulus would be given to the formation of the undesirable kinds of clubs which we have described. Even now the list of clubs records the names of several against which convictions have been recorded, showing that even though the police or excise have been successful in prosecutions, this has not been enough to put an end to the club.

Greater facilities should be afforded for the suppression, or better still, the prevention of such clubs.

No one presses this more strongly than the representatives of the genuine clubs. As Mr. Hall says, "We suggest that Parliament should establish an authority to do by the "State, what we voluntarily do for the credit of our clubs." 16,609.

Various proposals for dealing with clubs have been put before us, including several Bills which have already been presented to Parliament.

ii. *Registration.*

Nearly all these agree in putting forward some scheme of registration. Some even go so far as to subject clubs to practically the same form of licensing, and therefore the same restrictions as public-houses. We cannot accept any such proposal; clubs ought not to be turned into mere licensed houses. On the other hand mere registration, without any means of enforcing the conditions of registration would be as useless in securing good order and *bona fides*, as the present registration under the Friendly Societies Acts appears to be in some cases. The important thing is the conditions on which registration is to be allowed, the grounds on which registration shall be cancelled, and the machinery for doing it. The most practical suggestions we received came from the Working Men's Club and Institute Union, many of which we have adopted in our recommendations. These proposals are practically agreed to by the other club representatives whom we examined.

iii. *Police Right of Entry.*

Several witnesses advocate the same right of entry into clubs for police constables as they have into public-houses. Many experienced police officers, however, do not take this view. Captain Nott-Bower, for example, says: "My opinion is, that "licensing clubs, placing them under police supervision, would not work. I think it "would practically be an impossibility to work it." 26,386. A system of annual registration by which the clubs should be bound to produce their rules and prove their *bona fides* before a registrar, would have prevented all the bogus clubs at one time existing in Liverpool. 26,393. The working men's clubs would strongly object to any police right of entry, except by warrant as at present. They are absolutely unanimous on this point. "Promiscuous right of entry would be fruitful of many difficulties," says Mr. Hall. Hall, 16,281–92. Mr. Bryan says it would "cause needless irritation." And Mr. May tells us that the Yorkshire Liberal clubs object to it unanimously. Bryans, 16,761.

We are of opinion that the present powers of entry by warrant possessed by the police will be amply sufficient when supported by a proper system of registration. May, 16,660.

iv. *Taxation of Clubs.*

Mr. Highmore told us that as long ago as 1863 a resolution was introduced into the House of Commons for placing a license duty on all clubs occupying premises rated at over 100*l.* annually. 503. Several of the schemes propounded to us contained proposals for the taxation of clubs.

We cannot, however, assent to such taxation. Clubs are so few that it would be worth little or nothing from a revenue point of view; and there is every probability that it would fall more hardly upon genuine but struggling clubs, than upon the ill-conducted but financially prosperous drinking club.

v. *Hours of Closing in Clubs.*

Other proposals are that clubs shall be subjected to the same hours of closing as licensed houses.

We regard such restrictions as impracticable. Apart from the special difficulties arising in the case of clubs frequented by journalists, printers, waiters, and the like whose duties may keep them up at night, there are obvious objections. Mr. Hall, when asked on what principle of public order he would justify the fact that all clubs might be open all night, and yet that the public-house should be bound to close at 11 or 12 o'clock, replied, "Because a publican is a public trader, and a club is not. "It is a private institution bound by its own conditions. It assimilates to a (private) "house." 16,625.

vi. *Necessary outlines of Legislation.*

Any legislation applying to clubs must be general in its application to all clubs alike. Its object must be to render the birth and continued existence of bogus clubs impossible, and to check disorder in badly conducted, but legally constituted clubs, without putting any difficulties in the way of the formation and carrying on of genuine and well-conducted clubs. Mr. Hall well laid down the limits of public interference in clubs :—"If the restrictions and regulations were such as to make
16,523. "the public character supersede the private character of the club, it could not exist "as a club, it would be intolerable."

3. Recommendations.

We can now give our proposals for dealing with clubs. It will be observed that we do not propose the institution of any new machinery.

i. *Registration.*

All clubs in which intoxicants are supplied should be registered. It is not necessary to define a club, but no club or association with less than 25 members should be so registered. In any club which is not registered, what is now legally known as distribution should be regarded in law as a sale, and consumption or the presence of drinking utensils should be treated as evidence of sale. In all other respects such unregistered clubs would be subject to the same law as any shebeen.

Working-men's clubs should receive the same privileges as regards stamps, &c., that they do now under the Friendly Societies' Acts.

ii. *Conditions of Registration.*

Certain conditions should be laid down as necessary :—

(1.) The club must be a members' club. The club property must be vested in all the members of the club, or in trustees on their behalf.

(2.) The club must be under no kind of obligation to any wholesale dealer in liquor, and must not be on premises which have been used as a public-house or beer-house during the last five years.

(3.) No one but the general body of members must be interested directly or indirectly in the sale of exciseables.

(4.) All members must be elected by the whole club, or by the committee after a nomination and a certain interval, at least a week, must elapse between nomination and election.

(5.) The club must be under the complete control of the members generally, and the rules must only be altered at a general meeting of the club.

(6.) The rules must lay down :—

(*a.*) That there should be regular meetings of the committee or governing body.

(*b.*) Circumstances under which membership lapses.

(*c.*) The amount of subscription.

(*d.*) The hours of opening and closing.

(*e.*) The objects for which the club is formed.

Application shall be made on a form supplied by the registrar by the committee, not less than five in number, of whom at least two must be householders. They must give the name and address of the club, and produce copies of the rules, and lists of members sufficient for publication, and also affidavits sworn by each member of the committee that these conditions are fulfilled. The committee shall be individually responsible for the conduct of the club, and individually liable in case of prosecution. The fee on registration shall be purely nominal, enough to cover the expenses.

Any distribution of liquor for consumption off the premises shall be deemed an illicit sale, even in the case of a registered club, and any visitor paying for exciseables shall be subject to a penalty, as well as any person knowingly selling or sanctioning the sale.

No person under 18 years of age should be admitted as a member to a club in which intoxicants are sold.

iii. *The Registrar.*

We think that registration would be best carried out locally, but under such safeguards that there can be no objection. The registrar shall be the clerk of the peace in counties, or the clerk of the peace, town clerk, or clerk to the justices elsewhere; his functions would be purely ministerial.

iv. *Objections to Registration.*

On receiving an application for registration the registrar shall give due public notice thereof as well as to the police, and, unless anyone shall make objection within 21 days thereafter, he shall register the club.

Objection shall only be made on one or both of two grounds :—

(1.) That the necessary conditions are not complied with.

(2.) That the members of the committee are persons of known bad character.

If such an objection is lodged either on the first application being made or on any subsequent application for registration, a day shall be appointed on which the objection may be heard before the Recorder or a county court judge, or (in Scotland) the Sheriff, and if the objection is upheld, registration must be refused.

v. *Accounts, Audits, &c.*

Every year a balance-sheet of the club accounts properly audited shall be forwarded to the registrar for publication. And every three months changes in the rules or in the list of members (if any) shall be so notified.

vi. *Re-registration.*

Registration shall be renewed annually on payment of the nominal fee, and it shall be regarded as a matter of course provided that accounts are properly rendered, and the necessary sworn affidavits sent in, unless objection is taken either as above described or on any of the following grounds :—

(*a.*) That the club is a disorderly house.

(*b.*) That it is used merely for drinking purposes.

(*c.*) That it causes habitual drunkenness among its frequenters.

(*d.*) That its rules are habitually broken.

If objection be taken on any of these grounds within a specified time, it shall be tried in the manner described, and on proof of the allegation the court shall have power to inflict a fine or to cancel registration. The court shall also have power in case of a suspected club to appoint a special officer to visit the club, inspect its books, &c., and report.

We think it important that registration should only be refused on certain definite grounds after trial before a properly constituted *judicial* authority, to which no suspicion of partiality or bias can attach. This is no question of administration or of knowing the wants of the neighbourhood, and, therefore, we do not think it should come before the ordinary licensing authority.

vii. *Unions of Clubs and Affiliation.*

Affiliation which we have already described is a privilege much prized by the club unions. We recognise that much effective work can be done by these unions towards improving the condition of the clubs, which compose them. We think, therefore, that they should be encouraged and not restricted. All such unions should register themselves with the Inland Revenue Department. The Department must satisfy themselves that the rules for affiliation are of sufficient stringency to avoid abuses, and the local registrars should be notified of the affiliation of any clubs in their district.

viii. *Conclusion.*

By some such method as we have sketched we believe that a system can be introduced which, without interfering with properly conducted clubs and their liberties and privileges, will prove of great value in assisting the police to put down bogus clubs or clubs which are undesirably conducted. Such a system will not, of course, do away with the necessity for constant watchfulness on the part of the police, but it will prevent that watchfulness from being in many cases uselessly maintained.

PART V.—GENERAL.

TABLE OF CONTENTS.

INTRODUCTORY.

We have thus completed the survey of the licensing system, and indicated those amendments which, in our opinion, are necessary to render it effective, and we have dealt with the difficult question of clubs. We come now to the concluding portion of our subject, the schemes for a large reduction of the number of licensed houses and compensation, and the question of popular control in the direction of regulation or prohibition, or local management.

CHAPTER I.

REDUCTION OF LICENSES AND COMPENSATION.

i. *Need for a Wholesale Reduction.*

We have seen the great evils which arise from the excessive number of licensed houses which now exists. A great reduction is of the first importance.

No doubt an amended licensing system, stringently and intelligently administered over a long series of years, coupled with a growing population, would in the end produce the desired reduction, but the necessities of the case urgently call for more immediate measures.

Much might be done even under the existing law. If the licensing authorities possessed a more complete knowledge of the conditions under which licensed houses are held, the refusal of transfers would often produce a reduction of licenses without any real hardship to individuals. When in any area a number of long leases are about to fall in, the licensing authority should give notice to the ground landlords that they intend to reconsider the distribution of licenses in that area. And the prevalence of the tied-house system would permit arrangements to be arrived at with the brewers by which a number of licenses would be abolished without any objection from the owners of the houses. This has recently been effected to some extent in Birmingham.

Barradale, 5552, 6147.

cp. Lee Warner, 24,807.

But a more wholesale reduction is needed. The great difficulty is how this shall be effected without any undue hardship to individuals.

ii. *The Claim for Compensation.*

Advocates of the licensed trade claim that in case of any license being taken away, because it is not required, compensation should be paid of the full price which the licensed house would or has fetched in the market.

Such a claim cannot be for one moment entertained.

Even if there was a vested interest in the license, it would not be fair to claim more than the market value of the house less its value unlicensed.

More than this, the market value is often very far from being at all a reasonable one. The great competition among brewers, and their eagerness to secure outlets for the sale of their beer, which under a system of free competition would probably be driven out of the market by the products of a few of the highest class brewers, has led them to invest large sums in the purchase of licensed houses at absurdly inflated prices. To claim full compensation on market values is to ask the Legislature to step in to save them from the ill consequences of their own rashness.

But the truth is the exact contrary to the assumption of a vested interest in a public-house license. It cannot be too clearly laid down that the license lasts for one year and no longer. The decision of the House of Lords in Sharp *v.* Wakefield, strengthened and confirmed by that in the recent Dover case, Boulter *v.* Kent, J.J., leaves no room for doubt upon the subject.

There is by law no property in a license. It cannot be bequeathed. Even when a license-holder dies, or becomes bankrupt, it does not vest in his legal representatives or trustee in bankruptcy, but has to be formally transferred to them.

It is useless to argue that, when a licensed house is compulsorily acquired for public improvements under the Lands Clauses Consolidation Acts, full compensation on the basis of the market value is given. There are at least two important differences

Buxton, 35,087. in this case. First, the licensed house is taken bodily, and not the license only. Secondly, the municipality or other public body acquiring the house have no power by statute or common law to abolish the license, as has the licensing authority.

Buxton, 35,099. 40,647. Nor does the Inland Revenue, in taking the market value as the basis of calculation for the purpose of death duties, give any kind of guarantee as to the correctness or permanence of that valuation.

While Mr. Candy himself admits that no question of compensation can arise in case of a license withdrawn in ordinary legal course, it is argued that the spirit of the law does not contemplate any wholesale withdrawal of licenses. But it is clearly the spirit of the law that only such a number of licenses shall be granted, as shall be sufficient for the requirements of the neighbourhood.

Looked at from another point of view, the right to compensation appears equally unfounded. The licensing justices at present, have a perfect legal right to enormously diminish the value of a licensed house by licensing the house next door. They could even grant a license to every person who applied. Mr. Down, a brewer, declares that such free licensing would be a great wrong to existing interests, yet it has been actually tried at Liverpool, in the Prescot division of Lancashire and elsewhere; but there could be no possible claim to compensation, any more than when Parliament has chosen to restrict the hours of opening.

38,859.

The only possible conclusion is that the claim to compensation rests on no legal foundation whatever.

But while from the point of view of strict justice, no claim to compensation can be urged, there are other considerations which make it desirable that some amount of compensation should be given.

Until recently the opinion was very generally held that there was by law a vested interest in a license, and this belief was very much encouraged by the usual practice of the licensing justices in granting renewals without question, year after year. Although persons actually engaged in the liquor trade must have been aware of the real state of things long previously, it was not till the decision of Sharp *v.* Wakefield in 1892, that the truth became at all generally known, and numbers of people have in ignorance invested their money on the security of licensed property. We are of opinion that as a matter of grace and expediency, though not of right, some allowance should be made for this.

Again the *ante* 1869 beer-houses, which form a considerable fraction of the whole number of on-licenses and many of which would be the first to lose their licenses under any scheme of reduction, stand in a somewhat different position to the public-houses. Their claim, however, is not a strong one, for we have seen that they ought immediately to be placed on the same footing as other licensed houses. They do not deserve to enjoy any longer privileges which they ought never to have received. During the 30 years since 1869 the country has paid over and over again for the mistake then committed.

Two other considerations must also affect the question of compensation: first, the evils with which the liquor trade in general, and particularly the excessive number of licensed houses, is associated; secondly, the fact that the granting of a license is a free gift, often of very great value, practically a loan granted by the public without interest.

We can now discuss the form which any compensation scheme should take, and, if any money compensation is to be given, the source from which it should come.

The reduction of licenses is extremely urgent, and a speedy settlement of the question is greatly to be desired. It should be borne in mind by all those who are interested in the liquor trade that every year which goes by makes the claim for compensation weaker. Ignorance of the state of the law cannot now be put forward as an excuse. Everyone who invests his money in licensed property in any form must be fully aware of the risk he takes. Even now, under the present law, there is nothing to prevent the licensing authorities from carrying out the desired reduction without any notice or compensation whatever, if they determine to exercise the powers which they possess.

iii. *The Sources of Compensation.*

See Roundell, 21,725. It may be laid down as an axiom that no compensation can be paid from the public rates and taxes. The proposal has already been made, and been finally disposed of. Hardly anyone can now be found to support it. It is generally agreed that, if compensation is to be paid, it must be raised from the trade itself.

Several of the proposals laid before us include a time notice of several years as an element in the compensation. We are of opinion that both these may reasonably be combined; the notice would give time for re-arrangements to be made, and would also increase the period of enjoyment of present privileges. In the certain hope of a large reduction, a few years would not be too much to give.

iv. *The Method and Amount of Reduction.*

Several witnesses are in favour of fixing a statutory number of licenses according to population.

Another view is, that the local licensing authority should have power to fix the number, while it is also suggested that the reduction should be left to a direct popular vote.

Direct popular control is perhaps better adapted to be exercised, if exercised at all, over the broader questions of license or no license, or local management, than over the reduction of numbers.

In any case the licensing authority would have to settle the distribution of the licensed houses; and, considering the variety of local conditions, it would be best for the local authority, after consultation with the police and other persons well qualified to form an opinion, to fix the number and distribution of licensed houses to which they would wish to attain. This might be safeguarded by fixing a low statutory maximum, not to be exceeded, of, say, 1 on-licensed house to every 750 persons in towns and 400 in country districts. In suggesting this limit we do not mean to lay it down as an ideal, but rather as a limit, below which the discretion of the local authority should have free exercise.

But whatever method of reduction be decided upon, this has no effect upon the scheme of compensation.

It is essential to any scheme of compensation, that it should be a thing apart from the ordinary operation of the licensing law. It should be nothing more than a temporary expedient to cope with an existing and removable evil, and must on no account interfere with the free and unqualified discretion of the licensing authority. Above all, it must not be so designed as to confer any kind of vested interest in licenses.

v. *Methods of raising the Compensation Fund.*

We have seen that no compensation can be given from the public funds. It must be raised by some kind of special tax upon the licensed houses themselves. Two methods are suggested:—

(1.) By taxing them upon the basis of their declared annual profits, and compensating them if deprived of their licenses on the same basis.

(2.) By taxing them and compensating them in like manner upon the basis of their annual rateable value.

The second of these methods appears to us the most practicable.

vi. *The Unearned Increment created by the Free Gift of a License.*

It is widely felt to be a most extraordinary anomaly that new licenses, often worth many thousands of pounds to the fortunate recipient, should be granted for no consideration at all. As Mr. Buxton said, "it is a very mistaken path in public policy." 35,461.

The anomaly exists also, if not in so glaringly conspicuous a form, in the case of licenses not granted for the first time. The license duties are extremely low, and by no means an adequate tax on the great profits yearly reaped.

It has been suggested that when a license is granted for the first time a lump sum should be paid down. We see considerable objections to such a scheme, as it might well be argued that a vested interest was thereby created. The real remedy lies in the direction of high licensing. Rathbone, 74,336.

Dove Wilson, 70,971.

Although we would not carry this as far as it is carried in some of the United States of America, yet an annual license rental of a considerable amount should certainly be imposed.

These license rentals would be in addition to the present license duties, and would form a fund which might fairly be used for compensation; but they would be a just charge in themselves, and ought to be imposed immediately in any case.

We are now in a position to explain our scheme of reduction and compensation.

CHAPTER II.

COMPENSATION.

1. Scheme for Reduction of Licenses and Compensation.

We recommend the adoption for England and Wales of a term of, say, seven years, as the basis of a time notice and compensation arrangement, under which the number of publicans' and beer "on" licenses should be everywhere reduced to the statutory maximum.

The reduction should take place, or commence, at the first licensing meeting in March after the passing of the law.

The amount for the compensation required should be raised during the seven years from the remaining license holders, by an annual license rental levied on the rateable value of the licensed premises.

It might be left to the discretion of the licensing authority to make the reduction all at once, at the commencement of the seven years' period, or to spread it over the period by withdrawing one-seventh of the surplus licenses each year. In the latter case, the compensation to be paid for the licenses withdrawn at the first licensing meeting would be an amount not exceeding seven times the rateable value of the premises. For those withdrawn the second year the compensation would be six times the rateable value. For those withdrawn the third year it would be five times the rateable value; and so on.

It might be desirable to give to all holders of publican's or beer-house licenses the option, at the commencement of the seven years period, of dropping their licenses and taking seven times the rateable value of their premises as compensation. By that means the owners of licensed property would be enabled to very largely arrange amongst themselves the required reduction in the number of houses. Another advantage would be that when every license-holder had had the option of going out of the trade on the terms named, and had decided to remain in it, and take the risk of losing his license at the end of the seven years, or afterwards, without getting any compensation at all, those who did remain would have no ground of complaint if they did so lose their licenses.

When necessary to have the money in hand in order to make the required reductions the licensing authority would have power to raise a loan on the security of the license rentals.

In fixing the maximum amount of compensation to be awarded, we have taken into account all the points previously mentioned. Some loss must inevitably fall upon those interested in the licensed houses, but this will be greatly mitigated by the following considerations:—

First, though the license is taken away, the property will remain. Public-houses, especially in towns, very often occupy corner sites, and other very advantageous

positions, which will be of great value for other purposes. This value is now included in the market price of the licensed house.

Secondly, if, as often happens, the owner of the premises owns also adjoining property, this will be appreciated in value by the abolition of the license. It is constantly remarked that no one wishes to live next door to a public-house, and those estates in Liverpool and elsewhere which forbid the erection of licensed premises are said to command a constant supply of tenants at good rents.

Thirdly, under the prevalence of the tied-house system, the loss will be spread, and brewing companies holding leases of, or mortgages upon, the licensed houses, will partially recoup themselves in some places for the loss of trade in others. Indeed, if it were true, as some trade advocates declare, that a reduction of licenses will not reduce the consumption of intoxicants, the brewing trade, as a whole, would be entirely recouped; while we cannot accept this view, it is no doubt true that the consumption of beer will not diminish proportionately to the decrease of licensed houses, especially at first, while bad drinking habits already formed are still strong. Moreover, it is possible that some part of the loss may fall upon the comsumer, as Mr. Buxton declared was the fact in the case of the extra tax imposed on beer. 85,164.

In view of all these considerations, we are of opinion that seven years' purchase of the annual rateable value is a sufficient maximum.

The licensing authority shall have full discretion to award a smaller amount, and the onus should lie upon those interested in the licensed property to show that they are entitled to the full amount. It is important that this discretion should exist, because the conditions are so various. Thus, while the conduct of a house has not been so bad as to warrant a withdrawal of the license on the ground of misconduct, yet in the opinion of the licensing authority it may have been so unsatisfactory as to warrant a diminution of the amount of compensation awarded. Again, the terms on which licensed property is held differ very much in different localities. In some places the publican tenant has even a shorter term than that allowed by law; he is liable to be, and sometimes is, dismissed on three months', or even less, notice, without any compensation from the brewer at all; or he may have paid something for goodwill and fixtures on going in, so that he will rank for compensation along with other parties interested.

The length of the leases and other considerations of the sort contribute also to make it difficult for any hard and fast line to be drawn. If the licensing authority had not this discretion, the scheme would interfere with their present powers, and, as we have laid down, it is most essential that it should not.

When the licensing authority has decided upon the amount of compensation which is to be paid to each house, this sum will have to be properly apportioned between the parties interested. The law recognises the actual license-holder and the owner of the premises, including in that term any freeholder, leaseholder, mortgagee, or other person having any estate or interest prior to that of the actual occupier. The apportionment of the compensation between the parties will prove a difficulty, but should not be insuperable. The sum awarded must be divided in proportion to the interests of the parties, and those interests will in like manner apply to the property which remains after the license has been taken away. If the parties cannot agree among themselves, they must go before an arbitrator appointed for that purpose by the licensing authority, but, of course, it will be to the interest of all parties to agree in order to avoid the costs of arbitration.

After the end of the seven years a license rental shall continue to be paid, but it shall be paid into the Imperial Exchequer to be used as Parliament shall direct. It will be no longer required for a compensation fund, because it must be clearly laid down that no kind of claim to compensation can under any circumstances accrue.

2. Reduction and Compensation in Scotland.

In Scotland there never has been the slightest doubt as to the state of the law; the absolute discretion of the licensing authority over all kinds of certificates, without any exception, has always been recognised. It is true that in some parts of Scotland certificates have been renewed from year to year without much question, but anyone investing in a public-house ought to have done so with a full knowledge of the law,

which is stated on the face of the certificate. "This certificate to continue in force* from to *and no longer.*" No Scottish Sharp *v.* Wakefield was ever possible, because the fact was clear.

In Scotland, too, as we have seen, the certificate is more personal to the holder, and the owner of the premises is not recognised by the law. "A landlord has no vested interest in any increase of value through the grant of a license."

Pollard, 55,780.

Hunter, 53,880. Purves, 55,103. 53,261.

Advocates of the licensed trade do claim that full compensation ought to be given in case a certificate is taken away on the ground of not being required. But they are not very definite in stating the amount to be given, or the arguments with which they support their view. Mr. Keith, indeed, is obliged to fall back upon the Act of Union, whose bearing on the subject is at least remote.

While, therefore, there is and can be no sort of vested interest in a certificate in Scotland beyond the year, yet reduction of licenses might be facilitated by some consideration being allowed to certificate-holders.

Opinion generally appears to be strongly opposed to any money compensation, but many witnesses think that a time notice might fairly be given before a wholesale reduction is made.

Mann, 20,683. 20,775. 20,792.

The Threefold Option Bill suggests that 5 years' notice should be given to the houses about to lose their certificates, but that, in case the licensing authority so desire, they should be empowered to take away the certificate at the beginning of that period, and give a maximum compensation of 5 years' purchase of average annual net profits to the certificate-holder, and 3 years' purchase of the rent to the landlord of the premises.

We cannot recognise any claim in the landlord of the premises, as the law and practice in Scotland are so very definite on the point.

We think that the same arrangement as we have sketched out for England and Wales might be adopted for Scotland, with this difference—that five years, instead of seven, should be the basis for compensation, time notice, and reduction in Scotland.

3. General.

At the end of the seven years in England and Wales, and the five years in Scotland, the licensing authority should have power to reduce the number of certificates below the statutory maximum, and no compensation of any kind whatever would be given.

At the end of the seven and the five years respectively, the field would be clear for any further legislation, experimental or otherwise, which Parliament might be disposed to enact.

CHAPTER III.

POPULAR CONTROL.

1. General Considerations.

We have pointed out that, whatever system of dealing with the liquor traffic be adopted, total prohibition excepted, some licensing system is necessary, and we have indicated in detail the reforms which the present system requires. We have further sketched out a measure by which full and (considering the absence of any right)

* For one year or six months, as the case may be.

generous compensation may be given to those interested in licensed property. The great stumbling-block of compensation once cleared out of the way, the schemes involving more drastic and complete changes of system can be considered on their intrinsic merits, unencumbered by doubts as to the interests of individuals.

But in so doing the great importance of reforms in detail must not be forgotten. The drink evil has many roots, and if these are severed by degrees, much permanent good can be done, and the final uprooting is made so much the easier. Local option, including in the term all those schemes which have popular control for their basis, cannot, by its very nature, be more than a partial remedy, at any rate, in the present state of public opinion; but its operation, if it were to be adopted, will be much more general and effective, if the way has been cleared.

For instance, prohibition would be much more likely to be adopted in any locality, if there were no difficulty about compensation. Total prohibition, coupled with compensation, is an impossibility; there would be no available source to provide the necessary funds.

Those who have borne the burden and heat of the struggle against the evils of intemperance may naturally chafe at apparent delay. But experience has shown the unwisdom of attempting to legislate too far in advance of public opinion. A steadily progressive and patient policy will lead more surely to the desired goal.

2. Schemes involving Local Option.

These schemes fall, generally, under two heads, those which propose control of the liquor traffic by direct popular vote in the direction of limitation or total prohibition of the public sale of intoxicants, or to use a convenient term, by local veto, and those which propose to take the liquor traffic out of private hands and carry it on under the control of the local authority: there are various forms of the proposal, called by different names, but the term local management best describes their central principle.

I. LOCAL VETO.

1. History of the Proposal.

It is not surprising that, in view of the dangers arising from the trade in intoxicants, some people, despairing of any other remedy, should wish to entirely prohibit it, and they point to the continued maintenance of prohibition in Maine and elsewhere as a proof that those who live under it desire no change. But they recognise that universal prohibition is not in this country a question of practical politics, and they have accordingly fallen back upon permissive prohibition in localities. Whyte, 67,820. 67,302.

Mr. S. Pope, Q.C., who has been honorary secretary of the United Kingdom Alliance since its formation, gave us the Parliamentary history of the proposal.

The first Permissive Bill was introduced in 1864. It permitted local veto by a five-sixths majority. Curiously enough its principle was first suggested by a brewer, Mr. Buxton. In 1871 Mr. Bruce's Government Bill proposed to give the ratepayers the power of reducing the number of licenses to a certain ratio to population. In 1879 the local option resolution was substituted for the Permissive Bill: the resolution ran as follows:— Pope, 73,723.

> "That inasmuch as the ancient and avowed object of licensing the sale of intoxicating liquor is to supply a supposed public want without detriment to the public welfare, this House is of opinion that a legal power of restraining the issue or renewal of licenses should be placed in the hands of the persons most deeply interested, namely, the inhabitants themselves, who are entitled to protection from the injurious consequences of the present system by some effective system of local option." Pope, 3,736.

The resolution met with varying success in the House of Commons, but though many private Bills on both sides of the House were introduced embodying the principle of popular control, nothing happened till the Government Local Control Bill was introduced in 1893, followed by the Bill of 1895. This Bill proposed to give the ratepayers power to reduce the number of licenses and to close entirely on Sundays by a bare majority, and to prohibit entirely the issue of public-house licenses (excluding hotels and restaurants) by a majority of two-thirds.

2. Arguments in Favour of Local Veto.

The following arguments are urged by the supporters of local veto :—

Pope, 73,719. Whyte, 67,337.
(1.) That the drink evil is one of the most consuming evils in the country; that no regulation of the drink traffic in any other way is or can be satisfactory.

(2.) That a locality ought not to be saddled with the liquor traffic against its will.

Hills, 72,170.
(3.) That no measure which is adopted to satisfy the public conscience and convenience can be a violation of individual liberty, and, further, that the individual would not be entitled to complain, as there would be nothing to prevent his laying in a private store of liquor.

Pope, 73,749. 73,761.
(4.) That local option would only be an extension of the present system, which is already local and permissive, by associating the people with the licensing authority.

Hills, 72,272.
(5.) That the people themselves would be the best judges of their own wants and necessities, which the licensing system is designed to meet.

Somerset, 31,604. 31,640.
(6.) That if an inequality was created between rich and poor, inequality already existed and in this case could not be complained of, because the poor would be the majority, and it would be of their own choosing.

Pope, 74,020.
(7.) That if a sufficient majority were required to carry prohibition, public opinion would be strong enough to insure the enforcement of the law, and that if some violations did occur, these would be nothing compared with the great benefits that would arise from the general operation of the measure. Further, that the largeness of the majority required would indicate such a state of public opinion as would be a safeguard against any fluctuations when the veto had once been adopted.

(8.) That there is a strong demand for some measure of popular control, especially among the working classes, who are more familiar with the evils aimed at.

Whyte, 67,302. 67,339. 67,234. 24,638.
Mr. Whyte, Secretary of the United Kingdom Alliance, thinks that it would be put into force, especially in the West of England. Mr. Westlake, Q.C., says the same of parts of Cornwall, and he is confirmed by Mr. Mabbott as regards Penzance.

This desire among working men for local prohibition is said to be specially illustrated by the competition that exists to obtain houses in the prohibition areas in London, Liverpool, and elsewhere.

11765–76. 11,919. 11,955. 11,990. cp. also Davies, 11,581. Mabbott, 24,641.
Mr. Crosfield, J.P., of Liverpool, said there were large areas in which all licensed houses were forbidden by the ground-landlord. The working class population were eager to get out of a neighbourhood where public-houses were plentiful into one where they were scarce. These areas contained a very large proportion of workmen's cottages, and the general conduct of the district was better than that of the old district. Conditions of life were generally improved, but the class of inhabitants was the same ; he believed that the absence of public-houses was the main cause.

73,412–73,714.
Mr. Herbert Lewis, M.P., gave some very remarkable evidence as to the strength of the feeling for local option in Wales. He says that an overwhelming majority of the people are for it, and that this is shown by plebiscites taken in North and South Wales, by the resolutions of the Assemblies of Churches, and of many public bodies, and by the votes of Welsh members of Parliament. He argues that Wales is a peculiarly good field for the trial of such a social experiment, as Sunday closing had been similarly tried and found successful.

72,713. Chisholm 47,245. 47,391. Selkirk, 71,308–71,542. Mackay, 51,108.
In Scotland, Bailie Kemp says that the public mind is quite prepared for a Local Veto Bill, and similar arguments, based on the results of plebiscites and personal observation, are brought forward by Bailies Chisholm and Selkirk, the Rev. P. R. Mackay, and others. The Synod of the United Presbyterian Church, represented by the Rev. J. Reid, and the General Assembly of the Free Church, similarly represented by the Rev. J. Hunter, expressed their approval of permissive prohibition. The General Assembly of the Church of Scotland, represented by the Rev. James Paton, affirmed that there was no hope of effective reform, except on the principle of local control. The Church gave no preference to any particular option ; the three options of limitation, prohibition (excepting hotels, &c.), and local management, were to be submitted without favour or prejudice to the decision of the electorate. This principle is also the basis of the Threefold Option Alliance, represented before us by Mr. John Mann.

(9.) That even if local veto were not adopted, the fear of it would exercise a sobering and salutary effect upon the license-holders, and make them much more careful about permitting drunkenness, &c.

(10.) That local option is the most prevalent system in all English speaking countries, and has been found to be a success there, as well as in Scandinavia. Local control in some form or other, including the power to prohibit, is the law in all the States of the United States of America except four. It is also the prevalent system over most of Canada, the Australian Colonies, and in Norway and Sweden. It is argued that the system which has spread so far and been so long in existence cannot have been unsuccessful, since the people who live under it themselves approve it.

(11.) That when local prohibition has been tried in districts in this country by the action of ground landlords it has proved a success, and if the ground landlord has this power, *a fortiori* it ought to be possessed by the inhabitants themselves.

Mr. Pope described the state of things in Bessbrook, co. Armagh, which has had no public-house for many years. The colliery village of Roe Green is thus described by Mr. Batty:—"All drinkshops are prohibited by the "ground-landlord. The people are mainly teetotalers; crime and pauperism "have long been practically unknown. Socially and physically they are a "contrast to the surrounding villages, and better every way." 73,767. 12,673.

Sir G. Trevelyan's estate, another prohibition area, is quoted by Mr. Whyte as being quite free from pauperism or crime. 67,391.

In parts of Wales, Mr. Herbert Lewis, M.P., says that local veto is practically in force already. In Anglesey 38 parishes have no license, and the chief constable reports little or no drunkenness. In Carnarvonshire 20 parishes with an average population of 274 have no license. The chief constable reports practically no crimes. The same landlord's veto is also exercised in a good many parts of Scotland, as, for instance, in Lismore and Tiree, the Lewis, parts of Haddingtonshire, and elsewhere. 73,484. Anderson 47,411. Mc.Cormick, 59,640. Hunter, 49,508. Mackay, 50,876.

3. Arguments against Local Veto.

On the other hand, it is urged:—

(1.) That local veto would be an unwarrantable interference with the rights and liberties of individuals.

(2.) That direct popular control is likely to be fluctuating and uncertain, liable to sudden waves of sentiment followed by violent reaction.

(3.) That it would not be adopted in the places where it was most needed.

(4.) That if it were adopted, there would be a sufficient minority disposed and able to prevent its enforcement.

(5.) That even a two-thirds majority of ratepayers would be quite insufficient, because the majority of those who use the public-house and who would violate the law are not ratepayers.

(6.) That the fear of it would drive the respectable class of publicans out of the trade, and leave the trade to be carried on by disreputable people, who would not scruple to encourage drunkenness, and that in case of a reaction from no license to license, the state of things would be much worse than before.

(7.) That it would only drive drinking inwards, out of places where it is under some control, into private houses, clubs, and shebeens, and that otherwise respectable persons would become law breakers and the respect for law would be generally broken down.

(8.) That it would create great disturbances and ill-feeling at the recurring polls.

(9.) That any failure to adopt it would dangerously discourage temperance efforts, and weaken the action of the existing law.

(10.) That it has not been a success when tried.

(11.) That there is no strong public opinion in favour of it, and to force on a measure too far in advance of public opinion would only damage the cause of temperance.

4. Conclusion.

These arguments and counter-arguments are partly based on first principles, partly on prophecy, and partly on experience.

Pope, 73,820. As for those based on experience, it is a mistake to suppose that any certain argument can be founded upon the experience of other countries, even if it were possible to accurately gauge the truth among such a cloud of contradictory statements. But it is a remarkable fact that local option should so widely prevail in countries whose conditions may be very different.

The undoubted success of experiments in local prohibition by ground landlords depends very much on the more absolute power which they possess to enforce observance of their wishes. A simple clause in a lease is a more effective weapon than any local veto law.

And this points to the fact that the question is purely a practical one. First principles and arguments as to the liberty of the subject are in this connection out of place.

In sparsely inhabited districts local prohibition could probably be enforced without much difficulty, but in towns, even where a strong public opinion existed, violation of the law might take place with injurious consequences. We have no evidence before us that public opinion in England, whatever it may be in Scotland and Wales, is at all strong enough to justify such a measure. We must recognise the fact that most people still regard alcoholic liquor as an ordinary article of diet, which is only harmful if taken in excess. It would be rash to predict the course of public opinion during the next decade, but since, in any case, local veto could not be tried until the seven years to be allowed for reduction had expired, it might be well to postpone any decision as to its adoption or otherwise until that period of transition has expired.

II. LOCAL MANAGEMENT.

1. Introductory.

Another school of temperance reformers, while basing their proposals equally upon local popular control, though not necessarily direct popular control, regard prohibition as impracticable, and look to other methods of regulation.

They pass in review the results of the present system, and point out the evils that arise from the competition between a large number of persons engaged in pushing the trade as a matter of business and for their own private profit. The tied-house system, a caricature of the Gothenburg company system, in that its object is to promote instead of diminishing the consumption of intoxicating liquors, covers the face of the country, and continually increases. Every year, by the grant of licences for no consideration, immense sums are put into the pockets of private individuals, who have done nothing to deserve these gratuities, but, if anything, rather the contrary, as from interested motives they continually oppose all reforms, and raise formidable obstacles to any improvement, however slight.

They argue that, prohibition being impracticable, there is no other remedy but to extend the principle of local government, place the liquor trade in the hands of the local authorities, eliminate all motives of private profit from the seller, and appropriate the profits for the good of the community.

Such proposals are not new. As long ago as 1878 Mr. Chamberlain brought forward a scheme for the municipalization of the liquor traffic, and the House of Lords Committee on intemperance recommended that legislative facilities should be afforded for the adoption of the Gothenburg and of Mr. Chamberlain's schemes, or of some modification of them. During the last few years much more attention has been paid to the subject. The Bishop of Chester has been the chief advocate of these principles in England, while in Scotland they have found much support, as well as much opposition, especially in Dundee and Aberdeen; and local management has also recently been adopted as one of its three options to be submitted to a popular vote by the Three-fold Option Alliance, which has a great deal of influential support. A Bill containing these proposals has lately been introduced into Parliament.

2. Outlines of Proposals.

The schemes, which were explained to us by the Bishop of Chester, Dr. Gordon Beveridge, Professor Dove-Wilson, Mr. John Mann, and others, differ in detail, but are the same in outline. They are best described as local management schemes.

The local authority is to take over the management of the retail liquor trade. This is to apply primarily to all houses licensed for consumption on the premises, except hotels and restaurants, which should require the consent of the managing authority, as a preliminary to obtaining a license. The position of off-licenses is not very clear, but probably these also would be taken over by the managing authority. The committee of management would be either (1) a committee of the county or town council, or (2) a committee consisting partly of town or county councillors, partly of representative persons elected by the council from outside, or (3) an authorised company, acting under the control of the council, and not allowed to take more than 3, 4, or 5 per cent. interest on their capital.

The profits to be devoted wholly or partly to objects not supported by the rates, *e.g.*, institutions, recreation rooms, or anything calculated to diminish the causes of intemperance; or charities, *e.g.*, hospitals; or wholly or partly to the Imperial Exchequer.

No person engaged in the sale of liquor is to have the least interest in the sale.

The licensing authority is to be maintained as a distinct authority, to act as a check and keep a watch on the managing committee in case of irregularities.

The amount to be paid at starting is, of course, the crux of the financial position. But if the compensation question has been settled first, this will present few difficulties. Fixtures, &c. might be taken over at a valuation from the existing publicans, if the premises themselves were not taken. If they were, of course they would have to be valued and paid for as unlicensed property in the ordinary way.

The supporters of local management ask that an opportunity should be afforded for trying the effect of these proposals, either by a local or a permissive Bill, which would allow the principle to be submitted for approval to a popular vote. They recognize that if the option of local management is submitted, logically the option of prohibition must also be, and accordingly they do not oppose the submission of both options.

Modifications of the scheme are also proposed, *e.g.*, that in case of new licences being granted, the municipality should be empowered to hold them, so as to try the experiment of municipal management by degrees. On a *primâ facie* view there seems to be nothing in law to prevent this being done now, if the licensing authority consented to do so, always provided that neither profits or loss (if any) should in any way affect the rates.

Mr. Cuthbert of Glasgow, while objecting to the management of the retail trade being undertaken by the municipality, propounded an ingenious scheme by which the town council should gradually acquire the possession of all licensed premises, except hotels, railway refreshment rooms, &c., and let them out by tender to suitable tenants. The council would thus have control over the number of licensed houses and their conduct, while having nothing to do with the actual trade. 55,326–55,499.

3. Arguments in favour of Local Management.

The supporters of local management argue that—

(1.) It would only be an extension of the principle of local government, already frequently carried out in respect of gas, water, tramways, &c. Chester, 68,740.

(2.) The right men would be got to serve with the right motive, namely, the public good. 68,810.

(3.) The elimination of private profit could not fail to operate for the public benefit. All pushing of the trade would be stopped, and it would be much more possible to effectually stop Chester, 68,807.

(*a*) sale to drunken persons, or persons who have had enough.

At present for a publican to refuse drink under these circumstances was often to lose a good customer, or to create a disturbance, which might tell against his house. Dove Wilson, 70,039.

(*b*) sale to children and

(*c*) sale to habitual inebriates; 70,041.

(*d*) frequentation of house by bad characters.

Chester, 69,163. Dove-Wilson, 70,047.

(4.) The houses could be made reasonably, not meretriciously attractive; care could be taken that the liquor should be pure, and that they should be made real houses of refreshment, not mere taps of intoxicating liquors.

Chester, 68,823. Dove-Wilson, 70,113.

(5.) The houses could be easily reduced in numbers, and placed in the situations most suitable for convenience and supervision, as well as away from schools, factories, and so on.

(6.) Experiments of all kinds, *e.g.*, shortening of hours, could easily be made.

Chester, 68,829. Beveridge, 70,468.

(7.) The opposition of existing personal interests to temperance reforms would be eliminated.

Chester, 68,835. Chester, 68,866.

(8.) The drink question would no longer play a part in politics. The tied-house system would be gone; though the brewers would still retain their legitimate wholesale trade, they would no longer have political agents planted in every house.

Chester, 68,853, 68,873. Beveridge, 70,475.

(9.) The profits would go to the benefit of the community at large, instead of some favoured individuals; and there would be no more fear that these profits should exercise a demoralising effect than that the sums at present derived from the taxation of liquor should do so.

4. Arguments against Local Management.

Leaving aside the views of those at present engaged in the liquor trade, who, as is only natural, do not wish to be deprived of their valuable monopoly, the following are the principal arguments urged against local management, that:—

(1.) While gas and water are justifiably monopolies in the hands of the municipality, so as to give better facilities and better distribution at a cheaper rate, it is not the same with intoxicating liquors, which stand on an entirely different footing.

(2.) The local authorities are not competent to conduct so large a business with economy and care.

Saunders, 52,639.

(3.) By involving the entire community in the drink traffic, the conscientious scruples of many would be violated.

Kemp, 72,752. Reid, 52,260. Hunter, 49,553.

(4.) Many men now indifferent would become interested in perpetuating the trade, which would thus be permanently settled upon the community, although no community ought to profit by a business conducing so largely to immorality and crime.

Hunter, 49,553. Chester, 69,679.

(5.) A cloak of respectability would be thrown over the public-house; many people would drink in them who never did before.

Kerr, 74,117.

(6.) No elimination of private profit can destroy the taste for intoxicants, by which people fall.

Hunter 49,553. Malins, 72,042. Chester, 68,873.

(7.) Good men, and men interested in temperance, would not come forward, but stand clear of the whole thing.

(8.) There is a collective desire for gain not less dangerous than the individual desire, and more difficult to cope with. The community would de debauched by the large profits, and wish for more, even to extending the traffic.

Malins. 72,025.

(9.) Even if the profits were not to be applied for local purposes, there would be danger of the local authority being corrupted and devising means to evade these regulations.

Reid, 52,260. Saunders, 52,641. Malins, 72,040. Saunders, 52,638.

(10.) The application of the profits to charity would dry up the sources of private giving.

(11.) That looking to the amount of liquor to be bought every week for consumption in the municipal houses, there would be ample opportunity and temptation for official corruption.

Mr. D. H. Saunders estimates the weekly cost of liquor in Dundee at 9,000*l.*

5. Illustrations of the Principle.

i. *Norway and Sweden, &c.*

As is well known, the municipal company system, called the Gothenburg system, has prevailed for some time in Norway and Sweden, and both supporters and opponents of the system appeal to its working there in confirmation of their views.

The Bishop of Chester maintains that under its operation the consumption of spirits has greatly diminished, and also intemperance, and that the number of spirit bars has been enormously decreased, while many of the companies (called bolags in Sweden, and samlags in Norway) have gone beyond the law in stringency as to hours of closing and the age below which children cannot be served; that the recent law passed in Norway gave the companies greater powers, while it, at the same time, established direct popular veto and diminished the control of the companies over profits, because those profits would be larger, not from distrust; and that the consequent abolition of 16 companies in two years led to only a very slight diminution in the consumption of spirits, but to a large increase in the consumption of beer and wine. Chester, 68,966, 68,970, 69,267. 68,812. 68,847. 68,992, 69,500, 69,534, 69,519.

Mr. Joseph Malins, chief officer of the Good Templars, on the other hand, maintains that the Gothenburg system, though a great improvement on the previous system in Sweden, is not in itself good. He maintains that the decrease in consumption and drunkenness is due to other causes. He contends that the elimination of private profit has broken down, and that the bolags in Sweden have been guilty of many irregularities, even allowing their managers an interest on sales, and corruptly conspiring with the municipalities to seize the profits, that the samlags in Norway had become "municipal milch-cows," and allowed the profits to go to the rates, though this was forbidden by law; and that the overthrow of the samlags showed what was thought of them, and had been beneficial. He admits, however, that the bolags diminished the number of licensed houses, paid attention to the purity of liquor, reduced hours of sale, and refused to serve children, nor does he dispute that improvement has taken place coincident with the system, though he attributes it to other causes. Malins, 71,944. 71,985, 71,991, 71,996. 71,960. 72,025. 72,034–8 71,971, 71,981.

In attempting to draw conclusions for application to this country, our previous warning must be remembered. The conditions prevailing are extremely different, and beyond that, beer has only recently been included in the sphere of the companies in Norway, and is not so included now in Sweden, though there is a movement on foot in that direction. Till 1893, indeed, managers were allowed to make profits on the sale of beer, so harmless was it considered. These things make any certain conclusions impossible, and the experience of Norway and Sweden can only be quoted as illustrations. Chester 68,788. 69,002.

Further illustrations are quoted from the irrigation colony of Renmark, South Australia, from the canton of Basle and elsewhere, and the action taken by the Russian Government in taking into their own hands the sale of spirits over a large part of the country is also referred to. In America, however, the system is not popular; Professor Dove-Wilson explains it by saying that municipalisation of all kinds is there very much out of favour. 68,773. 68,794. 68,805. Dove-Wilson, 70,130 70,114.

ii. *The Military Canteen System.*

Perhaps the best illustration of the principles of local management is to be found in the regimental canteens. Under the improved system the canteen is a part of the regimental institute, the other departments being grocery, coffee-room, and recreation room. The institute is managed by a committee of officers, with a sub-committee of non-commissioned officers to assist in internal management, under the superintendence of the committee. The salesman and his assistants are paid a fixed salary, and have no interest in the sale of drink. The profits are appropriated to regimental purposes. Lord Roberts 71,738. Burnett, 72,475, 72,655. Roberts, 71,742.

Formerly the canteen was a mere public-house, and the profits went to the contractor. Both Lord Roberts, who has done so much to improve the regimental institutes in India, and General Burnett who has paid great attention to the working of the canteens in this country, agree that the change has been most beneficial. Other agencies have, of course, been also at work, but the general result is that intemperance has very much decreased in the army. Education, religious and temperance work are said to have done a great deal. It is difficult to estimate how much is due to the absence of private profit, but the application of the profits to regimental purposes has, according to Burnett, 72,480. Roberts, 71,774. Burnett, 72,531.

72,431. General Burnett, directly increased sobriety not only by producing better management of the canteen, but also by enabling extra food to be supplied to the men. He also
72,508. declares that the officers are not tempted to extend the sales, in the hope of increasing regimental profits.

71,748. On the other hand the experience of the canteens shows very clearly some of the difficulties which might arise in case of local management. Lord Roberts says, success depends on how far the committees are influenced by the manager and accountant. The officers are not, of course, professional liquor or grocery store-keepers. Though
71,742. the manager has no interest in the sales, the appointment is deemed a lucrative one, and profits depend largely on the astuteness of the committee or the honesty of the manager. General Burnett corroborates this; he says it has been very difficult to
Burnett, 72,480, 72,560. prevent managers having an interest in sales, owing to the ignorance of the committees, but they are now aware of all the tricks likely to be played, and the position of canteen managers is less sought after. All sorts of precautions are now taken against frauds,
72,482. by means of locked bills, payment by tokens, careful estimate of "unaccountable profits," and close supervision generally. It has also been found necessary to
Roberts, 71,782. absolutely forbid the supply of billiard tables, furniture, performances, &c. by the brewer contractor.

72,488. General Burnett says that it is a notorious fact that the manager used to get what are politely termed "commissions" from the brewers. Stringent regulations have been laid down to prevent any such transactions.

72,520. One other point comes out strongly, the immense profits on the sale of liquor. General Burnett say "canteens are, roughly speaking, a cent. per cent. business," that is selling beer only (spirits are prohibited in the canteens) at slightly under market prices.

iii. *Other Experiments on these Lines.*

The same large profits are found in the case of those experiments which have been carried on by firms or public bodies, or private individuals on the same lines.

Lees, 70,988–71,307. The Birmingham Corporation has established a canteen for the navvies at their waterworks in the Elan Valley near Rhayader. Mr. Lees, secretary of the water department, gave a most interesting account of it, which throws a good deal of light on the working of public-houses. Allowing for a sinking fund, though, of course, there is no charge for goodwill or ground-rent, the profits amount to 93 per cent. The regulations as to hours of closing, serving young persons, &c., go far beyond the law in stringency; and the results are described as excellent. The account of this
Grimston, 33,315. navvy settlement may be well compared with that given by Mr. Grimston, superintendent of the Navvy Mission Society, of the deplorable state of things at Frodsham Marsh, on the Manchester Ship Canal, where an immense amount of illicit drinking went on.

Carlow, 49,556–49,941. 49,580. 49,594, 49,747. 49,666. 49,662. 49,625, 49,827. Mr. Charles Carlow gives a very interesting account of the Hill of Beath experiment, conducted by the Fife Coal Company. This experiment is conducted on slightly more democratic lines, as the committee of five has two members elected by the villagers. The profits are great, the liquor is of better quality, and the conduct of the village is said to have improved; a vast improvement, says Mr. Carlow, on what would have happened, if an ordinary tradesman had had the house. He admits that there was some danger, though not much, that the regulations should be relaxed for the sake of the extra profits which would then be devoted to improvements.

Similar experiments are being conducted by landowners and private persons. The
Mordaunt, 69,708–70,017. 69,727. 69,753. Vol. VIII., App. 6. 69,721, 69,747. 70,010 Chester, 68,772. Rev. O. Mordaunt, rector of Hampton Lucy, has worked the village public-house very successfully on these lines for 22 years. He prohibited the sale of spirits, which, he says, has had the effect of quite stopping drinking of small drams among the women. He has improved the quality of beer and devotes the profits to village charities. These, in a small village, after paying rent, wages of manager, and all other expenses, amount to 30*l.* a year on beer alone. He says, that as a result, drunkenness is reduced to a minimum, and consumption of beer has on the whole decreased.

A company called the People's Refreshment House Association is also working some public-houses on Gothenburg principles, though it has not been long enough in operation to show any distinct results.

The success of such experiments is not, of course, any more conclusive in favour of local management than the success of prohibition by landlords in some areas is of local veto. But it proves that improvement can be effected by the application of these principles without injuring the interests of the landlord, and it offers a large field of experiment to ground landlords and employers of labour, who will do well to study closely the evidence referred to. If they are convinced that there must be a public-house, it is better that it should be conducted on the best lines, and that the profits should be devoted to diminishing the causes of intemperance, or similar objects.

6. Conclusion.

Local management has many attractive features. The elimination of private profits could not fail to be of public benefit, both directly and by diminishing the obstacles to temperance reform. The evils of the tied-house system would vanish, and with it much of the disturbing influence of the drink question in local politics. The anomaly of large gratuities to private individuals would also be abolished. As for the objections raised by some temperance reformers, that the drink traffic would be permanently fastened upon the community, there is no reason to suppose that this is a necessary consequence of the system, as in Norway, during the years 1895–98, 23 samlags were voted down.

What the actual results of the system would be in this country only experience can tell. But there are certain dangers, which should be carefully considered.

The difficulty of enforcing the elimination of private profit will be probably found to be no small one. We have seen what strict regulations have to be made in the army canteens, as well as the recurring necessity of stopping avenues of fraud and malpractices; and, though the precautions are said to be successful, yet municipal discipline is not likely to be so effective as military discipline. The danger of corruption is no small one—the large amount of liquor which must be bought very much increases the temptations.

There is no reason to doubt that a certain class of brewers will be as ready, under the stress of competition, to bribe the municipal officers as they have notoriously been in the case of canteens. The connexion of the municipalities with the liquor trade, as illustrated by the working of watch committees, has not been in the past a matter of congratulation.

There is also a real danger—unless the appropriation of the profits is scrupulously guarded—lest some of the pecuniary benefits should percolate into some strata of the local society, and lest, through want of watchfulness or under the pressure of undue influence, the managing committee should relax the stringency of their regulations or the vigour of administration—and should so open the door to evils which would strongly resemble those of the old system, and, perhaps, might be found more difficult to eradicate.

CHAPTER IV.

RECOMMENDATION.

We have already said that in England we do not now recommend the adoption of a direct popular measure. There are many important reforms to be carried out, and, under our proposals with regard thereto, some time must elapse before local veto could become an immediate practicable remedy in this country.

In Scotland and Wales, however, the case is different. There opinion is very much more advanced on the path of temperance reform; and we are prepared to suggest that, at the end of the given period, a wide measure of direct popular control might be applied, under proper safeguards, to Scotland and Wales.

SUMMARY OF RECOMMENDATIONS.

These recommendations are given in the order in which they are made.

PART I.—ENGLAND AND WALES.

Chap. III. (ii.) 1. The law should be consolidated and simplified.

Chap IV. (iii.) 2. The number of licensed houses should be immediately and largely reduced.

Chap. V. (x.) 3. All agreements and arrangements governing the tenure of licensed houses should always be submitted to the licensing authority, which should have full discretion to refuse the license, if these provisions are contrary to public policy, or to grant the license on condition that such clauses in the agreement are struck out; clauses so struck out should be *ipso facto* void.

A record of all breaches of the law in the house in question should be kept and produced upon all occasions, when the licensing authority have to deal with the license, and they should have the power of visiting the house with the penalty of suppression in the event of the record justifying that extremity.

Chap. VI. 1 (iv.) 4. Members of the licensing authority should not be disqualified through holding shares in a railway company owning licensed refreshment rooms or hotels.

Chap. VI. 2 (ii.) 5. The disqualification which applies to the members of the licensing authority should apply equally to the clerk to the licensing authority.

Chap. VII. 1 (v.) 6. Notice to the licensing authority itself of all applications for new licenses should be required.

Chap. VII. 1 (vi.) 7. A proper interval should be left between the grant and confirmation of a license, so that the second hearing shall be a reality. All new licenses should require confirmation.

Chap. VII. 2 (iv.) 8. Ante 1869 beer-houses should be subjected to the full discretion of the licensing authority, in the same manner as fully-licensed public-houses.

Chap. VII. 3 (vii.) 9. *a*. Temporary transfers should be abolished (except in case of death or bankruptcy).

b. Proper notice of application for transfer should be given in all cases.

c. Applications for transfers which have been executed in blank should be void.

d. Transferor should be compelled to attend, and be examined on oath as to his reasons for leaving.

e. Transferee should be examined as to his position and interest in the house, and made to produce his agreement, &c. Security by recognizance should be taken as to character.

f. Licensing authority should have power to make regulations against repeated applications, and no application should be allowed after refusal of renewal.

g. Licensing authority should have power to close the house after conviction till next annual licensing sessions.

h. The law should be generally very much simplified and codified.

Chap. VII. 4. 10. Annual licensing sessions should be held in March instead of August and September.

Chap. VIII. 1. 11. No license should be renewed to a public-house of under 12*l*. annual rateable value. Some time notice might be required.

Chap. VIII. 2 (vi.) 12. Licensed houses should be as open as possible to supervision, both from the outside and the inside. They should not be placed in connexion with back courts or yards. They should have the smallest number of doors compatible with the proper conduct of the trade, and should not admit of communication of any kind with the dwelling of the publican or with the lodgers who are in the house.

13. The licensing authority should have full control over all alterations of premises. Plans of all licensed premises should be deposited with the licensing authority, and their consent obtained before any deviation is made. Chap. VIII. 3.

14. There should be a special hotel license, and beyond this, the licensing authority should have full discretion to insert in the license conditions as to early and Sunday closing, open drinking bars, restaurants, supply of food, &c. These conditions should be entered in the register, and on proof of a breach of any such condition there should be power to refuse the license without appeal, except upon the question whether any such breach of condition has in fact taken place. Chap. VIII. 4. (ii.)

15. All "off" wine and spirit licenses should be subject to the full control of the licensing authority, as well as all wholesale licences for the sale of wine, spirits, beer, and sweets, excepting those required by brewers, distillers, wine merchants, and blenders. Chap. IX 1. (iii.) and 2 (ii.)

16. The sale of liquor on passenger vessels and in theatres should be brought under the control of the licensing authority. Chap. IX. 3 and 4.

17. Reconstitution of the licensing authority. The original licensing authority in each division should consist of a committee of from 6 to 10 members, elected half by the justices of the division from their own number, half by the county or town council. Chap. XI. 4.

The committee should be elected for a period of three years, and should select a permanent chairman from their own number.

Reconstitution of the appellate body :—

(*a.*) In boroughs the appellate body should consist of the members of the original licensing authority sitting along with a larger number (in the proportion of three to two) of additional members, elected half by the town council, and half by the borough justices.

(*b.*) In counties, a county committee should be appointed, half by the county council, and half by the county justices, and this committee, on an appeal being taken from any particular division of the county, should sit with the original licensing authority of that division to hear it. The new element should be in the aforesaid proportion to the old, viz., three to two.

Both in counties and boroughs the new appellate body should perform the functions of the present confirming committee.

Members of the appellate body should be elected for a period of three years.

18. The licensing authority should be in no way hampered by any personal liability for costs. Chap. XI. 5.

19. The Welsh Sunday Closing Act should be extended to Monmouthshire. Chap. XII. 4.

20. Hours of opening on Sundays should be restricted to one hour at midday and two hours in the evening as a maximum, and the licensing authority should have power to reduce the hours or to close entirely. Chap. XII. 5.

21. Frequenters of shebeens should be made liable to arrest. Chap. XII. 5.

22. *a.* A separate license should be issued for hotels having a certain quota of bed-rooms for the reception of guests, and no public bar accommodation. These hotels, together with houses licensed exclusively as restaurants, should alone possess the privilege of serving *bonâ fide* travellers, during certain hours to be fixed by the licensing authority. Chap. XII. 6. (v.)

b. Travellers should be defined as persons about to lodge in the house or take a meal therein, who have travelled at least seven miles from their previous night's place of lodging.

c. The licensing authority should have full discretion to withdraw the privilege of serving travellers during closing hours for any reason that may seem good to them.

d. Railway companies should be required to draw up regulations to be approved by the Board of Trade, limiting the hours of sale, both in their refreshment rooms and in their railway carriages. These regulations should include precautions against the indiscriminate sale of intoxicants at their stations.

Chap. XII.7. 23. The licensing authority should have power to grant six-day licenses, either generally or by way of punishment for offences not deserving more serious notice.

Chap. XII.8. (ii.) 24. Licensed premises should not be opened before seven or eight a.m.

Chap. XII. 8 (iii.) 25. The licensing authority should have discretion to make an order for earlier closing in the evening two hours earlier than the present hours, such an order to remain in force for one year.

Chap. XII.9 26. The licensing authority should have power to order closing on election days.

Chap.XIII.3 27. Occasional licenses should be granted only in open court, by two members at least of the licensing committee, after due notice to the police, and opportunity should be given for opponents to be heard.

Chap.XIV.2. 28. Sale, either *on* or *off*, of any kind of intoxicant to children under the age of 16 should be forbidden. The penalties now imposed for knowingly serving children under age should be raised.

Chap. XV. (ii.) 29. Registered benefit, etc. societies should be forbidden to hold their meetings in public-houses.

Chap. XV. 2 (iii.) 30. Coroner's courts, petty sessional courts, revising barristers courts, etc. should be completely dissociated from licensed premises by law.

Chap. XV. 2 (iv.) 31. The municipalities of seaport towns should adopt a byelaw under the Merchant Shipping Act of 1894, regulating and controlling houses for the reception of seamen.

Chap. XV. 3 (iii.) 32. The issue of music and dancing licenses to public-houses should be entirely prohibited, and the consent of the licensing authority should be everywhere necessary before they are granted to hotels or restaurants.

Chap. XV. (v.) 33. *a* The trade in intoxicants should be forbidden to be carried on in the same premises as the trade in groceries or other articles.

b. In place of the present variety of off-licenses, a consolidated license should be issued, under the full control of the licensing authority, and for premises exclusively used for the sale of intoxicants.

c. A period of five years should be allowed to existing license holders to make arrangements for the change.

Chap. XVI. (iii.) 34. *a*. The same disqualifications should apply to members of a watch committee as now apply to the members of the licensing authority, and further, any person acting as solicitor or valuer for any brewing company, or trade organisation, should also be disqualified.

b. The chief constable should not be removable except with the sanction of the Secretary of State.

Chap. XVI., v. 35. *a*. In prosecutions, legal assistance should be provided for the police, and it might be feasible to allow the chief constable to incur expenses up to a certain sum, both in prosecuting and defending appeals, acting on his own initiative, and without the authority of the watch committee.

b. The costs of the police should be provided, and they should have legal assistance, if necessary, in opposing new licenses, renewals or, transfers.

Chap. XVII. 2. (i.) 36. There should be a general power of arrest for simple drunkenness, apart from disorder.

37. *a* No constable should be served in a public-house when in uniform.

Chap. XVII. 3. (i.) *b*. The practice of testimonials to retiring inspectors should be completely discontinued.

Chap. XVII. 3. (ii.) 38. The licensing authority should have in their own service one or two officers of high rank, to visit and occasionally report to them upon the general condition of licensed premises. These officers should be changeable, so as to avoid becoming too well known.

Chap.XVIII 39. *a*. In some cases of offences by license holders, the penalty should be the temporary suspension of the license, instead of the imposition of a fine.

b. Whether a person is found drunk on licensed premises, or is seen leaving the premises in a drunken condition, it should be incumbent on the publican to show that

neither he nor his servants knew of the drunkenness, or that he did not with such knowledge permit him to remain on his premises.

c. Instead of the present system of endorsement, a record of all convictions should be made, not necessarily to be attached to the license, but kept, as in Scotland, in the register, which should be produced before the licensing authority. The register should be open to inspection on payment of a trifling fee.

40. A summary of the duties and responsibilities of license holders should be hung up in a conspicuous place on all licensed premises. Chap. XVIII. v.

41. *a.* To be drunk when in charge of a child of tender years should be an offence with a penalty attached higher than that for simple drunkenness. Chap. XIX

b. Habitual drunkenness should be treated as cruelty within the meaning of the Summary Jurisdiction (Married Women) Act, 1895, and entitle the wife to separation and protection for herself and her children.

42. *a.* Any person convicted 10 times of any form of drunkenness within any period, and proved to be an habitual inebriate, should be treated under the Habitual Inebriates Act like a person convicted 4 times of drunkenness within a year. Chap. XX. (ii.)

b. Some scheme should be adopted, with proper safeguards resembling those in force in the case of lunatics, by which habitual inebriates should be confined without their own consent.

43. Habitual drunkards (to be defined by the number of convictions) should be placed on a black list, and the publicans should be warned by the police not to serve persons so notified. A penalty should attach to any publican knowingly serving such a person. Chap. XX. (iii.)

PART II.—SCOTLAND.

1. The law should be consolidated. Chap.II.(ix.)

2. The number of licensed houses should be reduced in many localities. Chap. IV.(i.)

3. In the matter of provisional certificates in cases of contemplated removal, the Scottish law should be assimilated to the English. Chap.IV.(ii.)

4. A separate licensing jurisdiction should be exercised by all burghs, whether royal, parliamentary, or police burghs, having a population of 7,000 or more. Chap. V. (i.)

5. *a.* Factors of property for which a certificate is applied for should be disqualified from acting in the matter. Chap. V. ii.

b. Clerks to the licensing authority should be subject to the same disqualification as members of that body.

6. The duty of certifying to the good character of an applicant for a certificate, and to the suitability of the premises, should be transferred to the chief constable. Chap. VI. v.

7. *a.* New certificates should only be applied for at the Whitsuntide licensing meeting. Chap. VI. 1 (vi.), v. (vii.)

b. Certificates should run from May 28, instead of May 15, so as to correspond with the ordinary removal term.

8. Some provision should be made to meet cases of inadvertent omission to apply for renewal of the annual certificate, and also where death occurs in the interval between the statutory date for lodging applications and the holding of the licensing meeting. Chap. VI. 2. iii.

9. *a.* On application for a transfer, the reasons of the change should be thoroughly scrutinised, and there should be an inspection of the agreements or engagements, if any, between the applicant and the brewer or other wholesale dealer. Chap. VI. 4. (v.)

b. Except in case of death or bankruptcy, transfers should only be granted at the half-yearly meetings, and in the cases excepted they should be granted once a month, and the business should be permitted to be carried on temporarily till the next transfer sessions by a provision similar to that in the English law.

Chap. VI. 5. (i.) 10. To clear up any doubt as to the extent of their powers licensing authorities should be given express power to draw up byelaws on such points as sanitary and structural requirements. Those byelaws might require the sanction of the Secretary for Scotland.

Chap. VI. 5 (ii.) 11. License-holders should be statutorily forbidden to reside on their licensed premises, except in the case of hotels and in some country places.

Chap. VI. 6 (i.) 12. Wholesale licenses (except those required by brewers, distillers, wine-merchants, and blenders) should require the certificate of the licensing authority.

Chap. VI. 6 (ii.) 13. The sale of liquor in theatres should be brought under the regulation of the licensing authority.

Chap. VI. 6 (iii.) 14. *a.* All passenger vessel licenses should require a certificate from the licensing authority of the port of departure, and the authorities of the ports of call and arrival should be given a power of objection.

b. Sale of liquor on board such vessels in harbour should be prohibited.

Chap. VII. 1 (iii.) 15. Outside the exempted burghs 10 p.m. should be fixed by statute as the hour of closing, subject to the discretionary power of the licensing authority to close one hour earlier.

Chap. VII. (iv.) 16. The discretionary power to close an hour earlier should be extended to the licensing authority in the exempted burghs.

Chap. VII. 1 (vii.) 17. The licensing authority should have discretion to close on New Year's day, holidays, and election days, either for the whole or part of the day.

Chap. VII. 2 (iv.) 18. *a.* The licensing authority should be empowered to strike out the words "and travellers" from the certificate, thus retaining the privilege of sale to lodgers, but abolishing that of sale to travellers.

b. Certain hours should be fixed by the licensing authority during which alone the *bonâ fide* traveller should be served.

c. The minimum qualifying distance for the *bonâ fide* traveller should be seven miles.

Chap. IX. 19. The licensing authority should be reconstituted as follows:—

a. In Counties:
The licensing authority should consist of a committee chosen half by the justices, half by the county council, *with appeal* to a body constituted in the same manner.

b. In Counties of Cities:
The licensing authority should consist of the magistrates, as now, *with appeal* to a committee elected half by the justices for the county of the city, half by the town council.

c. In all other Burghs:
The licensing authority should consist of the magistrates, as now, or police commissioners, *with appeal* to a committee, chosen half by town council, half by the justices for the county in the district in which the burgh is situated.

The appellate body should also exercise the functions of the confirming committee.

Chap. IX. 20. An appeal to the court of session on a stated case on points of law should be allowed.

Chap. X.(iii.) 21. *a.* Special permissions should be granted only in open court; refusal to be final.

b. 6 days' notice should be required.

Chap. XI. 22. No child under 16 should be served with intoxicating liquor for consumption either on or off the premises.

Chap. XII. 23. Some measure, such as compulsory bonding, should be adopted to check the evils of the consumption of new whisky.

Chap. XIII. 1. 24. The qualifying number of bedrooms for hotel licenses should be raised.

Chap. XIII. 3. 25. *a.* The premises, in which the trades in intoxicants and groceries are carried on, should be separated.

b. A dealer's certificate should be issued, empowering the sale by retail of intoxicants only, for consumption off the premises.

c. The recommendations of the Royal Commission on Grocers' Licenses should be carried out, as far as they are applicable to such dealer's premises, used exclusively for the sale of intoxicants.

d. All liquor-dealers' vans should be liable to search by the police or excise. The drivers must produce, when called upon, signed orders from customers, and carry no liquor beyond the supply previously ordered, each order to bear the name and address of the person who gave the order. A breach of the conditions thus imposed should be an offence, and, on conviction, the certificate should be forfeited.

e. All such dealer's premises should be closed at 8 p.m., and be fully opened to police supervision.

f. No certificate should be refused on application for renewal by the existing certificate holder, on the ground that the trades are combined on his premises, but no new certificate or transfer shall be granted, except in respect of premises exclusively used for the sale of intoxicants.

g. In places under 500 population, or in other peculiar circumstances, the licensing authority should have discretion to grant grocers' licenses as before.

26. The licensing authority should have special officers attached to its service as recommended for England. Chap.XIV.3.

27. *a.* There should be a distinct penalty for permitting drunkenness. Chap.XIV.4.

b. The section of the English law (Act 1872, section 14) relative to harbouring prostitutes, should apply to Scotland, as somewhat more stringent and clearer than the Scotch Act.

c. The English provision about harbouring constables, or supplying them with drink, is fuller than the Scotch, and should be adopted.

d. The certificate prohibits any unlawful games, but an unlawful game is not defined in the law of Scotland. The provisions of the English Act, 1872, s. 17, should be extended to Scotland.

28. In case of trafficking without a certificate:— Chap. XIV. 5 (i.)

a. The penalties should be increased.

b. The occupier of the premises, if privy, should be liable, as under the English Act, 1872, s. 4.

c. A penalty should be imposed on the illicit storing of liquor, as under the Act of 1872, s. 10.

29. The word "intoxicating" should be substituted for "exciseable" in the Scottish licensing Acts. Chap. XIV. 5 (i.)

30. 1872, s. 25, as to persons found on licensed premises after closing hours should be adopted. Chap.XIV. 5 (i.)

31. The provisions of the Burgh Police Act, 1892, as to being drunk and incapable in a public place, or being drunk when in charge of loaded firearms, &c., should be extended to the country, and licensed premises should be included in the definition of a public place. Chap.XIV. 5 (ii.)

32. As to other offences connected with drunkenness, police power of arrest, and the treatment of habitual inebriates, the recommendations made for England apply equally. Chap.XIV. 5 (ii.)

PART III.—IRELAND.

1. The Tippling Acts should be amended so as to apply to liquor supplied on credit for wakes. Chap. I. (i.)

2. The licensing laws should be codified and simplified.

3. The number of licensed houses should be reduced. Chap. III. (2).

4. *a.* Rating qualification of 25*l.* annual value should be required for all public-houses in towns over 10,000 population, of 15*l.* in towns over 5,000, and of 12*l.* elsewhere. Chap. IV. Chap. V. (6).

This should apply to all new licenses, and should be applied to all existing public-houses at the end of five years.

b. At the end of five years no license should be renewed to any house supplying any other goods than provisions for consumption "on" the premises; and in the meantime no new grant or transfer of the license should be made except upon the same condition.

c. No post office should be allowed to be held on licensed premises except in a case of absolute necessity.

d. The sections relating to the payment of wages in public-houses should be made more general and comprehensive; and no public-house should be used for collecting rates, distributing relief tickets, or any similar purpose.

e. No internal communication should be allowed between the licensed part of the premises and the dwelling-house, and, when possible, the licensee should be forbidden to reside on the premises, as in Scotland.

Chap. V. (7). 5. The original agreement between the tenant and the brewer owner, and all subsequent arrangements should be laid before the licensing authority, which should have power to strike out or modify any clauses militating against the public interest.

The recommendations on the tied-house system relating to England apply equally to Ireland.

Chap. VI.(1) iii. 6. *a.* All licenses should come under the same jurisdiction, and the licensing authority should have full power to grant or refuse a renewal or a transfer as well as a new license.

b. The granting of new licenses at intermediate sessions should be forbidden.

c. Transfers should be subject to practically the same regulations as those proposed for England, and, as now, should be granted only at Quarter Sessions; temporary transfers, except in cases of death or bankruptcy, should be abolished.

d. In other respects the details of the law should be assimilated to the proposals which we have made for the improvement of the licensing law in England.

Chap. VI. 2. (2) vi. 7. Occasional licenses should only be granted in open court after due notice to the police.

Chap. VI. 2. (2) vii. 8. Prosecutions of license-holders should only be tried by resident magistrates or stipendiaries. A resident magistrate should be in the same position as a stipendiary.

If the present state of things is continued, the police should have a right of appeal.

Chap. VI. 3 ii. 9. The licensing authority should be re-constituted as follows:—

Except in the five towns where the recorder is sole licensing authority, the licensing authority should consist of the county court judge with all the resident magistrates of the county sitting at all licensing sessions in the county, and with two justices resident within each quarter sessional division to be selected annually by the general body of the justices of the county.

In the five towns the divisional justices or the stipendiaries or the resident magistrates should sit with the recorder.

Chap. VII. 1. i. 10. There should be a separate hotel license, and the licensing authority should have full power to impose conditions as to restaurants, supply of food, &c.

Chap. VII. 1. ii. and iii. 11. Wine refreshment-house licenses should be placed under the same regulations as public-house licenses, and all other houses in which intoxicants are sold for consumption on the premises should require a certificate.

Chap. VII. 2. iii. 12. An off-license should be issued in Ireland instead of the spirit-grocer's license, similar to the grocers' license in Scotland, but for premises exclusively used for the sale of intoxicants. These licenses should be under the complete control of the licensing authority, and subject in all respects to the ordinary licensing law.

Chap. VIII. 13. As in England, no child under 16 should be served with any intoxicating liquor for consumption either on or off the premises.

Chap. IX. 14. New whisky should be kept in bond as previously suggested.

Chap. X. 1. 15. Complete Sunday closing should be extended to the five exempted cities.

Chap. X. 2. iii. and iv. 16. Nine p.m. should be adopted as the hour of closing on Saturdays, and ten p.m. on other days.

Chap. X. 3. 17. The same rules should be laid down as to *bonâ fide* travellers as recommended for England.

Chap. X. 4. 18. The licensing authority should have full power, under present conditions, to impose a six-day instead of a seven-day license.

Chap. XI. i. 19. *a.* No license should be granted to the wife of a police officer.

b. No policeman in uniform should be served in a public-house.

c. Full power should be given to district inspectors and head constables to appear at quarter sessions.

20. *a.* Our recommendations as to offences by license-holders in England apply equally to Ireland. Chap. XI.i.

It should be made clear that the prohibition of sale during closing hours covers both sale and delivery.

b. All convictions after the first should be compulsorily endorsed upon the license.

21 The form of the license should set forth the prohibition or offences under the licensing laws, and a table of the legal provisions should be exhibited in all licensed premises, in a conspicious position. Chap. XI. (iv.)

22. *a.* The Scottish Act of 1862 (25 & 26 Vict. c. 35.), secs. 13, 19, and 37, as to shebeening, and sec. 16 as to hawking liquor, should be applied to Ireland. Chap. XI. vi.

b. Keeping liquor for sale without a license should be an offence under 1872, sec. 3, and not as now only under 17 & 18 Vict. c. 89. s. 3.

23. The power of summary arrest for simple drunkenness should be more clearly defined. Chap. XI. vii.

24. Ether should be treated like arsenic and strychnine, to be sold by chemists only to persons they know for particular purposes. Chap. XII.ii.

PART IV.—CLUBS.

1. *Registration.*

All clubs in which intoxicants are supplied should be registered. No club or association with less than 25 members should be so registered. In any club which is not registered, what is now legally known as distribution should be regarded in law as a sale, and consumption or the presence of drinking utensils should be treated as evidence of sale. In all other respects such unregistered clubs would be subject to the same law as any shebeen.

Working men's clubs should receive the same privileges as regards stamps, &c., that they do now under the Friendly Societies' Acts.

2. *Conditions of Registration.*

Certain conditions should be laid down as necessary :—

(1.) The club must be a members' club. The club property must be vested in all the members of the club, or in trustees on their behalf.

(2.) The club must be under no kind of obligation to any wholesale dealer in liquor, and must not be on premises which have been used as a public-house or beer-house during the last five years.

(3.) No one but the general body of members must be interested directly or indirectly in the sale of exciseables.

(4.) All members must be elected by the whole club, or by the committee after a nomination, and a certain interval, at least a week, must elapse between nomination and election.

(5.) The club must be under the complete control of the members generally, and the rules must only be altered at a general meeting of the club.

(6.) The rules must lay down :—

- (*a.*) That there should be regular meetings of the committee or governing body.
- (*b.*) Circumstances under which membership lapses.
- (*c.*) The amount of subscription.
- (*d.*) The hours of opening and closing.
- (*e.*) The objects for which the club is formed.

Application should be made on a form supplied by the registrar by the committee, not less than five in number, of whom at least two must be householders. They must give the name and address of the club, and produce copies of the rules, and list of members sufficient for publication, and also affidavits sworn by each member of the committee that these conditions are fulfilled. The committee should be individually responsible for the conduct of the club, and individually liable in case of prosecution. The fee on registration should be purely nominal, enough to cover the expenses.

Any distribution of liquor for consumption off the premises should be deemed an illicit sale, even in the case of a registered club, and any visitor paying for

exciseables should be subject to a penalty, as well as any person knowingly selling or sanctioning the sale.

No person under 18 years of age should be admitted as a member to a club in which intoxicants are sold.

3. *The Registrar.*

The registrar should be the clerk of the peace in counties, or the clerk of the peace, town clerk, or clerk to the justices elsewhere; his functions would be purely ministerial.

4. *Objections to Registration.*

On receiving an application for registration the registrar should give due public notice thereof as well as to the police, and, unless anyone should make objection within 21 days thereafter, he should register the club.

Objections should only be made on one or both of two grounds:—

(1.) That the necessary conditions are not complied with.

(2.) That the members of the committee are persons of known bad character.

If such an objection is lodged, either on the first application being made or on any subsequent application for registration, a day should be appointed on which the objection may be heard before the Recorder or a county court judge, or (in Scotland) the Sheriff, and if the objection is upheld, registration must be refused.

5. *Accounts, Audits, &c.*

Every year a balance sheet of the club accounts properly audited should be forwarded to the registrar for publication, and every three months changes in the rules or in the list of members (if any) should be so notified.

6. *Re-registration.*

Registration should be renewed annually on payment of the nominal fee, and it shall be regarded as a matter of course, provided that accounts are properly rendered, and the necessary sworn affidavits sent in, unless objection is taken either as above described or on any of the following grounds:—

(*a.*) That the club is a disorderly house.

(*b.*) That it is used merely for drinking purposes.

(*c.*) That it causes habitual drunkenness among its frequenters.

(*d.*) That its rules are habitually broken.

If objection be taken on any of these grounds within a specified time, it should be tried in the manner described, and on proof of the allegation the court should have power to inflict a fine or to cancel registration. The court should also have power in case of a suspected club to appoint a special officer to visit the club, inspect its books, &c., and report.

We think it important that registration should only be refused on certain definite grounds after trial before a properly constituted *judicial* authority, to which no suspicion of partiality or bias can attach. This is no question of administration or of knowing the wants of the neighbourhood, and, therefore, we do not think it should come before the ordinary licensing authority.

7. *Unions of Clubs and Affiliation.*

All unions of clubs should register themselves with the Inland Revenue Department. The Department must satisfy themselves that the rules for affiliation are of sufficient stringency to avoid abuses, and the local registrars should be notified of the affiliation of any clubs in their district.

PART V.—GENERAL.

1. A great reduction in the number of licensed houses is of the first importance. Chap. I.
While from the point of view of strict justice, no claim to compensation can be urged by those who lose their licenses, some allowance might be made, as a matter of grace and expediency, though not of right.

2. No money compensation should be paid from the public rates or taxes. If any money compensation is paid, it should be raised from the trade itself. A time notice of several years should be an element in the compensation.

3. Any scheme of compensation must be a thing apart from the ordinary operation of the licensing law. It should be nothing more than a temporary expedient to cope with an existing and removable evil, and must on no account interfere with the free and unqualified discretion of the licensing authority. Above all it must not be so designed as to confer any kind of vested interest in licenses.

4. It is a great anomaly that new licenses are granted for no consideration, and the duties on existing licenses are extremely low. An annual license rental of considerable amount should be immediately imposed in addition to the present duties. These rentals might be applied to a compensation fund, but would be a just charge in themselves.

5. The local licensing authority, after consultation with the police and other persons well qualified to form an opinion, should fix the number and distribution of licensed houses to which they wish to attain. This might be safeguarded by fixing a low statutory maximum, not to be exceeded, of, say, one on-licensed house to every 750 persons in towns and 400 in country.

6. In England and Wales a term of, say, seven years should be fixed as the basis of Chap. II.
a time notice and compensation arrangement under which the number of on-licenses should be reduced to the statutory maximum.

The reduction should commence immediately. The licensing authority should have discretion to make the required reduction all at once, or to spread it over the period by withdrawing one-seventh of the surplus licenses each year. In the case of licenses withdrawn at the beginning of the first year, compensation should be paid not exceeding seven times the rateable value of the premises; the compensation paid for those withdrawn the second year would be six times the rateable value, and so on.

The compensation paid should be raised by an annual license rental levied on the rateable value of the licensed premises.

All holders of public-house or beerhouse licenses should have the option of dropping their licenses and taking seven times the rateable value of their premises as compensation at the beginning of the period.

To secure the necessary funds in advance, a loan should be raised on the security of the license rentals.

7. The same arrangement should be applied to Scotland, except that a period of five years should be substituted for the period of seven years.

8. At the end of the period of seven or five years, the licensing authorities would have power to reduce the number of licenses below the statutory maximum, without any compensation being given, and the field would be clear for any legislation, experimental or otherwise, that Parliament might be disposed to enact.

9. At the end of the given period a wide measure of direct popular control might Chap. IV.
be applied under proper safeguards to Scotland and Wales.

We desire to express our obligation and thanks to our Secretary, the Hon. Sidney Peel, for the valuable assistance he has rendered the Commission, and the very efficient manner in which he has discharged the many difficult and laborious duties which our inquiry has imposed upon him and his staff.

All which we desire humbly to submit to Your Majesty's Gracious consideration.

PEEL.
CANTUAR (*see* Addendum).
W. H. HOULDSWORTH (*see* reservation 1).
CHARLES CAMERON (*see* Addendum).
H. H. DICKINSON (*see* reservation 2).
W. ALLEN (as regards Parts I.—IV.) (*see* reservation 3.)
W. S. CAINE (*see* Addendum).
J. HERBERT ROBERTS (*see* Addendum).
THOS. P. WHITTAKER (*see* Addendum).

SIDNEY PEEL,
Secretary.

RESERVATIONS.

1. *By Sir W. H. Houldsworth.*

I wish to make some observations and reservations on Part V. of this Report:—

(1) I am of opinion that it would be a mistake to fix a statutory maximum of the number of licensed houses to population. The circumstances in different localities are so various, that it would be impossible to fix upon any maximum which would be fair or satisfactory in all cases. For instance, in the city of London, in large provincial and county towns, and in other places, on certain days of the week and at certain seasons of the years, the population varies to a great extent. This fact presents difficulties in arriving at a proper maximum of houses proportioned to population, both as regards the number of houses which should be permitted, as well as regards the estimate of the population to which they should be proportioned. I prefer, as recommended in the Report (though the recommendation seems to me unnecessarily qualified by the suggestion of a statutory limit), to leave it to the Licensing Authority in each district to fix the number and distribution of licensed houses within its area, and I would make it compulsory that they should formally pass resolutions on these points at stated periods.

(2) I wish to make a reservation in regard to the scheme in Chapter II. for "Reduction of Licenses and Compensation." I agree with the general character of the proposal, but in the interest of temperance reform, while I think a systematic reduction in the number of licensed houses should begin as soon as possible, I do not think that either wholesale reductions at the commencement of the period, when a new departure is being made, or too rapid reductions in any one year, are desirable. Such a course might create a re-action which would be most detrimental to real progress, and might hamper and retard the action of the licensing authorities. For this reason, if a statutory maximum is prescribed, I do not approve of the suggestion that "it might "be left to the discretion of the licensing authority to make the reduction all at once "at the commencement of the seven years' period." I also am of opinion that the seven years' time limit, after which compensation shall cease, is too short, and that seven years' purchase of the annual rateable value is too little by way of compensation. I would recommend the substitution of not less than twelve years in both cases. As the scheme proposes that at the end of the seven years the license rentals shall continue to be paid, I do not see why twelve or even fourteen years' purchase of the rateable value should not be given in compensation, even though the time limit of seven years were retained.

(3) As I am not in favour of direct popular control over the granting of licenses, or over the administration of the licensing laws, I cannot join in the recommendation contained in Chapter IV., vague and qualified though it be, that "at the end of the "given period, a wide measure of direct popular control might be applied under "proper safeguards to Scotland and Wales." At the same time I would like to see better provision than now exists made in all parts of the United Kingdom and Ireland, to enable the residents in a locality to make formal representations to the licensing authorities on the granting and renewal of licenses, and I would be disposed to make it compulsory upon these authorities to receive and consider such representations.

W. H. HOULDSWORTH.

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2. *By Dean Dickinson.*

Preferring this Report as regards Parts I., II., III., IV.; but dissenting from Part V. because (1) the scale of compensation proposed appears inadequate; and (2) respecting local veto, local management, and every form of municipalisation, I agree in the arguments *against* them as set forth (pp. 275–278) in the Chairman's able and impartial summary of evidence.

H. H. DICKINSON.

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3. *By Mr. Allen.*

GROCERS' LICENSES.

While generally agreeing with the conclusions arrived at in Chapter XV., I do not think the evidence warrants the recommendation for complete separation of the trades. This should be a matter in the discretion of the licensing authority.

W. ALLEN.

ADDENDUM.

By the Archbishop of Canterbury, Sir C. Cameron, Mr. Caine, Mr. Roberts, and Mr. Whittaker.

We further desire to record our opinion :—

1. That the people in every part of the United Kingdom should have power, by a substantial majority vote, taken on the widest franchise in force, to prevent any premises being licensed to sell intoxicating liquors in their respective localities. The grounds on which, in our judgment, such a power of direct popular control and self-protection should be conferred are set forth in Mr. Whittaker's Memorandum.

2. That public opinion in England is prepared for and would sustain a measure for closing licensed premises entirely on Sundays.

F. CANTUAR.
CHARLES CAMERON.
W. S. CAINE.
J. HERBERT ROBERTS.
THOS. P. WHITTAKER.

MEMORANDUM ON SOME PHASES OF THE LIQUOR LICENSING LAWS, WITH SUGGESTIONS FOR THEIR AMENDMENT, BY MR. WHITTAKER.

CONTENTS.

Memorandum on some Phases of the Liquor Licensing Laws, with Suggestions for their Amendment, by Mr. Whittaker.

This Memorandum was not prepared as an alternative to the preceding Reports, nor have any of the Commissioners been invited to sign it. It is presented as an addition to and an amplification of some portions of the Report which I have signed.

Recognising that the liquor problem is one which is surrounded with difficulties, and that great differences of opinion exist as to the best way of dealing with it and them; and realising the great importance—indeed, the absolute necessity—of, as far as possible, uniting all the best influences of the nation in support of any measure which is to grapple with our national vice as successfully as existing conditions will permit, a proposal is herewith submitted which it is desired should be considered, not as embodying all that I deem to be desirable and immediately practicable, but as a suggestion which might form a basis of considerable agreement, on some of the chief controversial points, amongst those who are anxious that a substantial reform in our Liquor Laws should be speedily effected.

Its broad outlines are :—

1. That the number of licensed premises should be materially reduced.
2. That this should be brought about over a term of years and under an arrangement which, while it would secure consideration for those who had to abandon the trade, would not involve any charge upon the public.
3. That a larger proportion of the enormous profits, which a privileged monopoly renders possible, should be secured for the public revenue.
4. That a wide measure of control and choice should be given to localities so that they should be enabled, under well-defined and stringent conditions, either to still further reduce the facilities for drinking, or to take over the management of them themselves, or to abolish them altogether.
5. That funds and facilities should be provided to encourage localities to institute counter attractions to the public-house.

Before the details of the proposal are explained it is desirable that the arguments for local option and against compensation from public funds should be stated. Upon the practical success with which those phases of the question are grappled with the satisfactory solution of the whole problem will depend. They are at once the crux of the difficulty and the key to the situation.

NOTES ON DIRECT POPULAR LOCAL CONTROL.

That public-houses have always tended to become, and are always likely to be, a source of demoralization, injury, and annoyance to the community, has been the basis of our licensing laws from the commencement of legislation on the subject. The history of that legislation is the record of from three to four centuries of struggle—and failure—to discover and introduce conditions under which intoxicating liquors could be sold without those evils resulting, which have throughout that period been the despair of philanthropists and legislators.

The broad lines of policy which were embodied in the early Acts and have remained the fundamental principles of the licensing laws down to the present time are :—

1. That the retail sale of intoxicating liquors by the general public should be prohibited.
2. That permission to sell should be specially obtained by, and only be granted to, suitable persons, and that it should only be given when and where it was considered that public convenience would be served and no evil or nuisance to the community would result therefrom.
3. That permission to sell should be withdrawn whenever it was deemed desirable in the public interest that it should cease.

4. That the granting of licenses to sell intoxicants is a matter of immediate concern to the inhabitants of the locality in which the sale is permitted, and consequently should be entrusted to an authority which would be likely to be acquainted with the requirements and wishes of the neighbourhood.

It is interesting to note that the first Act (11 Henry VII., c. 2), which dealt with the sale of intoxicants in public-houses, was one which was primarily directed against rogues and vagabonds and unlawful games and gave power to justices of the peace "to reject and put away common ale-selling in towns and places where they shall think convenient." Four hundred years ago (1495) the close connexion which still exists between public-houses and undesirable persons and practices was well marked and recognized. The important point, however, is that the first Act which empowered justices of the peace to exercise authority over public-houses gave to them the power of immediate suppression and nothing else. Suppression of the sale of intoxicants whenever and wherever it was deemed desirable in the public interest that it should cease was the commencement and is the foundation of our licensing system.

By the 5 & 6 Edward VI., c. 25 (1552), the power of justices "to remove, discharge and put away common selling of ale and beer" "where they shall think meet and convenient" was reaffirmed, and it was further enacted that no one should keep "any common ale-house or tippling-house" without first obtaining the permission of justices of the peace.

That was the commencement of our system of licensing by the justices and of prohibition of sale by the general public.

In 1700 the retail sale of spirits was brought under the same laws and regulations as the sale of beer.

The 2 Geo. II., c. 28 (1729), declared: "Whereas many inconveniences have risen "from persons being licensed to keep inns and common ale-houses by justices of the "peace, who, living remote from the places of abode of such persons, may not be truly "informed as to the occasion or want of such inns or common ale-houses, or the "character of the persons applying for license to keep the same." It was therefore enacted that no licenses should be granted except at a general meeting of the justices "acting in the division where the said person dwells."

This put a stop to the practice of any two justices granting licenses without reference to the wishes and opinions of the majority of their colleagues, and affirmed the principle that local and personal knowledge on the part of the justices was required and should be acted upon in arriving at their decision. Definite authority was thereby given to the rule that the conditions and requirements of each locality were considerations to which weight was to be attached by the justices. The enactment is also important because it shows that the dicta of the Lords in the Dover case, to the effect that the licensing justices are to form their opinion and base their judgment not only on evidence which may be brought before them, but also upon their own personal knowledge of the points at issue, was based on legislation of 170 years ago.

It has for a long time been a requirement of the law that an applicant for a new license must give notice to the public and the authorities of his intention to apply. The notices required to be given are:—

1. To the overseers of the parish.
2. To the superintendent of police.
3. To the public by means of—
   (*a.*) A notice on the premises proposed to be licensed.
   (*b.*) A notice on the church or chapel of the parish.
   (*c.*) A notice in a local newspaper.

That these notices are required is a recognition of the fact that the police and poor law authorities and the public generally are directly interested in the granting of licenses and may be injuriously affected thereby. The reason why they are required is that the public and the authorities immediately concerned in maintaining peace, good order, and general well-being in the locality, and preventing anything that would be likely to militate against them by promoting disorder, crime, or pauperism, may have an opportunity of appearing before the licensing justices and objecting to the grant of any particular license.

The local authorities and any members of the public have the same right of objecting to the renewal of licenses to persons or premises which have been previously licensed. Notices are not required to be given when the renewal of existing licenses is to be applied for because it is assumed that the authorities and the public know that those licenses exist and may expect that their renewal will be asked for.

The law has thus imposed upon the justices in the various localities the duty of protecting the public interest and well-being, by authorising them to grant or refuse licenses as in the exercise of their discretion seems to them desirable and prudent. It has provided for the notification of the public in order that they may have an opportunity of informing the justices as to their opinions and wishes, and bringing any material facts under their notice; and it has most distinctly in words specified that the licenses shall be granted "for one year and no longer," in order that the justices may in every case review their decision every 12 months, and again exercise their discretion, entirely in the public interest, as freely and completely as if the applications were before them them for the first time.

The trade in intoxicating liquors being one which is admittedly so dangerous to the best interests of the community, and so frequently associated with all the demoralizing and degrading influences in our midst that it has for centuries past been found necessary to subject it to stringent restriction and regulation, and the fact remaining that, in spite of constant efforts of reforming agencies and more legislation than Parliament has passed with regard to any other problem with which it has been called upon to grapple, the drinking habits of the people, largely begotten and fostered by the facilities for obtaining intoxicants, which abound on every hand, continue to be the greatest source of crime, pauperism, insanity, disease, and general misery, demoralization, and degradation, and remain the great social problem which baffles and confounds philanthropists and statesmen, the demand that the people should in their respective localities be given the power to reduce the number of public-houses in their midst, and, if they desire to do so, exclude them altogether, is neither surprising nor unreasonable.

It may be justified on two grounds. The first being that the present and all previous methods of regulating and restricting the trade in drink under the authority and control of justices of the peace have admittedly and notoriously failed to accomplish the object aimed at, viz., to allow intoxicating liquors to be sold only by such persons, in such places and under such conditions, that injury, evil, and annoyance to the community would not result. This has been to a very considerable extent, because licensing justices* have egregiously failed to discharge the duty imposed upon them by persistently neglecting to use the powers entrusted to them. Everyone admits—licensing justices themselves do—that there are too many public-houses almost everywhere. Every year justices have the power—and having the power the duty is imposed upon them—to reduce the excess by refusing to license more than are in their judgment compatible with the requirements and well-being of the locality. Their admission that the number of licensed houses is excessive is a confession of failure and inefficiency. That it has been long continued makes it more rather than less reprehensible.

Public-houses are so numerous in most cities and towns, and especially in those portions of them where they are likely to be most harmful, that when maps are prepared showing their location, the sheets look as though licenses had been sprinkled over the district from a pepper-box, and it is rendered perfectly obvious that in the re-granting of those licenses year by year, no regard whatever is paid either to the requirements or the well-being of the people living in the locality. The maps handed in by Lady Henry Somerset, and the clerk to the justices of Birmingham, illustrate this very forcibly, and they are but examples which the evidence shows might be repeated almost without limit. Perhaps the most scandalous instance of gross neglect of magisterial duty is that presented by "The Hard" at Portsmouth, where out of 25 structures in succession 16 are licensed premises. Out of 19 of these structures in a row 14 have licenses, and at one point eight out of nine of the buildings are licensed. In the immediate vicinity licenses also abound. The locality is one where every consideration of prudence and humanity would suggest that liquor shops should be as few as possible. As it is, it is known as "the Devil's acre," and it seems as though the licensing magistrates, instead of using the powers conferred upon them to reduce temptation and facilities for drinking, and the vices which are in that neighbourhood so glaringly associated with it, have year by year simply re-sanctioned a public scandal. In the old portions of most old towns a similar condition of things abounds on a smaller scale.

Repeated violations of the law should ensure the non-renewal of a license, but licensing magistrates persistently connive at all manner of devices which are resorted

* Including in that term both the local justices and quarter sessions. It is not necessary to attempt to allocate to each their precise share of blame, although it is very certain that in many localities grave responsibility rests on quarter sessions for checking and reversing the action of local justices in reducing the number of public-houses.

to to enable them to evade discharging their duty to the community. The difficulties which are experienced in obtaining convictions of publicans when violations of the law are notorious have so discouraged the police that the position has in most localities become a byeword and a reproach. When in glaring cases convictions are occasionally obtained the endorsement of the license is a very rare event, and when some exposure which cannot possibly be passed by occurs, many justices seem to jump at the opportunity, which the owner of the premises provides, of finding a way out of the difficulty by transferring the license to another tenant. A large number of magisterial benches act as though they thought that it was their duty to protect liquor sellers against the law. The result is that drunkenness abounds, and the criminal, the prostitute, and the most degraded of the population are to be found in public-houses far more frequently than in all other trading establishments put together. Liquor shops are a continual centre of disturbance and annoyance. They attract the loafer, the dissolute, and the criminal, and are an incessant source of danger, temptation, and offence to the immediate neighbourhood.

The licensing justices have utterly failed to curtail the liquor trade within endurable limits, and they have largely so failed because they have neglected to use the power which has been given to them, and have refused to efficiently administer the law which was entrusted to them for the protection of the public. The justices having failed to protect the public, the request is made that power be given to the public to protect themselves.

The second reason why this request is not an unreasonable one is that the liquor trade, being admittedly one that is dangerous to the public well-being, and no means of so regulating and restricting it as to prevent serious inconvenience, loss, and injury resulting from it, having been discovered, it ought not to be thrust upon a community against their will. As all experience and history show that the traffic in intoxicating liquors is inimical to the best interests both of individual citizens and of the nation as a whole, inasmuch as it fosters and promotes crime, wastes the national resources, and corrupts the habits and destroys the health of the people, it would be difficult to refute a contention that as a matter of abstract duty the authorities of the State ought not to permit such a traffic to continue anywhere. It might and would, however, be urged with great force that as a matter of practical politics in a country where legislation is based on the people's will, as expressed through their representatives, it is not possible, even if it were desirable, on a matter of this nature, to legislate efficiently and effectively much in advance of public opinion. But when the claim is made, not that a minority have a right to demand that they should be protected from having an evil and a nuisance thrust upon them even by a majority, as they undoubtedly have, but that when the majority in a locality desire to rid themselves of what is admitted to be a danger and is known to be a source of intolerable annoyance, injury, and suffering, they should have the power given them so to do, it is not easy to conceive on what grounds the refusal of a request so moderate and reasonable can be justified.

Another argument in favour of local control was stated as follows by Mr. Joseph Cowen in the House of Commons on May 17, 1876, when he introduced his Bill for establishing elected licensing boards:—

> "Now his argument was this, that inasmuch as public-houses caused drunkenness, as drunkenness caused crime, pauperism, and insanity, and as these in their turn threw a heavy tax on the ratepayers, the ratepayers ought to possess the power of regulating and controlling the licensing authority.
>
> "In asking that the power of licensing should be vested in the people, he was simply asking for the extension of a principle that was acted upon in all other local institutions. The men who paid the educational rate voted for members of school boards, the men who paid the sanitary and municipal taxes voted for the members of local boards and town councils. All he was now contending for was that the men who paid the drunkards' rate should control the social mechanism that manufactured drunkards."

As bearing upon this contention the following sentence from the speech of Mr. Home Secretary Bruce (afterwards Lord Aberdare), when introducing his Licensing Bill of 1871, is apposite:—

> "Every public-house tends to aggravate the public rates and to create disorder, and it also causes an additional necessity for the police."

Some Objections.

If it be objected that to close public-houses in a particular area would be an undue and unnecessary interference with the individual liberty of those who wish to purchase

intoxicants, the reply is (1) that if public-houses are a nuisance and a source of danger and evil to the locality in which they are placed, it is an infringement of the rights and liberties of others to thrust these places upon them; and (2) that no one has a right to demand that in order that he may supply himself with a particular article, establishments shall be allowed to open to sell it, if those establishments will be a source of injury and annoyance to the community. If a man wants a glass of liquor the community is justified in demanding that he shall either discover some means of obtaining it that will not involve loss, cost, and inconvenience to them, or go without it.

There is a broad and clear distinction between forbidding the use of a thing and prohibiting its public sale. The latter is a much less stringent step than the other. Under a law by which the sale of liquor was prohibited in a locality there would be nothing to prevent a man from drinking intoxicants if he desired to do so and had them in his possession, or could obtain them without purchasing them within the prohibited area. That involves no new principle in British legislation. It is quite in accord with precedent. We do not usually interfere by law with a man's private acts and personal conduct unless the public well-being is very immediately and directly affected for the worse by them. We only step in when obvious and serious annoyance, danger, or wrong does or would result to others. For instance, it is an offence against the law to sell diseased meat, but it is perfectly legal to eat it. The owner of an animal which dies of a disease which renders it unfit for human food, may, if he is so disposed, together with his family, eat the whole of the carcase without any breach of the law; but if he offer a single slice of it for sale he at once renders himself liable to heavy penalties. So with immoral literature and pictures. A man may crowd his house with them for his own pleasure, but he must not offer them for sale or expose them to the public gaze. The principle is clear. A man may, within very wide limits indeed, act foolishly and disgracefully, and do himself considerable injury as an individual, but the moment he does anything that will injure or wrong others, or tempt or induce them to do what will injure them or the community, the law steps in. The law as to drunkenness illustrates the same point. A man may be drunk in private, in his own house or that of a friend, without breaking the law, but the moment he steps from the private house into the street in that condition he is an offender against the law and is liable to punishment. Here, again, the principle is clear. So long as he remains in a private house he is a nuisance and a danger only to his family or to those who voluntarily associate with him, but when he is drunk in a public place he is an offence and a danger to the general public. If a public-house will be inimical to the comfort and well-being of a locality, no man has a right to demand that it should be permitted to carry on its trade there simply in order that he and others may be supplied with liquor. Their right to be supplied depends entirely upon the possibility of a liquor shop being opened without serious annoyance and injury being caused to the public.

That grave nuisance and evil are likely to result from the sale of drink has been so long and so fully realised and recognised, that for 400 years it has been the basis of our liquor legislation. If it were not for that probability amounting almost to certainty there would be no reason why everyone who desired to have a license should not get one on paying the required fees. That grievous mischief does result everywhere, even from the facilities which are now permitted and under the restrictions and regulations now in force, is a matter of universal testimony and public notoriety. Indeed, it is the *raison d'être* of this Commission. To give the people power to suppress so fruitful a cause of so much evil and suffering would, therefore, be neither an undue nor an unnecessary interference with personal liberty. On the contrary, to refuse that power and force upon unwilling communities so great a curse may well be regarded, by those who desire to be free from it, as an intolerable wrong and an indefensible infringement of the elementary rights and liberties of citizenship.*

Another class of objections may be summarised thus:—

A local option law giving power to abolish the sale of drink in localities would not be a practicable remedy for intemperance, because—

1. The prohibitive power would only be used in extremely few places, and those the smallest and least intemperate.

* A trade, of the effects and influences of which so much that is condemnatory has to be said as is embodied in the Chairman's Report, and which it is considered can only be rendered endurable by restrictions and regulations so drastic, so numerous, and so minute as are therein recommended, is surely, *ipso facto*, one which ought not to be thrust upon a community against its will.

2. Where used it would not be enforced.
3. Even when used and enforced, it would not secure the desired result.
4. It has failed where it has been tried in other countries.

One, two, and three are prophecies, and it is not possible to argue conclusively with a prophet. Nevertheless, it may be remarked, that it is believed by many who are competent to form an opinion that the power would be freely used in many localities. Be that as it may, those localities that would use the power, are entitled to have it, and it ought not to be withheld from them, simply because other places would not use it. In all probability small places would use the power more freely than large towns, but it is by no means certain that wards in towns—especially those in which the more respectable artizans reside—would not use it. What those areas of large towns where public-houses and drunkenness most abound would do remains to be seen. The opinions of persons who are intimately acquainted with those districts vary as to what would happen. What is certain is that these particular districts are precisely those which are and always will be the least amenable to all other efforts and legislation which aim at reforming the habits of the people in this and other directions. They are the very places where admittedly the restricting and vetoing powers of the existing licensing authorities, ought to be used most vigilantly, and they are precisely the districts where those powers are least exercised. Clearly, therefore, if this objection were well founded, it would also be one which applied to the system of licensing by a selected authority. In any case the conferring of this power upon localities will not in the slightest degree block the way for, or interfere with the operation of other methods, agencies, or regulations in those districts where it is not used.

Fortunately all these objections have been put to the practical test and refuted by experience in other countries, and to some extent here.

The Experience of other Countries.

It is not true that the policy of local control, including therein power to prohibit, has failed where it has been tried. On the contrary, it is the one method of grappling with the liquor traffic and the evils of intemperance, which has come to the front and been most widely adopted in our Colonies, in the United States, and in Scandinavia, where the habits and characteristics of the people more closely resemble our own than do those of the inhabitants of other countries. Direct local control by popular vote has survived almost everywhere as the fittest of innumerable experiments which have been tried during the last half century.

It is sometimes said, and it has been suggested in the course of our inquiry, that local option is obviously a failure, because some of the American States which adopted a prohibition law have since repealed it. Those who make use of this argument always omit to mention that the States in question repealed their prohibition law in order to adopt a local option one, thus really adding the testimony of their own experience and judgment to that of others, that local option is the most practicable and effective method of dealing with the liquor problem. The majority of the American States are larger in area than England, and within those areas they have populations of widely varying habits, occupations, character, and nationality. Some of those which adopted State prohibition found that while the majority in the State may be in favour of such a law and will sustain it, there may also be towns and districts where the majority are against the prohibition, and as the enforcement of the law there, as would be the case here, depends almost entirely on the energy and efficiency of officials who are under the control of the local elected authority, where the voters of the locality are against prohibition, it is not likely to be enforced. The same difficulty is experienced here with regard to some other laws. The one requiring the vaccination of every child is a case in point. Obviously in a democratic country a law which touches the habits, appetites, and prejudices of the people somewhat closely must have the opinion of the locality behind it, and in sympathy with it, if it is to be efficiently enforced. It is the great advantage of local option that it fully recognises this factor in the problem and provides an extremely moderate and simple method of moving with and giving effect to public opinion. It thrusts nothing upon a community against the will of the majority of the people there. It only provides that as soon as they wish to rid themselves of what they feel to be a great evil, it shall no longer be forced upon them simply because other localities prefer, or are supine enough to allow themselves, to be burdened by it.

Clearly those American States which have abandoned State prohibition for local option are not "examples of the impracticability and failure" of local option, but are really striking arguments in its favour.

The results of practical experience in the States as shown in their laws at the present time are remarkable.* Out of the 46 states which form the United States, 5 are prohibition states pure and simple; 37 have local control (including the power to prohibit) in some form or other, and only 4 are under a license law which does not give power to prohibit the traffic; 25 of the states have power to suppress the sale of drink by a direct popular vote; 7 have complete local option, including prohibitive power, vested in the elected local authority. In 5 of the states the veto portion of the local option power takes the form of requiring that the applicant for a license must produce in support of his application a petition signed by a majority of the voters in the locality in which the license is to be. That is a widely used and very effective prohibitive power. There are large areas both in the United States and in Canada, where there are no licensed houses, simply because no one has been able to obtain the requisite preliminary sanction for his application.

In some states the veto power is a double one. There is the power of veto by direct vote for the whole town or county, and in addition to that there is the requirement, even when a vote in favour of the issue of licenses has been recorded, that a petition signed by a majority of the voters in the immediate vicinity of the premises proposed to be licensed shall be produced.

It will be seen that there are only five of the 50 states and territories where either state prohibition or local option, meaning thereby the power to prohibit as well as regulate, is not the law; and in 25 of the local option states the option is exercised by a direct vote of the electors.

Stronger evidence that the people of the enormous majority of the American States are convinced that local option is the most workable, and in the present state of public opinion, the most efficient legislative remedy could not be desired. Their judgment is specially valuable because they have had exceptional opportunities of testing various methods, and they have freely availed themselves of them. Each state has its own legislative assembly and its own laws. There are between 40 and 50 of them. They have frequently changed their laws. They do that sort of thing far more readily than we do. Consequently, during the last half century, in those states there have been altogether some hundreds of liquor laws in operation. The various combinations and modifications have been freely tested, with the result that they have come to a very considerable amount of agreement, and have almost unanimously settled down on several well-defined broad lines, of which the most important are—

1. Local option as to whether there shall be any licenses at all in a locality.
2. Local option in a smaller area as to whether particular licenses shall be granted.
3. Heavy license fees for the licenses which are granted.
4. Sunday closing.

Statements to the effect that where the law gives the power of vetoing the issue of licenses it is seldom used, and, when voted, is not enforced, are largely untrue. In local option states it is not uncommon for half the state, both in towns and rural districts, to be under prohibition. In some states the proportion is two-thirds, in others three-fourths, and even more. As to the enforcement of the law when adopted, it must be assumed that the American people possess an average share of common sense. That local option gradually spread over the whole Union, and has now for many years been steadily adhered to by the states which adopted it, may be taken as strong *primâ facie* evidence that the law is at least as efficiently enforced as any other statutes affecting the liquor trade were or are. The suggestion that, after numerous experiments, state after state enacted, and having enacted, persistently maintains a law which is more freely violated and is altogether less efficient and satisfactory than other liquor laws were or are, is manifestly absurd.

Perhaps the best recent practical testimony to the success of direct local veto laws, combined with a stringent licensing system for such towns and districts as do not use the veto, is the present liquor law of the State of New York. New York—the Empire State—is the foremost State of the Union. It has in it an extraordinarily varied population, and the largest city of America. In 1896 it revised its liquor legislation, and passed a very complete and comprehensive measure. Its legislators had to guide them not only the experience of the working of the liquor laws of their own State, which has been long and varied, but also that of all the other States in the Union. With the fullest and most reliable information before them they deliberately adopted a law which combines local option, including the local direct veto, with stringent licensing restrictions. That is their verdict as to what is the most effective and satisfactory

* *See* Appendix III.

method of dealing with the liquor traffic that has as yet been devised. Stories of all kinds may be told by travellers, and carefully selected statistics may be tabulated by critics and opponents, but the best practical test of their accuracy is the opinion as to the general result which is formed and acted upon by the people on the spot.

After all, those who live under these laws must be the best judges as to whether they are beneficial and satisfactory or not. They know most about them, and are thoroughly acquainted with their merits and defects. The facts as to the State of Maine are instructive. Maine adopted prohibition in 1851. In 1856 the law was repealed. After two years' experience of license the contrast was so greatly to its disadvantage that prohibition was re-enacted in 1858, and ratified by a vote of the electorate. In 1884, after 26 years' uninterrupted experience, prohibition was made part of the constitution of the state by the largest vote which was ever recorded on a constitutional amendment in Maine. In 1895 a Bill was introduced in the Legislature to provide for re-submitting the question of constitutional prohibition to a vote of the people. All that the liquor interest, not only of Maine but of America, combined with the friends of various licensing devices, including the Gothenburg system, could do, was brought to bear in support of the Bill. But the proposal was defeated by a vote of 114 to 13. That is an indication of the opinion of the people of Maine of their prohibition law after more than 40 years' experience of it.

The fact is that local option and state prohibition laws are enforced in the States as well as any other laws are, and they are enforced better than most excise laws are. It is notorious that the administration of all laws is much more lax in the United States than in this country. Their lack of a permanent civil service, their system of changing all their officials in obedience to the rule "to the victors the spoils," have very seriously affected the administration of the law in many districts. The liquor laws, in particular, have been very laxly enforced, especially in the cities and larger towns, and that is markedly so where the license system is in operation and the people or the authorities have not used their veto power. Even where local prohibition votes have been carried, it is true that the law is not always administered as efficiently as it would be here. But it is enforced as efficiently everywhere as the other liquor laws, and in the majority of cases far more so.

The testimony of the Excise Commissioner of the State of New York is useful on this point. The new license law, which includes the power of veto, was passed in 1896. In his second annual report on its working the Commissioner refers to the laxity with which excise laws are administered in the States. He says:—

> "From the earliest times no statutes have been so indifferently enforced or violated with so great impunity as excise laws. The evasion of payment of revenue, customs, and excise taxes is considered no serious offence by the average citizen; in fact, the evasion of any State or Government tax is held to be a personal right rather than a crime. Juries require more evidence to convict for offences of this character than for most others, and public officials are more lax in their efforts to secure compliance with these laws. . . . The liquor tax law (which includes local option), however, has been better observed and better enforced than any former excise law of the state, except perhaps in certain localities where police and prosecuting officers, relying upon the imperfect knowledge of the public concerning the same, were at first disposed to repudiate all responsibility for its enforcement. The disposition, however, to do this, grows rapidly less as officials become aware that the public is beginning to understand that in so doing they are neglecting their duty, and violating their sworn obligations to enforce this as well as other laws."

The Hon. A. H. Horton, Chief Justice of the Supreme Court of Kansas, who had then resided in that state 25 years, informed the recent Canadian Commission that there the prohibition law was enforced quite as well as the license law and other laws had been. He added:—

> "The prohibitory law is as well enforced as the law against gambling and the laws against disorderly houses, and in the cases brought into court the proportion of convictions is even greater."

Almost everything depends on the amount and character of the local public opinion behind the law. All difficulty in that direction is guarded against by requiring a substantial majority and making the areas of voting small. In some parts of America the voting is by counties, and in all a bare majority suffices. Here the proposal is that the voting should be in wards in towns and in parishes elsewhere, and that the majority required to veto licenses should be 2 to 1.

The tales which are sometimes told in this country of open and flagrant violation of prohibition laws are greatly exaggerated and largely false, and only have a substratum of truth in them so far as exceptional localities are concerned where public opinion does not sustain the law. Local option, such as is proposed here, would avoid and get rid of those few and exceptional cases of difficulty.

Some people seem to think that a law is a failure if there are violations of it. It has been well said, that if that be so, the Ten Commandments are a gigantic failure. Tried by that test every law that is worth anything is a failure and ought to be repealed. In England and Wales alone something like 700,000 persons are tried every year for violations of the law. For burglary, theft, and embezzlement, 50,000 persons a year are tried. Does anyone suggest that those laws are therefore a failure? Every year nearly 200,000 persons are brought before our courts for violations of the licensing laws, and it is notorious that those who are thus charged are but a fractional portion of the actual offenders. For advocates of a license system to allege violation as a fatal objection to local option is ludicrous. The violations of the law they advocate are continual, flagrant, and overwhelming. In American cities they are simply scandalous; in this country they are a disgrace to our police and our magistrates.

Some visitors to America, who completely ignore the daily violations of the law here, appear to think that they have proved that prohibitory legislation is a failure, when they come back and tell us that in prohibited areas liquor can be bought in cellars and outhouses and up mysterious passages and from men round corners who have bottles in their pockets. They fail to see that this shows how real and effective the prohibition is, and how it completely prevents the open public sale of liquor and drives the violators of the law, like those who trade in immoral literature and human vice, into the dark places of the towns and cities, to be carried on secretly, and to a limited extent, by the scum of the place amidst the blackguardism and villainy in connexion with which almost every law, human and Divine, is violated. If the same people will take the same steps to find villainy here as they do when they are on the other side of the Atlantic; if they will look for it in London and other great cities they will find abundance of it. They will see that the laws against vice, immorality, and crime are violated every day and every night amidst surroundings and under conditions which will horrify them.

It should be clearly understood that it has never been claimed that any measure of local prohibition would absolutely put an end to drinking and intemperance. But it would abolish public facilities for drinking and the temptations which they involve, and thereby enormously diminish both private and public drinking and intemperance. It is not anticipated that local prohibition would be an exception to all other laws, and would never be violated and never be difficult to enforce. All that is contended is, that a great and urgently needed improvement would be brought about, and it is claimed that where the experiment has been tried this has been the result. More than that, it would be foolish to claim for any reform. No law does more than work a great improvement. The abolition of the public-house, the beer shop, and the gin palace would immediately get rid of the main sources and causes of drinking and drunkenness, and would gradually bring about a great change in public opinion and custom. Year by year the old tipplers and beerhouse frequenters would die off, and a new generation would spring up, which had never seen in its midst a public-house, beer shop, or gin palace, and had never been tainted and corrupted by the influences which surround those places.

This is precisely what has been to a large extent already brought about in the United States and in Canada. Mr. Fanshawe, who was commissioned by Mr. Rathbone, of Liverpool, to investigate and report upon the Liquor Laws of America, says:—

> "One of the first things which strikes an Englishman travelling in America is the vast consumption at table of iced water. If he quits the eastern cities, and penetrates into the interior, he will be not unlikely—except at a few of the larger centres—to find himself often the only person taking wine or beer with his dinner in the dining-room of the hotel. . . . . The feeling that there is something disreputable or sinful about the use of intoxicating liquor is certainly strong and widespread, and it commands a certain deference from many who do not themselves share it, or at all events do not practice total abstinence. People of the latter class would be ashamed to be seen with a glass of beer at their dinner, and prefer to go to the bar, where they are not so likely to be seen. . . . . The exclusion of wine at public dinners is indeed quite common, if it is not actually rather the rule than the exception; it is not unusual even at so cosmopolitan a place as Boston. Then again, there is probably no church organisation in America whose

ministers could maintain their position as pastors of their congregations if it were known that they were not total abstainers. In thousands of private houses also, in all parts of the country, no fermented liquor is ever seen. The feeling against its general use is accentuated against its use by women and by the young, so that a special disposition is manifested to banish it from the family table."

In an account which Mr. Emerson Bainbridge, M.P., is sending of a tour he is making in America and elsewhere, the following passage appeared in the letter which was published on December 13th, 1898 :—

"While I was in Toronto the exhibition was opened by Sir Oliver Mowat, who was good enough to ask me to accompany him to the ceremony. The non-alcoholic tendency of the people of the district was indicated by the fact that 'ginger ale' was the only beverage, besides water, consumed at the luncheon of the committee of management. But this did not at all affect the warmth and loyalty of the few toasts that were drunk."

Throughout Canada local option with full power of local prohibition is the law, and no responsible politician would think of proposing its repeal. The only issue there, is whether the power of prohibition should be left (as it is now) to the various localities to exercise as they think fit; or the Provinces should pass prohibitive laws for their respective area; or the Dominion Parliament should declare the manufacture, sale, and importation of intoxicating liquors illegal.

A Commission appointed in 1892 by the party in Canada which is the least favourable to temperance legislation, reported against the prohibition of the manufacture, sale, and importation throughout the whole of the Dominion. But that Commission, admittedly hostile as it was, did not suggest the repeal of the Local Option Law. On the other band, it recommended the abolition of the saloon everywhere, so that where prohibition was not carried, the only places where liquor could be sold would be hotels and restaurants and there only to people who were also taking food; that is to say, it reported in favour of sweeping out the public-house bar, the beer house, and the gin palace from the whole of the Dominion. A plebiscite was taken in September last on the question of Dominion prohibition, with the result that seven out of the eight Provinces gave a large majority in favour of prohibition, and one—Quebec—a very large majority against. The net result was a majority over the whole Dominion of about 13,800 in favour of prohibition. The voting was remarkable, because it showed that in seven out of eight of the Provinces, experience of the working of the local prohibition law has convinced the people that total prohibition, in its most complete and drastic form, is the sound policy for the Dominion as a whole. Even in Quebec the veto power is used and enforced in more than half the Provinces. Sir Wilfrid Laurier, replying to a deputation which waited upon him after the plebiscite had been taken, said : "More than one half of the rural municipalities "are under a Local Option Law. Out of 933 rural municipalities the number of "municipalities under which licenses were issued last year was 330, while the number "in which no licenses were issued was 603. The people of Quebec are satisfied with "their law as it is. We have had a Local Option Law in Quebec since 1854."—(*Toronto Globe.*)

The Canadian Commission, already referred to, sent out a number of enquiries to clergymen and ministers of religion in Canada. Of those sent to, 1,950 replied that they had had experience of localities under their charge where local prohibition was in force.

Asked if their experience was that such a law diminished drunkenness, the replies were: Yes, 1,606; no, 259.

	Decreased.		Increased.	
	Family.	Community.	Family.	Community.
Further asked if the law decreased or increased the use of intoxicants in the family and in the community, the replies were - - - - - - -	1,434	1,557	128	137

It is beyond dispute that the experience and pronounced opinion of Canada is distinctly and emphatically in favour of local option.

Throughout the Australasian Colonies local option, almost invariably by direct popular vote, is the rule; and in most of the Colonies the option includes the power to entirely veto the sale.

Sweden and Norway have grappled strenuously with the drink problem during the past half century. In both countries a large measure of local option has been the basis of the legislation, and experience has shown that the more directly the opinion of the people has been taken the more stringently and successfully the traffic has been dealt with. The drunkenness of the people in both countries during the first half of this century was terrible. It was worse than that of any other nation in Europe. Consequently the experiment of giving power to the people to deal with the supply of drink in their own localities was tried amongst a population of notoriously heavy drinkers, and is particularly valuable as showing that it is by no means so certain as some people imagine, that in drunken localities the people would not use the power to rid themselves of the temptations which surround them.

In 1855 an Act was passed which gave to local authorities in Sweden power to restrict, regulate, and prohibit licenses for the retail sale of spirits. In the rural districts the people had the power to veto the sale by a direct vote. In the towns control was vested in the local authority, but as the local authorities were unreformed bodies, the representation of the people on them was unsatisfactory. The result was that in the rural districts the veto was freely used. Out of the 2,400 parishes into which rural Sweden is divided, 2,000 abolished spirit licenses and since then 200 more have done so, and the prohibition has continued for 40 years. In 1893 there were only 250 spirit licenses in the whole of Sweden. Of these, 109 were privileged licenses,—*i.e.*, had been previously granted for life by Royal Warrant—and could not be touched: 88 were "temporary" licenses for tourists and only permitted sales to travellers during the tourist season. There were only, in the whole of rural Sweden, 53 ordinary spirit licenses, of which 28 were "on" and 25 were "off" licenses.

At the time of the passing of the Act of 1855, nine-tenths of the population were in the rural districts. Now four-fifths are. Clearly the veto portions of the Local Option Law have been freely used and in the opinion of the vast majority of the people efficiently and satisfactorily enforced.

In 1863 an Act which was passed reforming the local Government of the towns, put the local authorities there on an effective representative basis. Then a large majority of towns adopted what is known as the Gothenburg system; some continued the practice of selling the spirit licenses to private publicans and a few prohibited the licenses. It should be noted that in the towns the people had, and still have, only an indirect (and not a direct) control through their town councils.

In Norway the control of the spirit licenses in rural districts has for a long time been under the control of elected parish boards, and the sale of spirits has been prohibited in them almost universally, except at old wayside inns which can only sell to travellers —residents within 3½ miles may not be served—and whose licenses are not subject to withdrawal by the local authority. In 1892 there were only 27 licenses issued to sell spirits in all the rural districts of Norway, and of those 14 were at the great fishing stations.

In 1871 power was given to local authorities to adopt the company system, and in nearly all the towns this was sooner or later done.

It having been long urged that the municipal authorities (of Norway), being elected on a variety of local issues, did not necessarily represent the views of the inhabitants on the liquor question, a clause was introduced in an Act passed in 1894, which provided that a company scheme should not be adopted or renewed if a *majority of those entitled to vote*—all men and women over 25 years of age—voted against it. In 1895–6–7–8 votes were taken in about 53 towns, and in rather more than half of them it was decided by a majority that the company arrangement should be abolished and that there should be no retail sale of spirits at all.

In Norway, as in Sweden, the veto power is freely used. Its persistent maintenance in the rural districts over a long period and its immediate adoption on the first opportunity by a large number of the towns, is proof that in the opinion of the majority of the Norwegian people the system is a desirable, workable, and satisfactory one.

The trend of legislation in Norway and Sweden during the past half century distinctly confirms that of the United States and Canada, in showing that where the liquor problem has been seriously and energetically grappled with, and numerous plans and methods have been tried, the conviction evolves and grows that the most satisfactory solution, under present conditions is to be found in a wide system of local control which includes giving power to the people to prohibit.

In the United Kingdom there are a large number of parishes, mostly rural, where there are no public-houses. No difficulty or disadvantage results therefrom. The characteristics of these places are freedom from crime, disorder, pauperism, and intemperance to an extent which is a contrast to the condition of things which prevails in other parishes.

In London and its vicinity, and in Liverpool and one or two other populous centres, there are large building estates, covering very considerable areas on which no licensed premises are allowed. The result is that the houses are much sought after by the working classes and clerks—for whom they are largely intended—with the consequence that exceptionally good results are obtained and houses are very seldom empty. The experience which these districts afford indicates that there is a preference amongst the class of the people referred to, for houses in localities where there is an absence of the temptations and annoyances which are inseparable from licensed premises. The suggestion which is sometimes made, that in the streets immediately adjoining these protected districts licensed houses are specially numerous, is contrary to fact. If it were true, it would only be an additional reason for giving to the people, who reside in those adjoining areas, the power to decide whether they would have for themselves that immunity which the wisdom of the landholder has secured for their neighbours. Further, if it were true that the absence of licensed houses in these areas caused an excessive proportion in their vicinity, that could only be a matter of complaint and grievance on the ground that licensed premises are a nuisance and a social danger, and that is precisely the basis of the claim that the people are entitled as a matter of right as well as of expediency to have the power to prevent them being thrust upon them.

Parliamentary Bills.

Not only is control of the liquor trade by the people in their respective localities the first practical step towards the solution of the drink problem which has resulted from, and stood the test of, almost endless controversy and experiment in every other country which has seriously grappled with the question, but it has found expression more or less definite and pronounced in almost every important proposal for reforming the licensing laws that has been submitted to Parliament for more than a quarter of a century. Below are given the local option powers proposed in the Bills referred to :—

1871.—Mr. Bruce's Bill (Government measure) gave power to ratepayers by three-fifths majority on a direct vote to prevent public-houses exceeding 1 per 1,000 of the population in towns and 1 per 600 in rural districts.

1872.—Bill of Sir Robert Anstruther, Sir Harcourt Johnstone, Mr. Thomas Hughes, and Mr. Morrison provided for elected licensing boards.

1874.—Bill of Sir Robert Anstruther, Mr. Fordyce, and Mr. Dalrymple—for Scotland—empowered ratepayers by direct vote to require the local authority to nominate a licensing board.

1875.—Bill of Mr. Sullivan and Mr. Dease to establish free sale and local control of sale of drink in Ireland gave power to the ratepayers by direct vote to adopt certain alternative methods of dealing with the liquor trade, one of which was that they could, by a five-sevenths majority, prohibit all sale except in hotels and such places as the board of guardians might establish.

1876.—Bill of Sir Robert Anstruther, Mr. Dalrymple, Mr. Maitland, and Mr. Jenkins—for Scotland—provided for reduction of licenses to 1 per 500 of the population, and the prevention of new licenses being granted beyond that proportion unless a majority of the ratepayers within 500 yards of the premises approved.

1877.—Bill of Mr. Joseph Cowen, Sir Henry Havelock, Mr. Thomas Burt, Mr. Norwood, and Mr. Ernest Noel, provided for a licensing board elected by the ratepayers to be the sole licensing authority.

1878.—Bill of Mr. Fortescue Harrison, Sir George Balfour, and Dr. Cameron—for Scotland, elected licensing board with full power.

1879.—Bill of Mr. Rodwell, Serj. Simon, Mr. Arthur Mills, Mr. Leatham, and Mr. Mark Stewart. No new license to be granted unless the application is supported by a requisition signed by such a proportion of the residents in such district as shall satisfy the licensing authority.

Similar Bill for Scotland by Mr. Mark Stewart, Sir George Douglas, Dr. Cameron, and Sir Graham Montgomery.

1880.—Bill of Sir H. Johnstone and Mr. Birley—for England. Licensing board to consist half of magistrates and half of elected members.

1885.—Bill of Mr. Stafford Howard and Mr. Houldsworth. Licensing board to consist of one-third magistrates and two-thirds elected members.

1888.—Bill of Sir William Houldsworth, Colonel Bridgeman, Mr. Samuel Smith, and Mr. Whitmore. Licensing board consisting of one-third magistrates and two-thirds elected members by the ratepayers to have absolute discretion.

1888.—Government Bill. In boroughs, town council to appoint licensing committee; elsewhere the county councillors for the electoral division to be three-fourths of the licensing committee and one-fourth to be councillors selected by the county council.

1890.—Conservative Government Bill. No new public-house license to be granted without consent of county council.

1890.—Bill by Lord Randolph Churchill, Sir H. Selwin Ibbetson, Sir Algernon Borthwick and Mr. Johnston. Licensing committee appointed by county council to have full discretion. No public-house licenses to be granted if two-thirds of those entitled to vote so vote.

1893.—Bill in House of Lords by the Bishop of Chester gave power to majority of voters in a locality to authorise the adoption of a system under which the sale of liquor in the locality would be in the hands of a company specially constituted for the purpose.

1893–94.—Liberal Government Bill provided for preventing licensing of public-houses in localities by two-thirds majority vote.

1894.—Bill of Sir Wilfrid Lawson, and Messrs. W. Allison, Jacob Bright, H. J. Wilson, W. Allen, J. W. Benn, Billson, Crosfield, Saunders, Fenwick, Snape, Whittaker, provided for preventing the issue of any licenses for the sale of liquor in localities by a majority vote.

1894.—Bill of Mr. Johnston, Mr. Jordan, Lord Arthur Hill, and Messrs. Pinkerton, T. W. Russell, Diamond and Wolf – Ireland—provided for preventing the issue of any liquor licenses in localities by a two-thirds majority vote; also for the reduction in the number of licenses and the prevention of the issue of any new licenses by a similar vote.

1894.—Bill of Messrs. Bowen Rowlands, Lloyd George, Rowland Jones, Abel Thomas, Lloyd Morgan, and Burnie, provided for prevention of issue of any licenses in localities in Wales by a two-thirds majority vote, and for reduction in number of licenses or prevention of issue of any new licenses by a majority vote.

1895.—Bill of Mr. Courtney, Mr. Bolitho, Sir Thos. Lea, Mr. Brynmor Jones, and Col. Bridgeman. Licensing board, two-thirds elected by ratepayers, one-third appointed by justices, two-thirds majority vote may prohibit the grant of public-house licenses in localities.

1895.—Sir Hy. Roscoe, and Messrs. Jacob Bright, W. Crosfield, Robt. Leake, W. Mather, C. S. Roundel. Three-fourths majority vote to prevent issue of public-house licenses.

1895.—Liberal Government Bill. Two-thirds majority vote to prevent issue of any public-house licenses. Majority vote to reduce number of public-houses and close on Sunday.

1899.—Mr. Parker Smith, Mr. Jas. Campbell, Sir Mark Stewart, Mr. Thorburn, Mr. Ure, and Mr. Yoxall. Majority of voters on the register may reduce number of licenses to a fixed maximum or may adopt local management of the retail sale. Two-thirds majority vote, which must also be a majority of the voters on the register, may prohibit the bar sale of drink. Licensing authority, the county and town councillors for the licensing district.

1899.—Bill of Mr. Colville, Mr. John Wilson (Govan), Mr. Souttar, Mr. Cameron Corbett, Sir William Dunn, Mr. Hedderwick and Dr. Clark, provided for the reduction in the number of licenses by a majority vote, and for preventing the issue of any licenses in localities by a two-thirds majority vote.

Most of the private members' Bills were introduced before the year under which they are given above. The proposal made in the Bill last introduced has in almost every case been selected, as that may be presumed to embody the matured judgment of its proposers. Where "public-houses" are referred to it may, as a rule, be taken that the proposal did not apply to hotels, and probably not to restaurants.

Some Opinions and Parliamentary Votes.

1835.—It is also interesting to note that local control in boroughs, through the elected local authority, received the approval of the Government of the day and of the House of Commons in 1835. The Municipal Corporations Bill of that year, as

introduced by the Government and passed by the House of Commons, provided that in boroughs with a separate commission of the peace, the town council, or a committee of the council specially appointed for the purpose, should be the licensing authority. The clause was struck out in the House of Lords.

1855.—In February 1855, in an article in the *North British Review*, Mr. Chas. Buxton, a member of the well-known brewing firm, suggested that localities might have power by a five-sixths majority vote to veto all drink selling.

1864.—In 1864 the Public House Closing Act (Sir George Grey's) closed metropolitan public-houses from 1 to 4 a.m., and gave power to town councils in England and Wales to adopt the same hours in their respective localities.

1865.—In 1865 the same power was extended to local boards and improvement commissioners. These closing powers were promptly and extensively used by the local bodies to which it was given.

1887.—In 1887 power was given by the Scotch Early Closing Act to the licensing authorities, except in towns of more than 50,000 inhabitants, to close public-houses at 10 p.m. Every licensing bench to which this power was given used it. (In the towns of Scotland the licensing authority is the magistrates elected by the town council.)

1869.—The Committee of the Convocation of the province of Canterbury in their Report on Intemperance in 1869, after recommending, amongst other legislative remedies, the suppression of beerhouses, Sunday closing, earlier closing on week-days, especially on Saturdays, a great reduction in the number of houses, and the appointment of special inspectors of public-houses, added:—

> "Your committee, in conclusion, are of opinion that as the ancient and avowed object of licensing the sale of intoxicating liquors is to supply a supposed public want, without detriment to the public welfare, a legal power of restraining the issue or renewal of licenses should be placed in the hands of the persons most deeply interested and affected, namely, the inhabitants themselves, who are entitled to protection from the injurious consequences of the present system. Such a power would, in effect, secure to the districts, willing to exercise it, the advantages now enjoyed by the numerous parishes in the province of Canterbury, where, according to reports furnished to your committee, owing to the influence of the landowner, no sale of intoxicating liquors is licensed."

1871.—Mr. Bruce (Home Secretary) in the course of his speech in introducing his Licensing Bill in April 1871, after explaining that he could not accept Sir Wilfrid Lawson's Permissive Bill as a solution of the licensing problem, continued:—

> "At the same time he was bound to say he thought that measure contained a very valuable and wholesome principle, and that the principle of an appeal to the ratepayers, on matters affecting their interests, was one of which great use could be made. Over and above the fact that the ratepayers were the persons chiefly interested, that it was their comfort and convenience, and not that of other people, that should be consulted; that they were the persons who bore the burden of all the crime and misery produced by the multiplication of those houses, and by their disorderly conduct; over and above those considerations, there was another and, in his view, a most important one, namely, the advantage of enlisting the minds and hearts and feelings of the people in the thorough consideration of that subject. Let them give the ratepayers a voice in that matter; let them give them the power, in some way or other, of deciding how far those houses should exist amongst them, and they would at once create a strong public opinion—they would at once create among them that sort of feeling which, among the upper classes of society, had long made drunkenness disgraceful, which was rapidly also making it disgraceful among the working-classes themselves, and which no longer permitted them to call a mere sot a good fellow, or to look upon the offence of drunkenness as merely venial. He was satisfied, therefore, that if they were to create a wholesome and vigorous public opinion on that subject, they must give the ratepayers of the country some direct interest in it, and that the wider spread that interest was, the greater would be the social advantage."

1876.—In June 1876, speaking at Birmingham on the drink problem, Mr. Chamberlain said:—

> "The attempt to deal with this subject for the people, and without the people, has been a conspicuous failure . . . . Acts have been passed, and tried, and thrown aside, and the evil remains unabated . . . . I do not wonder, then, sometimes that good and earnest men should despair, in presence of the persistent continuance of the evil, of being able to find any successful remedy. But when

statesmen have only made the matter worse—when Parliament has legislated to no purpose—I am still sanguine that the people themselves, if wholly trusted, would do something to mitigate the plague and to stay its ravages." He went on to explain that he had never had any difficulty in accepting the principle "that each district by its elected representatives should, at its discretion, deal with and control the traffic, which has been found to be the source of much misery and crime."

1877.—In 1877 Mr. Chamberlain made a motion in the House of Commons to the effect that town councils should be empowered to purchase compulsorily the existing interests in the retail trade in intoxicating drinks in their localities; "and, thereafter, "*if they see fit*, to carry on the trade for the convenience of the inhabitants." This proposal would have given localities power to purchase, and then either entirely suppress the trade or carry it on under their own management.

1876.—In 1876 a clerical memorial to the Archbishops of York and Canterbury, signed by 13,584 of the clergy of the Church of England—about two-thirds of the whole number—declared that intemperance must prevail "so long as temptations to "it abound on every side," and, in urging that some remedial measure of legislation should be pressed forward, quoted and directed special attention to the recommendation of the Report of the Convocation of Canterbury that "a legal power of restraining the "issue or renewal of licenses should be placed in the hands of the persons most deeply "interested and affected, namely, the inhabitants themselves, who are entitled to "protection from the injurious consequences of the present system."

1879.—In response to this memorial, the House of Lords was in the same year induced to appoint a Select Committee on Intemperance. That Committee reported early in 1879, and after considering and criticising the Permissive Bill and Mr. Chamberlain's Gothenburg Scheme, proceeded, with special reference to the latter proposal, to justify the principle of local control thus:—

"We do not wish to undervalue the force of these objections, but if the risks be considerable, so are the expected advantages. And when great communities—deeply sensible of the miseries caused by intemperance; witnesses of the crime and pauperism which directly spring from it; conscious of the contamination to which their younger citizens are exposed; watching with grave anxiety the growth of female intemperance on a scale so vast, and at a rate of progression so rapid, as to constitute a new reproach and new danger; believing that not only the morality of their citizens, but their commercial prosperity, is dependent upon the diminution of these evils; seeing also that all that general legislation has been able to effect has been some improvement in public order, while it has been powerless to produce any perceptible decrease of intemperance—it would seem somewhat hard, when such communities are willing at their own cost and hazard to grapple with the difficulty, and undertake their own purification, that the legislature should refuse to create for them the necessary machinery, or to entrust them with the necessary powers."

1879.—Two months after the issue of the Report of the Lord's Committee on Intemperance in 1879, Lord Aberdare, speaking in London on the question, said "he "wanted to see the communities armed with far greater powers than they now "possessed." And again, "He thought they ought to arm the communities with the "means of making all sorts of useful experiments, and in the end one might be found "to answer which would not be contrary to the national characteristics of our people."

1880.—In June, 1880, the following resolution was adopted by the House of Commons by 229 votes to 203:—

"That inasmuch as the ancient and avowed object of licensing the sale of intoxicating liquors is to supply a supposed public want, without detriment to the public welfare, this House is of opinion that a legal power of restraining the issue or renewal of licenses should be placed in the hands of the persons most deeply interested and affected, namely, the inhabitants themselves, who are entitled to protection from the injurious consequences of the present system by some efficient measure of local option."

1881.—A year later the following resolution was carried by 198 votes to 156:—

"That, in the opinion of this House, it is desirable to give legislative effect to the resolution passed on the 18th day of June, 1880, which affirms the justice of local communities being entrusted with the power to protect themselves from the operation of the liquor traffic."

1883.—The following resolution was carried by 230 votes to 143, after two amendments had been rejected by substantial majorities:—

"That in view of the great and grievous ills which the nation suffers from the liquor traffic, this House is of opinion that the power of removing the cause of these evils, by some efficient measure of local option, as recommended by the resolutions of this House of June 18, 1880, and of June 14, 1881, should be entrusted to local communities at the earliest practicable opportunity."

1891.—The second reading of the Welsh Local Veto Bill was carried in the House of Commons in 1891 by 187 to 180.

1893.—The second reading of that Bill was carried in 1893 by 281 votes to 245.

1899.—In a division on the second reading of the Scotch Local Veto Bill, of the Scotch members who voted 40 were in favour and only 15 against.

Some Advantages of a Wide Measure of Local Control.

The advantages of a comprehensive scheme giving localities wide powers for dealing with the liquor traffic would be many and great:—

It would secure a larger measure of public support and would be more easily passed through Parliament than a proposal which selected any one particular remedy for general application.

By giving localities the option of selecting their method of dealing with the drink problem the measure would secure the support of the friends of each particular method. The selection of any one method for universal adoption would evoke coolness and probably distinct opposition from the advocates of rejected alternatives. That has been the great difficulty in the way of effective legislation hitherto. Give localities a wide option and the friends of each scheme would support it in the hope and expectation that their favourite proposal would be the one that would be generally selected.

The measure would readily adapt itself to varying local opinions and conditions. Some localities would select one method, others another. Each would, within well-defined broad lines, be able to put into operation the remedy which commended itself to public opinion there as the one most likely to be effective and workable. Thus everywhere the support of local public opinion behind the law would be assured.

The experience which numerous experiments tried by people of different characteristics under varied conditions would furnish would be extremely valuable, and would probably tend to produce considerable uniformity and unanimity. Many contentions would be brought to a practical test and some disputed problems would no doubt be solved.

Great public advantage would result from placing the control of local conditions in this special respect definitely and directly in the hands of the people themselves, inasmuch as it would arouse their interest and bring home to them a sense of their responsibility. If deeply-rooted evils with which vast interests are intertwined are to be effectively dealt with the conscience and energy of each community must be brought to bear in the most direct, simple, and emphatic manner possible.

By transferring the decision and responsibility to localities it would very largely remove a thorny and difficult problem from the immediate purview of Parliament and thereby eliminate it from Imperial party politics, to the great relief and advantage of all concerned.

The value of power being vested in the ratepayers to reduce the number of licenses, or abolish bars altogether, or prevent the issue of any licenses at all, would be great even where it was not used. It would be a reserve force, the possible action of which would exercise a most salutary influence over the licensing authority, the police, and the publicans, and especially the latter, who would feel that any serious misconduct and defiance of public opinion on their part might bring about the dismissal of their business from the locality. The mere existence of this power behind any system of licensing—even though it were used to the full extent in only a few places—would often have a more beneficial effect than the most stringent regulations.

The Form of Control.

If it be granted that wide powers of local control by the ratepayers present the line of least resistance and also of most promise of satisfactory and effective reform, what form should the control take?

The duty of deciding whether in given localities there should be licenses at all, and if licenses were to be granted, what kind they should be and how many of them, and by whom they should be held, might be devolved upon :—

1. A licensing board directly elected for the purpose.
2. The local governing authority, *i.e.*, the Town, District and County Councils.
3. A board or committee nominated by the local governing authority.
4. A board nominated partly by the local governing authority and partly by the local bench of justices.
5. Any of the above, instructed by direct votes of the ratepayers as to the broad issues of licenses or no licenses, and limitations in the number and class of licenses.

If the inhabitants of localities are to decide for themselves whether they require any licenses at all, and if they do require some, what kind and how many, it is clear that the decision must be taken either by a direct vote of the ratepayers or by a body elected by them. The objections to the latter course are obvious.

If an elected body is to represent the opinions and wishes of the ratepayers directly, clearly, and effectively on this question it must be elected specifically for that purpose. That is to say, there must be a specially elected licensing board. There is, however, a widespread feeling that there are public bodies and elections enough, without adding to their number. There is, further, no advantage in having a body elected to decide plain and definite issues which can easily be put direct to the ratepayers themselves.

On the other hand, if the duty be devolved upon an existing elected body—the Town, District, or County Council—it is clear that as the election of members of these bodies does and would depend upon a number of very varying considerations, the opinion and wishes of the community upon this particular issue would seldom be clearly and accurately represented; or, if they were, the opinions of the ratepayers on other important matters with which the council had to deal would almost certainly be misrepresented. The licensing question would be a very disturbing and most undesirable one to introduce into council elections. It would seriously affect the influence and character of those bodies for the worse by bringing into more active play a demoralising factor. The experience of the United States in this respect is an alarming one.

Boards wholly or partly nominated by the councils and consisting partly of justices and partly of councillors, or of nominees of the justices and councillors, would combine the disadvantages that would result from introducing the licensing question into the elections of local councils, with the further disadvantage of deferring by another stage, and thereby making more indirect and consequently less accurate and satisfactory, the representation of the opinions of the ratepayers.

The simplest and most satisfactory form of local control will be obtained by submitting certain defined broad issues to the direct vote of the ratepayers. They could, for example, easily vote "Yes" or "No" on such questions as these :—

Should any licenses be granted?
Should bar licenses be granted?
Should the number of bar licenses be reduced?

If a maximum number of licenses were fixed by statute, the vote on these questions would show whether the ratepayers wished to reduce that number; also whether they wished to abolish bar sales and leave only hotel, restaurant and "off" licenses; or whether they wished to abolish all the licenses in their area.

Those results on the main points being obtained, the difficulty of constituting the licensing authority would be greatly diminished and some of the objections mentioned above would largely disappear.

MUNICIPALISATION, OR THE GOTHENBURG SYSTEM.

A method of dealing with the sale of intoxicants, with which the names of the Bishop of Chester and Mr. Chamberlain are somewhat prominently identified, is variously known as "Municipalisation," "the Gothenburg system," and "the Scandinavian plan." The proposal is that facilities should be afforded for the trial of an adaptation of the arrangement which has been widely adopted in the towns of Sweden and Norway, and for which great success is claimed.

The arrangement varies in details in the two countries and in different towns. It must also be remembered that it applies, for the most part, only to the retail sale of

spirits, and that the sale of beer and wine throughout Sweden and Norway is practically uncontrolled. Broadly, what may be termed the Scandinavian plan is as follows:—

The control of the spirit licenses in a locality is by, at the option of, and under the supervision of the Municipal Council, vested in a company of persons who are presumed to be willing to carry on the sale of drink solely in the public interest and in order to promote sobriety.

The shareholders in the company are limited to receiving a moderate rate of interest on their capital, and the capital is almost nominal.

The balance of the profits is devoted to objects of public utility and interest. In Sweden a portion goes to the Government, another portion to agricultural societies, but the greater part—usually about two-thirds—goes to the municipality. In Norway the local authority receives the license fees, but until recently, practically the whole of the profits were devoted to local objects and institutions which were not supported out of the rates. Now a large proportion goes to the Government.

The intention is that those to whom the control of the traffic is entrusted should have no financial interest in doing a large trade, and consequently should feel at liberty to reduce the number of licensed houses and the hours of sale as much as they think is desirable and possible. The idea is that the places will be carefully and efficiently managed, and that excessive drinking, gambling, and all other undesirable practices will be prevented. It is regarded as an important part of the policy that the bar-tenders and managers—those who actually conduct the houses and sell the drink—shall have no interest whatever in the amount of liquor sold.

The history of the introduction and working of this system is briefly as follows:—

Sweden.

In Sweden, prior to 1855, there was little or no restriction upon the manufacture or sale of drink. Practically anyone who wished to do so could either make or sell brandy. The result was that stills abounded. In 1829 fees were paid for 173,214 stills. Legislation in 1845 and 1848 largely reduced the number, but in 1853 there remained 33,342 stills. The consequences were terrible. During the first half of the century the country was deluged with brandy. Fearful drunkenness, universal poverty, terrible criminality and alarming physical deterioration illustrated the ruinous effects of free trade in liquor. "The very marrow of the nation," says Dr. Wieselgren, "was "sapped. Moral and physical degradation, insanity, poverty and crime, family ties "broken up, brutal habits, all those grim legions that ever range themselves under the "banner of intemperance, took possession of the land. It was bleeding at every pore." Fortunately the very horror of the thing roused the people. The Diet of 1853 reported that "seldom, if ever, has a conviction so generally, so unequivocally, been "pronounced with regard to the necessity of vigorous measures against the physical, "economical, and moral ruin with which the immoderate use of spirits threatens the "nation. A cry has burst forth from the hearts of the people appealing to all who have "influence, a prayer for deliverance from a scourge which previous legislation had "planted and nourished."

In 1855 new liquor laws came into operation. One abolished the small private stills by raising the minimum quantity allowed to be distilled, and increasing the tax. The other conferred local option upon the communities. Power was given to the local authorities to decide how many licenses should be issued for the sale of spirits. Provision was also made for granting a monopoly of the licenses to a committee selected by the local authority or to an independent company of citizens who were to receive a moderate fixed rate of interest on their capital and hand over the balance for use for public purposes.

Practically the power of local option—which included restriction, prohibition, and municipal or company management—was, in the towns, placed in the hands of the municipal council, and in the small places and rural districts in the hands of the inhabitants themselves in public meeting assembled. That is to say, in the towns the popular option and control were exercised indirectly through the town councils; in the rural districts they were exercised directly by the people in public meeting.

The effect of the law which abolished private distilling and raised the price of brandy, by increasing the tax, was universally and immediately beneficial. The number of stills was reduced from 33,342 in 1853 to 3,481 in 1855.

The effect of the Local Option Law in the rural districts was also immediate and extremely satisfactory. The people rose to the occasion and protected themselves vigorously. Mr. E. Willerding, of Gothenburg, in "A Memorandum on the Liquor and Licensing Laws in Sweden and on the Gothenburg System," written in April 1893 for Lord Thring, says:—

> "Before 1855 brandy could be bought in every cottage, nearly throughout the country. In 1856 you might travel through whole provinces without finding one single place where brandy was sold; and this holds good to the present day. In 1856 in the country districts in the whole of Sweden there existed only 64 licenses for retailing brandy (*i.e.*, not to be consumed on the premises), and only 493 public-houses in all, and of those 493 no less than 411 were personal licenses, belonging to the individuals or houses, which could not at once be revoked. In 1856 there were in all the towns, together, 584 licenses for "retailing" and 1,170 public-house licenses.
>
> "The above proportions are the more striking since 88% of the population of Sweden belonged to the country and 12% only belonged to the towns; and yet out of 11,846 cases of drunkenness before the courts, 10,507 came on the towns and 1,339 only came on the country."

These figures show that in proportion to population spirit licenses were 23 times as numerous in the towns as in the rural districts, and the cases of drunkenness were 57 times as numerous. After all allowance has been made for the differences between town and country and other considerations, these are very remarkable contrasts. Well might Dr. Sigfrid Wieselgren say: "There was but one opinion as to the "immense benefit which *the rural population* derived from the new act. But *the towns* "*were not equally fortunate.* The right of veto granted to the country districts did not "extend to them."

So extensively was the veto power used in the rural districts that out of the 2,400 communes into which the country districts are divided, there were, in 1856, no spirit licenses left in about 2,000 of them. Since then the licenses have been got rid of in about 200 more, so that now the veto is in force in about 2,200 communes out of the 2,400.

In 1896 there were in the whole of the country districts of Sweden, where four-fifths of the population live, the following spirit licenses:—

"Off"	27
"On" licenses	33
Privileged licenses, which cannot be withdrawn during the life time of the holders	95
Temporary licenses, granted by the Governor for a portion of the year only to steamers, hotels at watering-places, &c.	96
	251

There were, therefore, throughout the whole of rural Sweden, in 1896, only 251 spirit licenses, and of these only 60 were such as the inhabitants could prohibit. Clearly the people in the country districts have used their veto power vigorously and continuously during the 40 years in which they have possessed it.

The effect which this abolition of the sale of spirits throughout the districts where the vast majority of the population live has had in diminishing the total sale of spirits in Sweden, and in promoting sobriety all over the country, is apt to be overlooked when attention is directed to the working of the company system, and the tendency is to attribute everything to that. A great change has been brought about and a great success achieved under the simple local veto power, and without the intervention of any company of municipal management whatever.

Such drunkenness as there is in the rural districts—and in proportion to population there is still 35 times as much in the towns—results: (1) from the facilities which are provided in the towns for obtaining drink; and (2) because the veto power has not been applied to the sale of beer and wine.

In the towns, for several years, no use was made of the special powers which the law conferred on the municipal authorities. Those bodies were, however, reformed by a law passed in 1863, and in Gothenburg in 1865 a philanthropic company was

formed, and on October 1st of that year it was entrusted with the control of the public-houses (*i.e.*, the "on" spirit licenses). In 1875 it obtained control of the "off" spirit licenses, and since then it has practically controlled the sale of spirits in the town.

The system of entrusting the sale of spirits in towns to philanthropic companies gradually spread throughout the country. In 1896 there were such companies, or "Bolags," as they are styled in Sweden, in 92 towns, with a total population of rather more than a million persons.

The main features of the management of the company in Gothenburg are that it has—

1. Reduced the number of spirit-selling establishments.
2. Placed them under managers who have no pecuniary interest in selling drink.
3. Shortened the hours of sale, both morning and evening, except in the higher class establishments.
4. Abolished the sale of spirits on Sundays.
5. Raised the age at which young people are supplied.
6. Appointed special inspectors, part of whose duty it is to see that good order is maintained, and that intoxicated persons do not obtain a further supply of drink.
7. Raised the price and lowered the alcoholic strength of the spirits sold.

The broad results of the working of the system in Gothenburg are shown in the accompanying table of statistics.*

To what extent those results are due to what is claimed as the main and distinctive feature of the system, viz., the elimination of personal interest and private profit from liquor selling, it is not easy to determine. As the statistics are put forward by the advocates of the system, they show that the company obtained full control of the spirit licenses in 1875; that in 1876 the quantity of spirits sold by the company averaged 28½ litres per head of the population, and that it diminished to 13½ litres in 1897. On the face of it that looks simple and convincing enough. There are, however, some other facts which must not be lost sight of.

The years 1872–76 were a time of exceptionally heavy drinking, following one of remarkable prosperity both in Sweden and Great Britain. To credit the falling-off from that high-water mark to the effect of a system of management is misleading. In the United Kingdom the drink bill decreased from 4*l.* 9*s.* per head in 1876 to 3*l.* 6*s.* 8*d.* per head in 1888, and the average of 1876 has never been touched since. Further, in the public-houses under the company's management, during the years when the full number of them was in its hands, the sale of spirits increased from 9·9 litres per head in 1868–69 to 12·8 litres per head in 1873–74. This shows that economic conditions were most important factors. It would be as reasonable to contend that the increased sale in the company's bars between 1868 and 1874 was due to its system of management as it is to attribute the subsequently-reduced sale entirely to it. Clearly the company took over the full control at an abnormal time, and there would have been a diminution in the sale if no change in method and management had been made.

Although what may be fairly regarded as the permanent reduction in the consumption of spirits per head, over a period of 40 years or more, has not been so great as the advocates of the Gothenburg system claim when they make their comparison with the heaviest drinking years, and while it is also the case that the reduction does not altogether synchronise with the operations of the company, it is an undoubted fact that there has been a very material and gratifying reduction in the sale of spirits, per head of the population, not only in Gothenburg but in Sweden taken as a whole. That reduction commenced in Sweden before the companies were established anywhere; it was interrupted and put back during the burst of prosperity to which reference has already been made, and it was ultimately resumed and continued. Statistics as to the sale of spirits in particular towns were not available until the companies were formed; but there are indications that there was a considerable diminution in drinking in Gothenburg before the company commenced operations. For instance, the cases of drunkenness there, per thousand of the population, were, in 1855, 104; in 1860, 78; and in 1865, 45. With a growing public sentiment in favour of more stringent

* *See* Appendix II.

action against intemperance, which would tend to show itself in a more strict administration of the law, and greater rather than less vigilance on the part of the police, these figures, shewing fewer cases of drunkenness, are very remarkable, and indicate that a great improvement had set in before the influence of the company was brought to bear at all, and would in all probability have continued under the reformed municipal council even if the company system had not been adopted.

It has already been pointed out that in 1856, with seven-eighths of the population living in the country districts and only one-eighth in the towns, the cases of drunkenness were eight times as numerous in the towns, where a license system prevailed, as they were in the country districts where the sale of spirits had been largely vetoed. Forty years later, in spite of the fact that the Gothenburg system had been almost universally in operation in the towns for many years, the facts remained very much the same. In 1896 the statistics were as follows:—

—	Population.	Convictions for Drunkenness.	Per 1,000 of Population.
Towns - - - -	1,003,798	28,458	28·3
Country districts - - -	3,958,770	3,218	0·8

When all the allowances that can be suggested have been made these are striking figures. In 1856 the cases of drunkenness in the towns were 57 times as numerous as they were in the country districts in proportion to population. In 1896 they were 35 times as numerous. Clearly a comparative improvement had taken place in the towns in the 40 years. Clearly, also, the condition of things in the towns as compared with the country districts was, even in 1896, appallingly bad.

Norway.

In Norway the conditions under which the sale of spirits is conducted are in principle and broad outline similar to those which prevail in Sweden; but there are important differences in detail.

Norway is by far the more sober country of the two. Drunkenness and its attendant evils do not seem to have been at any time quite so prevalent there as in Sweden. Nevertheless, during the early part of this century it was a very drunken country. The evil was grappled with 10 years sooner than in Sweden. A local option law was passed in 1845. That law practically prohibited the ordinary bar trade in spirits in the rural districts, because it provided that in those districts only inns that were required for travellers might sell brandy for consumption on the premises, and they might not serve persons who lived within $3\frac{1}{2}$ miles of them. Further, permission to those inns to sell brandy under those restricted conditions was not to be granted unless approved by the local authority. The same approval was required for "off" brandy licenses. The sale of spirits was prohibited during the general fisheries. In the towns the local authorities fixed the maximum number of "off" and "on" spirit licenses. In 1854 it was enacted that no spirit bars should be open after 10 o'clock at night, and that they should close on Sundays and holidays, and at 5 o'clock on the evenings or Saturdays and the days before holidays. Spirit bars are now closed at 1 p.m. on Saturdays. Permission to transfer the licenses in a town to a company was not given until 1871, when the law was altered for the purpose. It was a few years before many companies were formed. In Bergen the licenses were placed in the hands of a company on January 1st, 1877. Under Norwegian companies it is the custom to close the bars earlier in the evening than is the case in Sweden—7.30 being the usual time—and in some towns they are closed for an hour and a half in the middle of the day. Altogether the regulations are more stringent. No loitering is allowed in the spirit bars; after drinking a customer must leave. Food is not supplied in the spirit shops.

In the rural districts of Norway, as in Sweden, the local veto power as to spirits has been freely used, with the most beneficial results. Writing in 1890, Mr. Thos. Wilson of Bergen, a recognised authority, said that it was estimated that the annual consumption of spirits was only half what it was not many years before, and only one-sixth of

what it was 60 years before. In 1893, Dr. E. R. L. Gould, a special commissioner appointed to report to the United States Government, said "liquor is sold to-day in "scarcely any of the country districts of the kingdom." In 1892 there were only 27 licenses to sell spirits in all the country districts in Norway. Of these, 14 were at the great fishing stations.

In the towns the municipal authorities used their restrictive powers much more freely than did the local authorities in Sweden, and during the 30 years between 1845 and the introduction of the company system, they brought the drinking of Norway within far narrower limits than has even yet been accomplished in Sweden after a quarter of a century or more of the Gothenburg system. Sixty or seventy years ago the consumption of spirits in Norway was 16 litres per head; in 1870 it was 4 litres. That is to say, before the companies were inaugurated the consumption had been reduced to one-fourth its former quantity by the operation of the local veto in the country districts, and a reduced number of licenses and much shorter hours of sale, combined with Saturday night, Sunday, and holiday closing, in the towns. The extent to which reduction in the number of spirit-selling establishments was carried in the towns before the company system was inaugurated is shown by the fact that in 1847 they were one for every 152 inhabitants, in 1870 they were one for every 591 inhabitants—reduction of nearly three-fourths in proportion to population. After that, and during the development of the company system, the reduction continued, so that in 1892 they were one to every 1,413 inhabitants.

In 1894 a very interesting change was made in the Norwegian law. In the rural districts there, as well as in Sweden, the bar trade in spirits has for a long time been practically abolished. It only continues to a very limited extent for the supply of travellers and tourists. In the towns the local authorities did not abolish the sale of spirits, but usually placed it under the control of a company. For some time it was contended that this was contrary to the wish of the residents in many of the towns and in 1894 a law was passed which gave the inhabitants of each town power to decide by a poll, taken directly on the issue, whether the system of company management should continue or not, the alternative being that the sale of spirits should be abolished. The law requires that a majority of those who are qualified to vote shall record their ballot against the continuance of the company if it is to be abolished. That means that all who do not vote are counted as being in favour of continuing the company management. The results of the voting which has taken place since the new law came into operation are shown in an appended table. It will be seen that polls have been taken in nearly every town where the company system had been adopted. Out of 45 towns, 23 have, by the required majority, decided to abolish the sale of spirits altogether rather than permit it to continue even under the control of a philanthropic company. In many of the other towns the vote recorded against the company was so large as to indicate that there is a strong feeling in favour of abolition.

General.

A comparison between the results obtained in Gothenburg and in Bergen is useful because those towns admittedly furnish the best representatives of the Swedish and Norwegian systems respectively, and also because it throws some light on the inquiry as to how much of the reduced consumption of spirits in Gothenburg has been due to the management of the company, and how much to restrictions and regulations which might have been adopted and enforced by the local authority with the trade remaining in private hands.

In Gothenburg the company took over the control when the restraining powers had been very indifferently and ineffectively used by an unreformed municipal authority. In Bergen the law had for some time been more vigorously and efficiently administered. The result was that when the company commenced operations there the number of public-houses, the consumption of spirits, and the amount of drunkenness were all vastly less in proportion to population than they were in Gothenburg when the company commenced there. This certainly seems to indicate that if the administration of the law by the municipal authority had been as vigorous in Gothenburg as it was in Bergen, and it probably would have been under the reformed council, it would have been similarly effective, and much of the improvement which is credited to the company would have been accomplished without it. How much company management is likely

to achieve, in some cases, beyond what can be secured by efficient administration of the law by the local authority, is indicated by the fact that in Bergen, after the first year of the company's operations, which was in 1877 and just at the end of the heavy drinking period in most European countries, no diminution has been brought about in the amount of spirits sold. Here are the figures for each year in litres per head:—

1878	5·5	1883	5·1	1888	4·7	1893	6·0
1879	4·8	1884	5·2	1889	4·8	1894	5·5
1880	4·6	1885	4·9	1890	5·2	1895	5·0
1881	4·9	1886	4·9	1891	5·7	1896	4·7
1882	5·1	1887	4·8	1892	6·0	1897	5·5
Average	4·98	Average	4·98	Average	5·28	Average	5·34

One fact stands out very clearly in the Scandinavian statistics, and it is that since the introduction of the companies, drunkenness has not only not been reduced to a minimum, but, so far as many places are concerned, if the number of cases brought before the courts can be taken as a guide, it has not even been diminished.

In Gothenburg* the cases were considerably more, in proportion to population, during the years 1890–97 than they were in the first eight years of the company's existence—1866–73.†

In Stockholm* the cases of drunkenness have been, on the average, twice as numerous per annum, in proportion to population, since the company was established as they were in the years 1861–75. The company commenced in 1877.

In Christiania* the cases of drunkenness for the seven years 1890–96 were 50 per cent. more, in proportion to population, than they were in the years 1881–85. The company commenced in July 1885.

In Bergen* the figures are on the whole much more satisfactory, except during the last year or two, when a change in the law accounts for much. From 1878 to 1889 the cases of drunkenness, in proportion to population, diminished. Since then the tendency has been upward.

The explanation usually given of the admitted general increase in drunkenness is that it is chiefly owing to the extent to which the consumption of beer has grown, and it is pointed out that the companies have no control over the sale of beer. The trend of opinion throughout both Sweden and Norway is that the full control of the sale of all intoxicating liquors must be in the hands of the companies if the system is to be adequately tested and its advantages are to be completely secured. There is no doubt that a considerable amount of drunkenness results from the increased consumption of beer in Sweden.‡ Of those who were brought before the courts for drunkenness in Gothenburg in 1876 only 263 stated that they had obtained their last drink at a beer saloon: in 1897 the number was 1,647, and in 1898, 1,938. On the other hand, the number who stated that they got their last drink at the company's bars decreased from 1,067 in 1876 to 611 in 1896, but in 1898 the number increased to 1,456. It must also, however, be remembered that as the beer saloons are open later than the company's bars, it is not unlikely that the tipplers who have already become intoxicated at the company's bars will, when they are closed, adjourn to a beer saloon to continue the carouse until in

* *See* Appendix II.

† A special correspondent of "The Times," who investigated the working of the Gothenburg system in that city towards the close of 1894, and reported in a useful series of letters, commented upon this growth in the convictions for drunkenness, and referred to the suggested explanation that it might be due to a change in the attitude and action of the police. He said, "The chief constable has been 26 years in the force as first or "second in command, and therefore knows exactly the method of police procedure throughout almost the "whole period. He assures me that it has always been carried out on the same principles. . . . The law "has been the same as to arrests ever since the system started, and it has been administered in the same "spirit by the same men. There has been no 'turn of the screw' either way, and consequently the returns "give us a trustworthy bird's-eye view of the amount of drunkenness from year to year." Comparing Gothenburg with Cardiff, and referring to the enormous difference in the convictions for drunkenness in the two places, he said: "If the discrepancy between the number of convictions were less, it might be explained "away by a possible difference of police procedure, but it is too large for that, and in my opinion there is "very little difference in the police procedure. . . . I know Cardiff well, and have kept my eyes "very wide open with respect to this point in Gothenburg, and the conclusion forced upon me is that the "Swedish police act on very much the same principles as a well-conducted force in our own country, and the "returns fairly represent the relative amount of public drunkenness in the two places. . . . On the whole "I have convinced myself that if the two forces were to exchange beats, there would be no great alteration in "the charge-sheets."

‡ In Norway there has not been any corresponding increase in the consumption of beer. Indeed in the five years 1893–97 it was less per head than in 1875–79.

another hour or two they are turned out there and fall into the hands of the police. That the company's barmen do, in spite of all regulations, supply men when or until they are drunk is clear from the fact that every year several hundreds of cases are brought before the courts in which the last drink was got at their bars.

That Scandinavian towns are very drunken places appears to be beyond question. Visitors report that that is so, and the statistics showing the number of cases of drunkenness which are brought before the courts confirm their opinion. The following table gives the number of convictions for drunkenness for every 1,000 of the population in 1895 in several large English towns and in the four principal towns of Norway and Sweden:—

Newcastle	18	Hull	5	Bergen	23
Manchester	10	Cardiff	5	Gothenburg	31
Liverpool	8	Southampton	4	Stockholm	31
Birmingham	6	Leeds	3	Christiania	41

In Gothenburg the number of cases of drunkenness in which the last drink was got at the company's bars are as numerous in proportion to population as the whole of the cases in such ports as Hull, Cardiff, and Southampton.*

While it is perfectly clear that large deductions must be made from the claims of the advocates of the Gothenburg scheme on the ground that the benefits alleged to have been derived from it have been very much exaggerated, it is also true that there is a very considerable amount of evidence both in statistics and in the personal testimony of those who are well qualified to form a judgment, that under the *régime* of the company in such places as Gothenburg and Stockholm a great improvement has taken place in the matter of spirit drinking.

The question of interest is. To what has that improvement—that continued diminution in the consumption of spirits—where it has taken place, been due? Under the companies several methods and influences have been brought to bear. The absence of the influence of a personal interest in the profits on the part of the salesmen and shareholders is the distinguishing feature of the system, but that is not alone relied on. Confining our review for the moment to Gothenburg, it may be pointed out that when the company obtained control of all the bar spirit licenses it at once reduced the number from 61 to 43. Mainly owing to the growth of the population the "on" spirit licenses, which were 8·5 per 10,000 of the population in 1868, were only 3·5 per 10,000 in 1898. Similarly the "off" licenses, which were 1·2 per 10,000 of the population in 1875, were only ·6 per 10,000 in 1898. A reduction in proportion to population of more than one-half in the number of spirit bars and of "off" spirit licenses represents a very great reduction in the facilities for obtaining drink, and consequently in the temptations to get it. Then the hours of sale were considerably reduced and the price of brandy has been gradually raised until it is now one-third dearer than it was when the company first undertook the sale.

To curtail the facilities for drinking by reducing the number of houses by one-half in proportion to population, to shorten the hours of sale, especially in the evening and on Saturday, and to forbid the sale on Sundays and holidays, and in addition to very materially advance the price of the liquor, are alone sufficient to account for a very considerable diminution in the quantity of spirits consumed per head. How much of the continuance of the diminishing consumption is due to the reduction in facilities and the increase in price cannot be definitely ascertained, but it is possible, and even probable, that so large a proportion of the diminished sales per head was due to those factors that the mere fact that the persons who served the liquor had no pecuniary interest in increasing the quantity sold did not add nearly so much to their influence and effect as is by many supposed.

In Bergen the operations of the company have been similar. The Norwegian Act, which gave power to permit companies to take over the sale of spirits, allowed a short term of grace to the existing license-holders before the new arrangement could come into operation. In Bergen the publicans prepared for the coming change, with the result that when the company obtained its monopoly there were only 21 spirit licenses

* The special correspondent of "The Times" (already quoted) said: "This (the question of drunkenness) is "the weak part of the Gothenburg case from the outside point of view, and it is very weak indeed. What the "English public chiefly wants to know, I imagine, is how this town stands with regard to drunkenness after a "prolonged trial of the system. The only possible answer is that, judged by the English standard, it is a very "drunken place. Personal observation, the opinion of residents, police and medical evidence, all point to the "same conclusion."

remaining in existence. The company proposed to use 16 of them and allow five to drop; but the local authorities (the magistrates and the municipal council) reduced the number to 14. Of those 12 were used for "on" consumption and two for "off" sales. The "on" licenses have since been reduced from time to time, and in 1898 there were only eight. In 1877 the bar ("on") licenses were one to every 3,400 of the population. In 1898 they were only one to every 8,250—a reduction of considerably more than one half in proportion to population. The ordinary hours of sale at the spirit bars in Bergen are from 8 a.m. to 12 at noon. The bars are closed from 12 to 1.30 p.m. They are open again from 1.30 to 7 p.m. On Saturdays they close at 1 p.m. They are entirely closed on Sundays, public holidays and elections, and on the days before public holidays. Those conditions represent what would be regarded here as extremely stringent restrictions of facilities and temptations, and must alone have been an enormous influence in bringing about the results which have been obtained.

If fewer houses, shorter hours, no sales on Sundays or holidays, and higher prices have really been the predominant influences which have secured for the management of the companies the success which can be claimed for them, the questions arise: (1) Are those conditions which would necessarily result from company or municipal management elsewhere? (2) Is such a system of control necessary in order to secure those conditions, or can they be obtained without it?

It is by no means certain that the first of these queries can be answered in the affirmative. If the object of committing the control of the trade to a company or the municipal council be genuinely and solely to promote sobriety, those or similar conditions are almost certain to result. But if the actuating motive be a desire to secure the profits for local objects and institutions, or if the movement be manipulated by interested persons, the restricting conditions may be ignored or not adopted. Much would depend on a stipulation which should be made, and to which reference is made later. As to the second query, it is obvious that so far as reducing the number of houses and shortening the hours of sale are concerned, it would be a simple matter to give power to the local authority to act as it deemed desirable. As for the price, that is already increased here by taxation, which if necessary could be raised. Theoretically these things could be done. But, as a matter of practical working, would such powers be generally and effectively used so long as the trade remained in private hands, and the influences which a large number of publicans and their friends and dependants can so easily wield, were brought to bear upon the local bodies to whom the power of restriction and curtailment was entrusted? Or, is it just at this point that the advantage of having the proprietorship and control of the trade in the hands of a representative body of men who had no personal financial interest at stake, and who had only the public convenience and well-being to consider, would in some localities come in and render possible, and indeed easy, what would otherwise be difficult? Would it not frequently be more easy to close a number of houses and shorten the hours, and generally restrict facilities for sale, if there were no immediate private interest in the opposite direction to consider?

The broad facts of the experience of Sweden and Norway, when carefully considered as a whole, do not make it easy to arrive at very definite conclusions. The impartial investigator will find that ultimately he will have to fall back very largely on his knowledge of human nature and his experience in other matters.

If the statistics of Gothenburg are taken alone they seem to show a strong case for the system with which the name of the town is identified. But when we know that the company system there followed, and is therefore compared with an extremely bad licensing system, it becomes impossible to say that a similar improvement would not have ensued from a vigorous use of the powers with which the law armed the local authorities. Nor is it certain that the reformed corporation would not have used its powers. Further, the fact cannot be ignored that in the 10 years preceding the inauguration of the company arrests for drunkenness were reduced 50 per cent., whereas since it took control they have practically been stationary. Lastly, the town is still a very drunken place.

Nor is the problem simplified when it is found that Norwegian towns were far less drunken before they adopted the company's system than the Swedish towns have ever been under it. When it is also known that, so far as the statistics of the consumption of spirits and of arrests for drunkenness are concerned, it is difficult to find any evidence that the management of the company (as distinct from the reduction in the number of licensed houses and in the hours of sale) has improved the conditions at all in such towns as Bergen and Christiania, the suggestion obviously is that as much can be and in Norway has been accomplished without the companies as with them. It is, however, very usual

for the companies to reduce the number of public-houses below the limit fixed by the municipal authority, and also to go beyond the conditions imposed by the law or the municipal council in such matters as shortening the hours of sale and raising the age at which young persons may be served. Further, the very considerable reduction in the consumption of spirits which has taken place in both Norway and Sweden, as a whole, since the introduction of the company system is a fact which appears to indicate that collectively the effect and influence of the companies has been to promote sobriety. On the other hand, it is interesting to note, as bearing on the question of the elimination of private interest, that the sales of the wine merchants and the five private concerns in Gothenburg—all of which sell for their own profit, and are not under the control of the company—diminished between 1875 and 1892 quite as much as those of the company. That suggests that the fact that the men who sell the liquor for the company have no financial interest in the sale does not in actual results count for much, and that the reduced sales, both by the company and the other concerns, was due to other conditions and influences which were largely common to all. The truth seems to be that in both Sweden and Norway the elimination of financial interest in the sales has not been either complete or sufficient. The actual salesmen may be free from it; but the directors of the companies and the residents and ratepayers in the localities, frequently have a very considerable indirect personal and public interest in large profits being available for distribution.

Due weight must be given to the local testimony to the success of the system, but a careful examination of that testimony sometimes suggests a doubt as to whether those who bear it have gone deeper than the surface facts and made any effort to satisfy themselves that the improved temperance sentiment which undoubtedly prevails, combined with an effective license system which gave considerable powers of restriction and regulation to the local authorities, would not have accomplished quite as much. In this connection it is useful to remember that in the United Kingdom, largely owing to restrictive legislation, a considerable reduction in the number of public-houses in proportion to the population and a more active and healthy public sentiment which has secured a better administration of the law, the movements in the consumption of intoxicating liquors during the last 25 years have been very similar to those which have taken place in Norway and Sweden, and also that in the United States, in cities and districts where the high license system has been vigorously used in conjunction with stringent local regulations as to closing, &c., similar results have been achieved. Further, the influence which the fact that local work, charities and institutions benefit financially from the working of the trade under the company system must have upon the opinion of local citizens and in creating a desire to place all the facts in the most favourable light, cannot be ignored.* Lastly, though the voting down of the sale of spirits in a large number of Norwegian towns, and the recording of a heavy vote against it in many others, does not necessarily mean that the company control is, by the people of those towns, considered to be no better than an efficient licensing system would be, it does show that after a considerable experience of it, they are convinced that it is not a remedy for the intemperance of a community, and does not get rid of evils which are associated with, and spring from the sale of drink.

Objections.

The objections which are usually taken to a proposal to introduce some form of municipal or company control of the liquor trade into this country may be summarised as follows:—

1. It would involve the community in complicity with a demoralizing traffic.
2. It would give an appearance of respectability to it, and thereby increase its danger.
3. It would tend to corrupt and demoralize municipal bodies.
4. It would make the adoption of further restrictions, and particularly the ultimate suppression of the traffic, more difficult, if not impossible.

* The special correspondent of the "Times" (already quoted) said, after commenting upon the difficulty of mastering the whole of the ins and outs of the system and the questions it raises: "The great majority (of "the people in Gothenburg) including many of the shrewdest men of business, avowedly content themselves "with the comfortable conviction that a system which relieves the rates by some 20,000*l.* a year is *ipso facto* "a good one."

Three out of four of these objections depend almost entirely for their substance and force on the allocation of the profits that would be derived from carrying on the trade in intoxicants and the extent to which localities benefited or otherwise financially from an increase or a diminution in the quantity of drink sold and the revenue derived therefrom.

If local communities suffered no appreciable or direct financial loss if the sale of drink were curtailed or abolished within their boundaries, and gained nothing by increased sales and profits, it is difficult to see how there would be any more complicity with the traffic than there is now. At the present time the national exchequer derives a large revenue from taxes on drink, and local authorities derive an income from the fees paid by license holders in their midst, and under the auspices of the county councils grants are made to technical schools from funds derived from a tax on spirits. To increase the amount derived by the nation as whole from the sale of drink would not involve the introduction of any new principle. Those who raise this objection as to complicity do not suggest that the existing taxes should be repealed on the ground that the nation ought not to derive a revenue from a trade which is a source of degradation and evil. They know that to do so would only be to lower the price of liquor, encourage drinking, and put more money into the hands of publicans, brewers, and distillers. If sobriety and the general well-being can be promoted by eliminating a large element of private interest from the trade and transferring profits to public funds the step will be justifiable on the same grounds as the present taxation is.

It is not at all clear that the difference between the public sanction which is now given to licensed premises by licensing and inspecting them, and that which would be given by directly controlling their management, would be so marked and material as to make the use and frequenting of them more respectable, and therefore render them more dangerous. The houses themselves might be made more respectable by being managed more strictly and carefully, but that would be an advantage. If it be suggested that it is a mistake to make the places where intoxicants are sold as respectable as possible, then the abolition of existing restrictions and regulations ought to be advocated.

The objection that the management of the liquor traffic in localities, by the municipality or by a philanthropic company, to whom the control was transferred by the municipality, would tend to corrupt and demoralize the local councils, is extremely strong *and should be regarded as an absolutely fatal one*, as applied to any proposal which coupled with such a system of control and management any arrangement for allocating the profits derived from the trade that was of such a nature that either the local rates, or any local works, charities, or institutions benefited or suffered directly or appreciably according to the quantity of drink sold and the profit made.

That such an arrangement would be a dangerous one anywhere must be obvious to everyone who realises how weak human nature is, and how ready people are to condone and even approve much that is very questionable and undesirable, so long as it pays. That it has proved to be a difficulty and a source of evil in Scandinavia—where the standard of civic morality and honour is high—is beyond question.

Mr. Thos. M. Wilson, of Bergen, writing in 1891 on the introduction and working of the Gothenburg system in Norway, said:—

> "The Norwegians recognised that the Gothenburg system contained an objectionable feature in principle. The Gothenburg Society had, in fact, become a large trading concern conducted in the interest of the local ratepayers in reduction of the public burdens borne by them. The ratepayers had, therefore, a direct interest in encouraging the consumption of ardent spirits, as the more financially successful the society was the better was it for the ratepaying pocket. While adopting the general principle of the Gothenburg systems of local option, the Norwegians, recognising the dangerous feature, the application of profits in direct reduction of public burdens presented, and how easily it might lead to the purity of the motive in controlling the liquor traffic being imperilled, eliminated that objectionable feature from their system."

The Norwegians reduced, but did not eliminate, the objectionable element. They devoted the bulk of the profits to local institutions of an educational and philanthropic character, with the result that there was considerable competition for shares in the companies among persons who were interested in the institutions and charities, because the possession of a share gave a vote for a representative on the committee which distributed the profits. Thus shareholders in the companies became interested—on

behalf of the institutions with which they were connected—in the profits to be distributed being large.

At the outset in Sweden the danger of corrupting the municipal councils was foreseen, and it was hoped to avoid it by entrusting the control of the sale of spirits to companies instead of to the municipal councils.

Mr. E. Willerding, of Gothenburg, in the memorandum he prepared for Lord Thring, said :—

> "A marked feature of that law (of 1855) was the distinct encouragement it gave to handing over the whole right of selling liquors to respectable companies, rather than to committees chosen by provincial or town councils. It was considered that in the hands of directors of respectable companies there was far less risk of jobbing and abuse than there would be in the hands of companies appointed by the councils."
>
> "This encouragement to hand over the sale to companies by preference, was still further emphasized in the law passed in 1885, amending the above law of 1855. According to that amended law the communities get seven-tenths of the profits from the sale of liquor if they let a company manage the sale, and they only get six-tenths of the profits if they manage it themselves through a committee of their own."

The abuses which these laws were devised to obviate still prevailed, and in 1893 the Swedish diet adopted an address to the king praying him to devise measures to prevent municipalities and authorised companies from stimulating the traffic and resorting to many questionable devices in order to secure larger profits for the locality. A committee was appointed to inquire into the subject and an instructive extract from the speech made by Baron Bonde in May 1894 when moving the adoption of the report will be found in the evidence given by Mr. Malins. A considerable amount of information as to the way in which company management has lent itself to undesirable practices will also be found in Mr. Malin's evidence, and the appendices handed in by him.

The admissions already quoted from strong advocates of the Gothenburg system are extremely significant. So also are the following extracts from "Popular Control of the Liquor Traffic," by Dr. E. R. L. Gould, special commissioner of the United States Labour Department, who is also an enthusiastic supporter of the system :—

> "Probably no system for distributing the profits of the liquor trade could be devised which would be entirely free from theoretical objections or practical difficulties. Neither of the plans adopted in Sweden and Norway measures up to an ideal standard. . . . It is undeniable that a wise disposition of revenues derived from the trade in spirits presents many perplexing difficulties. . . . Such safeguards must be devised that leakage of any kind will be impossible. Disposition of at least the major portion of the profits by legal enactment seems highly desirable while the strictest form of public audit is a necessity."

Consul-General Mitchell, reporting from Christiania in February 1893 on the working of the Gothenburg system in Norway, said :—

> "As a matter of fact, the original practice of applying all profits to philanthropic purposes has been more and more departed from during the last 15 years, within which several towns have made contributions, out of gains on the sale of spirits towards the construction of waterworks, public schools, and even of railways."

And again—

> "It may be boldly asserted that the original, purely philanthropic object of the associations considered collectively has been gradually departed from and that the old licensed victualler, often under circumstances of great hardship, has been replaced throughout the great part of the country, by hundreds of holders of 5 per cent. shares by administrators politically and otherwise interested in the distribution of larger and larger surpluses from the sale of spirits, and by municipalities well content to improve and embellish their towns without recourse to direct communal taxation for those purposes."

The accuracy of Consul-General Mitchell's report that the companies were departing from their original intention and were making undesirable uses of their power to distribute the greater part of their profits, was speedily confirmed. The Storthing felt it necessary to deal with the matter, and in 1894 an Act was passed which provided for a gradual withdrawal from the companies of the power of disposing of the major part of their profits. For the first year the companies were to dispose of 70 per cent.

of the profits, and 30 per cent. was to go to the commune. In the second year the company was to dispose of 60 per cent., 15 per cent. was to go to the commune, and 25 per cent. to the Government. In the third year 50 per cent. was to be distributed by the company, 15 per cent. was to go to the commune, and 35 per cent. to the Government. The reduction is to go on until in the sixth year from 1896 and afterwards, only 20 per cent. of the profits will be at the disposal of the companies and 15 per cent. will go to the commune, and 65 per cent. to the Government.

Thus the local institutions and charitable objects of the Norwegian towns will only receive a fractional part of the grants which they formerly got from the liquor profits. That the Parliament of the country felt compelled to make that great change in the destination of the profits is a striking warning as to the danger there is in allowing localities to deal with them.

It is unnecessary to labour the point. It is beyond dispute that both in Sweden and in Norway the fact that objects in which the people of the various localities are closely interested received very substantial contributions from the profits made by placing the control of the spirit trade in the hands of the philanthropic companies, not only had a very considerable influence in inducing towns to adopt the system, but also led to many abuses, all of them opposed to the originally avowed intention and aim of the system, and many of them distinctly corrupt and demoralizing.

The disposal of the profits is the weak point of the system. Unless that difficulty can be satisfactorily grappled with the introduction into this country of any scheme by which the control of the liquor was placed in the hands of town or district councils, or philanthropic companies would be fraught with the gravest danger, and would almost certainly become so great an evil that it ought not on any account to be sanctioned.

Can the profits be satisfactorily so disposed of as to deprive local communities of all appreciable interest in maintaining the sale? If all profits were forwarded to the National Exchequer and then redistributed to localities in proportion to their population, without any consideration as to whether any or what amount of profits had been derived from any town or district, the interest of any particular locality in the amount of profit made within its own borders would be so small as to be for all practical purposes inappreciable. If in addition to such a method of distribution it were provided that in each locality the sum thus apportioned should be expended on certain clearly specified objects and should be devoted to capital outlay and not to the provision of annual income, the difficulties and dangers above referred to would be avoided. A Government audit of the accounts would be a matter of course.

The removal of the objection with regard to the risk of municipal corruption by withdrawing from the locality any direct or appreciable interest in the amount of profit made there, would also obviate any difficulty that might otherwise arise in the way of further restrictions of the traffic if the locality were directly or appreciably interested in maintaining the profits made. If the citizens had no obvious interest in getting a profit out of the trade they could and would decide as to its suppression or further restriction impartially and disinterestedly.

Conclusions.

The conclusions to be drawn from the whole matter seem to be these:—

1. The advantages to be derived from a system of disinterested control of the liquor traffic as exemplified in Sweden and Norway are not nearly so great or so definite as is represented by its advocates.

2. Much of the benefit which has resulted from the adoption of the system must be due to (1) the reduction in the number of public-houses, (2) the curtailing of the hours of sale, (3) the closing on Sundays and holidays, and (4) the early closing on Saturday evenings and the evenings before the holidays.

3. These restrictions might all be brought about by legislation or by the action of the locality—if the power of decision upon them were vested in it—and the trade still remain in private hands; and in some instances the power would be effectively used. But in the majority of localities it is practically certain that it would be found much more easy to secure the adoption and enforcement of efficient measures of restriction and regulation if the trade were in the hands of the authority which imposed the restrictions, than if they had to be forced upon an unwilling and powerful trade with a great financial interest behind it.

4. No very definite proof can be produced that appreciable advantage has resulted from the fact that those who sell the liquor in the houses have no personal interest in promoting its sale, but the general opinion in Sweden and Norway is that it has proved to be beneficial. It is, however, distinctly in accord with general experience and our knowledge of human nature that such an arrangement should constitute an influence which would almost always tend in the right direction. It must remove the great inducement to connive at irregularities and breaches of the law, and very much facilitate the suppression of gambling and other undesirable practices.

5. The disappearance of the publican as an element in municipal and Imperial politics which works solely in the interest of its own personal ends—ends which can only be achieved at the cost of the degradation of the people—would be an enormous gain to the purity, independence and efficiency of public life, and would very greatly facilitate the more stringent and effective limitation of the sale of drink by the people in their respective localities.

6. While the system cannot be regarded as a complete, or even the best available, remedy for the evils of our drinking system, there are, *as compared with any ordinary licensing system*, a sufficient number of good points about it to render it desirable that where the liquor traffic is to be carried on the people of the locality should have the option offered them of placing the sale of drink under the control of persons who would have no interest in pushing it.

7. The risks and dangers connected with such an experiment are, however, such that it would be necessary to provide by statute that the number of ordinary "on" and "off" licenses should not exceed a specified maximum, that the ratepayers should have power by direct vote to either still further reduce the number, or abolish the system altogether, and also that there should be no direct distribution to the locality of profits derived from the liquor trade therein.

Incidentally the experience of Norway and Sweden confirms that of this and other countries on a few important points, viz. :—

1. That restrictive legislation does materially promote sobriety.
2. That the stringent limitation of facilities for public-house drinking does not increase home drinking. Statistics show that in Gothenburg as the bar, or "on" sale of spirits was reduced, the "off" sale also diminished in proportion to the population.
3. That anything approaching free trade in beer and wine, even with that in spirits severely restricted, is a grave blunder, and the idea that people may be trained to habits of sobriety by providing facilities for obtaining these lighter beverages easily and cheaply is a delusion.
4. That if the people are given the power of direct local veto they will use it, and when used it is the most efficient remedy for intemperance which has as yet, been devised.

SUBSTITUTES FOR AND COUNTER-ATTRACTIONS TO THE PUBLIC-HOUSE.

Any measure that may be devised for checking the drinking habits of the people by abolishing or curtailing facilities for obtaining intoxicating liquors will be materially aided if steps be also taken to meet the requirements of their social instincts. Places where persons may meet indoors for recreation and social intercourse are a necessity of our modern life. The need for them evolved, and has given an appearance of justification for, the public-house, and during recent years has led to the widespread formation of clubs.

Individual effort is not likely to provide what is required. Working men's clubs are altogether insufficient in size, equipment, and scope. They are also, for the most part, unsatisfactory, inasmuch as they depend very largely for their funds on the extent to which they sell intoxicants.

Places of indoor resort are even more necessary and desirable than parks and recreation grounds, and should be provided at the public cost. Free libraries, museums and picture galleries are admirable institutions, but they are not places for recreation and social intercourse. In addition to the news-room and library something freer and easier and more attractive to the less studious is required. There should be

a gymnasium, a billiard-room, a room for other games, and rooms where men could smoke and talk, in addition to a larger room where concerts, entertainments, lectures, discussions, and meetings of various kinds could be held entirely free of cost or at a nominal charge; the whole being under the control and supervision of the local authority, and permission to use the large room being obtained in very much the same way as is a cricket pitch in a London park. The size, scope, and number of these places would of course vary according to the size and character of the locality. No intoxicants should be allowed in them, and in the majority of cases it would not be necessary to trouble about refreshments of any kind.

The main difficulty in the way of providing such places is the cost of the buildings, and of fitting them up. The expense of maintaining them after they had been provided would be comparatively light, and there are very few places indeed where public opinion would not very willingly sanction the small addition to the rates which the cost of maintenance would involve if a properly equipped building were supplied to them out of funds raised from other sources.

There seems to be no sufficient reason why a much larger proportion of the enormous profits which persons engaged in the liquor trade derive from it—largely as the result of the monopoly which has been created by restricting the number of public-houses—should not be secured for the public, and be used to counteract the attractions and influence of the public-house, and, so to speak, wean the people from it. A license is a valuable privilege. Those who are allowed to possess it ought to pay a sum much more nearly equivalent to its financial value than the present license fees are. To divert a larger proportion of these profits from private pockets to public use would not only provide the means for rendering it more easy for people to resist the temptations of the public-house, but would also tend to curtail the growing wealth and influence of those who are engaged in a traffic which is demoralising in its character and results, and is exercising an extremely undesirable influence on the public life of the nation.

The funds that would be required to establish these public indoor resorts could and should be obtained from the liquor traffic. By providing that the money thus obtained should be distributed to each locality according to its population, and without any regard whatever to the amount of the license or liquor receipts from it, no locality would have any appreciable interest in maintaining, or refraining from curtailing, the sale of drink within its borders. Further, the proviso that the money distributed by the Imperial Government should be spent only in providing and fitting up the buildings would insure that no diminution in the amount would involve any extra charge upon the locality, as might be the case if the income thus derived were devoted to meeting the annual expense of maintaining and carrying on these indoor resorts. In this way, while a fund derived from the liquor traffic would be directed to providing substitutes for and counter-attractions to public-houses, it would not be an inducement to the people in any locality to refrain from curtailing the sale of drink.

A serious increase in the number of clubs is a danger which those who are anxious to promote the sobriety of the people must be prepared to guard against. Already a large proportion of them are, for all practical purposes, unregulated and unrestricted public-houses with a limited body of customers. Little will be gained if as public-houses are reduced in number drinking clubs increase.

Ultimately the sale of drink in clubs will have to be much more stringently dealt with than is now recommended in the Report of the Commissioners. Meanwhile, the necessity for working men's clubs would be very materially diminished, and the difficulty of obtaining a sufficient number of *bonâ fide* members for them would be considerably increased, if such public free clubs as have been indicated were universally established. The result would be that genuine clubs would be kept within much more manageable limits than will probably otherwise be the case, and there would be less practical difficulty in dealing with simple drinking clubs by means of such legislation as will eventually be required.

COMPENSATION FOR NON-RENEWAL OF LIQUOR LICENSES.

In connection with a proposal that the number of licenses should be compulsorily reduced to a specified maximum, and that power should be given to localities to still further reduce them, and, if they so desire, abolish them altogether, the claim for compensation for existing license-holders which has been put before the Commission, may appropriately be considered.*

The origin and object of the licensing laws, so far as the granting or refusal of licenses is concerned, is and always has been the protection of the public interest. From the commencement of licensing it has been recognised that the sale of liquor is dangerous to the public well-being, and that the places in which it is sold are likely to be sources of nuisance and evil to the community.

Power has, therefore, been given to justices of the peace to give, and from year to year to continue or renew, permission to sell only to such persons and in such places as would ensure the trade being carried on without public inconvenience or injury. That permission to sell may (and therefore should) be discontinued, *i.e.*, not renewed, when and where the justices deem it desirable in the public interest that it should cease.

It is subject to the condition that the houses shall continue to be needed and shall not be detrimental to the public comfort, order, and general well-being, that licenses always have been and still are issued and renewed. Whenever the justices are of opinion that a license is no longer needed and that its continuance is, for any reason of public well-being, undesirable, it is not only within their power, but it is their duty to protect the public, whose guardians in that matter they are, by refusing to renew such license.

As that is, and always has been the distinct condition on which licenses have been issued, no injustice is done, no right is infringed, and no claim for compensation can equitably be maintained if and when that power is *bonâ fide* exercised in the public interest.

The power to refuse the renewal of licenses, the power to cease to permit the sale of liquor in houses where it has previously been sold, if it is deemed desirable so to do, is the very essence and foundation of our licensing laws.

The first Act that gave justices power to regulate the sale of intoxicating liquors, 11 Hen. VII. c. 2, authorised two justices of the peace to suppress existing houses, "to reject and put away common ale-selling in towns and places where they shall think convenient."

That was the commencement of our licensing system, and the power to prevent selling by those who had hitherto sold was the *only* power at first given, and that power, so far as ordinary public-houses are concerned, has never been taken away from that time up to the present.

In 1552 a further Act—5 & 6 Edw. VI. c. 25—re-affirmed the power of two justices of the peace to "remove, discharge, and put away common selling of ale and "beer" at their discretion, and enacted that no one should keep any common ale-house or tippling house without the permission of two justices of the peace or of the justices in open session.

That was the commencement of permission being required to sell.

Power to require recognisances was given, and under that power justices of the peace imposed conditions and regulations.

In 1618 a Royal Proclamation provided a form of recognisance for general adoption. It fixed closing hours. Particular directions were in it also given that the justices of the peace should hold *special licensing sessions once a year* and that *the licenses should be annual.*

In 1700—12 & 13 Will. III. c. 11. s. 18—sellers of spirits for consumption on the premises were required to obtain a license in the same way, and to be subject to the same conditions as ale-house keepers. (*See also* 2 Geo. II. c. 28. s. 10.)

In 1725–6—12 Geo. I. c. 12.—retail sellers of beer or ale were for the first time required to pay an annual excise license duty.

Licensing by justices is in origin, intention and object altogether apart and distinct from, as it was anterior to, licensing for revenue purposes. The revenue authorities cannot grant a license until the applicant for a new license, or for the renewal of an old one, has got the permission of the justices to obtain one. The function of the justices is to protect the public interest. Were that not so, the revenue authorities would be empowered to grant a license to every applicant who paid the fees.

* So far as the *legal* position is concerned, the term "license" is, in these notes, used as meaning all publicans' (full) licenses and all "off" and "on" beer licenses except the pre-1869 beer houses.

26 Geo. II. c. 31, provided that licenses should *only* be granted at a general annual licensing session to be held within 20 days of September 1st. It also distinctly provided that "such license shall be made for *one year only*."

The Act of 1828 (9 Geo. IV. c. 61), the governing statute of our licensing system, was a consolidating Act. It restated the power of justices of the peace at the annual licensing *meeting* to issue licenses at their discretion for one year only. That full discretion, subject to appeal to Quarter Sessions, to refuse the renewal of licenses has not been taken away by subsequent legislation, and all full public-house licenses have from year to year been issued subject to it.

That the full extent of the discretion vested in the licensing justices was well understood at the time of the passing of the Act of 1828, is perfectly clear from the following extract from a speech delivered by Lord Brougham in that year:—

> "The justices have everything at their absolute discretion, and no one has any control over them in these matters. In the first place they have the privilege of granting or withholding licenses. *As we all know*, it lies in the breast of two justices of the peace to give or refuse this important privilege. It is in their absolute power to give a license to one of the most unfit persons possible; and it is in their power to refuse a license to one of the most fit persons possible. They may continue a license to some person who has had it but 12 months, and who during that period has made his house a nuisance to the whole of the neighbourhood; or they may take away a license from a house to which it has been attached for a century, and the enjoyment of which has not only been attended by no evil, but has been productive of great public benefit."

Summaries of and extracts from the principal judgments of the Courts during the last 30 years affirming the power of the justices to refuse the renewal of licenses at their discretion are appended to these notes.

From them it is obvious not only that the law always has been perfectly clear upon the point, but also that Sharp *v.* Wakefield was by no means the first case in which the Courts declared that the discretion of the justices was complete. In Reg. *v.* The Justices of Lancashire in 1870, Justices Lush and Hannen laid down the law clearly and emphatically. There is, therefore, no ground for the contention that Sharp *v.* Wakefield gave a new and extended reading in 1891. It merely confirmed and reiterated the judgments of Justices Lush, Hannen, Cockburn, Mellor and others delivered many years before.

In Boulter *v.* The Justices of Kent (1897), in the course of the argument and judgment, it was brought out clearly that the justices at Brewster Sessions sit as a "*meeting*" and not as a "*Court*"; and that they may and should decide not only upon evidence and information brought before them, but also on their own knowledge of the facts of the case. It is not necessary that they should be put in motion by others. If they know that a licensed house is badly conducted or that it is not required or that it is a nuisance, it is within their power to refuse a renewal of its license even if no one appears to oppose it. The licensing meeting may be adjourned in order that the licensee may be in attendance, when his application for a regrant of his license is considered; and the renewal may be refused.

Licensing justices do not sit as judges to determine matters of fact and law as between parties to an action. They sit as representatives of public order and well-being to determine how many and what persons and houses may be safely licensed. Persons who attend to make statements or give evidence merely do so to assist the justices and give them information. They are not necessary to the proceedings as parties to an action are.

The grounds of refusal need not necessarily be connected with the person or the house. The person's character may be good, his personal conduct in the house may have been unobjectionable, and the house, as such, may be commodious and convenient. But as those conditions are not sufficient to secure the granting of a license to an applicant for a new license, it is clear that there are other grounds of objection which may be final and complete. The number of houses already licensed, the character of the neighbourhood, and generally the requirements of public order, comfort, and well-being, are recognised and acted upon as ample reasons for refusing a new license. They are, therefore, ample and sufficient for refusing the renewal of an existing one.

As for Scotland there has never been any doubt as to the legal position there. Mr. S. C. Dickson, Solicitor-General for Scotland, in his evidence before the Commission (Questions 43,181–4), said that in his opinion there never was any doubt in Scotland as to the question raised in Sharp *v.* Wakefield, because the statutes provide that each certificate shall last for one year and no longer. In law he thought that when an old certificate is renewed it is practically a new certificate. He continued,

" I find, for example, in a case decided 20 or 30 years ago, the late Lord Justice Clerk " Inglis spoke of licenses in Scotland being distinctly for only one year. I do not know " how it stands with regard to English statutes, but the Scotch statutes provide that " it shall be only for one year and no longer." The case was MacIsaac *v.* Laing, reported in Scottish Jurist Reports, Vol. 37, page 92.

That all licenses are held subject to the possibility of non-renewal, should the licensing authority be of opinion that it is desirable in the public interest that they should not be renewed, is and long has been well known to those who are engaged in the liquor trade. The following extracts from a letter written to the "Morning Advertiser" (the trade organ), September 5th, 1883, by Mr. Thomas Nash (barrister-at-law), who was at that time counsel to the Licensed Victuallers' Association, show that very clearly. He was referring to the case of Reg. *v.* Key :—

> "A still more unfortunate result of the Darwen case was that it promulgated and divulged what had hitherto been, more or less, a professional secret, viz., that, subject to appeal, the licensing magistrates can refuse to renew the license of any and every holder of an on-license.
>
> "I am sorry to say, having looked into this question most exhaustively, and compared notes with many of my brethren well versed in these matters, that there cannot be the smallest doubt that in the strict sense no such thing as a vested interest exists, and that, subject to appeal, the magistrates can refuse to renew the license of the largest, most useful, and best-conducted hotel in England. I daresay that this will stagger many owners, but it is high time that the trade fully realised their position and did not remain an instant in a state of false security."

The legal position being perfectly clear, can a claim for compensation be justified on other grounds ?

The special value which a license gives to licensed property is due to the fact that licenses are difficult to obtain, and consequently when obtained they confer a privilege and a species of monopoly.

Could anyone who desired to have a license obtain one by applying for it the special value which now attaches to licensed premises would disappear immediately. Licensing magistrates are, however, under no obligation, legal or moral, to license holders not to grant as many additional licenses as applicants might desire to have. As the law now stands, magistrates might without any breach of it, if they were so disposed, grant as many additional licenses as would entirely destroy the special value of the existing ones, and no claim for compensation could be sustained. A license to sell drink would then carry no more monopoly and be of no more value than is a license to sell tea or tobacco.

The House of Commons Select Committee of 1853–4, over which Mr. Villiers presided, recommended that there should be one uniform license for the sale of drink, and that " it should be open to all persons of good character to obtain such license, " on compliance with certain conditions, and the payment of a certain annual sum." No compensation to then existing license-holders was suggested. On the contrary, the plea of the trade for it was definitely rejected.

Rather more than 30 years ago the licensing justices of Liverpool did grant licenses with a very free hand. They and others might do so again.

Obviously, the tenure of a license is, legally, a very limited and temporary one, and, actually, its value is precarious.

There is no property in a license. It cannot be bequeathed, sold, or given away. It is for a strictly limited term, and even during that term it is personal to the holder. When a license-holder dies, the license does not pass to his executors, as his property does. If he become a bankrupt the license does not pass to the trustees, but his property does. His executors cannot use the license until it has been transferred to them or to some one on their behalf, and the justices are perfectly at liberty to refuse the transfer, and may decide that the license shall not continue.

If compensation were given who could claim it? The owner? He holds no license. Nothing that is now given or granted to him would be withheld. The withdrawal of the license from his tenant would not make his house less valuable than other similar adjoining houses without licenses. It would simply cease to make it more valuable.

Is the tenant to be compensated ? He is the license-holder, and that only for one year subject to the risk of the renewal being refused, just as a yearly tenant in an ordinary house is subject to having his tenancy terminated any year, though it may have continued from year to year for a very long period. The tenant of a public-house now has no legal right to the benefit of the house beyond the term of his tenancy;

nor has he any claim to the license, even for the current year, apart from the house. When the tenant's tenancy terminates he gets no compensation either from the landlord or his successor for the loss of the license, which he practically leaves behind him to be transferred to the next tenant if the justices will sanction that arrangement. If it were his property, and he is the only person whose property it could be, he could sell it or use it elsewhere. As it is, he can do neither.

The union of owner and tenant in one person does not and cannot create a right which could not be sustained in either capacity.

Meldon's Act (40 & 41 Vict. c. 4.) established a rating qualification for beerhouses in Ireland which did not previously exist. Hundreds of beerhouses which had, prior to 1877, obtained their licenses as a matter of course and right were unable to comply with the rating qualification of that Act, and therefore lost their licenses. No compensation was provided for them.

The 45 & 46 Vict. c. 34. gave to licensing justices in England and Ireland power, which they did not previously possess, to refuse to grant or renew licenses for the sale of beer for consumption "off" the premises. The result was that immediately hundreds of men were refused the renewal of licenses which they had previously obtained as a matter of right. It is useful to remember that the passing of that Act was promoted by the publicans in their united capacity as a trade. Prior to that both "off" and "on" beerhouses, which were licensed before 1869, held a privileged position. This Act abolished the privilege in the case of the "off" licenses. No compensation was given or suggested. The present privileged 1869-beerhouses have no stronger or different claim.

In this connection it may be well to point out that the Act of 1869 did not, as is commonly supposed, confer any privilege on the then existing beerhouses. It really brought them under the control of the justices. It did retain those licenses in a special position, but it did not confer it. It took away a portion of their freedom from magisterial control, and allowed only a remnant to remain.

It conferred upon the licensing authority power to refuse renewal of those licenses on any one of four specified grounds. That the grounds on which the licenses were to be taken away were specified shows that Parliament knew and recognised that the grounds on which ordinary licenses could be refused were far wider, and the new beer licenses, after 1869, were left to be dealt with on the wider grounds. There was no limitation to the four grounds in their case.

During the last 20 years a large number of licenses have been refused renewal solely on the ground that they were not required. A great many more have been refused renewal on that ground amongst others.

That the holder of a license, when applying for its renewal, occupies a position of advantage as compared with an applicant for a license for premises which have not previously been licensed—because

He has not to give notice of his intention to apply for a renewal;

He is not obliged to apply in person unless he is notified by the justices that his presence is required;

If an objection is to be made he is entitled to notice;

If evidence be given in support of an objection to renewal it must be given on oath; and

He has the right of appeal to Quarter Sessions;

does not in the slightest degree invalidate the fact that the licensing justices, subject to appeal to Quarter Sessions, have absolute power to refuse the renewal of a license if in the exercise of their discretion they deem it advisable in the public interest so to do. These conditions really demonstrate and emphasize the existence of that power, because they set out the formalities to be observed in exercising it. The difference between an applicant for a renewal and an applicant for a new license is not unlike that between a yearly tenant of an ordinary house and a person desiring to be accepted as a tenant. The owner cannot get rid of an occupying tenant without giving him due notice. But that does not in any way invalidate the right and power of the owner to terminate the tenancy. Nor is it ever suggested that the owner has lost his power and that the tenant has acquired a right to remain because the owner has not exercised his right for a great many years; or because, compared with the total number of yearly tenancies, extremely few owners do remove their tenants so long as they pay their rent.

The legislature could not have made it clearer than it has done that licenses are for one year only, and that their renewal may be refused any year. Not only is it specifically stated in the statute that the license is for 12 months "and no longer," but

unless a new one in its place be applied for and obtained every year the license ceases automatically. When a man takes an ordinary house on a yearly tenancy he is liable to be turned out at the end of any 12 months on notice being given. But if notice be not given the tenancy runs on as a matter of course. He has not to apply each year for a renewal of it. But the license-holder has to apply every year for permission to renew his license, and is thus annually reminded, in the most formal and forcible manner, that his tenure of his license is a most precarious one, and may be terminated at the end of any licensing year.

When a new license is granted a valuable privilege is conferred, which not infrequently adds many thousands of pounds to the value of the house. At that stage it will be admitted that if anyone ought to be compensated it is those who did not get a license, and had no addition made to the value of their property. If money is to be paid by anyone to other members of the community, clearly it ought to be paid by the man who gets the privilege to those who do not. It is because they are deprived of what he gets that what he receives has a value. Is the position altered when he has enjoyed the privilege a long time? Surely the longer he has enjoyed the privilege, which has been valuable precisely in proportion as his neighbours have been excluded from it, the stronger is the ground for contending that those who have been prevented from doing what has been immensely profitable to him, are entitled to claim compensation from him, and the larger must the amount of that claim have become. To suggest that those who have not enjoyed the financial privilege should pay compensation to those who have enjoyed it, because it is not to continue longer, is indefensible.

That private individuals and others pay high prices for licensed property, because it is assumed that the license will continue, is nothing to the point. They pay the market value of the premises, and that value is undoubtedly materially affected by the fact that they have a license. But in arriving at the price buyers take into account the risk that the license may not be renewed. If that risk be lightly estimated, and a high price be consequently paid, that is a speculation on the part of the buyer which events may or may not justify. But it does not and cannot affect the legal and moral right of the representatives of the public to terminate the granting of the license if it be deemed desirable in the public interest so to do.

Some owners insure against the risk of non-renewal.* That people pay a premium to cover a risk, and that large companies do a considerable business in accepting and providing against that risk is a very clear proof that the risk is a definite, real, and well understood one.

Another fact of importance is that the rate of interest paid by borrowers on mortgages secured on licensed property is usually very much higher than is paid for similar loans on other property, where the margin between the amount of the loan and the market value of the premises is as large. It is recognised that there is a special risk, and it is accepted and paid for on special terms.

That municipal authorities pay the full value of licensed property when it is acquired for public purposes is no reason why compensation should be paid for the non-renewal of a license. Under the Lands Clauses Consolidation Act, if property be not taken, no claim for compensation for injury or loss can be sustained, unless such injury or loss is of a character which would have been actionable had it not been for the special Act under the authority of which the undertaking was carried out. When a municipal authority acquires licensed property by private arrangement it must pay the full price, and, consequently, when it acquires such property under compulsory powers it is always provided that it shall pay the market price. But the licensing authority has power to decline to renew licenses, and no claim for compensation for loss sustained by such refusal to renew could be sustained. The licensing authority acts under Parliamentary authority as the representative of the people. If Parliament itself decided that a number of licenses should not be renewed, or gave the power of decision direct to the people and they so decided, no claim for compensation could justly be sustained; because as the law now stands, no compensation can be recovered if renewal of a license be refused by the present authority, and no one disputes the legal and moral

* One Licenses Insurance Company, which in 1898 had a premium income of 60,000*l.* a year for such insurance, said in one of its leaflets, issued in March 1899:—"The total experience of the company which "now insures over 30,000,000*l.* of licensed property, protecting amongst others more than 600 brewers, is "as follows:—2,180 houses have been in trouble, of which 861, insured for 812,268*l.*, have been opposed, "164 insured for 128,594*l.* have been refused renewal, and 8 houses insured for 8,775*l.* forfeited on "conviction."

right of Parliament to alter and change the authority in whose hands the decision shall rest.

A condition of carrying on any business is that it shall not be a nuisance and an evil, and be inimical to the general well-being. That is especially so with the liquor trade, inasmuch as permission to continue it has to be re-obtained every year. The fact that permission has to be obtained implies that it may be refused.

If the community, in self-defence, steps in and puts an end to the carrying on of a trade because it is—by its very nature, character, and consequences, and not owing merely to special and exceptional circumstances—against the public interest, there can be no claim in equity to compensation. No man is entitled to be compensated for ceasing to be a nuisance and an evil—for ceasing to do that which is an injury and danger to others. There can be no moral right to a financial interest in a public evil, in mischief-causing.

The only ground for preventing the sale of liquor in a particular house or locality is and must always be that that sale would be a public inconvenience, nuisance, evil, and danger. Neither the public nor any constituted authority, to whom the power might be entrusted, would prevent the carrying on of the trade, either in a limited or an extensive area, unless they were of opinion that its continuance would be contrary to the public well-being and inimical to the general interest. It must, therefore, be assumed that whenever and wherever the sale of liquor is or would be prevented the deciding authorities are and would be convinced that that sale has been or would be a public evil.

No man has a right to injure his fellows, and consequently can have no claim for compensation for being compelled to cease doing what he has no right to do. His right to do anything—his right to remain in the community at all and share its advantages and protection—is subject to the condition that he must not inflict annoyance and injury on others. If he does inflict injury, inconvenience, and danger upon others he is an aggressor; he encroaches upon the public comfort and well-being.

Aggressors must be repelled and not be *paid* to cease to aggress.

To suggest that the community must not protect itself against an injury and an evil by preventing the carrying on of the trade which causes it, without being taxed in order to compensate those who are engaged in the trade for the profit they make out of it, that is, without being taxed in order to buy off those who are inflicting injury and evil on the community, is as monstrous as it is absurd.

In rejecting the claim made by a brewer against the State of Kansas for compensation because his brewery was closed by a prohibitory law, the Supreme Court of the United States, in the course of its judgment, on December 5th, 1887, said:—

> "The power which the States have of prohibiting such use by individuals of their property as will be prejudicial to the health, the morals, or the safety of the public is not—and consistently with the existence and safety of organised society, cannot be—burdened with the condition that the State must compensate such individual owners for pecuniary losses they may sustain by reason of their not being permitted, by a noxious use of their property, to inflict injury upon the community. The exercise of the police power by the destruction of property which is itself a public nuisance, or the prohibition of its use in a particular way, whereby its value becomes depreciated, is very different from taking property for public use, or from depriving a person of his property without due process of law. In the one case, a nuisance only is abated; in the other, unoffending property is taken away from an innocent owner."

That an evil has hitherto been permitted is no ground for compensation. Every evil and nuisance that is now forbidden was once permitted. That evils have not hitherto been stopped does not destroy the right to stop them when the necessity for so doing arises or is perceived.

Death Duties.—That the Inland Revenue authorities levy death duties on the value of licensed houses and licensed businesses, that value depending largely on the assumption that the licenses will continue to be renewed, is sometimes put forward as establishing an authoritative recognition of a right to renewal. Really the Inland Revenue authorities levy the death duties on everything that has a recognised or market value. But that does not at all mean that they guarantee that value, or in any way certify or even express the opinion that it is a reasonable or justifiable value. The public put a value upon licensed property, and the chance that the license will be renewed. The revenue authorities tax that value, just as they tax the average market

value of Stock Exchange securities, although they may ultimately turn out to be worthless. They do not specifically tax the license as such. They do not mention it. They tax the value of the premises and of the goodwill of the business. Obviously these would be materially affected if the licenses were to cease. The value taxed is the value that the public put upon the premises and the business with that risk attached to it. That the public do put a value upon the prospect of the continued renewal of the license, and the Government levy a tax on that value, cannot deprive the community of its legal and moral right to cease to grant the license.

Slavery.—The Slave *Trade* was abolished in 1807, and no compensation whatever was paid to any of the vast number of persons who were engaged and had large sums invested in it. When *Slavery* was abolished by the Act of 1833, the slaves were freed and some compensation was paid. The prohibition of the slave *trade* (not slave-*holding*) is the parallel to the vetoing of liquor-selling in a locality. If after that, the liquor itself, in the possession of private owners and persons who had been in the trade, were taken from them, that would be a parallel to the freeing of the slaves in 1833, and compensation for the value of the liquor taken away might, with some plausibility, be suggested. It is interesting, however, to note that even when the slaves—which up to that time had most distinctly been legal property—were taken away, full compensation was not given, and what was done took the form of a combination of a time and a money compensation. The original proposal of the Government was that the slaves should be freed 12 years after the passing of the Act, and that meanwhile the planters should have a loan of 15,000,000*l*. for 15 years without interest in consideration of the owners only being entitled to the labour of the slaves for three-fourths of the day or week. Ultimately the time of servitude was reduced to six and four years, according to the class of slaves, and the grant was increased to 20,000,000*l*. and made a gift. The basis of the arrangement was a time compensation and the money payment was an allowance for reducing the time by one half. All child slaves under six years of age were freed at once.

Extracts from the Dicta and Judgments of the Judges in leading Licensing Cases.—1870–1897.

1870.

In Reg. *v.* Justices of Lancashire [a case of a new "on" beer license], November 1870, Justices Lush and Hannen held that among the most important points to be considered by justices in granting or withholding a license under the Act of 1828 (9 Geo. IV., c. 61) are the requirements and condition of the neighbourhood and the interest of the public: and also—That the discretion of the justices is unlimited.

Law Reports, Q.B.D. Vol. 6, 1870-71, p. 97.

Mr. Justice Lush, in the course of his judgment, after quoting the words of the Act of 1828 (9th sect. of 9 Geo. IV., c. 61), said: "They authorise, and therefore by "implication require the justices to govern their discretion, in granting or withholding "the license, by reference not only to the qualification of the person applying, and to "the suitableness of the house, but to other considerations also. Those considerations "must include *the nature of the locality, the population, the number of houses already "licensed, and all other circumstances bearing on the question whether it is fit and proper, "in the interest of the public, for whose benefit these Acts are passed*, that an additional "licence should be granted."

* * * * * * *

"We cannot doubt, looking at the preamble and the provisions of 32 & 33 Vict., c. 27, that the object of legislature was to subject future beerhouses to the same regulation, and to put them on the same footing in this respect as houses licensed under 9 Geo. IV."

* * * * * * *

"*The discretion of the justices* in granting or withholding a certificate *is therefore as large and unfettered under the one Act as under the other, and is in both cases unlimited*, and should be governed by the same considerations."

1878.

In Smith *v.* Justices of Hereford [a case of renewing a publican's license], May 1878 Lord Chief Justice Cockburn and Mr. Justice Mellor held that under the Act of 1828 the justices have the same discretion to refuse a renewal of a publican's license (a full license) as they have to refuse a new license: and also that subsequent legislation had not curtailed that discretion.

"Law Times" Reports, N.S. Vol. 39, p. 604.

In the course of his judgment Lord Chief Justice Cockburn said: "It is clear from "the 42nd sect. of the Licensing Act, 1872, that *the justices have the same discretion to* "*refuse the renewal of a license* as they had before the Act." And also: "According "to the Act of 1828, *the justices had the same discretion to refuse a renewal as they had to* "*refuse the grant of a new license.*"

1882.

In Reg. *v.* Kay (the Over Darwen case) [a case of renewing an "off" beer license], November 1882, a license had been refused renewal "on the ground that, having "regard to the neighbourhood of the shop and its wants and requirements, it was not "expedient that the certificate should be granted." It was contended on appeal that the justices had, on these grounds, only power to refuse a license to premises not already licensed, and that they could not, on the ground that in their judgment the license was not required, refuse a license to premises which were already licensed.

During the argument Mr. Justice Field said: "*The legislature recognises no vested* "*right at all in any holder of a license.* It simply relieves him from giving certain "notices and complying with certain formalities when he applies annually for his "license after the first time. It says you need not publish certain notices in the "papers, and so on. It does not treat the interest as a vested one in any way."

Law Reports, Q.B.D., Vol. 10, 1882–3, p. 217.

In the course of the judgment Mr. Justice Field said: "As to the distinction "between new licenses and licenses granted by way of renewal, *every license is a new* "*license, although granted to a man who has had one before*, for it is only granted for one "year. If the legislature intended the enactment in question only to apply to a "certificate by way of renewal, why did they not say 'any license other than by way of "'renewal?' They have not done so. The generality of the language used points "clearly to the conclusion that the *legislature meant to vest the absolute discretion in the* "*justices.*"

Mr. Justice Stephen said: "I am of the same opinion. It seems to me clear that "this Act was intended to *give to licensing justices an absolute power*, and that *they can* "*either refuse or confirm these certificates on any ground they like, and whether the application* "*is for a new certificates or made for the twentieth time*, and whether the applicant is of "unblemished character, as in the present case, or of bad character."

Sharp *v.* Wakefield.—In September 1887 William Ridding applied to the licensing justices of the Kendal division for the renewal of the license of an inn at Kentmere. It was refused. Sharp, the owner, appealed to quarter sessions in October, on the ground that in the case of an application for the renewal of an existing license, the justices were not entitled to enquire into the character and wants of the neighbourhood, or to refuse the renewal on the ground that a licensed house was no longer required there. Quarter sessions confirmed the decision of the licensing justices on the ground of the remoteness of the premises from police supervision, and of the character and requirements of the locality in which the inn was situated.

1888.

A special case was stated for the Queen's Bench, and it was heard by Justices Field and Wills, April 1888. The refusal was confirmed.

Law Reports, Q.B.D., Vol. 21, 1888, p. 66.

In the course of the judgment Mr. Justice Field quoted with approval that portion of the judgment of Mr. Justice Lush in the case of Reg. *v.* Justices of Lancashire with reference to considering the requirements of the neighbourhood, which is extracted above. In concluding, he said:—

"*There is no statute or decision, old or recent, which raises any doubt as to the absolute discretion of the justices in granting a public-house license either for the first time or by way of renewal. They are perfectly unfettered in the exercise of their discretion as long as they exercise it judicially.*"

Sharp appealed to the Court of Appeal, and judgment was delivered by the Master of the Rolls and Lord Justices Fry and Lopes, December 15th, 1888, to the effect that the Licensing Act of 1828 gave the justices an absolute discretion in the matter of both granting new licenses and renewing existing ones, and that that absolute discretion had not been altered or limited in any way by the Licensing Acts of 1872 and 1874.

During the argument the following remarks were made:—

The Master of the Rolls: "Not renewing is not taking away; it is not giving."

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Mr. Candy: "He has expended his money on the strength of an unwritten contract "between himself and the State as represented by the local authority, that so long as "he conducts himself properly and commits no offence against the tenour of his "license so long will he be allowed to keep a licensed house."

The Master of the Rolls: "Where do you find that unwritten contract? You are "assuming the point that you have got to argue."

Lord Justice Fry: "If you have got a contract you can enforce it."

The Master of the Rolls: "It is a blank assumption in the way of argument of the "thing which you have got to prove. You say that there is an unwritten contract "that the magistrates will renew. That is the very thing you have got to prove."

Mr. Candy: "Perhaps I ought to omit the words 'Relying on an unwritten contract "'with the justices.'"

The Master of the Rolls: "He has nothing to rely on. He has got a license for "one year and nothing more."

Lord Justice Fry: "He cannot create an obligation on the justices from any expec-"tation of his own. He cannot deprive them of any discretion which is vested in "them because he chooses to expect something."

Mr. Candy: "Perhaps I ought not to have used such a pompous word as 'contract.' "I ought to have said 'bargain.'"

Lord Justice Lopes: "You cannot put it higher than expectation."

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Lord Esher, in the course of his judgment, referring to the Act of 1828, and to "new licenses and renewals," said: "I say by way of renewal, for although it may not "be correct in point of law to call it a renewal, as the license only lasts for a year and "then expires, it is a convenient form of expression. The word 'grant' is used as to "the obtaining licenses for both these classes of houses, and the same direction is "given to the justices in both cases; there is no distinction between them, and that "discretion is, in terms, unlimited. *In every case, therefore, of renewal under this "statute there is an unlimited judicial discretion as to the granting of the license.*" Proceeding to review subsequent statutes, he expressed the opinion that they did not limit the discretion of the justices. Law Reports, Q.B.D. Vol. 22, 1889, pp. 239–248.

Lord Justice Fry said: "Nothing to my mind is more plain than that *the exercise of the "discretion is one and the same with regard to the persons who are keeping and the persons "who are about to keep public-houses.* No distinction is drawn between two classes. "Their existence as separate classes, if you like so to say, is recognised. The juris-"diction and power of the magistrates are alike in both cases, and the discretion is "alike in both cases."

Lord Justice Lopes agreed.

On Appeal to the House of Lords, judgment was delivered on March 20th, 1891.

1891.

The Lord Chancellor (Lord Halsbury), said: "I do not think that at any period of "the argument any of your Lordships doubted but that this judgment must be "affirmed. By the express language of the statute which is still the governing "statute the grant of a license is expressly within the discretion of the magistrates. "For reasons to be stated presently, I am of opinion that no legislation has ever "altered that provision; but if one were to argue *à priori*, what possible reason could "there be for limiting the discretion of the justices to the first grant of the license? "It is not denied that for the purpose of the original grant it is within the power and "even the duty of the magistrates to consider the wants of the neighbourhood with "reference both to its population, means of inspection by the proper authorities, and "so forth. If this is the original jurisdiction, what sense or reason could there be in "making these topics irrelevant in any future grant?" Law Reports, Appeal Cases, House of Lords, 1891, pp. 173–189.

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"An extensive power is confided to the justices in their capacity as justices to be exercised judicially,* and discretion means, when it is said that something is to be

* As these words have frequently been quoted as showing that the licensing justices are to act as judges deciding only on the evidence before them, it will be useful to quote the following remarks made by Lord Halsbury when these words of his were quoted in the argument, in the case of "Boulter *v.* The Justices of Kent," when it was before the House of Lords:—

The Lord Chancellor: "Those words are a little fallacious, are not they? As to the granting or with-"holding of a license, I think some of us said in 'Sharp *v.* Wakefield' that the magistrates must proceed "judicially—in this sense, that they have no right to determine a particular case because they have an objection "to the law; they must have a judicial regard to any particular case, and must not lay down a rule for them-"selves beforehand, and say this shall or shall not be done. In that sense it is judicial, no doubt, but I think "there is a little fallacy in using the word judicial, as if it imparted all the ordinary procedure of forensic "proceeding."

Mr. L. Walton: "I would not say all, but its essential features must be observed. There is no doubt the "laxity which your lordship has indicated which is incident to the tribunal, and no doubt considerable laxity, "but in its essential features the discretion, as I think your Lordship pointed out in 'Sharp *v.* Wakefield,' "must be judicially exercised."

The Lord Chancellor: "All I meant was the word judicial there is opposed to capricious."

done within the discretion of the authorities, that that something is to be done according to the rules of reason and justice, not to private opinion; according to law and not humour. It is to be not arbitrary, vague, and fanciful, but legal and regular, and it must be exercised within the limit to which an honest man competent to the discharge of his office ought to confine himself."

* * * * * *

"The legislature has given credit to the magistrates for exercising a judicial discretion they will fairly decide the questions submitted to them, and not by evasion attempt to repeal the law which permits public-houses to exist, or evade it by avoiding a plain exposition of the persons on which they act. I am very far indeed from saying that, assuming the complete discretion that I have indicated to exist, it would be likely that the persons exercising it would consider an original application in the same way as one which was applied for by the person who has already been licensed for one year. Of course, the justices would remember that a year before a license had been granted, and presumably, unless some change during the year was proved, they start with the fact that the topics to which I have referred have already been considered, and one would not expect that those topics would be likely to be reopened unless, as I say, some change has been proved. This would be likely to limit the inquiry to the conduct of the house and the character of the licensee, and perhaps the condition of the house, *but as a matter of fact, and not as matter of law* at all. *As to the question of law* arising upon the language of all the statutes, *it may, in my judgment, be very shortly disposed of.* The first statute to which one need go back, it is admitted, gives discretion. Does any Act passed since purport to withdraw it? Certainly not. On the contrary, the Acts referred to expressly retain it, subject to certain provisions which it cannot be pretended affect to exclude the topics, which it is argued are topics irrelevant to a renewal. Now I do not mean to say that a repeal or qualification may not sometimes be implied by subsequent statutes enacting something inconsistent with a previous Act, but in a matter so constantly before the Legislature as the licensing laws I cannot but think that if it was intended to alter the law in this respect it would have been done in plain and unambiguous language. Now the Acts of 1872 and 1874, which are the Acts upon which reliance is placed, do not profess to limit the discretion, but enact certain new procedure, all of which procedure is perfectly consistent with the preservation intact of the discretion given to the magistrates. I do not think that it is necessary to go into details as to the alteration of procedure—it is merely procedure. It leaves the earlier Act absolutely untouched upon the subject now in debate, and I entirely approve of and adopt the decision of Chief Justice Cockburn and Mr. Justice Mellor, arrived at 13 years ago."

Lord Bramwell said: "If an application is made for a license to sell drink on pre-
" mises not before licensed, it is certain that the magistrates may refuse it, and may
" refuse for the reason and no other than that they think the neighbourhood does not need
" it; that none is needed, or none in addition to the houses already licensed. But it is
" said that this power or right in the magistrates does not exist where a license has
" been granted, and the question is whether it should be renewed. I am not sure that
" this contention might not be met by this: The magistrates have a discretion to
" refuse, they are not bound to state their reason, and therefore their decision cannot
" be questioned. But I think it better to state that, in my judgment, if they had to
" state their reason, it would be a good one in point of law that they refused to renew
" on the ground of 'the remoteness from police supervision and the character and
" 'necessities of the locality and neighbourhood in which the inn is situate.'"

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"The license is a renewal. That word has been criticised. It may be misleading, but is, I think, correct. It is a 'renewal'—*i.e.*, a new license, as we talk of a new lease being a renewal, though parties and terms may be wholly different. And one cannot help seeing this, that if the discretion was to be limited, as contended, in the case of a renewal, the legislature might have said so in terms, and has not. Whenever that is the case it seems to me that courts ought not to put a limit on general words without almost a necessity for doing so."

Lord Herschell said: "Giving to the language used its natural interpretation, *I think*
" *it impossible to do otherwise than hold that the discretion of the justices is not in any way*
" *fettered.* When once this conclusion is arrived at, it seems to me to follow that the
" justices had under the statute of George IV. the same discretion when the holder of
" a license applied for another license for the ensuing year. It is by virtue of the

" very same enactment that the justices are empowered to grant such a license. *The* " *statute makes no distinction between this case and the original application. The word* " *'renewal' is never mentioned, and it is expressly provided that every license granted under* " *the authority of the Act shall last for one year 'and no longer.'*"

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"There is one observation made by my noble and learned friend the Lord Chancellor to which I am not prepared to give my assent without qualification. *I do not think that the fact that a license has been granted for the previous year would be sufficient ground for the justices presuming that the licensed house was then needed, and considering only whether the circumstances had changed in the interval.* It might well be that the attention of the licensing justices had not on a former occasion been called to the condition and wants of the neighbourhood."

Lord Macnaghten: " I also am of opinion that it is clear beyond the possibility of " doubt or question, that *the Act of* 1828 *conferred upon the licensing justices the same* " *discretion in the case of an application for what is now termed a renewal as in the case of* " *a person applying for a license for the first time*, and that, although there has been an " alteration in the procedure in favour of applicants for renewed licenses, *there is* " *nothing in the subsequent legislation to do away with or impair or fetter that discretion*"

Lord Hannen: " It was long ago decided, I think rightly decided, that *the justices* " *were under that Act entitled and bound to consider the needs of the neighbourhood on an* " *application for a license to a person seeking to keep a house for the sale of excisable* " *liquors, and that their discretion is equally wide in the case of a person already keeping* " *such a house as in one where the application is by a person not before licensed.*"

The case of Boulter *v.* The Justices of Kent (known as the Dover Case) on which judgment was given in the House of Lords, in July 1897, raised the issue as to whether justices sitting as a licensing meeting are a court of summary jurisdiction, and, incidentally, whether their proceedings as licensing justices are subject to the rules which govern a court as to hearing and acting solely upon sworn evidence and the like. The Lords who heard the case were the Lord Chancellor (Lord Halsbury), Lord Herschell, Lord Watson, Lord Davey, and Lord Shand; and the judgment was unanimous. 1897.

During the argument the following remarks were made:—

Lord Herschell: " When a man applies for a license, and the Court has an absolute " discretion, it is for them to determine if nobody appears and opposes."

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Lord Watson: " *The justice is exercising a discretionary power in the interests of the* " *public, and he is not only entitled, but according to my impression and opinion he is bound* " *to exercise his discretion according to the state of his mind and according to what he* " *believes to be the truth, whether it has been communicated to him by the objector or no.*"

Mr. Asquith: " That has always been the view that has been taken of the duties of " justices in this matter."

Lord Watson: " He is under equal obligation to refuse to give effect to the " application under circumstances which might not have been brought before him."

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Lord Herschell: " *The decision in* 'Sharp *v.* Wakefield'. *was this only, that the* " *magistrates had as much unfettered discretion to determine whether they would grant a* " *license to a man who had held one before as they had to determine whether they would* " *grant a new license.*"

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The Lord Chancellor to Mr. Walton: " You draw a distinction between the original " granting of the license and the renewal of the license. One must clear one's mind " and see what it is. It is a new license for the new year. It is important to observe " the accuracy of language. It is not a renewal of the license, it is another license " for another year."

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Lord Herschell to Mr. Walton: " If the magistrates have an absolute discretion " whether to grant a license or not when a renewal is asked for (and that is what this " House has decided) you are seeking to limit that. You say they can only decide " upon the objection judicially. Then you destroy what this House has said is an " absolute discretion. *If they have an unfettered discretion it follows that they need not* " *decide the case only upon evidence.*"

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From shorthand notes of Messrs. Cherer, Bennett and Davis, 8, New Court, Carey Street, W.C.

Lord Herschell: "I do not say that in every case in which an oath is required it is "necessarily a court, but is their any case in which justices adjudicating as a court "can take evidence otherwise than on oath."

Mr. L. Walton: "I cannot refer your Lordship to a case."

Lord Herschell: "Is not that rather conclusive against their being a court."

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Lord Watson: "Sitting as a court, they must decide according to the weight of "evidence; sitting as a licensing body, they may decide against it."

The Lord Chancellor: "Yet another test occurs to me—may they not act on their "own knowledge?"

Lord Watson: "Yes."

The Lord Chancellor: "No court can; a juror, if he happens to know anything "about the matter, must be sworn and examined in the regular course."

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Lord Watson: "*They may, without assigning any reason for it, at their own discretion "refuse a license; a justice is quite entitled to act as he does, in nine cases out of ten to a "very great extent, upon his own private belief and information.*"

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Lord Watson: "*A justice of the peace, sitting at the Special Licensing Sessions, may "have walked down the street and found* 30 *public-houses in it. I do not see why he should "not come to the conviction, and act on the conviction, that* 20 *public-houses were enough, and "that* 30 *were too many.*"

In the course of the judgment, the Lord Chancellor said: "I believe this case may be "compendiously stated as raising the question whether justices at a licensing meeting "are a court of summary jurisdiction, and I am of opinion they are not. *I do not "think they are a court at all.* The whole licensing system has been conducted under "a code of its own, and the Act of 1828 has provided a variety of provisions, and has "constituted a form of procedure which does not appear to me primarily to come "under the description of a court. It is true that justices are selected as the persons "who are to exercise the jurisdiction, whatever that jurisdiction is; and, indeed, the "Act of 1828 appears to have been thought by its authors to require an interpretation "clause of its own, and, as it says, 'to remove doubts as to the meaning of certain "'words in the Act,' among other things to define that the word 'justice' should be "deemed to mean a justice of the peace. I think in the whole course of legislation, "the distinction between a court and something which is not a court has been "preserved. In the fourth section of that Act the words used are 'licensing meeting.'"

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"The difference between the procedure of a court and of the licensing meeting is not only one of nomenclature. Where justices are acting as a court of any sort they must proceed according to the regular rules which are applicable to all courts of justice; but in respect of an application for a license or its refusal, they may, and constantly do, receive representations not on oath."

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"If I am right in the distinction I have drawn between a magistrates' meeting for licensing purposes and courts, although consisting of the same persons, it would be the height of absurdity to suppose that the legislature intended to include in the definition, and to make applicable to that definition, persons who were in fact justices of the peace, but *who, in the particular matter here referred to, namely, 'Licensing,' were not occupying the position of judges at all, but were exercising the discretionary jurisdiction as to how many public-houses they would permit in a district, or what persons should carry them on.*"

Lord Herschell said: "Persons objecting to the grant of a license are not, I think, "parties to the proceedings on the application in any proper sense of the term. The "question is not one *inter partes* at all. The justices have an absolute discretion to "determine in the interest of the public whether a license ought to be granted, and "every member of the public may object to the grant on public grounds, apart from "any individual right or interest of his own. The applicant seeks a privilege. A "member of the public who objects merely informs the mind of the Court to enable "it rightly to exercise its discretion whether to grant that privilege or not. A decision "that a license should not be granted is a decision that it would not be for the public "benefit to grant it. It is not a decision that the objector has a right to have it

" refused. It is not, properly speaking, a determination in his favour. It is, I think, " a fallacy to treat the refusal as necessarily induced by a particular objector. Every " member of the local community might object. Would they all, then, become 'the " other party'? There is, in truth, no *lis*, no controversy *inter partes*, and no decision " in favour of one of them and against the other, unless, indeed, the entire public are " regarded 'as the other party,' for if a license be refused on the ground that it was not " needed to supply the legitimate wants of the neighbourhood, the decision is really " in favour of the public at large."

The number and standing of the judges quoted above is remarkable. They are, in order of date of the judgment:—

Mr. Justice Lush (afterwards Lord Justice).
Lord Chief Justice Cockburn.
Mr. Justice Mellor.
Mr. Justice Field (afterwards Lord Field).
Mr. Justice Stephen.
Mr. Justice Wills.
Lord Esher.
Lord Justice Fry.
Lord Justice Lopes.
Lord Halsbury (Lord Chancellor).
Lord Bramwell.
Lord Herschell (ex-Lord Chancellor).
Lord Macnaghten.
Lord Hannen.
Lord Watson.
Lord Shand.
Lord Davey.

They practically all dealt with the question of the discretion of licensing justices to refuse to renew existing licenses, and there was not amongst them a dissentient from the opinion that under the Acts of 1828 and 1872 and 1874 that discretion was unfettered. No point in licensing law has been decided more definitely and decisively, and no decision has a greater weight of legal authority behind it.

DRAFT OF PROPOSAL FOR REDUCTION OF LIQUOR LICENSES AND INTRODUCTION OF POPULAR CONTROL.

Though no claim by license-holders for compensation at the expense of the public can, for one moment, be admitted, on either legal or moral grounds, it might be expedient to take advantage of the time that would be required to bring about the change which is suggested below, and of the inequality that would be created amongst existing license-holders when the licenses of some of them were allowed to continue while those of others were not renewed, to arrange a special notice, or term of grace, and provide that during the currency of that notice or term of grace the survivors of the reduction process should make an equalising payment to the holders of licenses which were extinguished by that special process.* That would be equitable because those whose licenses were not continued would lose a portion of the term of grace, and those whose licenses survived would have the number of their business competitors diminished.

The conditions which are essential in connection with any "time notice" or "time compensation" or 'term of grace" arrangement are:—

1. That a large reduction in the number of licenses should be made at once.
2. That it should be distinctly understood that the concession of a time notice would be an act of grace.
3. That the process of reducing the number of licenses by a special method, supplementary to that which results from the ordinary action of the licensing authority at the present time, should not in any way curtail or restrict the powers and discretion of that authority.

* It will, of course, be recognized, that every year that passes cuts away the ground for the suggestion that a time notice or time compensation might be considered even as a matter of grace and expediency. The law has *always* been perfectly clear that licenses are liable to termination at the discretion of the justices at the end of any year. The wording of the statute is most definite and precise. The decisions of the High Courts, long before "Sharp *v.* Wakefield," did not admit a doubt on the point. Mr. Bruce's Bill of more than a quarter of a century ago was a distinct warning, and it is now 12 years since the "Sharp *v.* Wakefield" case arose, and 8 years since the decision of the House of Lords declared the precarious nature of the tenure of a license, as it were, from the house-top. For centuries the law has been clear, and for a quarter of a century warnings that the power which it gave was likely to be more widely and freely used have been numerous, ample, and unmistakable.

4. That the term of grace should not exceed five or seven years as a maximum.
5. That at the end of that term the way should admittedly be absolutely clear for dealing with all classes of licenses in any way that may be desired.
6. That the only monetary compensation recognised and provided for should be a payment made—out of funds raised by special levies on the liquor traffic—to those whose licenses ceased during the term of grace, not by the action of the ordinary discretion of the licensing authority, but under the operation of the special reduction arrangement.

As a contribution towards such a solution of the problem the following scheme has been drafted:—

Broad Outline.

1. Consolidate and reduce the number of classes of retail licenses.
2. Reduce the number of licenses and abolish beerhouse and grocers' licenses.
3. Allow a term of grace before bringing ultimate provisions into operation. During that time carry out the reduction in the number of licenses and arrange compensation to be paid by those who remain to those who drop out.
4. Ultimate provisions, to come into force at the end of the years of grace:—
   1. Much higher license fees.
   2. Power to further reduce the number of licenses, close on Sundays, and close altogether, by direct popular vote; or
   3. Adopt management by the local authority.
   4. Provide substitutes for and counter attractions to the public-house.

General Details.

I.—*Consolidate Retail Licenses to Five in Number.*

1. Full "on" publican's license, as at present.
2. Full "off" license.
3. Hotel license.
4. Restaurant wine and beer license.
5. Special limited license for railway station, theatre, music hall, or steamboat.

II.—*Reduce the Number of Licenses.*

1. *Reduce* all *ordinary* "*on*" *licenses*, public-house and beerhouse, to *one per thousand* of the population and make them all full licenses. That would abolish beerhouses.
2. At the discretion of the licensing authority grant *hotel licenses*, full licenses for the supply *only* of persons staying, or *bonâ fide* taking meals, in the house; and *restaurant or refreshment house licenses* for the sale of wine and beer to persons *bonâ fide* taking meals. These to be in addition to the 1 per 1,000.
3. *Reduce* all *retail* "*off*" *licenses* to 1 per 2,000 of the population, and make them all full "off" licenses for sale in sealed vessels only. No other trade, except possibly the sale of mineral waters and tobacco, to be carried on on the premises. That would abolish the grocer's license.
4. At the discretion of the licensing authority grant special licenses for *railway stations, theatres, music halls, and steamboats.*

Note.—Where the population of a village or township is less than 1,000 the licensing authority to have discretion to grant not more than one publican's or one "off" license.

III.—*Years of Grace and Method of Reduction and Compensation.*

1. *Years of Grace.*

Give 1 year's grace to all existing holders to arrange buying up and closing amongst themselves.
„ 3 „ „ for reduction to maximum number. Those whose licenses cease during that period to be compensated by those who remain.
„ 3 „ „ to those who remain, at present licensing fees.

Total 7 years' grace.

2. Holders of full licenses who accept in lieu thereof a new hotel license or a restaurant license at the end of the first complete licensing year after the passing of the Act to be free from contribution to compensation fund, and to be exempt from the special reduction arrangement described below. Probably 10 per cent. of the present fully licensed houses would do this.
3. Holders of full licenses who, at the end of the first licensing year after the passing of the Act, surrender—
   (*a.*) As many full licenses as the excess over 1 per 1,000 gives as the proportion of the excess to each house that is to remain; and
   (*b.*) As many other "on" licenses as the number to be extinguished gives as the proportion to each house that is to remain; or
   (*c.*) Such a combination of these or of these and other licenses, as shall be deemed a full equivalent for their proportion,

   to be exempt from the special reduction arrangement described below and be free from contribution to compensation fund.

   Note.—The details of (*c.*) to be arranged by the licensing authority. Possibly two beerhouses might be considered as equivalent to one full license, and two "off" licenses as equivalent to one beer "on."

   In all probability, in the majority of places, the existing license-holders would, amongst themselves, under these provisions, reduce the number of licenses to the required maximum.
4. Where the number of licenses is not reduced, in the first year, to the required number by the operation of the preceding provisions, reduce the remaining fully-licensed houses and "on" beerhouses to the maximum of 1 per 1,000 by—

   Requiring the license-holders to tender the amount—in addition to the ordinary license-fees—which they are prepared to pay annually for four years for the privilege of being one of those selected to continue. Then select the required number of houses to have their licenses abolished. Those not selected, and in excess of the required number, to lose their licenses in four years—one-fourth of them each year—and to have distributed amongst them, in proportion to the amounts tendered by them, the tendered sums paid during that year by those whose licenses are to continue. The sum paid to a retiring license-holder to be in no case more than the amount of his tender multiplied by the number of years out of the six which are then unexpired.

   Reduce the "off" licenses by the same method.
5. At the end of the four full years after the passing of the Act the number of licenses will have been reduced to the proportions fixed.

   The licenses of all those then remaining should then run—for a further period of three years, on the ordinary conditions.

IV.—*Higher License Fees and Popular Control.*

Seven years after the passing of the Act the following conditions to come into operation:—

1. Much higher license fees.
2. Power to further reduce the number of full "on" and "off" licenses by direct popular vote.
3. Power to close on Sundays by direct popular vote—if general Sunday closing be not enacted.
4. Power by direct popular vote to prevent the issue of licenses.
5. Power to adopt management by local authority.

Direct popular votes to be taken only at intervals of not less than three years, and to be not less than six months prior to the expiration of the current license term.

A vote in favour of reduction in the number of licenses to mean a reduction of one-fourth in the then existing number of full "on" and "off" licenses.

The vote for reduction or Sunday closing to be carried by a majority of those voting.

A vote to prevent the issue of licenses to require a majority of two-thirds of those voting, or not less than half the voters living in the area, to render it operative.

A vote carried to prevent the issue of licenses to mean, when *first* carried, that no ordinary full "on" publican's licenses should be issued in that area.

That would close the public bar, the dram shop, and the gin palace, but would leave "off" licenses and hotel and refreshment house licenses existing as before.

Not less than three years after the carrying of such a vote, a further vote might be taken on the proposal that no retail license of any kind should be issued within the area. If that were carried the retail sale of intoxicating liquor there would be rendered illegal.

Thus it would not be possible to forbid the retail sale of intoxicating liquor in any locality until the people there had had experience for at least three years of the traffic with a very limited number of ordinary licenses, and a further period of at least another three years without public bars, dram shops, and gin palaces. If, having tried the trade under these limitations and restrictions the voters were, by a substantial majority in favour of preventing the retail sale entirely in their area, they would have power to do so.

A vote against the issue of licenses to be reversible at any subsequent triennial period by a majority vote of those entitled to vote. Such a reversing vote to mean reverting to the position which existed immediately prior to the passing of the restraining vote. If two votes preventing the issue of licenses had been carried, and no licenses were in existence in the area, a reversing vote would then mean that the condition to be reverted to would be that which prevailed before the last preventing vote was carried, that is to say, it would revive the issue of "off" licenses and licenses to hotels and refreshment houses. A further reversing vote, not less than three years later, would be required to revive the issue of ordinary "on" publican's licenses.

Miscellaneous.

The process of reducing the number of licenses during the first four years after the passing of the Act, would automatically settle the localities in which the surviving licenses would be. After that the voting for further reducing the number of licenses or preventing their issue at all, would be in wards or townships, and would apply in those areas. Provided that after at least half the wards in a city or borough had carried reduction or abolition of licenses, a vote as to reduction or abolition throughout the whole town might be taken.

No new ordinary "on" publican's licenses to be issued by the licensing authority during the three years following any vote by which reduction had been carried.

No new licenses granted after the passing of the Act, to be eligible for compensation if at any time not renewed.

When a further reduction in the number of licenses in an area was carried (unless the license holders could previously arrange amongst themselves to make the required reduction in their number), tenders to be invited from the existing holders of licenses stating how much they are prepared to pay annually for the privilege of being included amongst those who should remain. Selection of the required number to be then made by the licensing authorities, and the tendered amount to be levied annually in addition to the then usual license fee.

Management of Trade by Local Authority.

If the adoption of a system of management and control by the local authority (the municipal, district, or parish council) be desired, the initiative to be taken by the local authority. The decision of the local authority to take over the working of the trade to be subject to being challenged and voted upon by the local government voters.

Notice of the intention of the local authority to take over and carry on the trade, to be given 14 months before the time at which the then current licenses would expire, and the vote, if any were taken, to be taken a clear 12 months before the expiration of those licenses.

Fixtures, stock, and utensils, of holders of transferred licenses to be taken over by the local authority at a valuation.

All licenses in the locality to be issued to and be held by the local authority. That authority might reduce, but not increase the number of licensed premises.

It would be *an absolutely essential condition* that no profit whatever should accrue directly to the locality from carrying on the trade. The capital borrowed to commence the undertaking to be repaid out of the profits as speedily as possible, and then all profit to go to the National Exchequer.

License Fees and Profits.

It is *absolutely essential*, if popular local control of the liquor trade is to be effective and successful, that neither any local authority nor any local undertakings or institutions should have their revenue directly affected by a reduction in the number of licenses, or in the consumption of drink in that particular locality. Consequently some other revenue should be allotted to local taxation in exchange for the liquor licenses fees which are now transferred to that account, or the amount paid to each local account should be in proportion to the population of the locality and altogether irrespective of the amount of the fees levied in it.

It would be well if the present total amount of the liquor license fees, allocated in aid of local taxation, were fixed as the maximum sum to be so distributed, and any excess of that amount arising from higher license fees and profits from local management, were used to provide a special national fund, which should be devoted to enabling localities to build or purchase and furnish places of popular indoor resort, of the nature of free clubs and places of recreation where no intoxicants would be allowed. The distribution of this special fund should not at all depend on the amount contributed to it by any locality, and should be devoted to providing and fitting up the premises for the counter attractions, the annual maintenance of them to fall upon the local rates.

Estimate of the Effect of the Proposal for Statutory Reduction.

Roughly there were in 1896 in England and Wales about—

67,000 full licensed houses.
35,100 beerhouses, and "beer and wine" licenses.
1,100 other "on" licenses, including steamboat licenses.
28,250 "off" licenses.

131,450 retail licensed premises.

The foregoing scheme of reduction would probably have then given for an estimated population of 31,000,000—

35,000 full publicans' licenses.
10,000 hotel and refreshment houses.
16,000 "off" licenses.
1,000 station, theatre, steamboat, &c. licenses.

62,000 retail licensed premises.

The number of licensed premises where a person could turn in off the street and buy a glass of liquor would, roughly, be reduced from 103,000 to 35,000, altogether apart from the further reduction that might be brought about in localities by popular votes.

That portion of these suggestions which provides for a reduction of the number of licensed premises within seven years and finally disposes of the claim for compensation, is, obviously, only one of various alternative methods which might be adopted for obtaining the same result. Another mode of dealing with that part of the problem would be:—

(1.) To fix the basis on which compensation should be paid to those who lost their licenses under the special reduction arrangement; and then

(2.) give to every existing license holder the option of accepting that compensation and going out of the trade at once, or of remaining in it and taking his chance of whatever it might be decided to do at the end of say five or seven years, the clear understanding being that the option of taking compensation having once been given and not taken advantage of, no suggestion of claim could at any future time be listened to.

The essential conditions are:—

(1.) That at the end of a given term—and that a short one—there must be absolute freedom to abolish licenses entirely or deal with them in any way

that may be deemed desirable, without any suggestion of compensation being made; and,

(2.) That the funds required to pay the compensation must be raised from the trade during the given term.

Notes on the Suggested Scheme.

The advantages claimed for the foregoing method of giving effect to the policy already expounded are :—

1. That it meets the compensation claim liberally and in a practical and workable way.
2. It reduces the number of licensed premises gradually, and by that means, and also by providing inducements to license holders to arrange the reduction amongst themselves, it minimises the difficulty and friction.
3. It reduces the number of dram shops, drinking bars and tippling houses to a fixed proportion to population, but does not necessarily interfere with hotels and restaurants carrying on legitimate business only as such. Local licensing authorities would thus be able to make provision for meeting the genuine refreshment requirements—as distinguished from mere tippling—of exceptional places, such as the City of London, where the day population is large, and pleasure resorts, where a large amount of hotel accommodation is required.
4. It gets rid of beer-houses and grocers' licenses, and provides for the "off" sale to be carried on distinct from any other trade.
5. The process of reduction in the number of houses would commence at once on the passing of the law and would be continued annually until the statutory limit was reached.
6. At the end of the seven years' grace, if a locality took no action whatever, the position would be :—

   As many hotel, restaurant, and special licenses as the licensing authority thought desirable would be granted.

   The publicans' licenses, which would practically represent the only places where drink only could be purchased for consumption on the premises, would be reduced to 1 per 1,000 of the population.

   The "off" licenses would be reduced to half that number.
7. Where the people of the locality desired so to do they could reduce the number of publicans' licenses still further, or abolish them altogether. That would still leave the hotels and restaurants where intoxicants could be obtained with meals and the "off" licenses where people could obtain supplies for house use.
8. Those localities which after trying the effect of the maximum number fixed by the Act, and after that of the absence of publicans' licenses, could if they desired, by a substantial majority vote, entirely prevent the retail sale of intoxicants in the locality.
9. If the locality deemed it advisable so to do it could take the management of the trade into the hands of its local Council.

Popular Control.

Within what are conceived to be reasonable and practicable limits the suggested scheme embodies and would give effect to the policy of wide and direct local control and choice, which was advocated by the committee of the Convocation of Canterbury in 1869, by Mr. Chamberlain in 1876, and by Mr. Bruce (afterwards Lord Aberdare) in 1871 and 1879.

Repetition of the following extracts from the quotations already given from those sources will be forgiven :—

The Committee of the Convocation of Canterbury in their report on Intemperance, in 1869, said :—

> "A legal power of restraining the issue or renewal of licenses should be placed in the hands of the persons most deeply interested and affected, namely, the inhabitants themselves, who are entitled to protection from the injurious consequences of the present system."

Mr. Chamberlain, in June 1876, said :—

"The attempt to deal with this subject for the people, and without the people, has been a conspicuous failure.

* * * * * * *

"But where statesmen have only made the matter worse, where Parliament has legislated to no purpose, I am still sanguine that the people themselves, if wholly trusted, would do something to mitigate the plague and stay its ravages."

Mr. Bruce, in April 1871, said :—

"He was satisfied that if they were to create a wholesome and vigorous public opinion on that subject, they must give the ratepayers of the country some direct interest in it, and that the wider spread that interest was the greater would be the social advantage."

Again, in 1879, he said :—

"He thought they ought to arm the communities with the means of making all sorts of useful experiments, and in the end one might be found to answer which would not be contrary to the national characteristics of our people."

Time Notice and Compensation.

In connection with the proposed method of dealing with the compensation question it may be pointed out that in an article in the "Fortnightly Review" for May 1876 (p. 650), Mr. Chamberlain suggested *five years'* purchase of the average annual profits as a fair basis of compensation.

The Bishop of Chester's Authorised Companies' Bill (1893) provided that the existing license-holders should have *five years'* notice that their licenses would cease. During those five years the company could compulsorily purchase any license, or any license-holder could compel the company to purchase. The basis of the purchase was to be the difference in the value of the house without a license and its value with one, *after the passing of the Act.* As, after the passing of the Act, the license would be terminated on five years' notice being given, and as the purchase would only take place after such notice had been given, the price to be paid would be the difference between the value of the house without a license and its value with a license which had five years or less (according to the time of the purchase) to run. That was practically giving a license-holder a five years' interest in his license as compensation.

The interesting point in connection with that proposal is that when the Bill was before the House of Lords in 1893, Lord Salisbury, speaking on it on June 6th, said :—

"*It is a very liberal Bill in the matter of Compensation,* and it therefore avoids the great rock on which most of these Bills split."

An Analogy and Precedent in Church Leases.

The position occupied by church leases up to the middle of this century, and the mode in which those leases have been dealt with during the last 40 years, afford an interesting analogy and precedent bearing on the question of the compensation of publicans for non-renewal of licenses.

Though prohibited by law from contracting for the renewal of long church leases, ecclesiastical corporations did for 200 years or more sell what was regarded and treated as a right to renewal. And that right or expectation was regularly bought, sold, and bequeathed. Death duties were levied upon it, and in every way it was treated as a property. If an executor valued a church lease in possession without allowing anything for the value of the expectation of renewal on advantageous terms the Inland Revenue authorities declined to accept the valuation and had the expectation of renewal valued by their own surveyor. The Court of Chancery in settling marriage settlements made these leases (because of the certainty of their renewal) the subject of settlement and devise with limitation extending to grandchildren and great-grandchildren. So firmly established was this customary right of renewal that valuable property was built on this short leasehold land, and in the law courts, when called upon to fix the value of the respective interests of the lessors and lessees, the interest of the tenants was treated as two-thirds of the value of the fee, and the reversion of the Church was treated as being worth only one-third the fee.

When this right or expectation of renewal was finally put an end to, only a brief extension of the terms of the shorter leases was made. In 1860 an Act was passed which provided that the leases which ran out before 1884 should be extended to that year. The leases which expired after 1884 were not extended at all.

The leases were for 21 years, or for three lives, or for 40 years for building or mining. The 21 year's leases had been continually renewed every seven years, so as to always leave at least 14 years in hand. The leases for lives had been continually renewed when a life fell in, so as to always leave at least two lives in hand. The 40 years' leases were renewed every 14 years, so as to always leave not less than 26 years in hand.

Consequently in 1860 the leases which were nearest running out had 14 years to run, while the others would have unexpired terms ranging from 14 years to terms going considerably beyond 1884. Those which went beyond 1884 got no extension of time, and the average extension given to those which ran out before 1884, but were extended to it, would be about five years.

If an average extension of five years was deemed sufficient compensation, as a matter of grace or equitable consideration, for the termination of an expectation of the renewal of leases, the shortest of which was for a 21 years' term, it would be a vastly more liberal consideration for the termination of the renewal of a license which is only an annual one.

The precise position of these Church Leases and the arrangement made for their termination are more fully stated in the Appendix V.

General.

As regards the combined reduction and compensation suggestions, the following statement by one of the highest authorities in the liquor trade is important:—

Mr. Cosmo Bonsor, M.P., in an interview which appeared in a "Pall Mall Gazette Extra" published in March 1893 is reported to have advocated—

> "Reducing the licensed houses to the smallest number commensurate with the convenience of the consuming public; the better adaptation of the present houses to public wants; the classification of licenses into hotels, refreshment houses, proprietary clubs and places for the supply of liquor off the premises, with improvements in detail as to the hours they should be open and their control."

He expressed the opinion that a reduction in the number of licensed premises might be brought about without any charge upon public funds:—

> "The dispossessed holder would be compensated, but no public money would be required. The trade would pay a considerable sum on condition that it should then be let alone, and that a house properly conducted should not be deprived of its license."

(This is a distinct admission that owners of licensed property have bought, and do hold such property with the full knowledge that the license may be taken away even if the house has been well-conducted. They are willing *to pay* to get rid of the condition.) They would not be willing to pay to secure a privileged position for their houses if they knew or believed that they already possessed it.

With regard to the proposal that localities should have power to abolish the public-house bar and dram shop, the gin palace, and the mere drinking and tippling shop, it may be observed:—

(*a*) That the recent Canadian Commission, which reported in 1895, recommended the abolition of this class of liquor selling establishment throughout the Dominion by statute of the Dominion Parliament.

The following is the passage in the report:—

> "The licensing of saloons, the only business of which is the sale by retail of intoxicants, the Commissioners consider should be put an end to. There is no justification for their existence founded upon necessity, and it is certain that most of the evils which arise out of the immoderate use of intoxicants, have their origin in, or encouraged by, the existence of these saloons.
>
> "The Commissioners are of opinion that no one should be granted a license for any saloon or restaurant, in which meals are not regularly supplied to all who require them, and that the law should not be evaded by such practices as are now resorted to; that the authority to sell should be restricted in these places to selling only to those who partake of and pay for meals. They are also of opinion that no one should be given a license for an inn, or tavern, which has not the necessary accommodation in the shape of rooms and beds, and facilities for supplying meals to a reasonable number of persons, at one and the same time."

(*b.*) That localities which used this power would restore licensed premises to the purpose for which they were intended as described in the preamble of the Act of 1603–4 (1 James I., c. 9), which ran thus:—

"Whereas the ancient true and principal use of inns, alehouses, and victualling houses was for the receipt, relief and lodging of wayfaring people travelling from place to place, and for such supply of the wants of such people as are not able by greater quantities to make their provision of victuals, and not meant for entertainment and harbouring of lewd and idle people to spend and consume their money and their time in lewd and drunken manner."

The Act proceeded to prohibit the keeper of an inn or alehouse or victualling house from allowing any person residing in the locality, unless the guest of a traveller, or a labourer during his dinner hour only, or while lodging in the house, to remain or continue drinking and tippling. Twenty years later the prohibition was extended to all persons tippling, wherever their residence.

THE DRINKING AND DRUNKENNESS OF THE LAST SIXTY YEARS, AND THE EFFECT OF LEGISLATION AND SOCIAL PROGRESS THEREON.

Have drinking and drunkenness materially decreased during the last 50 or 60 years? If they have, when was the decrease made manifest, and what was the cause of it? Have improved conditions—such as shorter hours and better conditions of work, improved sanitation, education, and greater prosperity—diminished drinking and tended to abolish drunkenness? What has been the effect of past legislation which has restricted the facilities for obtaining intoxicants? These are interesting questions with an important bearing upon the subject of our inquiry. The answers to them will be found in broad, definite, recorded facts. Individual experiences and opinions are worthless. They are always limited, frequently inaccurate, and usually misleading.

As to the quantity of alcoholic liquor consumed per head of the population, detailed particulars for the 55 years, 1842–96, will be found in a table which is appended.* The essential figures may be summarised in a series of five-year periods, thus:—

CONSUMPTION OF ALCOHOLIC LIQUORS: AVERAGE PER ANNUM PER HEAD.

United Kingdom.

—	Spirits.	Wine.	Beer.
	Galls.	Galls.	Galls.
1842–46	·89	·23	*20·0**
1852	1·10	·23	22·0
1856–60	·99	·23	23·5
1866–70	·98	·47	29·0
1872–76	1·22	·54	33·3
1882–86	1·00	·39	27·3
1892–96	1·00	·37	29·9
1897	1·03	·40	31·4

* Estimated.

This table shows an enormous increase in drinking. The detailed figures for each year show that in 1875, as compared with 1842, there was an increase in the consumption of wine of 200 per cent., of beer of 70 per cent., and of spirits of 50 per cent.

For the purposes of this inquiry, in view of the fact that the consumption of drink per head of the population reached its maximum in the years 1874–5–6, it will be convenient to divide the record of facts into two periods, one comprising the years before 1876 and the other the years since.

During the first period the passing of the Factory Acts in 1833, 1834, and 1844, and the attention which the discussion of them and subsequent amendments and extensions, directed to the subject and brought about great improvements in the hours and conditions of labour. The reform of municipal corporations in 1835; the sanitary legislation which shortly followed, including the Public Health Acts of 1848, 1855, and 1866, did much to promote public health and comfort. In 1834 the first Government

* *See* Appendix I.

grant was made for education; in 1839 the Committee of the Privy Council on Education was constituted, and the system of payment by results was adopted in 1862. The introduction of Free Trade, and the development of the postal service, and the railway system, especially the extraordinary enterprise displayed in the construction of railways between 1840 and 1865, marvellously improved the conditions of life, and gave a great stimulus to commerce and industrial enterprise, with the result that employment increased, wages advanced, and unprecedented material prosperity was enjoyed.

The results of these advances and reforms were seen in innumerable directions, and broad indications of vastly improved conditions are to be found in the following facts.

Pauperism diminished to a most gratifying extent. The number of paupers in receipt of relief (indoor and outdoor) per 1,000 of the population in England and Wales was:—

Year.	Adult, Able-bodied.	All Classes.
1850	10·9	57·4
1860	7·3	42·9
1870	7·9	46·5
1875	4·6	33·8

The spread of education among the adult population is best indicated by the number of those who sign the marriage register with a mark. The number who did so sign in every 1,000 marriages in the years named was:—

England and Wales.

Year.	Men.	Women.	Both.
1845	332	496	—
1851	308	453	235
1860	255	362	170
1870	198	273	116
1875	172	232	93

The progress made in commercial and general material prosperity as compared with the increase in population is illustrated by the following figures:—

United Kingdom.

Year.	Gross Amount assessed to the Income Tax.	Railway Traffic Receipts.	Exports of British and Irish Productions.	Population.
	£	£	£	
1845	—	6,200,000	60,100,000	27,700,000
1850	—	13,200,000	71,300,000	27,500,000
1855	308,000,000	21,500,000	95,600,000	27,800,000
1865	395,000,000	35,800,000	165,800,000	29,900,000
1875	571,000,000	58,900,000	223,400,000	32,800,000

The improved and continually improving condition of the masses of the people is indicated by the following table:—

Year.	Consumption, per Head, of			
	Sugar.	Tea.	Tobacco.	Currants, &c.
	lbs.	lbs.	lbs.	lbs.
1840	15	1·22	0·86	1·45
1850	25	1·86	1·0	2·53
1860	34	2·67	1·22	3·59
1870	47	3·81	1·34	4·03
1875	62	4·44	1·46	4·29

If it be true that drinking and drunkenness and what have long been regarded as their attendant evils are, as is sometimes contended, very largely the result and not

the causes of poverty, ignorance, want of employment and insanitary surroundings, the great advances and improvements which took place between 1835 and 1875 ought to have produced a very marked effect upon the drinking habits of the people. It is true that the conditions reached in 1875 were by no means perfect and that great advances have been made since then. But as compared with the conditions which prevailed in 1835, those of 1875 were an enormous improvement. The position of the masses of the people in 1850 as compared with that in 1830 was vastly superior. If the remedy for intemperance is to be found in that direction it should by that time have begun to tell upon the consumption of drink, and an increase in sobriety should have become more and more marked as improved conditions of labour, education, more stringent and effective sanitary legislation and greater material prosperity continuously advanced, as they did advance to an extent unprecedented in the history of the country.

The statistics already quoted, however, show that so far from there being a diminution in drinking there was a very large increase. In the 20 years, 1856–1875, the consumption of intoxicants *per head* increased as follows:—Spirits, 25 per cent.; beer, 50 per cent.; and wine, more than 100 per cent. The natural results followed. The cases of drunkenness brought before the magistrates in England and Wales increased from 85,472 in 1858, to 203,989 in 1875. These cases averaged 442 per 100,000 of the population for the year 1858–1862, and 812 per 100,000 for the years 1874–1878. Nearly double!

Crime, which is so closely connected with drinking because it is so largely begotten and facilitated by it, went up by leaps and bounds as the consumption of drink increased. It is a common delusion that serious crime very materially declined in this country long before it did anything of the kind. The fact that after the early fifties the number of persons tried for indictable offences in England and Wales steadily decreased has misled those who have not troubled to look below the surface. During the last 50 years a very considerable number of acts have from time to time conferred upon magistrates power to deal summarily with various classes of offences which formerly could only be disposed of on indictment at assizes or quarter sessions. To such an extent has this gone that at the present time five-sixths of the offences which 70 years ago would have gone to the assizes, and appeared in the statistics of indictable offences, are now dealt with by the magistrates. It is obvious, therefore, that if an accurate comparison is to be made and any useful purpose is to be answered, all the indictable offences, whether tried on indictment or summarily, must be added together and the total be compared. In 1845 the number of persons tried on indictment was 24,303. In 1875 the number so tried was 14,665. But the number of indictable offences which were tried summarily in 1875, which would have been tried at the assizes or quarter sessions if they had been committed in 1845, was 35,331. Consequently, to get the true comparison the 35,331 must be added to the 14,665. Then it will be found that the persons tried for indictable offences were 24,303 in 1845, and 49,996 in 1875 (*see* Judicial Statistics for 1893, page 111), an increase in serious crime which more than kept pace with the growth of the population.

Apparently the enormous increase in drinking during the 30 years 1845–1875, which represented an increase of about 70 per cent. in the amount spent per head on intoxicants, quite counteracted the benefit of improved sanitary conditions, higher wages and shorter hours, so far as the health of the people was concerned. What was gained in some directions was completely lost in others. The death rate of the male population of England and Wales was no lower at the end of 30 years of unprecedented progress in numerous directions affecting the material and physical well-being of the people than it was at the commencement of that period. Here are the figures from the Registrar-General's Returns:—

Death Rate of Males per 1,000 *Living.*

1841–45	22·2
1846–50	24·1
1851–55	23·5
1856–60	22·6
1861–65	23·7
1866–70	23·7
1871–75	23·3

To what was this appalling increase of drinking and drunkenness and consequent deplorable counteraction of remedial efforts and prosperous conditions due? Two

Parliamentary Committees—one in 1834 and the other in 1850—expressed their opinion. The exceptionally strong Committee of the House of Commons which reported in 1834 said: "Among the immediate causes of the increased prevalence of "this vice among the humbler classes of society may be mentioned the increased "number, and force of the temptations placed in their daily path, by the additional "establishment of places at which intoxicating drinks are sold." The Committee of the House of Lords, which was appointed to enquire into the working and effects of the Beer Act, reporting in 1850, said: "It was already sufficiently notorious that drunken- "ness is the main cause of crime, disorder, and distress in England; and it appears "that the multiplication of houses for the consumption of intoxicating liquors, which "under the Beer Act has risen from 88,930 to 123,396, has been thus in itself an evil "of the first magnitude. Coincident with this increase in the facilities for intoxication, "it appears that crime has increased in a frightful ratio, the commitments for trial in "England and Wales in the years 1848-49 being in the proportion to those of "1830-31, the two first after the enactment of the Beer Act, of 156 to 100: and that "this is not a mere casual coincidence the Committee have the strongest reason to "believe from the general evidence submitted to them, but more especially from that "of the chief constables, of police, and the chaplains of gaols, who have the best of "opportunities, the one of watching the character of the beer shops, and of those who "frequent them, the other of tracing the causes of crime and the career of criminals."

The extent to which drinking facilities and temptations increased between 1820 and 1875 is indicated by the following figures:—

In 1820 the number of spirit-selling publicans was 36,310.
As the result of reducing the license fees by one-half they were 45,020 in 1828. In 1875 they had increased to 69,134.
In 1828 there were no beerhouses. In 1869 there were 49,130 selling for consumption on the premises.
In 1829 there were 50,669 publicans selling spirits or beer for consumption on the premises. In 1869 there were 118,602.
In 1829 there were no "off" beer or refreshment house, or "grocers'" licenses. In 1869 there were several thousands.
In 1829 there were no "sweets" licenses. In 1869 there were 10,215.
In 1869 the number of places in which alcoholic liquors were sold by retail in England and Wales was four times as great as it was in 1829, while the population had only increased 60 per cent.

The legislation of 1830 and the early sixties, based on the delusion that sobriety would be promoted by providing the people with special facilities for obtaining and drinking beer and wine, was a disastrous failure. It set up tens of thousands of additional retail liquor shops and enormously facilitated drinking and drunkenness. On both occasions the results were terrible and inevitable. Education, sanitation, higher wages, Factory Acts, and all-round improved material conditions were powerless to cope with the evil and its consequences. The close connection between facilities for obtaining drink on the one hand and increased drinking, drunkenness, and certain classes of crime on the other was made abundantly manifest. Mr. Gladstone's legislation of 1860-1-2 and 3, by large reductions in the duties on wine and by licensing special and additional places for its sale, very speedily doubled the consumption of wine and increased that of beer 20 per cent., while the sale of spirits remained as large as ever.

The consumption per head in 1860 and in 1866 was as follows:—

—	Spirits.	Wine.	Beer.
	Galls.	Galls.	Galls.
1860 - - - -	0·93	0·23	23·8
1866 - - - -	1·00	0·44	29·4

The result was that in England and Wales the cases of drunkenness increased in the same short period from 88,361 to 104,368; assaults rose from 77,290 to 93,318 and cases of malicious damage increased from 14,827 to 20,393. These three classes of offences mounted up from 180,478 to 218,079, or 20 per cent., in six years, while the population only increased 7½ per cent.

Fortunately the Legislature stepped in, haltingly and far from sufficiently it is true, but nevertheless beneficially. The Act of 1869 gave the licensing justices a power to control

beerhouses and restrict their number which they had not before possessed. In 1871 the issue of new licenses was temporarily suspended. By the Acts of 1872, 1880, and 1882, the power of the justices was increased, the hours of sale were materially shortened, and the law against drunkenness was made more stringent. Licensing justices were by public opinion and the action of Parliament stimulated to make fuller use of the powers which had been entrusted to them for the protection of the public. The result was that for the first time this century a substantial check was put upon the steady and rapid growth which had taken place in the number of licensed houses. What really happened and the contrast it presented to the results of the policy which prevailed prior to 1869 is clearly shown in the following table :—

Years.	Publicans with Spirit Licenses.	Beerhouses with "on" Licenses.	Total of the Two Classes.
1829	45,304	None	45,304
1830	45,675	24,342	70,017
1840	52,680	36,871	89,551
1855	55,945	36,080	92,025
1860	61,085	41,094	102,179
1869	68,358	49,130	117,488
1877	69,233	38,459	107,692
1880	69,112	37,639	106,751
1890	67,315	31,766	99,081
1896	66,703	30,311	97,014

The figures for 1869 and 1877 are given because in the former years beerhouses reached their maximum number and in the latter spirit-selling publicans reached their maximum.

What this change really means will be better understood when it is stated that if there had been as many of these two classes of licenses in proportion to population in 1896 as there were in 1869, there would have been 65,000 more than there were; that is to say, that there would have 162,000 of those licenses in 1896 instead of 97,000.

What was the effect of this change upon drunkenness, crime, and the death rate, the three important points, the statistics of which have been given and examined for the period before 1876? Drinking habits and their effects on character and health are not materially reduced immediately. Nevertheless the check which was put upon licensed facilities for drinking was not very long before it began to make itself felt. It has been shown that the consumption of drink per head of the population reached its highest point this century in 1874–5–6. It was in those years also that the statistics of public drunkenness touched their maximum. The number of cases of drunkenness brought before the magistrates in England and Wales in 1876 was 205,567, or 843 for every 100,000 of the population. Since then the returns have run thus :—

Cases of Drunkenness per 100,000 *of Population.*

1876	843
1877–81	725
1882–86	690
1887–91	619
1892–96	584

The statistics of crime are equally remarkable and instructive. The number of persons tried for the more serious offences in England and Wales per 100,000 of the population was as follows :—

Year.	Indictable Offences tried at Assizes and Quarter Sessions.	Indictable Offences tried Summarily.	Total Indictable Offences tried.	Cases of Assault, Stealing and Malicious Damage.	Total Number of Persons tried for these Offences.
1869	87	189	276	554	830
1872–76	64	156	220	534	754
1877–81	61	164	225	448	673
1882–86	53	167	220	410	630
1887–91	44	154	198	356	554
1892–96	39	143	182	323	505

Lastly, as to the death-rate. The deaths of males per 1,000 living in England and Wales were:—

1872–76	23·0 per 1,000
1877–81	21·7 „ „
1882–86	20·7 „ „
1887–91	20·2 „ „
1892–96	19·1 „ „

When these tables are brought together the movement of the statistics showing the cases of public drunkenness and of crime and the death-rate is clearly seen:—

Year.	Cases of Drunkeness per 100,000 of Population.	Cases of Serious Crime per 100,000 of Population.	Death Rate of Males per 1,000.
1872–76	843 (1876)	754	23·0
1877–81	725	673	21·7
1882–86	690	630	20·7
1887–91	619	554	20·2
1892–96	584	505	19·1

When it is remembered that between 1869 and 1896 the number of ordinary beer-houses and fully-licensed public-houses was reduced not only in proportion to population—from 529 to 316 per 100,000—but also in actual number, viz., from 117,488 to 97,014, it is impossible to avoid the conclusion that the connection between that fact and the statistics in the table just given is very close indeed.

While it is true that the returns quoted show that a most important and welcome change has been brought about during the last quarter of a century, inasmuch as the multiplication of drinking facilities and the consequent headlong rush of increased drinking and demoralization was checked and a distinct movement in the contrary direction had set in, it would be a great mistake to assume either that the present position is satisfactory or even endurable, or that the disastrous results of the 1830-65 policy have been recovered from.

In 1897 the consumption of intoxicants per head of the population, though less than in 1876, was very considerably greater than it was 40 or 50 years ago. Here are the figures:—

Year.	Spirits.	Wine.	Beer.
	Galls.	Galls.	Galls.
1847	0·92	0·22	*20·0**
1858	1·03	0·23	22·6
1897	1·03	0·40	31·4

* Estimated.

These statistics do not, however, fully disclose the position. There are far more abstainers from the use of alcoholic liquors now than there were 40 or 50 years ago. That means that the quantity consumed by those who do drink is greater than would have been indicated by the same figures a generation or two ago. Further, the consumption of tea and other non-alcoholic beverages has increased enormously. In many directions they have taken the place of intoxicants. That means that a larger proportion of the drinking of alcoholic liquors at the present time represents regular and frequent tippling and habitual intoxication. The amount of money now annually expended on alcoholic liquors is one third more, in proportion to the population, than it was half a century ago. That the position all round, so far as intemperance is concerned, is still far worse than it was even 40 years ago is indicated by the fact that, while in 1858 the cases of drunkenness brought before the courts in England and Wales were 439 per 100,000 of the population, in 1897 they were 622 per 100,000.

While it is satisfactory, so far as it goes, that there has been a diminution in the consumption of intoxicants per head of the population since 1876, there is reason to believe that it is largely due to the great increase there has been in the number of those who are either total abstainers or who drink exceedingly little. That there is still an enormous amount of continuous and heavy drinking is beyond question. It is a very significant fact that the returns of the Registrar-General for England Wales show

that during the last 30 years the death-rate from intemperance has increased more than 100 per cent., and that, worst of all, amongst women, since 1875—the first year for which the statistics for the sexes were given separately—it has increased 150 per cent. The figures are as follows:—

Death-rate from Intemperance.

—	Persons.	Average of five Years.	Women.
	Per million.		Per million.
1867 - - - -	35	1875-9	24
1877 - - - - -	46	1885-9	36
1887 - - - -	52	1893-7	53
1897 - - - - -	76	1897	59

A serious feature of the present position is that the whole of the reduction in consumption which was brought about 10 or 15 years ago has not been maintained. During recent years there has been a distinct upward tendency. Comparing 1897 with 1887 the figures of consumption per read of the population are:—

Year.	Spirits.	Wine.	Beer.
	Galls.	Galls.	Galls.
1887 - - - - -	0·93	0·37	27·3
1897 - - - -	1·03	·40	31·4

Some of this increase is, no doubt, due to the improved conditions of trade which have recently prevailed, and the consequent greater spending power of the people. It is probable, however, that more is traceable to the increase there has been in the temptations to drink, and in the facilities for obtaining drink, as the result, not of an addition to the number of licensed premises, but of the alterations in the size, character, and business capacity of many of them which have been the outcome of the extension and re-building which has gone on in all directions. Little is gained by reducing the number of licensed houses if those which remain are allowed to increase their accommodation and facilities to a corresponding extent.

It is submitted that this examination of the facts of the last 60 years demonstrates that as drinking facilities and temptations multiplied, the consumption of intoxicants grew, drunkenness increased, criminals became more numerous, and the vast improvements which had been brought about in sanitation, education, and many other matters closely affecting the social, material, physical, and moral well-being of the people, were largely counteracted and nullified. In the early seventies—at the end of from 30 to 40 years of unprecedented legislative, commercial, and industrial progress—the nation was, in several of the most important matters which lie at the very root of real and permanent national well-being, in a worse position than it was at the commencement of the period. Material prosperity and greater leisure had provided the means and the time for increased drinking. The blunders and apathy of Parliament and the licensing authorities, had permitted additional inducement and opportunities to be freely established in all directions. The result was inevitable.

No change for the better was brought about, none was possible, until the mistaken policy of the past was reversed. When that was done—although only hesitatingly and to a limited extent—the rising tide of drunkenness and demoralization was checked, and a receding movement commenced. As public-houses and beerhouses were reduced in number, drinking and drunkenness decreased, crime diminished, and the lives of the people were prolonged.

It is not suggested that prior to 1876, legislative reforms, and social, and material advances were of no value, and produced no effect; nor is it intended that the impression should be conveyed that the progress which has been made since then has been entirely due to the limitations which have been placed on the facilities for drinking, and the extent to which the drinking habits of the people have been curtailed. What is contended, and, it is submitted, has been proved, is that drinking is the dominating

factor in social statics. Its growth is so powerful an influence for evil, and its diminution is so marked an auxiliary of everything that is desirable and beneficial, that the advantage which it is possible for the community to derive from other measures of advancement and reform depends to an enormous extent upon the efficiency and vigour with which the great liquor problem is taken in hand. That the condition of the people in many respects, including that of intemperance, would have advanced more rapidly than it did in the wrong direction prior to 1876 had it not been for the restraining and counteracting influences of education, sanitation, and other social and moral reforms, is undoubtedly true; as it is also certain that since that time progress in the right direction would not have been so marked had there not been invaluable and most potent and important legislation, social and moral influences working together to secure it.

What it is submitted has been demonstrated is, that the drinking system is a vastly powerful ally of injurious and demoralizing forces, and a formidable obstacle to the successful operation of measures and movements, which are designed to ameliorate the condition of the people; that its power for evil can be materially curtailed by restrictive legislation, and that it is absolutely essential that it should be resolutely so dealt with, if the numerous social problems which confront all thoughtful citizens and press for solution are to be satisfactorily and effectively grappled with. It is further submitted that the facts show that beneficial as a decrease in facilities is, even such a diminution as took place in the proportion of beerhouses and public-houses to population between 1869 and 1896 was altogether insufficient to cope with the evils of the drinking system, and consequently that the people should have given to them a power of protection that will reach further and do more than any measure of mere reduction in the number of licensed houses can.

While there can be no doubt that reductions in the number of public houses and more stringent regulation of those which remain would be beneficial and would promote sobriety, Mr Gladstone was giving expression to an important truth when he said. "Mere reduction in numbers, if it pretend to the dignity of a remedy, is little better "than an imposture." Reduction in number is not a remedy. It is at best but a palliative. It will never obviate the necessity or get rid of the demand for more drastic measures. The experience of Scotland on this point is instructive. There, during the last 70 years, the reduction in the number of public-houses and spirit-selling grocers, in proportion to population, has been as follows:—

	Spirit Retailers.		Spirit Retailers per 1,000 of the Population.
	Publicans and Spirit Grocers.	Population.	
1831	17,236	2,364,386	7·3
1841	15,286	2,620,184	5·8
1851	14,287	2,888,742	4·9
1861	11,640	3,062,294	3·8
1871	12,070	3,360,018	3·6
1881	11,659	3,735,573	3·1
1891	11,281	4,025,647	2·8
1896	10,948	4,186,849	2·6

A reduction in the number of public-houses and spirit grocers to one-third as many as they were in 1831 is a striking change; but in spite of it, and notwithstanding that Scotland enjoys Sunday closing and a much more efficient and representative licensing system than the one which prevails in England, it is a drunken country, and the demand of the people for more drastic dealing with the liquor trade, including giving the power of direct popular local veto, is exceptionally strong.

THE EFFECT OF THE LIQUOR TRADE UPON THE HEALTH AND MORTALITY OF THOSE ENGAGED IN IT.

In its effect upon health and mortality the trade in drink is the most destructive and deadly influence in our midst. As the protection of the health and lives of the people is one of the most elementary and also most imperative duties of the Legislature and the Government, the bearing of this phase of the liquor problem upon the attitude which Parliament and the executive authority should take up with regard to the sale of drink is very direct and exceedingly important.

The facts are as clear as they are terrible. It is not necessary to discuss the disputed point, as to whether the use of intoxicants in any quantity is injurious to health. Everyone admits that there is a point beyond which their use is harmful, and all agree that that point has been long passed, when their use materially increases the death-rate and seriously shortens life.

Alcoholic liquors are deadly to those who make and sell them. To that fact the reports of the Registrar-General have borne repeated and emphatic testimony during the past 30 years. The following statement of the mortality of persons engaged in the liquor trades as compared with the general population, is compiled from Dr. Tatham's Report to the Registrar-General "On the Mortality of Males engaged in "certain occupations in the three years 1890–92," which was published in 1897 as a "Supplement to the 55th Annual Report of the Registrar-General of Births, Deaths, "and Marriages in England.—Part II."

COMPARATIVE MORTALITY OF MALES, 25–65 years of age in England and Wales, from all causes, 1890–1–2, the mortality of all males being taken as 1,000 (pp. cxlv. and cxlvii–viii).

All males	1,000
Occupied males	953
Innkeeper, publican, spirit, wine, beer dealer, industrial districts	2,030
" " " " London	1,685
" " " " agricultural districts	1,320
Inn, hotel servants, London	1,971
" " industrial districts	1,583
" " agricultural "	1,446

It is difficult to maintain the distinction between liquor sellers and their servants. The census returns show that there is some confusion on this point. As public-houses of all kinds have fallen more into the hands of brewery companies, and are "tied" or managed for them, the distinction between those who are publicans, or beer sellers on their own account, and those who are employed by others becomes less clear. It is better, therefore, to follow the example of the Registrar-General's Report, and, as a rule, combine the two grades of persons and treat them together under the short title of "publican." It should be observed that that term includes hotel and inn keepers, beer sellers, and dealers, and wine and spirit merchants.

Combining employers and employed the death-rate of liquor sellers as compared with that of occupied males is stated thus in the Registrar-General's Report (pp. cxlvii–viii), the death-rate of all males (between 25–65) being taken as 1,000 :—

All males	1,000
Occupied males	953
" " London	1,147
" " industrial districts	1,248
" " agricultural "	687
Publicans	1,659
" London	1,838
" industrial districts	1,948
" agricultural "	1,348

The following table shows the death-rate, at four age groups, of liquor sellers as compared with those of all occupied males at corresponding ages, the latter being taken, in each case, as 100 (p. xxxvii):—

—	25–35.	35–45.	45–55.	55–65.
Occupied males	100	100	100	100
Brewers	149	153	149	148
Publican (employers and servants combined)	207	197	171	144
„ „ „ London	201	220	199	164
„ „ „ industrial districts	247	221	209	166
„ „ „ agricultural „	156	160	135	127

Commenting upon this the Registrar-General's report says (p. xxxvii):—

"The mortality of persons directly engaged in the supply of spirituous liquors still continuous to be enormous. Up to the age of 25 years brewers experience little more than the average mortality, but after that age the baneful influence of their employment rapidly becomes apparent. Their mortality throughout the main working period of life exceeds that of occupied males by about 50 per cent. At all ages after the 20th year, publicans are subject to a death-rate which is much higher than the average among occupied males, while at the age-groups 25–35 and 35–45 years the rates are just double the average."

Clearly persons engaged in selling liquor have a very high death-rate as compared with occupied men generally. That comparison does not, however, fully disclose the deadly nature of the trade. The statistics of "occupied males" not only include those of liquor sellers themselves but also those of all other unhealthy occupations and the most poverty-stricken and degraded of the dwellers in the slums. The class with which those who are by the Registrar-General embraced under the term "publican" may be most fairly compared is that of shopkeepers, who occupy a similar social position.

Taking shopkeepers as a whole the comparison stands thus:—

—	Publicans.	Shopkeepers.
England and Wales	1,659	859
London	1,838	—
Industrial districts	1,948	1,012
Agricultural „	1,348	728

Liquor sellers have a death-rate which approaches uncomfortably near to double that of shopkeepers.

If the mortality among liquor sellers be placed by the side of that in other occupations which are notoriously unhealthy the comparison is again unfavourable to the trade in drink. The Registrar-General gives the mortality figures of those occupations which stand respectively highest and lowest out of the whole list. The first four places at the head of the table showing the highest mortality are occupied by the liquor trade. They are given below, together with the comparative mortality figures of some other trades which are admittedly dangerous or unhealthy and have a high death rate:—

Occupation.	Comparative Mortality Figure.	Occupation.	Comparative Mortality Figure.
All males	1,000	Coal heaver	1,528
All occupied males	952	Cutler, scissors maker	1,516
		General labourer (industrial districts)	1,509
Innkeeper (industrial districts)	2,030	Glass manufacture	1,487
Inn, hotel servant (London)	1,971	Tool, scissors, file, saw, &c. maker	1,412
Innkeeper, servant, &c, (industrial districts)	1,948	Tin miner	1,409
Innkeeper, servant, &c. (London)	1,838	Manufacturing chemist	1,392
Dock labourer	1,829	Copper worker	1,381
File maker	1,810	Seaman	1,352
Lead worker	1,783	Chimney sweep	1,311
Potter, earthenware manufacture	1,706	Lead miner	1,310
Costermonger, hawker	1,652	Copper miner	1,230
		Coach and cab service	1,153

The appalling mortality of publicans and their employees is further illustrated by the following comparative mortality figures:—Fishermen 845, railway engine drivers 810, carpenters 783, ironstone miners 774, domestic servants 757, shipwrights 713, agricultural labourers 632, schoolmasters 604, farmers 563.

File makers, lead workers, potters, cutlers, glassworkers, tin, lead, and copper miners and workers, seamen, and chimney sweeps are engaged in notoriously deadly or dangerous occupations, but it is safer to be employed in them than in a public-house in London or in the industrial districts.

Bad as the figures for the liquor trade are, as they stand when thus stated in the official returns of the Registrar-General, they would be worse if they discriminated between those who sell liquor for consumption on the premises—as keepers of public-houses, gin palaces, and beerhouses—and those who sell it for consumption elsewhere as wine, spirit, and beer merchants or dealers. The Registrar-General's returns are, however, sufficient to prove beyond dispute that the publican's trade is the deadliest in our midst of any of which there are recorded statistics.

That fact being established, the next important point which has a very close bearing upon the inquiry in which the Commission has been engaged is, To what is the terribly excessive mortality of the liquor trade due?

A table on page xxxviii of the Registrar-General's report supplies the answer by showing that the deaths from alcoholism amongst publicans as compared with deaths from that cause amongst occupied males, the latter being taken as 100, were as follows:—

Occupied males	100
Publicans, England and Wales	723
„ London	977
„ industrial districts	715
„ agricultural „	531

These figures show that publicans in England and Wales die seven times as fast from alcoholism as do occupied males.

Conclusive as that fact is, it does not exhaust the evidence which the report of the Registrar-General provides that the excessive mortality of liquor sellers is due to their intemperate habits. It points out that "the mortality directly ascribed in the registers "to intemperance forms but an imperfect measure of the mischief accruing from the "abuse of alcohol. In certifying the cause of death of inebriates, it is the habit of "some medical men to state only the pathological condition of the organ or organs "chiefly affected. The experience of this office shows that cirrhosis of the liver, for "instance, is frequently returned as the sole cause of death in such circumstances, "the fact that abuse of alcohol had induced the cirrhosis or other morbid condition "being omitted from the certificate. This is especially noticeable in regard to the "deaths of relatively well-to-do persons. Among innkeepers, in the years 1890-92, "for example, due allowance having been made for differences of age-constitution, "only 31 per cent. of the total deaths referred to alcoholism and liver disease com-"bined were attributed directly to the first-mentioned cause, whilst among inn "servants, presumably a less important class of men socially, not less than 63 per "cent. were so returned. It is familiar knowledge that the persistent excessive "use of alcohol results in damage to most of the important organs of the body." (pp. xc. and xci.)

The report proceeds to explain that it is desirable to examine the mortality from other causes, "which are known to be often associated with alcoholic excess." The mortality of publicans from the "other causes" thus specially selected by the Registrar General is set out below:—

—	Occupied Males.	Publicans.			
		England and Wales.	London.	Industrial District.	Agricultural District.
Alcoholism	100	723	977	715	531
Diseases of the liver	100	644	378	804	626
Gout	100	600	550	500	750
Diseases of the nervous system	100	181	137	222	179
Suicide	100	207	243	193	150
Phthisis	100	168	242	170	124
Diseases of the urinary system	100	210	224	207	222

Of course, it does not follow that the excess of mortality from the causes other than alcoholism is entirely and in every case the result of intemperance, but the teaching of such startling figures as these is unmistakeable :—

Deaths from	Occupied Males.	Publicans in England and Wales.
Alcoholism - - - - -	100	723
Diseases of the liver - - -	100	644
Gout - - - - -	100	600
	300	1,967

Where amongst occupied males generally 300 die of alcoholism or diseases of the liver or gout, 1,967 publicans die from those causes; that is to say, publicans die from those causes 6½ times as fast as ordinary men do.

Judging from their mortality rate from alcoholism, publicans are the most intemperate of all the occupied classes in the community. Their death rate from alcoholism alone is not only seven times that of the average man, but it is double that of such notoriously drunken classes as dock labourers and chimney sweeps, and three times as great as that of costermongers, cabmen, butchers, and coal heavers.

As to brewers, the Registrar-General's report says (p. xl): "The mortality of "brewers from alcoholism and gout is more than three times as high, and that from "diabetes, liver diseases, and Bright's disease is fully twice as high as the mortality of "occupied males."

The report of the Registrar-General indicates that the intemperance of persons connected with the liquor trade is increasing. Commenting upon the change since the previous decennial analysis, the report says: "Among brewers the mortality from all "causes has increased considerably between the periods 1881–91. Their mortality from "alcoholism has now become three-fourths as high again as it was in 1881." . . . . "Among innkeepers alone the mortality from all causes has increased enormously since "the previous record. The mortality from alcoholism has increased by three-fifths of "the former figure."

The Registrar-General's statistics are confirmed by the experience of Life Assurance Offices.

All Life Assurance Offices either charge an extra premium for the assurance of persons engaged in the liquor trade, or they refuse to accept such lives on any terms.

From time to time during recent years the experience of various Assurance Offices as to the mortality amongst liquor sellers who are policy holders, as compared with those of other assured persons, has been published.

The experience of the Scottish Amicable Life Assurance Society as to the mortality among "inn-keepers, publicans, and other persons engaged in the sale of intoxicating liquors," during the 50 years ending 1876, was published by Mr. Stott in 1876 in the "Journal of the Institute of Actuaries." It showed that as compared with the expected deaths, according to the Institute of Actuaries, Healthy Males Table—the recognised standard—the deaths in the class named showed an excess of 11·6 per 1,000 living.

The experience of the Law Life Assurance Society from 1823 to 1875, published in 1877, showed that amongst persons engaged in the liquor trades there was, as compared with the mortality among the other persons assured with them, an excess of deaths equal to 11·9 per 1,000 living.

The experience of the Standard Life Assurance Society, published by Mr. Thompson in 1877, showed that the mortality amongst liquor sellers was 9·0 per 1,000 in excess of the expectation according to the Institute of Actuaries' Healthy Males Table.

The experience of the Life Association of Scotland, published by Mr. Douglas in 1887, showed that the mortality amongst hotel keepers and publicans was 8·5 per 1,000 in excess of the expectation according to the Healthy Males Table.

The experience of the North British and Mercantile Insurance Company, published by their actuary, Mr. T. Wallace, in 1888, showed that the mortality amongst hotel keepers and publicans was 11·6 per 1,000 in excess of the Healthy Males Table expectation. An analysis of the mortality showed that the excess was 3·4 per 1,000

amongst licensed grocers, 8·6 per 1,000 amongst hotel keepers, and 12·4 per 1,000 amongst publicans.

An excess of from 8·5 to 11·6 per 1,000 means an increase of about 50 per cent. in the death-rate.

Mr. G. M. Low, F.F.A., F.R.S.E., manager of the Edinburgh Life Association, in a paper read before the Actuarial Society of Edinburgh in 1897, and summarising and commenting upon the above published experiences, said: "From all these investigations it may be held as fully established (1) that there is extra mortality among "persons engaged in the sale of intoxicating liquors by retail; and (2) that among "those who sell liquor for consumption on the premises the extra mortality exceeds, "on the average, 1 per cent. per annum."

In 1890 the Associated Scottish Life Offices appointed a committee to investigate the mortality that had been experienced by the various offices among publicans and persons engaged in the retail sale of intoxicating liquors. The investigation, which was the most extensive and authoritative that has been made, covered the period between January 1st, 1854, and December 31st, 1890, and took cognisance of the assurances effected between those dates. The committee reported in considerable detail in July 1896.

The result of the investigation, so far as it concerned the lives of beersellers, publicans, innkeepers, hotel keepers, and licensed grocers, was to show that as compared with the expected mortality of the ordinary average assured man—according to the tables of the Institute of Actuaries—the actual mortality was as follows:—

—	Annual Mortality per Cent.		
	Actual.	Expected.	Difference.
Beersellers	3·68	1·59	+2·09
Publicans	2·86	1·56	+1·30
Innkeepers	2·84	1·84	+1·00
Hotel keepers	2·54	1·56	+ ·98
Licensed grocers (Ireland)	2·28	1·44	+ ·84
Licensed grocers (Scotland)	1·72	1·26	+ ·46
Grocers (Ireland), unlicensed	1·68	1·59	+ ·09
Grocers (Scotland), unlicensed	1·20	1·25	− ·05

The mortality experienced amongst ordinary grocers is given for purposes of comparison. The occupation of a grocer is a healthy one, but the death-rate among grocers who have an "off" license is considerably above the average of the others in the same trade.

A convenient method of statement is to give the comparative mortality figures, that of the average healthy assured person being taken as 100. The results tabulated above work out thus:—

Mean mortality of assured persons	100
Beersellers	231
Publicans	183
Hotel keepers	162
Innkeepers	154
Licensed grocers (Ireland)	158
„ „ (Scotland)	136
Unlicensed grocers (Ireland)	105
„ „ (Scotland)	96

Although this excessive mortality amongst persons engaged in the retail sale of intoxicating liquors is very striking, it must be remembered that it only represents the effect of the trade in liquor upon the more careful, prudent, and healthy of those who are engaged in it. Men who assure their lives are usually a careful and prudent class, and that their lives were accepted by the assurance offices is a proof that they were at that time in sound health and of sober habits.

It is important to note that the excess mortality arises almost entirely from the temptations which the facilities for obtaining drink afford, and the death-rate rises proportionately to the facility and consequent temptation. The publican is more closely and constantly in contact with liquor and those who are drinking it than the

hotel keeper, and his death-rate is higher. The hotel and inn-keeper has a higher death-rate than the licensed grocer in Scotland where the grocer sells for consumption "off" the premises, but in Ireland there is less difference in the death-rate between licensed grocers and publicans because in a large number of cases the license which the grocer has is a full publican's license, and the bar is in the grocer's shop. The beershop keepers' death-rate is the highest. He is a man in a small way, and is practically always drawing beer himself behind his own counter. He is more closely tied there than the larger publican who can employ assistance. The consequence is that the temptation to drink with his customers is ever present.

By giving separately the mortality amongst various classes of liquor sellers these statistics of the assurance companies dispose of the suggestion which might be made that the high death-rate is due to the long hours which the men work and the bad atmosphere they breathe. Of course these are unfavourable conditions, but the death-rate of publicans from the diseases which they produce is not nearly so much above the average as is their mortality from alcoholism and the diseases which intemperance produces. Moreover, the Assurance Offices' statistics show that the mortality of hotel keepers, as distinguished from ordinary publicans, is 25·4 per 1,000 as compared with 15·6 among ordinary healthy men—an enormous difference, and hotel keepers are not hard worked and do not breathe a bad atmosphere. Apart from the temptation to drink, the occupation of an hotel keeper should and would be one of the healthiest. Further, the keeper of a country inn—the public-house of the agricultural districts—leads an easy and what would be, were it not for the drink, a healthy life. He does not sell until midnight in a gin palace with scores of gaslights flaring. Nevertheless his death-rate is double that of the ordinary occupied man in his locality. So again with grocers in Scotland. Those who sell liquor—for consumption "off" the premises—have a death-rate of 17·2 per 1,000 as compared with one of 12·0 per 1,000 amongst those who do not sell liquor. Both groups of men are engaged in the same main trade, in the same kind of shops, and working the same hours under the same conditions. The only difference is that one group sell liquor and the others do not. That difference is the vital or, rather, the fatal one.

Thirty years ago Dr. Farr, in the Registrar-General's decennial Report, commenting upon the excessive mortality in the liquor trade which the returns for 1860–61 showed, said: "The publican has only to abstain from excess in spirits and other strong drinks "to live as long as other people." Subsequent returns indicate that that is precisely what he finds it impossible to do.

A peculiarity of the excessive mortality in the liquor trades is that it is in the retail sale that the fatality is greatest, and it arises from the use of the article by those who sell it. In the case of most other unhealthy trades it is the process of manufacture that is injurious, but when finished the article produced is harmless. The manufacture of pottery and glass ware, files, saws, cutlery, chemicals and copper goods is unhealthy, but the retail sale and the use of them are not. In the liquor trade it is the article that is sold that is dangerous and injurious, and the appalling mortality arises from the temptation to use it which the facilities provided for supplying it continually present to those who are engaged in its sale. The consequence is that the liquor trade is deadly not only to those who are actually engaged in it, but also to those of the general public the conditions of whose life and occupation lay them open to special temptation from the facilities afforded for obtaining drink. Some of the most unhealthy occupations are rendered so by the drinking habits of those who are engaged in them, and those drinking habits are very largely the result of the temptations which result from the conditions of their work and the facilities which abound for purchasing liquor.

Among the occupations which are not of themselves necessarily unhealthy, but which have a high rate of mortality, are dock and wharf labourers, costermongers, cab and omnibus men, and musicians. They all have a high death-rate from alcoholism. The weak point in the conditions under which these classes work is that their employment is irregular and intermittent, and they have their time, or large portions of it, at their own disposal. This leads them to slip in very frequently through the too accessible doors of the public-houses whenever they have earned a shilling or two. In the case of omnibus men the employment is not intermittent or irregular, but opportunities for drinking present themselves at the end of every journey, and the temptation appears to be readily yielded to. The idea that exposure to the weather is the cause of the high death-rate in some of these classes will not bear close examination. Fresh air and out-door work are healthy. The death-rate of dock and wharf labourers from alcoholism is four times, and of costermongers nearly three times that of the average of occupied males. The mortality of cab and omnibus men from alcoholism and

gout is two and a half times that of the average. But fishermen and agricultural labourers are exposed to the weather and live arduous lives, and engine-drivers are exposed to extremes of heat and cold, and yet the death-rates of all three classes are remarkably low, and particularly so from phthisis, diseases of the respiratory system, and rheumatic fever. They are, however, exceptionally sober men, the death rates from alcoholism ranging from one-sixth to one-third of that of the average of occupied males, and they are much aided and facilitated by the fact that their employment removes them practically entirely from temptation to drink while they are engaged in it. Fishermen and agricultural labourers work far away from public-houses, and engine-drivers are men selected for their sobriety and reliability.

The nearer men are to public-houses, and the greater the opportunities and facilities for obtaining liquor, other things being equal, the higher is the death-rate. Abounding facilities are an ever-present temptation. In the very nature of things the weak, the careless, the unsuccessful, the incompetent, the lazy, and the criminal, are those who drift into the casual, irregular, and more or less doubtful and unsatisfactory employments. They form the majority of the dwellers in the poorest and worst districts of the large centres of population. They are the classes who are most deficient in moral fibre and will power. Everything seems to tell against them, and their capacity to resist temptation is by their circumstances, surroundings, and mode of life, reduced to the lowest ebb. It is precisely where they live and work, and close to their doors, that our licensing system has planted public-houses most thickly, as though it had been the intention of the legislature and the licensing authorities to take advantage of their weakness and to provide facilities for luring them to deeper degradation by tempting them to indulgence which only renders them more helpless and hopeless, and makes them fall easy victims to disease and death. If it be true that the aim of legislation and government ought to be "to make it easy to do right and difficult to do wrong," it will be difficult to find a graver and more deplorable example of failure to discharge a primary duty than that which is presented by the extent to which, under the direct sanction and regulation of law and executive authority, temptations to indulge in the most insidious and fatal vice of our time and nation have been scattered most freely and recklessly just where they have done, and must do, the most injury.

On grounds of health the legislature regulates, restricts, and supervises unhealthy trades. But it leaves untouched—from that point of view—the deadliest of them all. It protects the public against health-destroying conditions and surroundings of many kinds, but it practically leaves unchecked—on that ground—one of the most fatal and destructive influences in our midst. Insanitary surroundings and dwellings are stringently dealt with, and public temptations to gambling, vice, and immorality are by statute suppressed; but opportunities and facilities for indulgence which degrades and demoralises character and destroys health as no other evil agency does, are specially licensed and sanctioned in the greatest profusion, just where everything combines to render them most undesirable, dangerous, and damaging.

APPENDIX.

APPENDIX I.

Consumption per Head of Population of Spirits, Wine, Beer, Tea, Sugar, and Tobacco in the United Kingdom.

Year ending 31st March.	Spirits.	Wine.	Beer.	Tea.	Sugar.	Tobacco.
	Gals.	Gals.	Gals.	Lbs.	Lbs.	Lbs.
1842	0·82	0·18		1·38	16·04	0·82
1843	0·81	0·22		1·48	16·55	0·94
1844	0·87	0·25	20·0*	1·50	16·80	0·89
1845	0·96	0·24		1·59	19·58	0·94
1846	1·01	0·24		1·67	20·88	0·96
1847	0·92	0·22		1·66	23·14	0·95
1848	0·97	0·22		1·75	24·73	0·98
1849	1·02	0·23	21·0*	1·81	23·91	1·00
1850	1·04	0·23		1·86	24·79	1·00
1851	1·05	3·23		1·97	25·49	1·02
1852	1·10	0·23	22·0	1·99	28·15	1·04
1853	1·10	0·25	—	2·14	29·57	1·07
1854	1·13	0·24	—	2·24	32·51	1·10
1855	0·96	0·23	—	2·28	29·22	1·09
1856	1·01	0·25	22·6	2·26	27·24	1·16
1857	1·03	0·23	22·6	2·45	28·30	1·16
1858	0·98	0·22	23·6	2·58	33·50	1·20
1859	1·01	0·24	24·8	2·67	33·85	1·21
1860	0·93	0·23	23·8	2·67	33·11	1·22
1861	0·85	0·37	24·3	2·69	35·49	1·20
1862	0·83	0·33	24·1	2·70	34·94	1·21
1863	0·85	0·35	25·4	2·90	35·97	1·27
1864	0·99	0·39	26·7	3·00	36·90	1·29
1865	0·93	0·40	29·8	3·29	39·78	1·31
1866	1·00	0·44	29·4	3·42	41·40	1·35
1867	0·98	0·45	28·1	3·68	43·19	1·35
1868	0·96	0·50	28·2	3·52	42·01	1·35
1869	0·97	0·48	29·1	3·63	42·56	1·35
1870	0·99	0·49	30·2	3·81	47·23	1·34
1871	1·06	0·51	29·3	3·92	46·89	1·36
1872	1·13	0·53	32·2	4·01	47·37	1·37
1873	1·22	0·56	33·5	4·11	51·59	1·41
1874	1·26	0·53	34·0	4·23	56·37	1·44
1875	1·26	0·53	33·3	4·44	62·85	1·46
1876	1·24	0·56	33·7	4·50	58·95	1·47
1877	1·21	0·52	32·3	4·50	64·71	1·49
1878	1·16	0·48	32·2	4·64	58·57	1·44
1879	1·09	0·43	28·0	4·68	65·95	1·40
Year ending 31st December.						
1880	1·07	0·45	27·0	4·57	63·40	1·42
1881	1·05	0·45	27·8	4·58	67·33	1·41
1882	1·04	0·41	27·6	4·69	70·46	1·42
1883	1·04	0·40	27·2	4·82	61·74	1·43
1884	1·01	0·39	27·8	4·90	71·18	1·45
1885	0·96	0·38	27·1	5·06	74·28	1·46
1886	0·94	0·36	26·9	4·92	65·96	1·44
1887	0·93	0·37	27·3	5·02	74·16	1·45
1888	0·92	0·36	27·2	5·03	71·10	0·48
1889	0·96	0·38	28·9	4·99	77·19	1·51
1890	1·02	0·40	30·0	5·17	73·21	1·55
1891	1·03	0·39	30·1	5·36	80·17	1·61
1892	1·03	0·38	29·8	5·43	77·84	1·64
1893	0·98	0·37	29·6	5·41	78·85	1·63
1894	0·97	0·36	29·5	5·52	80·06	1·66
1895	1·00	0·37	29·7	5·67	88·13	1·67
1896	1·02	0·40	30·9	5·77	85·29	1·73
1897	1·03	0·40	31·4	5·81	80·89	1·75

* Estimated.

Accurate statistics of the consumption of beer for the years prior to 1852 are not available. The figures given in the Statistical Abstracts represent the total quantities of malt retained for home consumption. Consequently they include not only the malt used in brewing, but, up to 1855, that used for distillery purposes, and, up to 1864, that used for cattle feeding. The figures given above for 1852, and for 1856, and subsequent years, are from returns made by the Inland Revenue and Customs Departments, in which the consumption of malt for brewing has been specially calculated.

APPENDIX II.—SCANDINAVIAN STATISTICS.

GOTHENBURG.

Year.	Population.	Spirits Sold by the Company.				Litres Sold per Head.				Price per Glass at Bar.	Licenses.						Drunkenness, Fined for.		Where last Drink got.				Year.
											Used by the Company.				Transferred to Wine Merchants.								
											"On."		"Off."										
		At Bar.	Retail.	Higher Grade at Bar.	Total.	Bar.	Retail.	Higher Grade.	Total.		No.	Per 10,000.	No.	Per 10,000.	No.	Per 10,000.	No.	Per 1,000.	Company Bars.	Beer Saloons.	"Off" or Home.	Not Stated.	
		Litres.	Litres.	Litres.	Litres.					Ore.													
1865-6	47,232	260,836				5·5				6	23	5·0					1,424	30					1865-6
1866-7	47,898	362,428				7·6				6	28	5·9					1,375	29					1866-7
1867-8	50,498	393,007				7·8				6	30	6·3					1,320	26					1867-8
1868-9	52,526	523,393				9·9				6	43	8·5					1,445	28					1868-9
1869-70	53,822	690,303				12·8				6	42	8·0					1,416	26					1869-70
1870-1	55,110	699,242				12·7				6	43	8·0					1,531	28					1870-1
1871-2	55,986	584,033				10·4				6	42	7·6					1,581	28					1871-2
1872-3	56,909	647 287				11·4				6	42	7·5					1,827	32					1872-3
1873-4	58,307	748,501				12·8				6	41	7·2					2,234	38					1873-4
1874-5	59,986	644,023	867,369	135,347	1,646,740	10·4	14·4	2·3	27·4	6	35	6·0	7	1·2	13	2·2	2,490	42	890	130	335	1,026	1874-5
1875-6	61,505	673,062	935,530	138,162	1,746,755	10·9	15·2	2·3	28·4	6	36	6·0	7	1·2	13	2·2	2,410	39	1,067	263	357	856	1875-6
1876-7	63,391	759,327	812,901	132,187	1,704,416	12·0	12·8	2·1	26·9	6	38	6·2	7	1·1	13	2·1	2,542	40	1,142	305	406	867	1876-7
1877-8	65,697	774,585	735,091	119,767	1,629,441	11·8	11·2	1·8	24·8	6	38	6·0	7	1·1	15	2·4	2,114	32	1,023	269	327	845	1877-8
1878-9	66,844	735,603	623,337	105,314	1,464,257	11·0	9·3	1·6	21·9	6	40	6·1	7	1·1	16	2·4	2,059	31	1,070	301	234	713	1878-9
1879-80	68,477	664,203	622,774	96,472	1,383,450	9·7	9·1	1·4	20·2	7	39	5·8	7	1·0	18	2·7	2,101	31	851	397	303	770	1879-80
1880-1	71,533	629,784	645,434	95,016	1,370,235	8·8	9·0	1·3	19·1	7	40	5·8	7	1·0	17	2·5	2,282	32	914	445	292	897	1880-1
1881-2	71,555	563,984	623,332	97,905	1,285,222	7·8	8·6	1·3	17·7	7	40	5·6	7	1·0	19	2·7	2,096	29	839	442	292	805	1881-2
1882-3	77,653	565,802	736,592	102,097	1,404,491	7·3	9·5	1·3	18·1	7	40	5·5	7	1·0	22	3·0	2,364	30	899	523	370	801	1882-3
1883-4	80,811	590,159	778,681	101,077	1,469,918	7·3	9·6	1·3	18·2	7	38	4·9	7	·9	23	3·0	2,375	29	773	419	355	1,114	1883-4
1884-5	84,450	610,542	812,449	102,432	1,525,423	7·2	9·6	1·2	18·0	7	39	4·8	7	·9	23	2·8	2,475	29	727	483	330	1,183	1884-5
1885-6	88,230	632,521	840,021	94,128	1,566,671	7·2	9·5	1·1	17·8	7	40	4·7	7	·8	22	2·6	2,776	31	798	582	358	1,240	1885-6
1886-7	91,396	602,397	875,989	96,996	1,545,384	6·6	9·3	1·0	16·9	7	40	4·5	7	·8	23	2·6	2,921	32	840	614	464	1,174	1886-7
1887-8	94,370	607,114	877,247	96,564	1,580,926	6·4	9·3	1·0	16·7	8	40	4·4	7	·8	23	2·5	2,922	31	688	679	549	1,215	1887-8
1888-9	97,677	525,046	933,375	109,735	1,568,155	5·3	9·7	1·1	16·1	8	40	4·2	7	·7	23	2·4	3,282	34	765	753	574	1,371	1888-9
1889-90	101,502	534,086	970,171	118,405	1,622,663	5·2	9·6	1·1	15·9	8	40	4·1	7	·7	23	2·4	4,010	40	1,061	763	960	1,590	1889-90
1890-1	104,215	565,505	848,876	131,646	1,546,028	5·4	8·1	1·3	14·8	8	40	3·9	7	·7	23	2·3	4,624	44	1,197	799	1,202	1,734	1890-1
1891-2	106,356	518,663	813,287	109,566	1,441,517	4·9	7·6	1·0	13·5	8	40	3·8	7	·7	23	2·2	4,563	42	1,005	1,231	819	1,464	1891-2
1892-3	106,959	465,249	848,302	98,434	1,411,986	4·4	7·9	0·9	13·2	8	39	3·6	7	·7	23	2·2	4,066	37	844	1,014	796	1,566	1892-3
1893-4	108,528	440,347	881,490	92,384	1,414,222	4·1	8·1	0·8	13·0	8	39	3·6	7	·7	23	2·1	3,665	33	693	1,007	705	1,403	1893-4
1894-5	112,670	461,506	916,559	99,439	1,477,505	4·1	8·1	0·9	13·1	8	39	3·5	7	·6	23	2·0	3,516	31	606	995	725	1,352	1894-5
1895-6	115,521	468,926	960,749	101,823	1,531,490	4·0	8·3	0·9	13·2	8	39	3·5	7	·6	23	2·0	4,040	35	611	1,270	866	1,423	1895-6
1896-7	117,534	493,809	1,006,265	109,769	1,609,843	4·2	8·5	0·9	13·6	8	42	3·6	7	·6	23	2·0	5,234	44	730	1,647	1,029	2,138	1896-7
1897-8	120,151	537,476	1,098,468	117,539	1,753,485	4·5	9·1	1·0	14·6	8	42	3·5	7	·6	23	1·9	6,883	57	1,456	1,938	1,828	1,660	1897-8

The statements of consumption of spirits, &c., are for the company's year (October–September); those for drunkenness are for the calendar year.

The Gothenburg company commenced operations on October 1, 1865.

At the outset 40 licenses were made over to the company. It gradually acquired the remainder of the "on" licenses as they fell in, and in 1868 it had secured all of them, 61. It never used more than 43.

In 1875 the company obtained control of the "off" (*i.e.*, the retail) licenses. Of these the company transfers the greater number to wine merchants, who use them for their own profit and buy and sell their liquors where they please.

There are also five permanent "on" licenses, the holders of which sell all kinds of liquors and are entirely free from the control of the company.

The statistics given in the preceding table do not include the spirits sold by the wine merchants or by the five private concerns. According to figures published by Dr. Sigfrid Wieselgren the sales of the company, as given above, represent about 75 per cent. of the total sales of spirits in the town. The remaining 25 per cent. is sold by the other concerns. The sales of the wine merchants and the five private concerns appear to have diminished between 1875 and 1892 in quite as large a proportion as the sales of the company. The former were about 11 litres per head of the population in 1875 and about 4 litres per head in 1892.

For the 15 years before the company was formed the convictions for drunkenness in Gothenburg were:—

Year.	Population.	Cases.	Per 1,000.	Year.	Population.	Cases.	Per 1,000.
1851	29,357	1,502	51	1859	37,559	3,029	81
1852	30,418	2,043	67	1860	39,165	3,074	79
1853	31,570	2,432	77	1861	40,907	1,810	44
1854	31,727	2,303	73	1862	42,467	1,505	35
1855	32,800	3,421	105	1863	43,868	1,716	39
1856	33,424	2,658	80	1864	44,433	2,161	49
1857	34,806	2,755	79	1865	45,750	2,070	45
1858	36,308	2,695	74				

STOCKHOLM.

Year.	Population.	Spirits sold by the Company per Head.	Cases of Drunkenness per 1,000.	Year.	Population.	Spirits sold by the Company per Head.	Cases of Drunkenness per 1,000.
		Litres.				Litres.	
1856–60			22	1885–86	211,139	16·98	22
1861–65			17	1886–87	216,807	16·47	29
1866–70			13	1887–88	221,549	15·57	35
1870–75			20	1888–89	228,118	14·83	33
1876	147,522	—	39	1889–90	236,350	14·89	33
1877–78	153,528	26·50	45	1890–91	245,331	14·06	34
1878–79	161,722	23·88	37	1891–92	248,051	13·63	33
1879–80	163,040	23·88	36	1892–93	249,246	14·00	33
1880–81	167,868	23·37	37	1893–94	252,937	13·56	31
1881–82	174,702	22·06	35	1894–95	259,304	13·93	31
1882–83	182,358	20·31	37	1895–96	267,100	14·27	33
1883–84	160,842	18·40	34	1896–97	274,611	15·59	39
1884–85	200,781	18·60	33				

The Company commenced operations in October 1877.

Bergen.

Year.	Population.	Spirits sold by the Company per Head.	Arrests for Drunkenness.	Year.	Population.	Spirits sold by the Company per Head.	Arrests for Drunkenness.
		Litres.				Litres.	
1875			1,049	1887	49,623	4·8	685
1876			1,186	1888	50,902	4·7	728
1877	40,760	6·6	1,013	1889	52,252	4·8	729
1878	41,512	5·5	883	1890	53,684	5·2	1,122
1879	42,280	4·8	820	1891	54,900	5·7	1,047
1880	43,062	4·6	901	1892	56,000	6·0	690
1881	43,858	4·9	738	1893	57,000	6·0	815
1882	44,669	5·1	596	1894	58,000	5·5	948
1883	45,493	5·1	838	1895	60,000	5·0	1,381
1884	46,332	5·2	708	1896	61,500	4·7	1,866
1885	47,995	4·9	807	1897	65,000	5·5	1,789
1886	48,335	4·9	701				

The Company commenced operations in January 1877.

Christiania.

Year.	Sprits sold by the Company per Head.	Arrests for Drunkenness per 1,000.	Year.	Spirits sold by the Company per Head.	Arrests for Drunkenness per 1,000.
	Litres.			Litres.	
1876	—	66·4	1886	2·1	25·6
1877	—	89·5	1887	2·1	28·3
1878	—	51·2	1888	2·3	40·6
1879	—	41·6	1889	2·4	41·8
1880	—	40·9	1890	2·5	51·9
1881	—	35·5	1891	2·5	57
1882	—	34·1	1892	2·6	56
1883	—	35·7	1893	2·4	55
1884	—	33·5	1894	2·2	53
1885	—	37·7	1895	2·3	41
			1896	1·9	59

The Company commenced operations in July 1885.

Sweden.

Convictions for Drunkenness.

Year.	In Towns.	In Rural Districts.	Year.	In Towns.	In Rural Districts.
1885	16,432	1,875	1891	23,312	2,536
1886	18,197	1,898	1892	24,907	2,818
1887	19,083	2,030	1893	22,909	2,380
1888	19,331	1,757	1894	23,959	2,600
1889	20,994	1,910	1895	25,346	2,960
1890	22,968	2,188	1896	28,458	3,218

Population, 1896:—In towns, 1,003,798; in country districts, 3,958,770.

Sweden and Norway.

Consumption of Spirits and Beer per Head.—Annual Average.

Sweden.			Norway.		
Year.	Spirits.	Beer.	Year.	Spirits.	Beer.
	Litres.	Litres.		Litres.	Litres.
1856–60	9·5	—	1849–50	5·4	—
1861–65	10·6	11·1	1851–55	6·3	—
1866–70	8·8	10·7	1856–60	5·5	—
1871	10·5	12·1	1861–65	4·4	—
1872	10·9	15·2	1866–70	4·8	—
1873	11·8	16·3	1871	5·3	12·3
1874	13·5	15·1	1872	4·5	13·0
1875	12·4	16·5	1873	5·3	16·1
1876	12·4	15·9	1874	6·6	19·0
1877	10·6	17·0	1875	6·5	23·2
1878	10·5	20·5	1876	6·7	21·1
1879	8·8	16·5	1877	6·0	21·4
1880	8·1	16·3	1878	4·5	20·7
1881	8·8	18·3	1879	3·3	20·1
1882	8·0	15·8	1880	3·9	15·3
1883	6·8	16·8	1881	3·0	16·1
1884	8·0	20·8	1882	3·8	16·2
1885	8·4	20·3	1883	3·3	17·7
1886	7·8	22·1	1884	3·5	16·9
1887	7·0	22·7	1885	3·5	17·1
1888	7·5	27·2	1886	3·0	13·5
1889	6·2	28·2	1887	2·8	13·3
1890	7·0	27·4	1888	3·1	15·5
1891	6·4	30·9	1889	3·2	15·5
1892	6·5	30·8	1890	3·1	18·8
1893	6·7	31·6	1891	3·9	21·7
1894	6·9	33·0	1892	3·2	20·6
1895	6·9	35·5	1893	3·5	20·8
1896	7·2	42·4	1894	3·8	19·8
1897	7·5	—	1895	3·5	17·7
			1896	2·3	16·2
			1897	2·2	17·8

Sweden, 1855.—Local option given to the Communes.
1865.—Company system commenced in Gothenburg.

Norway, 1871.—Company system authorised.
1896.—Power to prohibit sale of spirits in towns by direct vote came into operation.

Polling in Norway under the Law of 1894 as to whether the Samlags (or Companies) should continue or not.

Towns.	Population 1891.	No. of Voters.	Against Company.	Per Cent.	For Company.	Per Cent.
1895.						
Gjovik	1,416	800	472	59	328	41
Arendal	4,578	2,073	1,286	62	787	38
Risor	3,148	1,616	1,067	66	549	34
Grimstad	3,173	1,476	874	59	602	41
Aasgaardstrand	398	210	141	67	69	33
Aalesund	8,706	4,359	3,222	74	1,137	26
Namsos	1,870	965	731	76	234	27
Tonsberg	7,215	3,654	1,969	54	1,685	46
Brevik	2,073	1,088	566	52	522	48
Molde	1,629	838	516	62	322	38
Skien	8,979	4,249	2,553	60	1,696	40
11 Towns	42,855	21,328	13,397	63	7,931	37
Vadso	1,744	649	115	17	534	83
Bodo	3,656	1,814	610	33	1,204	67
2 Towns	5,400	2,763	725	29	1,738	71
13 Towns	48,255	23,791	14,122	59	9,669	41
1896.						
Levanger	900	570	295	51	275	48
Saggendal	470	213	115	24	98	46
Stavanger	24,000	11,756	7,522	64	4,234	36
Lillesand	1,500	720	470	65	250	35
Farsund	1,500	887	480	56	377	44
5 Towns	28,370	14,116	8,882	63	5,234	37
Bergen	53,686	28,762	14,172	49	14,590	51
Mosjoen	1,150	619	302	49	317	51
Kongsvinger	1,300	606	67	11	539	89
Drobak	2,000	1,094	337	31	759	69
4 Towns	58,136	31,081	14,878	48	16,023	52
9 Towns	86,506	45,197	23,760	53	21,437	47
1897.						
Hamar	4,170	2,115	599	28	1,516	72
Holmestrand	2,356	1,088	362	33	726	67
Horten	6,813	3,583	1,667	46	1,916	54
Konsberg	5,238	2,756	859	35	1,597	65
Larvik	11,261	4,597	2,370	48	2,587	52
Drammen	20,687	9,457	2,964	31	6,793	69
Tromso	6,000	2,872	990	35	1,852	65
Fredrickshald	11,247	5,482	2,317	42	3,165	58
8 Towns	67,742	31,980	12,128	38	19,852	62
Portsgrund	3,996	2,138	1,195	56	943	44
Sarpsborg	2,904	2,052	1,114	57	938	46
Christianfund	10,381	5,951	3,319	56	2,632	44
3 Towns	17,281	10,141	5,628	56	4,513	44
11 Towns	85,023	42,121	17,756	42	24,365	58

Towns.	Population 1891.	No. of Voters.	Against Company.	Per Cent.	For Company.	Per Cent.
1898.						
Hammerfest	2,188	980	302	31	678	69
Trondhjem	29,162	16,829	4,017	24	12,812	76
Egersund	2,960	1,476	647	44	829	56
Christiansand	12,813	6,396	3,070	48	3,326	52
Svelvig	1,395	609	219	36	390	64
Houefoss	1,494	806	342	42	464	58
Lillehammer	1,832	1,272	498	39	774	61
Moss	8,051	3,482	1,592	44	1,990	56
8 Towns	59,895	31,950	10,687	33	21,263	67
Flekkefjord	1,577	1,010	727	72	283	28
Kragero	5,753	2,578	1,916	74	662	26
Sandefjord	4,238	2,267	1,236	55	1,031	45
Fredrikshald	12,451	6,153	3,476	56	2,677	44
4 Towns	24,019	12,008	7,355	61	4,653	39
12 Towns	83,914	43,958	18,042	41	25,916	59

APPENDIX III.

The Liquor Laws of the United States of America.

In the United States each state in the Union legislates for itself on the liquor question, with the result that the liquor laws vary, more or less, in every state. Congress legislates for the territories. In the appended statement particulars are given of the broad principles on which the laws in each state and territory are based, mainly with the object of showing where "prohibition," "local option," "high license," and ordinary license laws were in force in 1898. No attempt has been made to go into detail, except in so far as it has seemed desirable to state, with regard to local option states and territories, what method of local control and choice has been adopted. The term "local option" is only used where some power of preventing the issue of licenses to sell intoxicants is vested either in the people of the locality or in a local body elected by them. A local option law involves the assumption that intoxicants will be sold in some localities and not in others. Consequently, throughout the States where there are local option laws there is side by side with them a licensing system of some kind. Where that system is what is known as "high license" the fact is stated.

No effort has been spared to ensure accuracy. For the most part the information which is summarised below, has been obtained as the result of direct communication with the governors of the respective states. Where necessary that has been supplemented by reference to official publications, American and British.

The summarised result is as follows:—Five states are under prohibition; 37 are under local option of some kind; 4 are under license only. Of the 37 local option states, 25 have local option by direct popular vote; 5 have it by the direct personal approval of a majority of the voters or residents in the vicinity being required before a license can be issued; and in 7 states the local option takes the form of full control, with power to prohibit, entrusted to the elected local authority.

Of the territories, one is under high license, and three have municipal control.

Prohibition States.

Maine.—Prohibition adopted 1851. Repealed 1855. Re-enacted 1857, and continued to the present time. Embodied in the Constitution, by a three to one vote, in 1884.

New Hampshire.—Prohibition adopted 1855. Sale of beer forbidden since 1878.

Vermont.—Prohibition adopted in 1852, and continued to the present time. Manufacture forbidden.

North Dakota.—Prohibition part of the Constitution since 1889.

Kansas.—Prohibition since 1881. Embodied in the Constitution in 1888.

Local Option States.

By Direct Vote as to License or No License.

Massachusetts.—Local option by direct vote. Vote taken annually in each town. High license; minimum fee for full license, $1,000. Saloons limited to 1 per 1,000 of the population, except in Boston, where it is 1 per 500. Close on Sunday.

Rhode Island.—Local option by direct vote. Where prohibition is not carried the Town Councils and Boards of Commissioners have full power to grant or refuse licenses. No license may be granted when the owners or occupiers of the greater part of the land within 200 feet of the proposed licensed premises object. Close on Sunday. Town Councils may close on election days and public holidays.

Connecticut.—Local option by direct vote. Close on Sunday and election days.

Delaware.—Local option by direct vote, which is taken when a majority of the representatives of a district in the General Assembly request to a vote to be taken. High license. Close on Sunday and election days.

Maryland.—Local option throughout the various counties by special Local Acts, some of which prohibit licenses outright, while others provide for a direct vote being taken. Sunday closing.

Virginia.—Local option by direct vote. There are also numerous special Acts which prohibit the sale of liquor in specified localities. Sunday closing.

West Virginia.—Local option by direct vote by counties and municipalities. The Governor's letter says: "Three-fourths of the 55 counties refuse to grant liquor licenses "of any sort." Sunday closing.

North Carolina.—Local option by direct vote. Also a considerable amount of prohibition by special Local Acts. Close on Sunday and on election days, also 12 hours before and after the latter.

Georgia.—Local option by direct vote. About two-thirds of the counties refuse to allow liquor licenses to be issued. High license. Outside the towns the sale of liquor is prohibited within three miles of a church or school. Close on Sunday and election days.

Florida.—Local option by direct vote by counties. Where the sale of liquor is not prohibited by vote, an applicant for a license must obtain the support of a petition signed by a majority of the voters in the electoral division in which the license is to be used. Inability to secure the requisite number of signatures secures prohibition in many counties without any vote being taken. High license. That confines the traffic to towns of considerable size.

Ohio.—Local option by direct vote in townships, and by the Town Council in municipalities. Close on Sunday. High license.

Illinois.—Local option by direct vote. Where the sale of liquor is not thus prohibited, applicants for licenses must obtain a petition signed by a majority of the voters in the town or electoral district. Even then the local licensing authority has full power to refuse the license. Close on Sunday and election days. High license.

Michigan.—Local option by direct vote. High license. Close on Sunday and election days.

Wisconsin.—Local option by direct vote. High license. Close on Sunday and election days.

Minnesota.—Local option by direct vote in towns and villages, and by the local authority in cities. High license. Close on Sunday and election days.

Missouri.—Local option by direct vote. Where licenses are allowed, an applicant for one must obtain the consent of a majority of the voters on the block, and in small towns, also of a majority in the town. Even then the licensing court may refuse the license unless the application be supported by two-thirds of the voters. High license. Sunday closing.

South Dakota.—Local option by direct vote. High license. Sunday closing.

Kentucky.—Local option by direct vote. Where the issue of licenses is allowed, objection by a majority of the voters in the vicinity will prevent a particular license being issued. High license. Close on Sunday and election days.

Alabama.—Local option by direct vote. Prohibition under special Local Acts is in force over a very large portion of the state. There are several hundreds of these Acts. High license in some municipalities. The Governor's letter says: "Prohibition prevails "over a very large portion of the State. The cities prefer licensed saloons. The "small towns and rural districts are overwhelmingly for prohibition."

Mississippi.—Local option by direct vote by counties as a whole, including the towns and cities. Where licenses are allowed, the applicant must produce a petition in favour of his application signed by a majority of the voters in the town or district. It is stated that prohibition prevails in three-fourths of the counties. Close on Sunday.

Louisiana.—Local option by direct vote by counties, cities, wards, and parishes. The locality also fixes the license fee where the issue of licenses is allowed, and sometimes it is made as high as 1,000*l.* in order to render it prohibitive. Close on Sunday and election days.

Texas.—Local option by direct vote.

Arkansas.—Full local option throughout the state by direct vote. Also the majority of the adult residents within three miles of a church or a school may, by petition to the licensing authority, prevent the issue of a license in that area. In addition, the Municipal Corporations in towns have power to regulate or suppress dramshops and drinking saloons. There are many special Acts prohibiting the sale of drink in specified localities. Close on Sunday. The Governor in his letter says, "The result of "these laws is that the sale of liquor is, as a rule, only licensed in the larger towns "and cities."

Montana.—Local option by direct vote. High license.

New York.—Local option by direct vote. Where licenses are permitted, an applicant for a new license must secure the approval of two-thirds of the owners of dwellings within 200 feet. High license. Close on Sunday.

By Decision of a Local Elected Authority.

New Jersey.—The entire and sole control of the issue of licenses is in the hands of the Town Council and License Commissioners in each town and district. High license.

Nebraska.—Local option by a popularly elected licensing board. Also applicants for licenses must have the support of a majority of the freeholders in the town or the precinct. Then the elected licensing authority may, and in many places do, at their own discretion refuse to issue any licenses at all. Sunday closing.

Wyoming.—The power to regulate or prohibit the sale of drink is, in the cities and towns, entirely in the hands of the municipal authorities. Close on Sundays and election days.

Colorado.—The elected local authority has the power to license, regulate or prohibit. In many towns and country districts no licenses are issued. Close on Sunday. High license.

Utah.—Full local control is vested in the local authority. High license. Close on Sunday and election days. The municipal authorities have also power to close on any legal holiday.

Washington.—The elected local authority licenses, regulates or prohibits. High license.

California. — In each locality the municipalities and town boards of trustees exercise full local option, and have power to regulate or prohibit within their boundaries or a mile beyond.

By Petition, &c.

District of Columbia.—Local option by the written consent of a majority of the residents and owners of property within a given distance of the house proposed to be licensed being required. No license may be issued within 400 feet of a church or a schoolhouse. High license. Close on Sunday.

South Carolina.—The ordinary sale of liquor by private traders is prohibited throughout the state. But the state may establish, or authorise municipalities to establish dispensaries for the supply of drink. Such dispensaries may not, however, be established in any town or district in which a majority of the voters declare against having one.

Indiana.—Local option by applicants for licenses being required to have a petition signed by a majority of the voters in a township or ward. A remonstrance against an existing license makes that license void if it be signed by a majority of the voters in the township or ward in which the license is. High license. Close on Sundays, holidays, and election days.

Iowa.—Prohibition is the law of the state. But local option is given by a provision in subsequent laws that the penalties for selling liquor may be suspended and licenses be granted on the written consent of a majority of the voters being given. The usual requirement is that a petition shall be signed by a proportion of the voters—which ranges from 50 to 80 per cent.—in the city, town or county concerned. Close on Sundays, holidays, and election days.

Oregon.—Outside of municipalities an applicant for a license must obtain a petition in support of his application signed by a majority of the voters in the district. Even then the County Court has power to refuse the application. In incorporated towns and cities the municipalities exercise full control and make their own conditions. Sunday closing.

License States.

Pennsylvania.—High license. The licensing authority, which is Quarter Sessions, has absolute discretion in granting licenses. In some districts, where temperance sentiment is strong, none are granted. Close on Sunday.

Tennessee.—High license in the cities and towns. Elsewhere no license may be issued for the sale of drink within four miles of a church or a school-house.

Nevada.—License.

Idaho.—High license.

Territories.

New Mexico.—City and town local authorities have full control, and may regulate or prohibit. High license. Close on election days.

Arizona.—Municipal authorities have full control. Close on Sunday.

Oklahoma.—Local authorities in cities, towns, and counties have full authority. Close on Sundays and election days.

Alaska.—High license.

APPENDIX IV.

Synopsis of Licensing Bills, 1871–1898.

1871.—*Bruce's Bill.*

Publicans' certificates to be limited to 1 per 1,000, and 1 per 600 of the population.

Publicans' certificates are "on" licenses other than inns, eating-houses, railway refreshment rooms, refreshment wine licenses, and theatres.

Licensing justices not to grant more than the statutory number, if after announcing their intention so to do, one-third of the ratepayers demand a poll and three-fifths of those voting declare against the increase. Otherwise they may grant more as they deem necessary.

All publicans' licenses to continue for ten years from the passing of the Act. Then only the reduced number to be issued unless an increase be sanctioned as above. Provisions for tendering for the certificates to be issued.

Subsequently all publicans' certificates to lapse every 10 years.

Certificates for inns, eating-houses, railway refreshment rooms, confectioners, and refreshment rooms (wine license), and theatres, may be issued by the justices beyond

the statutory limit. Also "off" beer houses and spirits, beer, wine, and sweets "off" in closed vessels.

Children under 16 not to be supplied, whether for consumption by them or not.

A force of public-house inspectors to be established under direction of the Home Secretary.

Mr. Dodson, Mr. Secretary Bruce, the Chancellor of the Exchequer (Mr. Lowe), and Mr. Winterbotham.

1872.—*Elected Licensing Board.*

Licensed houses to have accommodation for supplying meals and accommodating travellers.

No new licenses to be issued until the number of public-houses is reduced to 1 per 1,000 and 1 per 500 to the population.

In country districts public-houses to be not less than 2 miles apart.

Board to have power to buy out existing license-holders. License rent fund to be established for the purpose.

New licenses to be tendered for.

Sir Robert Anstruther, Sir Harcourt Johnstone, Mr. Thomas Hughes, and Mr. Morrison.

1874.—*Scotland.*

No new licenses to be granted in excess of 1 to 700 people in towns or in rural districts within 2 miles of any other licensed premises, except to hotels.

No new grocers' licenses to be issued.

Vote of ratepayers may be taken. If carried by a majority the local authority shall nominate a board, half+1 of their own members and half of outsiders. Boards to be appointed annually.

Then no increase in licenses to be granted by licensing authority.

The board may acquire any licensed premises and plant, and carry the business on itself. It may borrow money for the purpose, and apply the profits—two-thirds to pay interest and repay loans, one-third for town improvements. When loans repaid, two-thirds to local purposes, one-third to the Government.

Sir Robert Anstruther, Mr. Fordyce, and Mr. Dalrymple.

1875.—*Ireland. Free Sale and Local Control.*

Repeals all laws restraining the sale of drink, except the imposition of excise duties.

Ratepayers may take a vote.

If three-fifths of those voting vote for partial restriction, the laws previously enforced shall again come into operation. The licensing authority shall decide how many licenses shall be granted, but the number shall not exceed those existing at the passing of the Act.

In a year another vote may be taken on "further restriction," if two-thirds of those voting for it, the sale of drink shall be confined to week-days, and between 8 a.m. and 8 p.m. on those days. If no vote be taken either for the continuance or extension of restriction for three years after the adoption of restriction, the sale shall again become free and uncontrolled. "Further restriction," if carried, shall continue for five years. After it has been in force two years, the vote may be taken for prohibition.

If five-sevenths of those voting for it, the sale of drink shall be illegal; except that a board of guardians may, with the concurrence of the licensing authority to be obtained annually, establish and manage depôts for the sale of drink for such purposes and under such conditions as they may determine.

Sale to *bonâ fide* hotel guests and travellers not to be illegal.

On adoption of prohibition, compensation to be paid.

It shall not be more than four, or less, and twice the average amounts of net profits during the preceding five years. This statement to be compared with income tax returns. Compensation to be provided, one-fourth from county cess, one-fourth from poor rate, one-half from Consolidated Fund.

No compensation to be paid if a conviction has been recorded on the license.

When compensation has once been paid on passing the prohibition resolution, if licenses be again adopted by vote they shall be sold by auction, and be for one year

The proceeds to go—one-fourth to county cess, one-fourth to poor rate, one-half to Consolidated Fund.

Mr. Sullivan and Mr. Dease.

1876.—*Scotland.*

No new licenses if the number now exceed 1 to 500 of the population.

When reduced to that proportion, no new license to be issued unless application is approved by majority of ratepayers within 500 yards of the premises.

No new certificates to grocers to be issued.

Sir Robert Anstruther, Mr. Dalrymple, Mr. Maitland, and Mr. Jenkins.

1876.—*England and Wales.*

Prohibits new licenses at shops, or where the proportion of licensed houses now exceeds 1 to 400 in towns or populous places, or 1 to 300 elsewhere.

Sir Harcourt Johnstone, Mr. Birley, Mr. Pease, and Mr. Bell.

1877.—*England and Wales.*

Licensing board to be elected by the ratepayers.

Power of granting, withholding, and transferring, to be vested in it.

No appeal from its decisions to Quarter Sessions, but only to the High Court on points on which such an appeal may now be made.

Mr. Joseph Cowen, Sir Henry Havelock, Mr. Thomas Burt, Mr. Norwood, and Mr. Ernest Noel.

1878.—*Scotland.*

Licensing board to be elected.

All power of granting, withholding, and transferring licenses to be vested in it.

All owners or occupiers to vote in election of board.

Mr. Fortescue Harrison, Sir George Balfour, and Dr. Cameron.

1879.—*To amend Act of* 1872.

No new license to be granted unless the application is "supported by a requisition "signed by such a proportion of the residents in such districts as shall satisfy the "licensing authority." Evidence on oath must also prove that there is need for such license.

Mr. Rodwell, Sergeant Simon, Mr. Arthur Mills, Mr. Leatham, and Mr. Mark Stewart.

Similar Bill, for Scotland only.

Mr. Mark Stewart, Sir George Douglas, Dr. Cameron, and Sir Graham Montgomery.

1880.—*Licensing Board Bill. England only, excluding London.*

Licensing board to consist—one-half of magistrates and one-half of elected members.

As to "on" licenses only, the board may reduce the number on compensating the holders.

The cost of compensation to be levied in 30 annual payments on the remaining "on" licenses in the district.

New licenses, if any to be granted, to be given to the highest tender.

Sir H. Johnstone and Mr. Birley.

1884.—*England. Cities and Boroughs only.*

A licensing committee of magistrates to be the licensing authority.

An appeal to lie to the whole body of the local magistrates. Their decision is to be final, except on points of law which may be taken to the High Courts.

Mr. Caine, Mr. Samuel Smith, Mr. Brown, Mr. Cropper, and Mr. Williamson.

1888.—*Church of England Bill.—England and Wales.*

A licensing board to be formed for each licensing district, consisting one-third of magistrates and two-thirds of ratepayers residing in the district, to be elected by the ratepayers.

The powers of the board as to granting, withholding, renewing, and transferring licenses to be those of the present licensing justices and Quarter Sessions combined.

Their discretion to be absolute, subject to compensation being paid in cases where licenses are not renewed which would have been renewed but for the passing of this Act.

Funds to be provided by an extra license rent, and, if needs be, to be augmented from the rates.

Sir William Houldsworth, Colonel Bridgeman, Mr. Samuel Smith, and Mr. Whitmore.

1888.—*Conservative Government Bill.*

County council to have power to close licensed premises all or part of Sunday, Christmas Day, and Good Friday.

Electoral divisions to be licensing districts.

The councillors for the division with selected councillors added are the county council, not exceeding one-third of the elected councillors—to be the licensing committee for the district.

The committee may, subject to confirmation by the county council, refuse to renew any license.

If the justices report that a license ought not to be renewed it must be refused and no compensation will be made

But if renewal be refused (of a license existing before the passing of the Act) compensation shall be paid. The basis of compensation to be the difference between the value of the premises immediately before the passing of the Act, with and without a license, regard being had to the discretion of the justices before the Act to refuse to renew the license.

The compensation to be paid out of the county fund. Additional license duties to the extent of 20 per cent. may be levied. In boroughs the town council to appoint the licensing committee.

Appeal from report of justices against a license to be to the Quarter Sessions of the borough.

Compensation to come from the borough fund. Town council to have power to increase license duties 20 per cent.

1890.—*Conservative Government Bill.*

After the passing of the Act no new licenses to be granted without the consent of the county council, except to railway refreshment rooms, eating-houses, and hotels.

The county council may, on application to an urban or rural sanitary authority, buy out any "on" licenses.

The money to be paid out of an allowance of 350,000*l.* a year, which was to be voted to England for the purpose, subject to the provision that the council may borrow for the purchase of licenses an amount not exceeding three times its share of that grant.

1890.—*England and Wales. Lord Randolph Churchill's Bill.*

County council to appoint licensing committees for licensing divisions.

Those committees to be the sole licensing authority.

Their discretion to be absolutely final.

To have power to settle hours of opening and closing.

Power to grant new licenses specially restricted to hotels and railway refreshment rooms, and when an applicant will buy up and extinguish at least one other license in the division.

Licenses to be reduced to—
(1.) Publicans' full "on."
(2.) Refreshment house, wine and beer "on."
(3.) A restricted form of No. 1 for hotels and railway refreshment rooms.
(4.) Combined wine and beer "off."

Thus beerhouses to be abolished.

The issue of licenses, except to hotels and railway refreshment rooms in any parish; may be prohibited by a vote of two-thirds of those entitled to vote.

If less than half the voters entitled to vote vote for the resolution, those who requisitioned the poll shall pay the expense of it.

The vote to be taken by papers delivered at the houses of the ratepayers.

Prohibition to continue in force three years unless rescinded at the end of the first year by the same majority as is required to carry a resolution.

Clubs to be registered. Fees from 2*s.* to 6*s.* in the £ on the annual value of the premises.

Lord Randolph Churchill, Sir H. Selwyn-Ibbetson, Sir Algernon Borthwick and Mr. Johnston.

1893. *England and Wales. Authorised Companies* (*Liquor Bill*).

(House of Lords.)

A vote taken by the local authority in a locality may authorise the adoption of the system of sale by a company.

The company must be approved by the Local Government Board.

On establishment of the company no new license shall be issued except to the company.

At then end of five years from the establishment of the company all licenses not held by the company shall not be renewed.

When established the company may require any license-holder to surrender his license to them, or any license-holder may call upon the company to accept the surrender of his license.

When a license is surrendered the value of the license shall be paid to the persons interested. The value to be the extra value given to the premises by the license *after the passing of this Act.*

The company shall be entitled to a license for every one surrendered to them, subject to the condition that after five years from the establishment of the company the number of licenses granted to the company shall not exceed 1 per 1,000 in urban districts and 1 per 600 in rural districts.

The profits may be devoted to—
(1.) Paying 5 per cent. on the capital of the company.
(2.) Building up a reserve fund equal to the paid-up capital of the company. But no more than one-third of the surplus profits, after paying dividends, shall be paid to the reserve fund in any one year.
(3.) The balance shall go to the local authority to be applied by it to public and charitable objects not for the time being maintained wholly out of the rates. The objects to be selected by the company subject to the approval of the local authority.

The licensing authority may grant licenses to hotels and railway refreshment rooms apart from the Company.

Clubs to be registered, and the licensing authority may, subject to appeal to quarter sessions, remove from the register any club which is not *bonâ fide* a social club, or in which undue drinking takes place.

The Local Government Board may approve the establishment of more than one company in a district.

The Bishop of Chester.

1893–4.—*Liberal Government Local Control. England and Scotland.*

The voters to be the Local Government electors.

A two-thirds majority may prohibit the issue of licenses.

Resolution, if carried, not to come into force until three years after the passing of the Act.

Vote may be taken again in three years.

A two-thirds majority required to reverse the vote.

Sunday closing may be carried by a majority vote.

When a poll has been taken another shall not be taken for three years.

The divisions to be in boroughs, wards; in rural districts, parishes; and in London, the district of a sanitary authority.

Hotels, eating-houses, and refreshment rooms exempt from the prohibitive vote.

Sir William Harcourt, Mr. Asquith, Sir George Trevelyan, Sir John Hibbert, and Mr. Burt.

1894.—*English Veto.*

Municipal and county council voters.

The majority vote to prevent the issue of licenses.

The voting to be in wards, boroughs, or districts.

When adopted no further voting for five years. If not adopted another vote may be taken in two years.

Sir Wilfrid Lawson, Mr. Allison, Mr. Jacob Bright, Mr. H. J. Wilson, Mr. W. Allen, Mr. Benn, Mr. Billson, Mr. Crosfield, Mr. Saunders, Mr. Fenwick, Mr. Snape, and Mr. Whittaker.

1874.—*Irish Veto.*

Parliamentary voters to vote as to—

1. Prohibition.
2. Reduction to a specified number.
3. No new licenses.

A two-thirds majority required to carry any of these.

If first resolution carried, no further poll for five years.

If second resolution carried, another poll may be taken in two years.

If third resolution carried, no further poll may be taken on that resolution, but a poll may be taken on the other two in two years.

If all the resolutions rejected, another poll may be taken in two years.

Mr. William Johnston, Mr. Jordan, Lord Arthur Hill, Mr. Pinkerton, Mr. T. W. Russell, Mr. Diamond, and Mr. Wolff.

1894.—*Scotch Veto.*

Same as the Irish Bill, except that a majority vote in each case is sufficient to carry the resolution.

Mr. John Wilson (Govan), Sir Charles Cameron, Sir Leonard Lyell, Mr. Cameron Corbett, Dr. Clark, Mr. Birrell, and Mr. Angus Sutherland.

1894.—*Welsh Veto.*

Local Government electors to vote as to—

1. Prohibition.
2. Reduction to a specified number.
3. No new licenses.

A two-thirds majority to carry the first resolution. If carried, no vote to be taken for five years. It may be abolished after five years by a two-thirds majority.

The majority to carry second resolution.

The majority to carry third resolution.

First and second resolution may be taken in two years.

Mr. Bowen Rowlands, Mr. Lloyd George, Mr. Rowland Jones, Mr. Abel Thomas, Mr. Lloyd Morgan, and Mr. Burnie.

1895.—*England and Wales. The Westminster Bill.*

Licensing board elected by ratepayers, supplemented by half as many more members appointed by the licensing justices. Term, three years.

Five years after the passing of the Act a poll may be taken, and a two-thirds majority of those voting may prohibit the grant of licenses.

Such a vote may be reversed by a majority of votes.

Three years' interval between the polls.

Voting to be in wards or parishes.

Licenses not to exceed 1 per 1,000, and 1 per 500 of the population.

The first year after the Act, the excess licenses not to be renewed.

The value of the licenses not renewed, to be paid by the county council in a 10-year annuity. The value to be the difference in the value of the premises with and without the licenses.

If prohibition is carried while the annuity is running, the annuity to cease.

The funds for the annuity to be raised by a rate on all licensed premises and clubs within a mile of an abolished license or of a prohibited area. The rate to be levied on the amount taken for liquor during the previous year.

Hotels and railway refreshment rooms to be exempt from the provision as to number of licenses, and also from the local veto.

Licensing board may fix closing hours at 10 p.m. on ordinary evenings, and at 8 p.m. on one evening in the week.

They may also enact Sunday closing.

Board may appoint inspectors of public-houses.

Clubs to be registered and pay a fee. Registration may be refused or withdrawn.

Mr. Courtney, Mr. Bolitho, Sir Thomas Lea, Mr. Brynmor Jones, and Colonel Bridgeman.

1895.—*Manchester Bill.*

No new licenses to be issued during the next four years.

Then licenses to be reduced to 1 per 1,000 and 1 per 600 of the population.

Licensed hotels and refreshment houses may be granted in addition.

Licenses, after the four years from the passing of the Act, to be for five years and to be put up for tender.

Receipts for sale of licenses during the first two periods of five years to be divided amongst those who held licenses at any time during the three years preceding the reduction of the licenses to the statutory limit.

After the second of the five-year periods, the receipts from tenders to go to the National Exchequer.

A vote may be taken as to closing on Sundays, and from 10 p.m. to 8 a.m. on other days.

The majority to carry either.

The issue of licenses may be vetoed after the first four years by a three-fourths majority vote. Hotels and railway refreshment rooms to be excepted.

If veto once carried, five years' interval to be between polls.

Public-house inspectors may be appointed.

Clubs to be registered. Fee 5 per cent. on total takings for liquor.

Sir Henry Roscoe, Mr. Jacob Bright, Mr. W. Crosfield, Mr. Robert Leake, Mr. W. Mather, and Mr. C. S. Roundell.

1895.—*England, Wales, and Scotland. Liberal Government Local Control Bill.*

Two-thirds majority of parochial electors voting may prohibit the issue of licenses.

The majority may reduce licenses to three-fourths of what they were before the vote was taken.

These powers to come into force three years after the passing of the Act.

When a reducing resolution is carried, the licenses granted, old or new, shall be deemed to be new, and to be at the absolute discretion of the justices.

No further vote to be taken for three years.

The majority vote may repeal the resolution.

Sunday closing may be carried by a majority vote.

Hotels, eating-houses and railway refreshment rooms to be exempt from prohibitive or reduction resolutions, and to be granted at the discretion of the justices.

Sir William Harcourt, Mr. Asquith, Sir George Trevelyan, Sir John Hibbert, and Mr. Burt.

1896.—*England and Wales. Church of England Bill.*

The decision of the licensing authority as to the granting or refusal of licenses to be final.

Licenses (other than hotels and railway refreshment rooms) to be reduced to 1 per 1,000 and 1 per 600 of the population.

One-fifth of the excess to be withdrawn each year, for five years after the passing of the Act.

Holders of licenses withdrawn to have for each year of the five for which their license is not renewed, compensation at the rate of an average year's profit based on the profit made on the sale of liquor during the five years prior to the passing of the Act. That is the one-fifth closed in the first year to receive five years' profits. The one-fifth closed in the second year to have four years' profits. Those closed in the third year to have three years' profits, and so on.

At the first licensing sessions after the passing of the Act every applicant for a license to send in a statement of his past five years' profits. Those whose licenses are renewed to be taxed on that statement, not exceeding 10 per cent. per annum, to provide the unds to pay those whose licenses are not renewed.

If the amount raised by this tax is not sufficient the local authority shall borrow the amount and continue to tax until it is recouped.

Licensed holders not to carry on any other trade on the premises, except hotel or refreshments, or sale of tobacco.

Licensing authority may enact earlier hours of closing on week-days.

Houses to be closed on Sundays, but licensing authority may authorise opening for two hours on Sunday for sale "off."

Inspectors may be appointed.

Clubs to be registered. Fee 2*s.* in the pound on the value of the premises.

Mr. Tritton, Mr. Brynmor Jones, Mr. Henry Hobhouse, and Sir William Houldsworth.

1899.—*Scotch Local Veto.*

A two-thirds majority of parish electors in a borough, ward, or parish may prohibit the sale of liquor.

A limiting or reducing resolution may be carried by a bare majority, and shall mean a reduction of the then existing licenses by one-fourth.

No further poll may be taken for three years.

A two-thirds majority is required for the repeal of a resolution of either kind.

1899.—*Threefold Option. Scotland.*

Licensing authority:—county councillors for the district, with the addition, in towns, of the town councillors or police commissioners.

Local electors shall have power—

By a majority of the voters on the registers to reduce the number of retail licenses to 1 per 300 electors in urban and 1 per 150 electors in rural districts, *or*

By a similar vote, to adopt local management of the retail sale, other than at hotels, restaurants, and places of amusement, *or*

By a two-thirds vote, which must also be a majority of the voters on the register, to prohibit the "on" retail sale, other than at hotels, restaurants, and places of amusement.

Five years' notice to be given to license-holders after the carrying of any of these votes. At the end of the time the change decided upon to be made and no compensation to be paid.

But the change may be made a year after the vote on paying as compensation to the owner of the licensed property a sum not exceeding three years' rent, and to the tenant a sum not exceeding five years' rent.

The funds for the compensation to be raised by loan, which would be paid off from receipts from special license rents and license fees.

In case of reduction of licenses the reduced number to be offered by auction and issued, for a term of five years, to the highest bidder.

Clubs to be licensed and inspected.

Licensing authority to have power to close licensed premises on public holidays and election days.

Mr. Parker Smith, Mr. James Campbell, Sir Mark Stewart, Mr. Thorburn, Mr. Ure, and Mr. Yoxall.

1872.

Under the general Licensing Bill introduced by Sir Henry Selwyn-Ibbetson, Mr. Headlam, Mr. Goldney, and Mr. W. H. Smith, it was provided that the disqualifications of licensing justices should extend to members of Watch Committees.

1890.

Appeals in cities and boroughs on matters of fact but not of law from any act of justices under the Licensing Acts to be no longer to quarter sessions, but to the general body of the justices for the city or borough, and their decision to be final.

Mr. W. P. Sinclair, Sir W. H. Houldsworth, Mr. T. W. Russell, Mr. Birrell, and Mr. J. C. Stevenson.

APPENDIX V.

Analogy and Precedent in Church Leases.

Reeve's History of English Law, by Finlaison (Vol. III., Chapter 33) gives an account of the restraining statutes for the purpose of preventing Ecclesiastical eleemosynary Corporations from dilapidating their possessions and anticipating the profits of their successors by long and ruinous leases. The first of these Statutes was passed in 1558 and was only applicable to Bishops. In 1571 it was extended to other Church dignitaries, viz., to any Dean, Archdeacon, Provost, Treasurer, Chamber Chancellor, Prebendary, or any other having a dignity or office in a cathedral or collegiate church, and to any parson, vicar or other incumbent of any ecclesiastical living. In 1575 the prohibition was extended to colleges and the Universities, and to Winchester and Eton.*

The Statutes absolutely in words prohibited leases except for 21 years in possession, and of 40 years for mining and building purposes. Yet the church was in the habit of granting, in fact, renewals, though it could not by law contract to do so.

A fine was nothing else in its nature and essence but the purchase money of the property in reversion, and at South Shields such had been the demand for building sites and the confidence in the renewal of the leases that houses of the annual value of 37,000*l.* had been built on leasehold land. No complaint had ever been made of the refusal of the Church to allow for improvements in the fine.†

In 1851 a Select Committee of the House of Lords considered a Bill for the management of Church Estates. The Report stated:—

> That the system proposed by the Bill to give to lessees by way of compensation a perpetual right of renewal in consideration of additional rents, fines and payments, was open to objections which were fatal to its adoption.‡

* Universities Commission (Oxford) Report, Appendix, p. XVI. Parliamentary Papers, 1873, XXXVII., Part I.

† Select Committee, 1837.

‡ Report of Select Committee of House of Lords on Episcopal and Capitular Estates and Revenues, House of Commons Papers, 1851, XIII., No. 589.

That in the opinion of the Committee neither the Bishops nor Capitular Bodies were then or had at any time been bound by any obligation in law or equity to renew their leases. (Par. VIII.)

For more than 200 years Church leases had had the advantage of renewals and the long continuance of this practice (rendered almost inevitable by the temporary nature of the lessor's interest) "*had created in the Lessees an expectation of renewal sufficiently definite to be treated as between third parties as approaching to a certainty.*" (Par. X.)

Leases of this description in consequence of this expectation of renewal had in various parts of the country *been sold at considerably higher value* as compared with the fee than would have been the case had not such expectation existed, and had also become the subject, *not only of mortgage, but of settlement and devise, with limitations to children**† *and their posterity*, indicating a strong impression of the certainty of their continuance, and that under the like impression permanent improvements had been made by the Lessees on this description of property. (Par. XI.)

Legacy duty had been for years paid to the Government on the expectancy of renewal, and the Court of Chancery, in settling marriage settlements, had made these 21 years' leases (because of their certainty) the subject of settlement and devise with limitations extending to grand-children and great grand-children.†

If an executor valued a 21 years' Church lease in possession without allowing anything for expectation of renewal on advantageous terms, the Legacy Duty Office would reject the valuation and put the matter into the hands of their own surveyor to value the expected renewal. It was only an expectation of renewal, but it had a market value, and the courts would recognise it and enforce payment of legacy duty on it.

Private Acts of Parliament at the end of last and the commencement of this century had so far recognised these 21 years' leases as carrying a right of renewal that Parliament, when granting power to the Church and its lessees to turn the property into building estates, allowed the tenants interest of these 21 years' duration to be treated as against the Church as of the value of two-thirds of the fee, and the reversion of the Church as but of the value of one-third of the fee value, and directed the ground rents derived from leasing the freehold to be reserved in the same proportions.‡§

The 1851 Committee of the House of Lords also reported in favour of not recognising a Bill which proposed to give compensation in the case of farms and tithe rentcharges, but recommended the passing of a Bill of a permissive character empowering the Bishops and Capitular Bodies to enfranchise and to accept surrenders of farms from their lessees with the sanction of the Church Estates Commissioners.‖

An Act of 1851 (14 & 15 Vict. c. 104) gave no compensation or benefit to the Church lessees of land, but gave a permissive power to the Commissioners as to renewals, and directed them in exercising it, to pay due regard to the just and reasonable claims of the present holders of lands under lease or otherwise arising from the long-continued practice of renewal, and authorised the Commissioners to sell to any lessee the reversion for such consideration upon such terms and in such manner as the Corporation with the consent of the Church Commissioners think fit.

In 1854 (17 & 18 Vict. c. 116. s. 4) an Act was passed giving similar power as regards leases as affecting houses.

This permissive power was seldom exercised, and when the restraining statutes were repealed and the power of leasing was vested in the Ecclesiastical Commissioners, it was vested in them in their absolute discretion, subject after 1860 to the Act of that year, and no compensation was given to the tenants when the leases ran out. Where arrangements were made under 14 & 15 Vict. c. 104. and 17 & 18 Vict. c. 116. and 23 & 24 Vict. c. 124. for the sale, purchase, or exchange of leases, the value of 21 years' leases then running was, by 23 & 24 Vict. c. 124. (1860) to be ascertained, as a rule, on the basis of the term of the lease being extended to 1884 at the accustomed

* Yet in law, the power to lease was limited to 21 years in possession.

† *See* evidence of Mr. Lake, solicitor, on which report was based. Questions 803–10 and 843 of Report in Vol. XX. of House of Commons Papers, 1850, Episcopal and Capitular Revenues Commission.

‡ The Paddington Estate of the Bishop of London was so dealt with.

§ Report on Church Leases, 1837, quoted in Report of Universities Commission, 1873, XXXVII., Part I.

‖ Paragraph XIX. of Report of 1851 Committee.

rate of fine. Where no purchase, sale, or exchange took place, the leases ran their term, or until 1884, and then expired without compensation.

The leases in force in 1860 were mainly of three kinds:—

(1.) 21 years' leases, which were continually renewed (on payment of a fine) every seven years, so that there were never less than 14 years to run.

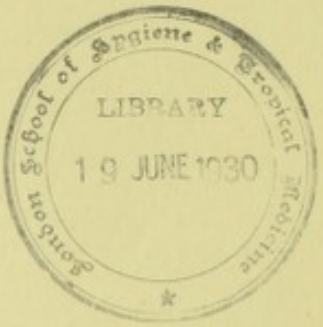
(2.) Leases for lives which were continually renewed (on payment of a fine) for a third life when one fell in.

(3.) Leases for 40 years which were continually renewed (on payment of a fine every 14 years).

On the passing of the Act of 1860 all these leaseholders practically had notice that those whose leases ran out before 1884 would have them extended to that year on payment of the usual fines; and those whose leases expired after 1884 would not have them renewed, and would not have them extended. And that was what was done. After 1884 all leases that fell in were then let at the rack rent of the property.

After the report of the Universities Commission (1874) the Universities of Oxford and Cambridge were "required" to enforce the old Acts, and were forbidden to grant beneficial leases, and tenants of houses in London of those Universities were unable thereafter to obtain a renewal. And the Church has not—that is to say, the Ecclesiastical Commissioners have not—granted any renewals to tenants in virtue of the customary renewal beyond the brief extension authorised by the Act of 1860; and tenants who took leases according to law capable of being granted only for 21 years, have not been compensated, although for 200 years the Church had been in the habit of always renewing the leases, and such renewal had been regarded and recognised as a right of renewal.

THOS. P. WHITTAKER.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