

provision for its renewal, but a new license is issued. A wholesale license covers all intoxicating liquor as defined by the Licensing Act, 1908—viz., any spirits, wine, ale, beer, porter, cider, perry, or other fermented, distilled, or spirituous liquor of an intoxicating nature, and also medicated wines containing more than 10 per cent. of proof spirit. This license enables dealing in imported liquors. A wholesale licensee may receive orders from a distance through a traveller or other representative provided that he accepts them on the licensed premises and delivers the goods *from* the specified premises: *Thomson v. Burrows*, [1916] N.Z.L.R. 223; *Bryant v. Eales*, [1916] N.Z.L.R. 1065. Whether delivery can be made *from* the specified premises if delivery is through an agency may be doubtful.

We deal at a later stage more fully with wholesale licenses.

34. A brewer's license may operate as a wholesale license in respect of beer manufactured at the brewery. A license for the manufacture of beer entitles the brewer to sell in quantities of not less than 2 gallons, beer, ale, or porter made at the brewery without taking out any other license under any other Act. In this way beer may be sold wholesale. Pursuant to section 46 (2) of the Finance Act, 1917, a brewer may not sell beer unless delivery of the beer is to be made from the brewery or from a depot or bottling store approved by the Collector of Customs. There are, at present, four depots or bottling stores approved for this purpose by the Collector of Customs. The language of section 46 (2) has not been directly in issue before a Court, but the judgment of Mr. Justice Reed in *Lawson v. the Minister of Customs*, [1931] N.Z.L.R. 656 at 657, suggests that delivery must be made from the brewery itself and not from a cart. In that particular case, however, the contracts of sale were not made at the brewery, but from the cart. (For the history of section 46 (2) see, *infra*, paras. 185–188.)

35. In practice some brewers take orders through travellers or agencies, but accept the order at the licensed brewery premises and then forward the beer to an agency for delivery. Whether this is a delivery "from the brewery" within section 46 (2) may be in doubt. Upon the view that this delivery is lawful, a brewery can engage in a large trade of a wholesale nature which may bring the brewer into competition with a wholesale merchant in the sale of beer. At a later stage in this report we state the quantities sold by breweries, both to hotelkeepers and to other persons (para. 342).

36. Similarly, a New Zealand winemaker's license may operate as a wholesale license in respect of the wine manufactured by the winemaker. A winemaker's license under the Licensing Amendment Act, 1914, authorizes the holder to sell wine of his own manufacture in quantities of not less than 2 gallons to any one person at any one time. This wine may be delivered from one place only as specified in the license, and wine sold under the license may not be consumed on the premises of the winemaker or at the place specified for delivery. The legal interpretation which governs the sales by wholesale licensees upon orders received through travellers or representatives applies to a winemaker's license also: *Crawford v. Nuttall*, [1918] N.Z.L.R. 385.

37. A publican's license is primarily a retail license (see next paragraph), but, as a publican can supply any kind of liquor in any quantity and has the benefit of the legal interpretation which governs sales received through travellers or agencies, a publican's license can be used as a wholesale license.

### *Retail Licenses*

38. We deal now with licenses which primarily cover retail dealing. The following licenses permit retail sales of any kind of intoxicating liquor in any quantity:—

39. *A Publican's License*.—This license authorizes the licensee to sell and dispose of any intoxicating liquor in any quantity on the licensed premises. The publican is not required to sell and deliver liquor from the licensed premises, but to sell and dispose of liquor on the licensed premises. The legal interpretation, to which we have referred (para. 34, *supra*), which regards a sale as made at a specified place if the order for the