THE MONOPOLIES COMMISSION

Beer

A Report on the Supply of Beer

Presented pursuant to section 9 of the Monopolies and Restrictive Practices (Inquiry and Control) Act 1948

Ordered by The House of Commons *to be printed 24th April, 1969*

LONDON
HER MAJESTY'S STATIONERY OFFICE

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SBN 10 221669 X

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*These members formed the group which was responsible for this report (see paragraph (ii) of the introduction to this report).

†*Note by the Board of Trade.* Mr Chisholm and Mr Jones have ceased to be members of the Commission since the report was signed. Mr T. P. Bowman, Mr B. Boxall, CBE, Mr J. Gratwich, Mr D. A. Hunter Johnston, Mr K. A. Noble and Mr G. B. Richardson have been appointed to the Commission since the report was signed.

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Appendix

Introduction

(i) The following report on the supply of beer is submitted in compliance with section 2(1) of the Monopolies and Restrictive Practices (Inquiry and Control) Act 1948 (as amended and extended). The reference, which is reproduced in Appendix 1, was received from the Board of Trade on 27th July 1966.

(ii) On 2nd August 1966 the Chairman (in accordance with the provisions of section 1 of, and paragraph 9 of Schedule 1 to, the Monopolies and Mergers Act 1965) directed that the functions of the Commission in relation to the investigation under this reference should be discharged through a group consisting of eight members of the Commission. Sir Henry Hardman was appointed as an additional member of the group in June 1967. Sir Laurence Watkinson, and Mr. Brian Davidson, who were original members of the group appointed on 2nd August 1966, ceased to be members of the Commission from March and April 1968 respectively. Miss M. Dennehy was Secretary of the Commission until her retirement on 31st January 1969.

(iii) We have received evidence from all brewers in the United Kingdom and from the Brewers' Society, from licensees and the associations representing them, from distillers, wines and spirits importers and distributors, cider manufacturers and soft drink manufacturers and from the trade associations representing them. We have also received evidence from Government Departments, from associations representing magistrates and their clerks, from consumers and consumer bodies and associations and from hotel and catering groups and the British Travel Association. A list of our principal sources of evidence is given in Appendix 2. Members of the Commission and staff visited a brewery and members of the staff visited licensing justices' courts.

(iv) From some of the witnesses mentioned above we took oral as well as written evidence. Representatives of the Brewers' Society attended a meeting on 2nd November 1967 to clarify outstanding matters of fact.

(v) In January 1968 we informed the brewing industry, through the Brewers' Society and by writing direct to brewers which were not members of the Society, of our provisional conclusion that the conditions to which the 1948 Act (as amended) applies prevailed as respects the supply of beer within the United Kingdom for retail sale on licensed premises; and we notified it of the issues that required consideration in determining whether the conditions which appeared to us to prevail, or all or any of the things done by the parties concerned as a result of or for the purpose of preserving the conditions, operate or may be expected to operate against the public interest. The Brewers' Society and a number of brewers not members of the Society made certain representations to us in writing and in August and October 1968 representatives of the Society and of four brewers selected by us attended separate hearings for the purpose of discussing these matters with us. The four brewers were Allied Breweries Ltd., Whitbread & Co. Ltd., Arthur Guinness Son & Co. Ltd. and Tollemache & Cobbold Breweries Ltd. At these meetings the witnesses were represented by Counsel.

(vi) We wish to record our appreciation of the assistance given to us by the Brewers' Society and all others who have provided us with the information required for our investigation. Some of the information relates to confidential business affairs and we have been careful not to disclose it in our report unless it is essential for a proper understanding of the issues.

CHAPTER 1

General Background—Beer and the Producers of Beer

The reference

1. The subject of our reference is the supply of beer within the United Kingdom for retail sale on licensed premises.

Beer

2. Beer is the fermented liquor whose essential ingredients (before fermentation) are the extract of malted barley, hops and yeast. Certain other materials (e.g. flaked maize, oats) may be included in small quantity in particular beers.

Retail sale

3. Retail sale is defined in section 148(4) of the Customs and Excise Act 1952 (as amended by section 59(a) of the Weights and Measures Act 1963) as:

> . . . the sale at any one time to any one person of quantities not exceeding the following, that is to say—
>
> (a) in the case of spirits, wine or British wine,* two gallons or one case:
>
> (b) in the case of beer or cider, four and a half gallons or two cases.

We have not however accepted this definition as excluding from our inquiry the supply of alcoholic liquor to registered clubs where the transaction by which individual members draw upon the club's collectively owned stocks of liquor in exchange for money is not, in law, a sale.

Licensed premises

4. At the date when our reference was made, the licensed premises to which it related were those for which there had been issued, under the Licensing Act 1964, a justices' licence defined in section 1, subsection (1) of that Act as 'authorising the holder to hold an excise licence for the sale by retail of intoxicating liquor' (and also, in the case of a licence granted to a club for club premises, for its supply to or to the order of members otherwise than by way of sale). With effect from 1st October 1967, this definition was amended by the Finance Act 1967 in consequence of the abolition by the same Act of retailers' excise licences, and a justices' licence is now one 'authorising the sale by retail of intoxicating liquor . . .', the reference to clubs remaining unaltered. There are two kinds of clubs: licensed, usually proprietary, clubs which need a justices' licence; and registered, or members', clubs which are registered with the magistrates' court.† We have not regarded this special position of registered clubs in the context of licensing, or the fact that they do not, in law, sell to their members, as putting supply to these clubs outside the scope of our reference. Nor have we excluded supply to premises in the Carlisle State Management Districts, and in

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* See footnote to paragraph 194.

† See paragraph 99.

the Cromarty Firth and Gretna State Management Districts, although premises in these districts operated by the Home Secretary or by the Secretary of State for Scotland are not required to be licensed by the justices.

5. Other premises which we have considered as included in the retail outlets within the scope of our inquiry for which a justices' licence is not required but which formerly required and were allowed to obtain a retailer's excise licence are: messes and canteens for the armed services; seamen's canteens; theatres, either established by royal patent or licensed by the Lord Chamberlain or other authority;* passenger aircraft; passenger vessels; and railway passenger vehicles in which passengers can be supplied with food.

The United Kingdom market for beer

Consumption

6. In 1967 the United Kingdom, though the third largest national market, was the seventh largest consumer of beer in terms of consumption per head of population. The following table shows total and per caput consumption figures in respect of the major beer-drinking countries in the world:

TABLE I

Total and per caput consumption of beer in 1967

	Imperial gallons	
	Total '000	*per cap.*
Czechoslovakia	407,000	28·4
Federal Republic of Germany	1,682,824	28·0
Belgium	257,906	27·0
Australia	296,295	25·1
New Zealand	66,210	24·2
Austria	165,220	22·7
United Kingdom	1,132,000	20·5
Denmark	96,756	20·0
Switzerland	97,086	16·8
Canada	305,065	14·9
U.S.A.	2,758,932	13·9
Netherlands	144,562	9·7
France	446,248	9·0
Sweden	70,378	8·9
Norway	24,904	6·5
Mexico	26,444	6·1
Chile	39,710	4·3
Italy	121,990	2·4
Argentine	52,932	2·3
Other countries†	3,597,648	
Total	11,790,110	

Source: Brewers' Society.

It is estimated that, of the total beer consumed in the United Kingdom, approximately 91 per cent is consumed in England and Wales; 8 per cent in Scotland; and 1 per cent in Northern Ireland.

*Theatres are now licensed under the Theatres Act 1968.
†Estimated.

United Kingdom production of beer

7. Approximately 95 per cent of the beer consumed in the United Kingdom is produced within the United Kingdom.

8. In Appendix 3 we describe the brewing of beer, the basis (i.e. the original gravity) on which excise duty is levied on beer and the levels of that excise duty.

9. The following table, compiled from Customs and Excise Reports, shows for the 10 years to 31st March 1968 the United Kingdom production of beer upon which excise duty has been paid, the amounts for which brewers have received drawback and other repayments (i.e. for beer exported, sold as ships' stores, or spoilt—see Appendix 3, paragraph 23) and the net duty-paid quantity of home-produced beer remaining for consumption in this country. (For purposes of comparison, the figures in respect of imported beer retained for consumption in the United Kingdom for the same periods are shown alongside the production figures. The import figures have been obtained by subtracting the amount of imported beer for which drawback was claimed each year from the amount of imported beer entered for consumption. The drawback element represents mainly exports of imported beer.)

TABLE II

*thousand bulk barrels**

	Beer brewed in the United Kingdom			Imports retained for consumption
Year ended 31st March	Quantity on which excise duty has been paid	Drawbacks and repayments	Net duty-paid quantity	
1959	23,829	434	23,395	1,167
1960	25,830	448	25,382	1,265
1961	26,772	483	26,289	1,207
1962	27,911	499	27,412	1,228
1963	27,687	546	27,141	1,116
1964	28,883	644	28,239	1,239
1965	29,314	646	28,668	1,240
1966	29,745	655	29,090	1,269
1967	30,596	648	29,948	1,334
1968	30,755	633	30,122	1,400

Source: Customs and Excise Annual Reports†

The producers of beer

10. Following the Finance Act 1880, which required any one producing beer for sale (as opposed to the producers of beer for their own consumption) to obtain an excise licence, there were in the year ended 31st March 1881 16,798 such licences issued in the United Kingdom (including Ireland). By 1900 the number had been reduced to 6,447, and by the year ended 31st March 1967 there were, excluding the Irish Republic, 244. The following table shows the reduction in brewer-for-sale licences for each decade since 1881:

*Bulk barrel = 36 gallons.
†*Report of the Commissioners of Her Majesty's Customs and Excise for the year ended* 31 *March.* (H.M.S.O.).

TABLE III

Brewer-for-sale licences

Year ended 31st March	*Number*
1881	16,798
1890	11,364
1900	6,447
1910	4,512
1920	2,914
1930*	1,418
1940	840
1950	567
1960	358
1967	244†

Source: Customs and Excise annual reports.

11. This great reduction has been brought about by two main factors : the disappearance, as breweries, during the later part of the 19th and the early years of the 20th centuries, of many thousands of licensed premises which brewed their own ale for sale over the bars of the house; and, throughout the whole period and continuing till the present day, amalgamations of breweries and acquisitions of small breweries by larger ones with subsequent closure of redundant brewery premises. During the period of our inquiry 20 brewery companies were taken over by other brewers.

12. At the end of 1967 there were 111‡ separate brewery companies or groups of companies operating 240 or so breweries; the names of these companies and groups of companies are given alphabetically in Appendix 4. (During 1968 a further eight companies were taken over by other brewers; the total of brewery companies or groups of companies at the end of 1968 was 103). Included among the 111 are the 'State brewery' i.e. the brewery operated within the Carlisle and District State Management Scheme (see paragraphs 108 to 112), and four 'clubs' breweries.' 'Clubs' breweries' are breweries owned by the clubs they supply. Although the Leeds and District Liberal Clubs' Brewery Ltd. had existed since the early 1900s, the real development of clubs' breweries did not take place until after the end of the 1914–1918 war, during which brewers had, out of restricted production, met the needs of their own houses first and left the clubs short of supplies. When the war was over clubs in different parts of the country came together to consider how they could improve the conditions governing supply of beer to them. The results were the formation of:

The South Wales and Monmouthshire United Club Brewery Ltd. in July 1919;

The Northern Clubs' Federation Brewery Ltd. in May 1920;

The Northants and Leicestershire Clubs' Co-operative Brewery Ltd. in July 1920;

The Leeds and District Clubs' Brewery Ltd. in 1919;

The York and District Clubs' Brewery Ltd. in 1924.

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*Irish Republic excluded from 1923.
†229 in England and Wales; 14 in Scotland; 1 in Northern Ireland.
‡A further five companies were still licensed at the end of 1967 but were no longer actively brewing (see footnote to Table XIX, paragraph 171).

The Northants and Leicestershire became the present Midland Clubs' Brewery* in 1960, and the Leeds and York breweries amalgamated to form the Yorkshire Clubs' Brewery in 1938, when the Leeds branch had been in danger of going into liquidation because of a decline in trade.

13. A number of brewery companies, including some of the major groups of companies, hold shares in other brewery companies and one brewery company, producing the leading lager in the United Kingdom market, is jointly owned by four of the major brewing groups.†

The leading United Kingdom producers of beer

14. Seven brewers, operating some 70 of the 240 breweries in the United Kingdom, together accounted for 73 per cent of total United Kingdom production of beer in 1967. The following table gives the names of the 'big seven' (formerly known as the 'big eight' until the merger of Bass Mitchells and Butler Ltd. and Charrington Ltd. in 1967), the volume of beer produced and the percentage of total production of each in 1967:

TABLE IV

The principal producers of beer in 1967

	Production (*million bulk barrels*)	Percentage of total United Kingdom production
1. Bass Charrington Ltd. of which: Bass (3·05) Charrington (2·59)	5·64	18·1
2. Allied Breweries Ltd.	4·83	15·5
3. Whitbread Ltd.	3·46	11·1
4. Watney Mann Ltd.	2·94	9·4
5. Scottish and Newcastle Breweries Ltd.	2·51	8·0
6. Courage Barclay & Simonds Ltd.	1·78	5·7
7. Arthur Guinness, Son & Co. Ltd.	1·53‡	4·9‡
Total production of 'big 7'	**22·69§**	**72·7§**
Total United Kingdom production	**31·2**	**100·0**

The other producers of beer

15. The balance of 27 per cent of United Kingdom production of beer was in 1967 accounted for by 104 brewery companies or groups of companies,

*The Midland Clubs' Brewery Ltd. informed us in February 1969 that 'due to poor trading, we have been forced to close our Brewery, and are now in the hands of a Receiver and Manager'.

†Harp Lager Ltd. is owned as to 50 per cent by Arthur Guinness Son & Company, Ltd.; 22½ per cent each by Courage, Barclay and Simonds Ltd. and Scottish and Newcastle Breweries Ltd.; and 5 per cent by Bass Charrington Ltd.

‡Production by Arthur Guinness Son & Co. Ltd. in Great Britain (there is no production in Northern Ireland) consists of Guinness stout and Harp lager. *Guinness stout:* production in Great Britain meets all requirements of draught stout in this market and approximately 60 per cent of requirements for bottling and canning; the balance for Great Britain, and all requirements of Guinness stout for draught, bottling and canning for Northern Ireland, are imported by the Guinness company from the Irish Republic—see paragraph 33. *Harp lager:* production in Great Britain accounts for approximately 80 per cent of requirements in this market for bottling and canning and two-thirds for draught lager; the balance for Great Britain, and all requirements of Harp lager for Northern Ireland, are imported from the Irish Republic, see paragraph 33. 4·9 per cent is the Guinness company's production in the United Kingdom as a percentage of total United Kingdom production i.e. imports are not included.

§The total of 22·7 million bulk barrels in 1967 (73 per cent of total United Kingdom production) includes approximately 1·1 million barrels (3·5 per cent of total United Kingdom production) produced by brewery companies taken over by Allied, Bass, Courage, Watney and Whitbread in the course of 1967.

operating some 170 breweries. Eleven of the 104 accounted for about half of the 27 per cent; these eleven were J. W. Cameron and Company Ltd.; Greenall Whitley and Company Ltd.; William Hancock and Company Ltd.; Home Brewery Company Ltd.; Northern Clubs' Federation Brewery Ltd. (one of the four 'clubs' breweries'—see paragraph 12); John Smith's Tadcaster Brewery Company Ltd.; Samuel Smith's Old Brewery (Tadcaster) Ltd.; Strong and Company of Romsey Ltd.; Truman Hanbury Buxton and Company Ltd.; Vaux and Associated Breweries Ltd.; and Wolverhampton and Dudley Breweries Ltd.

16. The remainder of United Kingdom production (approximately 13 per cent) was in the hands of no less than 93 separate enterprises; included in this number were the 'State brewery' and the other three 'clubs' breweries'.

Types of beer sold in the United Kingdom

17. According to the form of container in which it reaches the retailer, beer may be described as: draught; bottled; canned. Sales follow the same order in importance, draught being dominant. Thus in 1967 sales were in the proportions 70 per cent draught, 29 per cent bottled and one per cent canned.

18. The range of beers available in each category is:

draught: mainly mild and bitter, although some brands of stronger beers and particularly national beers such as Guinness, Bass, Worthington, Double Diamond and one or two lagers, are increasingly appearing on draught as well as in bottle;

bottled: light or pale ale; brown ale; stout; strong ale; barley wine; lager;

canned: light or pale ale; brown ale; stout; lager.

The characteristics of these types of beer are broadly:

mild: mild ale is usually one of the weaker beers in terms of alcoholic strength and is normally sold on draught; it is slightly sweet and is darker than bitter;

light, pale, bitter: this type of beer is, on draught, usually known as bitter and as light or pale ale in its bottled and canned forms. It is normally amber in colour with a bitter flavour and of various strengths;

brown: generally a darker, sweeter, bottled beer similar in strength to the light or bitter beers;

stout: a heavier and often stronger beer than those so far mentioned and very dark in colour. It can be sweet or bitter in flavour and is sold in draught, bottled and canned form. As with brown ales, the predominant form of packaging for stout at the moment is bottles. Porter is a weaker, mild-flavoured stout now mainly brewed and consumed in Northern Ireland and the Irish Republic;

strong: sometimes known as barley wine or Russian stout. It is the strongest beer available and is normally bottled and sold in 'nips' of one third of a pint;

lager: a description of the basic differences in the production of this type of beer and the others described above is given in Appendix 3 (i). Lager is lighter in both appearance and palate compared to what are thought of as traditional English beers and has a distinctly different taste. It is sold on draught, bottled and canned.

19. With so many different brands—a figure of about 3,000 has been quoted—and variations in colour, taste and strength of beer in the United Kingdom there is no really overall favourite brand or type among beer drinkers. At different periods however there have been noticeable preferences among the public generally, coupled with a few distinct regional favourites and a very small number of beers (produced by a few big breweries) popular enough to compete across the country with locally popular beers. Mr. J. A. P. Charrington, President of Bass Charrington, cited in The Times supplement 'Beer in Britain' (22nd April 1968) the example of its London brewery having 65 per cent of its trade in 'best bitter' today compared to 4 per cent in 1929, and none at all in 1900, when only mild ale and stout were produced. He added that this growth of lighter, bitter beers in preference to mild and stout mirrored a similar trend among other London breweries; but if applied to the national scene it masks local preferences and takes no account of the continuing nation-wide popularity of Guinness stout. Mr. Charrington said that mild ale, for example, is still a favourite beer in the Midlands, and lager is (and has been for a long time) popular in Scotland and its sales there account for a far higher proportion of total beer sales than in England and Wales. In Northern Ireland too, (where stout is the most popular drink) lager is reported* to outsell ale. Mr. Charrington considered, however, that the range of pale, bitter beers was generally the most popular at the moment and was likely to continue to be so: draught bitter consumption in 1967, for example, was estimated† to be 1½ million bulk barrels more than in 1960; and bottled pale ales showed an increase of about 750,000 bulk barrels over the same period, while production of draught mild ale, although normally the cheapest beer, has slipped from 40 per cent of total output to about 30 per cent over the same period. Lager consumption has been growing in recent years: out of some 30 million bulk barrels of beer consumed annually in the United Kingdom, lager consumption represents more than one million and of that million more than 75 per cent is brewed in Britain. Lager consumption forms less than 4 per cent of total beer consumption in the United Kingdom; in 1966 lager consumption formed about 12 per cent of total beer consumption in Scotland and about 17 per cent in 1967.

20. During the present century a few brands of beer have become known and available over most of the country, and in some cases also in markets abroad. Of these bottled Guinness stout has the widest distribution, and bottled Bass and bottled Worthington (formerly produced by Bass, Mitchells and Butlers, now Bass Charrington) have long been widely distributed. Recent technical developments and mergers of breweries have helped one or two other 'national' brands, not only of bottled beers but also of draught beer, to emerge. These include bottled 'Double Diamond' (Allied), bottled 'Mackeson' (Whitbread) and draught 'Red Barrel' (Watney Mann).

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*Sir Robin Kinahan, 'Brewing, Wines and Spirits', *Stock Exchange Gazette*, 16th June 1967.
†*Financial Times Annual Review*, 3rd July 1967.

Draught beer

21. We use the description 'draught' beer to include any beer which is supplied to the retailer in bulk containers and drawn to order in the pub for each customer.* All the large brewers and many smaller ones now brew a kind of draught beer which has become known as 'keg' beer. Although the word 'draught' is sometimes used to distinguish traditional draught from keg beer, for the purposes of this report we call the former 'cask' beer. Cask beer was formerly supplied in the traditional oak cask but increasingly nowadays is delivered in a stainless steel cask. Cask beer is drawn up from the cellar to the bar by means of a beer machine operated by the barman pulling the handle known as the beer gun fixed to the bar counter. An essential feature of this arrangement is that the cask admits air through a bung-hole to take up the space left by the drawn-off beer. The beer at first contains an amount of carbon dioxide but as the volume of air in the cask increases so the gas can escape with increasing ease and the beer eventually becomes flat. The advent of air also encourages bacteria and any particles of yeast to become active and the beer will be affected by 'off-flavours' from the presence of such products as vinegar and lactic acid, and, as a result of the working yeast, will become cloudy. The time taken for these things to happen can vary within several days according to the conditions in the cellar, temperature being the most important, but cask beer is unlikely even in the most favourable circumstances to remain in good condition for more than ten days.

22. Keg beer is pasteurised and is thus protected, not permanently but for very much longer than cask beer, from the causes of deterioration mentioned above. The protection is enhanced by the use of carbon dioxide at two stages. First, it is added to the beer before delivery, up to the point where the pressure in the container is 10 pounds above normal atmospheric pressure; then a cylinder of the gas is connected to the container at the pub and used to force the beer up to the tap, which replaces the beer gun on the bar counter. The steel tank in which the beer is kept at the pub is sometimes known as a 'keg' and this name was adopted to distinguish the pasteurised and pressurised beer from other forms of draught beer. The keg's 'bung-hole' is plugged by a unit comprising two valves, one to let in carbon dioxide, the other to let out beer. Watney was the first brewery to market keg beer, although it was not then so-called in 1933. It was not until the mid-fifties that Flowers (now part of the Whitbread group) became the first company to use the term 'keg' for this kind of beer. Since keg beer was introduced, the practice of raising beer to a bar counter tap by pressure from a cylinder of carbon dioxide has been extended to cask beer in metal containers. Cask beer may therefore be pressurised but it is not pasteurised.

23. Some witnesses have criticised keg beer as being inferior in flavour to cask beer; others have pointed to its greater reliability and 'sparkle' (see paragraph 24). Although no precise figures are available it is claimed that production and sales of keg beers continue to increase, even though these beers are up to sixpence a pint dearer than the same brewer's cask beer. We have been told by both brewery companies and retailers that keg beers are especially popular with the younger generation.

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*'Draught beer' is in the main consumed 'on the premises'—see footnote to paragraph 100.

Bottled beer

24. For some years after the war the demand for bottled beer was such that it was thought it would eventually overtake that for draught beer. That this has not happened is probably attributable to the development of keg beer which offers, at a lower price, those characteristics which brewers say are looked for in bottled beer, 'brightness', 'sparkle', a ' clean palate', and reliability, the knowledge that the quality of a particular beer is unlikely to vary from one pub to another. Nonetheless the demand for bottled beer remains buoyant because of changing social habits, more beer being drunk in the home than formerly.

25. Virtually every brewer offers in bottle a similar selection of beers, including a pale or light ale, a brown ale, a strong ale, sometimes called 'export', a stout, a barley wine, and a lager. It has been estimated that, counting each brewer's versions of these types separately, there are some 2,000 different bottled beers.

Canned beer

26. Most of the main types of beer are sold in cans today; the major exceptions are probably mild ale (which is not bottled either) and the strong beers sold in nips of one-third of a pint. All the others—pale, brown, stout and lager, are available in cans.

27. A minority of brewers (about a third, including major brewers*) can beer. In terms of the amount of canned beer sold annually, the trade is dominated by three brewers—Allied, Scottish and Newcastle and Bass Charrington—who in 1967 produced approximately 70 per cent of the total United Kingdom production of canned beer.

28. Proportionately more canned beer is purchased in Scotland than in the rest of the country; one of the three 'major' producers of canned beer told us that in England and Wales canned beer represented less than 5 per cent of its total bottled and canned beer sales whereas in Scotland the figure was over 40 per cent. In a survey quoted by a national newspaper in April 1968 it was stated that, given the choice between bottled beer (returnable and 'one-trip' bottles) and canned beer, nearly 70 per cent of consumers in Scotland would choose canned beer. Over the country as a whole, however, the shares were 22 per cent for the returnable bottle, 45 per cent for the 'one-trip' bottle and 32 per cent for the canned, with one per cent having no preference. We were told by one of the 'big three' brewers of canned beer that the public in Scotland 'had never really adopted' the bottle as a container in which to take beer home, having 'progressed straight from the "jug" to the can.'

The strength of the beers supplied by United Kingdom brewers

29. Original gravity is the standard by which the strength of beer is measured (see Appendix 3 (ii)). The following table gives what HM Customs and Excise have described as a 'very rough and ready idea of relative strengths of beer.'

Original gravity	
1030°–1035°	The popular draught mild and some draught bitter beers; brown ales and some light ales in bottle.

*Canned beer production as a percentage of bottled beer production among the major brewers varies from Whitbread's 0·3 per cent, through Bass Charrington's and Watney's 5 per cent, Courage's 10 per cent, to Allied's and Scottish and Newcastle's 20 per cent.

1035°–1040°	Keg bitters; most draught bitters; most bottled pale ales and bottled stouts.
1040°–1055°	Strong pale ales; best bitters; strong stouts such as Guinness and Mackeson.
1060°–upwards	Barley wines and a few other exceptionally strong special ales

30. In their report for the year ended 31st March 1967, the Commissioners of HM Customs and Excise said 'After three years in which the strength of the beer had been virtually unchanged, the average gravity of beer brewed for consumption in the United Kingdom declined marginally to 1037·26 degrees compared with 1037·41 in the previous year.' In the year ended 31st March 1968 the average gravity fell from 1037·26 degrees to 1037·15 degrees.*

31. With one exception, the Northern Clubs' Federation Brewery (see paragraph 12), brewers do not declare to the consumer the original gravities of the beers they sell. A number of witnesses urged that knowledge of the gravity of a beer is, or could be, useful to the public and that the original gravity of beer should therefore be declared, in the case of bottled (or canned) beer, on the bottle (or can) label and, in the case of draught beer, on the barrel; in the brewers' view, which is set out in paragraph 291, such information would be misleading to the public.

Imported beers

32. We have shown in Table II, paragraph 9, that imported beers account for a very small part, approximately 5 per cent, of total consumption of beer in the United Kingdom.

33. The major part of the imports is of Guinenss stout† and Harp lager‡ brewed in the Irish Republic by Arthur Guinness Son & Co. (Dublin) Ltd. and Harp Lager Brewery (Ireland) Ltd. and imported by Arthur Guinness Son & Co. (Park Royal) Ltd., Arthur Guinness Son and Co. (Belfast) Ltd. and Harp Lager Ltd. Excluding the Irish Republic, the United Kingdom's principal foreign suppliers are (i) Denmark (ii) the Netherlands and (iii) the Federal Republic of Germany; the main beers on sale in the United Kingdom from these countries are Carlsberg and Tuborg, Heineken and Holsten respectively i.e. all lager beers.

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*Average gravity for year ended 31st March 1947 was 1032·79
31st March 1957 was 1037·20
31st March 1958 was 1037·29
31st March 1959 was 1037·35
31st March 1960 was 1037·06
31st March 1961 was 1037·25
31st March 1962 was 1037·46
31st March 1963 was 1037·53
31st March 1964 was 1037·41
31st March 1965 was 1037·43
31st March 1966 was 1037·41
31st March 1967 was 1037·26
31st March 1968 was 1037·15

†Approximately 40 per cent of Great Britain's requirements of bulk Guinness stout for bottling and canning, and all Northern Ireland's requirements of Guinness stout, are imported (see first note, Table IV, paragraph 14).

‡Approximately 20 per cent of Great Britain's requirements of bulk Harp lager for bottling and canning; one third of Great Britain's requirements of draught Harp lager, and all Northern Ireland's requirements of Harp lager are imported (see second note, Table IV, paragraph 14).

34. The following table shows imports of beer from the Irish Republic, Denmark, the Netherlands and the Federal Republic of Germany for the last three years for which a country—breakdown is available, together with the corresponding figures of (a) total imports, (b) exports of imported beers and (c) net imports.

TABLE V

United Kingdom imports of beer

thousand bulk barrels

Calendar year	Total imports	Exports of imported beer	Total imports retained for consumption	Imports from				
				Irish Republic	Denmark	The Netherlands	West Germany	All other countries
1964	1,498	170	1,328	1,281	159	28	12	18
1965	1,417	138	1,279	1,215	143	28	12	19
1966	1,467	79	1,388	1,246	156	29	17	19
1967	1,531	71	1,460	1,277	179	38	20	17

Source: Customs and Excise annual reports and *Overseas Trade Accounts* (HMSO).

35. Apart from Guinness stout and Harp lager from the Irish Republic, which simply supplement production in the United Kingdom of the same beers, the competition to 'domestic' beers in recent years has come only from between 200,000 and 250,000 bulk barrels of which over half is imported by brewers (other than Guinness), some of whom have arrangements with the overseas producers to bottle the beers in the United Kingdom. These imports represented in 1967 less than 1 per cent of beer supplied for retail sale in the United Kingdom.

36. The rates of import duty on beer are shown in Appendix 3(iii)

The wholesalers of beer

37. By obtaining, under section 125 of the Customs and Excise Act 1952, a 'brewer-for-sale' licence brewers are permitted not only to brew beer but also to deal in it wholesale* without a wholesaler's licence if (section 146(3)) they sell beer to their retailer-customers direct from the premises in respect of which they have obtained a brewer-for-sale licence. All other wholesale dealing in beer requires a licence under section 146(1) of the Customs and Excise Act 1952; at the end of March 1967 there were 5,481 wholesale dealers' licences.

38. The bigger brewery companies, and a great many medium and smaller sized ones have separate non-brewing companies to carry out wholesaling-and-bottling activities, i.e. the receipt of beer in one form or another from the brewing company and its delivery either direct to licensed premises, or to a store or bottling plant and then to licensed premises.

*Section 146(6) of the Customs and Excise Act of 1952 defines wholesale dealing as 'the sale at any one time to any one person of quantities not less than the following, namely—

(*a*) in the case of spirits, wines or British wine, two gallons or one case.

(*b*) in the case of beer, four and a half gallons or two cases'.

39. While there exist non-brewery owned wholesalers and bottlers in the United Kingdom industry the brewery companies themselves have assumed a dominant role in the wholesaling trade for several reasons. During the early 18th century those brewers who, in terms of beer quality and consequent expansion of trade had risen above the level of the publican brewing his own beer for sale over his own bars, increasingly were able to oust the publican brewers through their greater scale of production and cheaper, more reliable, beers. When, during most of the following century and up to the present day, the number of outlets was restricted by licensing law, brewers secured large numbers of outlets: by having these secure outlets they were naturally able to take on themselves one of the wholesaler's functions, that of estimating their retail market requirements. Non-brewery owned wholesalers and bottlers have largely been concerned with the handling of nationally-known beers such as Guinness Extra Stout, Bass Red Triangle Pale Ale and Worthington India Pale Ale whose brewers have not (until comparatively recently in the case of Bass and Worthington) been substantial owners of tied houses. At the beginning of the century, when the bottled beer trade was in its infancy, the bulk of the bottling was carried out by independent bottlers and this remained the case until after the 1939–1945 war. By the mid-1950s most of the large brewers had established or enlarged their own brewery bottling stores and brewers became in general less willing to make supplies of bulk beer—and in particular supplies of new brand leaders—available to independent bottlers. Some bottlers then turned to the handling of such products in glass, purchasing them from the brewers concerned already bottled; beer bottlers thus became wholesale bottled beer merchants.

40. Within the last decade many independent bottlers have ceased bottling and a number have been taken over by brewers; the position has now been reached where non-brewery controlled wholesalers have what has been described to us as 'only a nominal share of the total sales of bottled beers.'

Distribution of beer to licensed retailers

Draught

41. After being 'racked' into casks or kegs of stainless steel (not normally wood now) at the brewery or depot (to which it has been delivered in bulk) draught is delivered direct to the licensee or to a store for subsequent delivery. It has been said, however, that these types of containers are costly and inefficient for delivering to a licensee's cellars, and that ways of avoiding the use of them are being developed which could also eliminate the need for brewers' stores. Bulk beer, for example, can be piped into road transport tankers from which it is pumped into the stainless steel tanks kept by the licensee (although this method has been described as being still at the development stage and one of the problems created by bulk delivery is said to be that of accurately measuring the amounts of beer delivered to the licensee).

Bottled and canned

42. Beer brewed for bottling or canning is chilled at the brewer's (or independent processor's) plant and specially filtered before bottling or canning to keep the liquid bright and clear for several weeks. Because of the comparatively greater weight of bottled beer, bottling stores operated or used by brewers who

cover large areas of (or the entire) country are generally decentralised and supplied with bottling beer in bulk by tankers. Heavy container weight is not, however, such a problem with canned beer and canning depots may be closer to the centre of brewing activity; brewers are concentrating on the development of faster canning lines.

Sales of beer and the sources of the beer sold

43. The greater part of the beer sold retail in the United Kingdom is sold through retail outlets owned by the brewers, i.e. 'tied houses', which we describe in detail in Chapters 3 and 4. Of the total beer retained in the United Kingdom in 1967 (i.e. production plus imports minus exports—approximately 32·5 million bulk barrels) approximately 66* per cent was sold through licensed premises owned by the brewers. The balance was sold through 'free trade' outlets, i.e. non-brewery owned premises; it is estimated that approximately 20 per cent of the total beer supplied in the United Kingdom was sold through registered clubs (see paragraphs 99, 247 and 248).

44. In Appendix 5 we give details of brewers' sales of beer in 1967, the customers to whom they sold the beer and the sources from which they obtained the beers they sold i.e. from their own brews, from other United Kingdom brewers, and from imports. These details are summarised in the table below, as are similar details for 1966. United Kingdom production of beer in 1967 was approximately 31 million bulk barrels; brewers' sales in that year were approximately 36 million bulk barrels. The difference between production and sales is largely accounted for by double counting i.e. beer produced by one brewer and purchased and sold by another is recorded as a sale by both brewers.

TABLE VI

(a) Sales of beer and sources of beer sold in 1966

Million bulk barrels

	Brewers' sales totals by outlets					**Sources from which brewers obtained beers sold in cols. (a)—(e)**			
	To brewers' tied outlets	To other brewers: wholesalers: bottlers	To free retail outlets	To rest (i.e. export; ships' stores; NAAFI etc.)	TOTAL	their own brews‡	brewed by other UK brewers	imported beers	TOTAL
	(*a*)	(*b*)	(*c*)	(*d*)	(*e*)				
Draught	14·8	1·5	6·0	0·1	22·4	21·6	0·8	—	22·4
Bottled	6·3	3·1	2·9	0·3	12·6	9·9	2·6	0·1	12·6
Canned	0·1	less than 0·1	0·2	0·1	0·4	0·4	less than 0·1	less than 0·1	0·4
TOTAL	21·2†	4·6	9·1	0·5	35·4	31·9‡	3·4	0·1	35·4

Source: Brewers' returns.

*See first footnote, Table VI (*b*), paragraph 44.

†In 1966, 66 per cent of the total beer retained for consumption in the United Kingdom was sold through licensed premises owned by the brewers.

‡Includes 1·1 million bulk barrels imported by the Guinness Company. United Kingdom production in 1966 was approximately 31 million bulk barrels.

(b) Sales of beer and sources of beer sold in 1967

Million bulk barrels

	Brewers' sales totals by outlets					Sources from which brewers obtained beers sold in cols. (a)—(e)			
	To brewers' tied outlets	To other brewers: wholesalers: bottlers	To free retail outlets	To rest (i.e. export; ships' stores; NAAFI etc.)	TOTAL	their own brews†	brewed by other UK brewers	imported beers	TOTAL
	(*a*)	(*b*)	(*c*)	(*d*)	(*e*)				
Draught	15·3	2·0	6·2	0·1	23·6	22·8	0·8	—	23·6
Bottled	6·0	3·6	2·4	0·3	12·3	9·4	2·8	0·1	12·3
Canned	0·1	0·1	0·2	0·1	0·5	0·5	less than 0·1	less than 0·1	0·5
TOTAL	21·4*	5·7	8·8	0·5	36·4	32·7†	3·6	0·1	36·4

Source: Brewers' returns.

45. Beers are bought from and sold to brewers by other brewers under two main forms of arrangement: (i) reciprocal arrangements, usually involving mutual sales of beers of the two parties to the agreement (the beers involved in these arrangements are described by the brewers as 'interchange beers'‡) and (ii) normal sales and purchases other than by reciprocal arrangement (the beers involved in these deals, where there is no element of reciprocity and which would in effect largely be the 'national beers', are described by the brewers as 'non-interchange'‡ beers). In 1966 only two small brewery companies (one of which was subsequently taken over by another brewery company) neither sold beer to any other brewer nor bought any other brewers' beer; in 1967, all brewers bought beer from and/or sold beer to other brewers.

46. Although arrangements for sale and purchase of beers between brewers are widespread, in 1967, as the table in paragraph 48 shows, approximately 90 per cent of the beer sold by brewers was the sellers' own brew. Most brewers purchase only a very limited number of other brewers' beers and these are, in the main, 'national beers', notably Guinness stout and, to a far smaller extent, Bass and Worthington. Virtually every brewer buys Guinness stout for supply to customers as bottled stout§ (a much smaller, but increasing, number of brewers buy draught Guinness stout) and brewers' purchases from the Guinness Company account for a substantial part of their total purchases of beers from other brewers.

47. In some cases, brewers make some of the beers they have purchased from other brewers available only to their free trade customers and not to their own licensed premises; in other cases they are made available to some but not all of the licensed premises of the brewer concerned (see paragraph 187).

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*In 1967, 66 per cent of the total beer retained for consumption in the United Kingdom was sold through licensed premises owned by the brewers.

†Includes 1·2 million bulk barrels imported by the Guinness Company (see paragraph 33). United Kingdom production in 1967 was approximately 31 million bulk barrels.

‡The term 'foreign beers' is generally used by a brewer to describe all beers not of his own brewing; 'foreign beers' therefore includes 'interchange beers', 'non-interchange beers' and imported beers.

§See footnote to paragraph 48.

48. There is only a small sale by brewers of other brewers' draught beers; the greater part of the beer which passes from one brewer to another before retail sale is bottled beer or bulk beer for bottling* by the purchasing brewer and subsequent retail sale as bottled beer. The following table shows the proportions of (i) their own brews (ii) other United Kingdom brewers' beers and (iii) imported beers of the total beer supplied by brewers to their customers in 1966 and 1967.

TABLE VII

Brewers' sales of their own and other brewers' beers

	Brewers' own beers %	Other UK brewers' beers %	Imported beers %
(*a*)		**1966**	
All beers	**90**	**9·5**	**0·5**
Draught	96·4	3·6	—
Bottled	78·6	20·4	1·0
Canned	92·8	6·7	0·5
(*b*)		**1967**	
All beers	**89·8**	**9·9**	**0·3**
Draught	96·6	3·4	—
Bottled	76·4	22·8	0·8
Canned	92·8	7·1	0·1

Wholesale prices of beer

49. In Appendix 6 we give examples of wholesale prices charged by some of the major brewers (and the largest owners of retail outlets—see paragraph 172) for their main lines of draught and bottled beers to their tied and free trade customers and examples of wholesale prices charged by these brewers when selling other brewers' beers to tied and free trade customers.

50. When selling their own brews to their tied houses, brewers generally charge for draught beers (the major part of their sales and the oldest, and still the largest, element in the beer trade of most on-licensed houses) between 2 and 4 per cent more than the 'normal wholesale list prices' charged to the free trade. Generally, for a brewer's bottled beers, no differential is added to the free trade normal wholesale price when sales are made to the tied trade. Discounts on the 'normal free trade prices' are, however, given to some free trade customers on purchases of both draught and bottled beer; although there is a wide range of variation between one brewery company's practice and another's, and between different beers within any particular company, these discounts generally are substantial for larger free trade customers, e.g. certain clubs, British Rail, but virtually non-existent for the individual free house because, the brewers explain, of the 'small size of its orders'.

51. The net price differentials, both for draught and bottled beers, in favour of the free trade are generally wider when a brewer is selling another brewer's beers than when selling his own brews. For beer covered by reciprocal arrangements (see paragraph 45), which generally forms only a small part of brewers' purchases of other brewers' beers, no particularly clear pattern of pricing policy

*Guinness stout is sold in bulk for bottling, under the registered trade mark, by the purchaser.

emerges, but for beers purchased other than under reciprocal arrangements i.e. 'non-interchange beers' (in effect, the 'national beers') which form the bulk of other brewers' beers purchased we found that, although in this case too, the differentials were anything but uniform, brewers generally charged their tenants higher, and in a number of cases, considerably higher prices than they charged their free trade customers or than the producing brewer, where he had tied houses, charged the tenants of those houses.

52. The Brewers' Society (the trade association to which virtually all brewers belong—see paragraph 81), presented information from 34 brewers, including all the large groups, which showed 'the size of surcharge and the extent to which it is imposed on non-interchange beers' as follows:

Surcharge	*percentage of total barrelage*
no surcharge	12·35%
0— 5%	30·09%
5·01—10%	40·02%
10·01—15%	10·52%
15·01—20%	6·88%
20·01—25%	0·14%

Thus, the Society pointed out, on four-fifths of the barrelage of non-interchange beers, the surcharge does not exceed 10 per cent, and on 40 per cent of the barrelage it does not exceed 5 per cent.

53. We found that, in general, the surcharge imposed on bottled Guinness stout does not exceed, but is normally in the neighbourhood of, 10 per cent. But on other 'national beers' (including draught Guinness stout) we found a number of examples of surcharges exceeding 10 per cent. One of the largest brewery owners of retail outlets, for example, charged those of its tied trade customers to whom it supplied draught Guinness stout 12 per cent more than its normal wholesale list price to its free trade customers (i.e. without taking account of discounts given to some free trade customers). The same brewery group charged its tied trade customers from 1–17 per cent (depending on the area of the country) more than its free trade customers for bottled Guinness stout; up to 18 per cent more for Bass and Worthington bottled beers (it did not supply Bass or Worthington draught beers); 10–12 per cent more for Watneys Keg Red Barrel; and generally 10–13 per cent more for Whitbread's Mackeson stout. Other large brewery owners of retail outlets charged their tenants 13 per cent more than free trade customers for Allied's Double Diamond; 13–15 per cent more for Allied's Skol lager; 11–15 per cent more for Whitbread's Mackeson stout.

Retail prices of beer

54. We describe the retailers of beer in Chapters 4 and 5; in the following paragraphs we give some details of retail prices of beer.

55. There are, inevitably, wide variations in the retail prices charged throughout the country in the many different types and standards of establishments selling beer. We have in the main directed our attention to prices charged in public houses, the largest single class of licensed establishment and of which the brewers own the majority (see Chapter 3). In the tables in paragraph 56 we give a general picture of the retail prices charged in public bars of tied public

houses throughout England and Wales for main lines of draught bitter, draught mild, bottled brown ale, bottled light ale and bottled Guinness stout; these tables are compiled from information supplied by brewer owners of public houses and from tenants of those premises, i.e. premises for which the brewer specifies the maximum price that the tenant may charge in the public bar (see paragraph 191). (It is obviously not possible to cover all variations of retail price within a region—the tables below are presented E and OE.)

56. As we explain in Appendix 3(iii), the excise duty on beer varies according to the original gravity. Excise duties on home-produced beer (and import duties on beer from the Irish Republic) range from 7·86* pence per pint for beers of 1030° gravity to 14·86* pence per pint for beers of 1051° gravity. The amount of duty included in the price of a pint of the draught bitter, draught mild, bottled light and bottled brown ale (say 1030° to 1035° original gravity—see paragraph 30) shown in (a) and (b) of the table below would be between 8d.* and 9½d.;* the price of a pint bottle of Guinness stout, of original gravity 1044°, would include duty of about 1s.* (about 6d. per half pint).

TABLE VIII

Retail prices charged in the public bar in 1967

(a) for draught bitter and draught mild — per pint

	Draught Bitter			Draught Mild	
	Range of prices from Ordinary bitter to best bitter	Price generally charged for ordinary bitter	Range of prices	Price generally charged
Wales	1s. 8d.—2s. 4d.	1s. 10d.—1s. 11d.	1s. 6d.—1s. 11d.	1s. 8d.
Home C'ties	1s. 10d.—2s. 3d.	1s. 10d.	1s. 7d.—1s. 8d.	1s. 7d.
South	1s. 8d.—2s. 4d.	2s. 1d.	1s. 6d.—1s. 9d.	1s. 6d.
South East	1s. 8d.—2s. 1d.	1s. 9d.	1s. 6d.—1s. 7d.	1s. 7d.
South West	1s. 7d.—2s. 4d.	1s. 7d.	1s. 6d.—2s. 0d.	1s. 6d.
West	1s. 7d.—2s. 1d.	1s. 7d.	1s. 6d.—1s. 8d.	1s. 6d.
North West	1s. 7d.—2s. 1d.	1s. 10d.	1s. 6d.—1s. 10d.	1s. 7d.
North	1s. 6d.—2s. 1d.	1s. 9d.	1s. 6d.—1s. 9d.	1s. 7d.
North East	1s. 9d.—2s. 1d.	1s. 10d.	1s. 6d.—1s. 10d.	1s. 7d.
East	1s. 7d.—2s. 1d.	1s. 10d.	1s. 5d.—1s. 7d.	1s. 7d.
Midlands	1s. 8d.—2s. 1d.	1s. 10d.	1s. 5d.—1s. 9d.	1s. 8d.
London	1s. 9d.—2s. 8d.	No one popular price but in general over 2s.	1s. 7d.—1s. 8d.	1s. 7d.

(b) for brown ale and light ale — per ½ pint bottle

	Brown Ale		Light Ale	
Wales	11d.—1s. 7d.	1s. 2½d.	1s. 1½d.—1s. 9d.	No one price
Home C'ties	1s. 2d.—1s. 2½d.	1s. 2½d.	1s. 2d.—1s. 3d.	1s. 2d.
South	1s. 1d.—1s. 2½d.	1s. 2½d.	1s. 1d.—1s. 2½d.	1s. 2½d.
South East	1s. 2d.—1s. 2½d.	1s. 2½d.	1s. 2d.—1s. 2½d.	1s. 2½d.
South West	1s. 1d.—1s. 4d.	No one price	1s. 1d.—1s. 4d.	1s. 2½d.
West	1s. 0d.—1s. 2d.	1s. 1½d.	1s. 1d.—1s. 6d.	1s. 1d.—1s. 2½d.
North West	1s. 1d.—1s. 7d.	No one price	1s. 1d.—1s. 9d.	1s. 4d.
North	1s. 0d.—1s. 4d.	1s. 3d.	1s. 0d.—1s. 8d.	1s. 2½d.—1s. 4d.
North East	1s. 0d.—1s. 6d.	No one price	1s. 0d.—1s. 8½d.	No one price
East	1s. 0½d.—1s. 3½d.	1s. 2½d.	1s. 0d.—1s. 4½d.	1s. 2d.—1s. 2½d.
Midlands	1s. 0d.—1s. 5d.	No one price	1s. 0½d.—1s. 7d.	No one price
London	1s. 1½d.—1s. 5d.	1s. 2d.	1s. 2d.—1s. 5d.	1s. 2d.—1s. 2½d.

*These figures relate to position before imposition of Economic Regulator Surcharge on 22nd November 1968; figures after that date are shown in paragraph 21, Appendix 3.

(c) for Guinness stout — per ½ pint bottle

	Range of prices	Price generally charged
Wales	1s. 7d. —1s. 10d.	1s. 8d.
Home Counties	1s. 5d. —1s. 8½d.	1s. 8d.
South	1s. 6½d.—1s. 9d.	1s. 8d.—1s. 8½d.
South East	1s. 8d. —1s. 8½d.	1s. 8d.—1s. 8½d.
South West	1s. 8d. —1s. 11d.	1s. 9d.
West	1s. 7d. —1s. 9d.	1s. 8d.—1s. 8½d.
North West	1s. 6½d.—1s. 10d.	1s. 8d.—1s. 8½d.
North	1s. 6½d.—1s. 10d.	1s. 7d.—1s. 7½d.
North East	1s. 7d. —1s. 10d.	1s. 8d.—1s. 8½d.
East	1s. 7½d.—1s. 8½d.	1s. 8d.—1s. 8½d.
Midlands	1s. 5d. —1s. 9d.	1s. 7d.—1s. 7½d.
London	1s. 8d. —1s. 11d.	1s. 8d.—1s. 9d.

57. Retail prices in Scotland tend generally to be at about the levels in England and Wales. Retail prices of beer, particularly draught beer, are generally higher in Northern Ireland where no tied house system operates. Evidence received from licensees in Northern Ireland was not sufficiently detailed to provide useful comparisons with prices in the rest of the United Kingdom, but consumers and the press in Northern Ireland have indicated that the public bar price for a draught bitter such as Watneys Red Barrel, for example, is about 3s. 5d. per pint compared with about 2s. 3d. to 2s. 6d. in England; draught Bass has been quoted at 2s. 11d. per pint, compared with 2s. to 2s. 4d.; and draught Guinness at 2s. 11d. to 3s. 4d. a pint compared with 2s. 8d. to 3s. 2d. in England. Apart from bottled Guinness stout, bottled beers are also higher in price in Northern Ireland, although the difference is not so great as for draught beer. Bass Blue Triangle, for example, sells at about 1s. 7d. per half pint in public bars in England and at about 1s. 11d. in Northern Ireland; bottled Guinness stout sells at 1s. 7d. per half pint compared with 1s. 8d. to 1s. 9d. in England. The Guinness Company* told us that it supplies porter (a weaker† draught stout) to the market in Northern Ireland (this is not supplied in Great Britain); more porter (which is generally sold at 2s. per pint) is sold than draught stout.

58. In the free trade in England, Wales and Scotland, evidence that we received from licensees showed that the prices charged in the public bar (where there is one) are somewhat higher for draught bitter and draught mild than those charged in brewery-owned houses. For example, the most common price range quoted to us for a pint of draught bitter was 2s. to 2s. 4d., charged in all parts of the country except for Wales and the west of England. In Wales and the west of England prices were given as about 1s. 9d. to 1s. 10d., i.e. about the same level as in brewery-owned houses. Prices for draught mild (which a number of free public house licensees told us they did not stock) were generally 1s. 8d. a pint i.e. fractionally higher than is generally charged in brewery-owned houses, and there were a few 'free' licensees (in the north west) who gave us retail prices of 2s. 2d. and 2s. 6d. per pint. The free trade's prices for bottled beers, including

*The Guinness Company estimates that it supplies some 80 per cent of the total market for beer in Northern Ireland; stout (including porter) represents approximately 90 per cent of the total supplied by the company.

†Bottled Guinness Extra stout—gravity 1044°
Draught Guinness stout —gravity 1040°
Porter —gravity 1034°

Guinness stout, were on average, a few pence higher than the tied trade's at about 1s. 4d. to 1s. 5d. for a half-pint bottle of pale ale and about 1s. 9d. to 1s. 10d. for Guinness stout.

Exports and overseas sales of beer

59. Only a very small part of the beer produced in the United Kingdom is exported, as the following table shows:

TABLE IX

Exports of beer

Thousand bulk barrels

	Year ended 31st March	*Calendar year*		
	UK production	Exports of home produced beer	Exports of imported beer	Total exports
1958	24,591	249	201	450
1959	23,829	213	190	430
1960	25,830	222	214	436
1961	26,772	249	263	512
1962	27,911	283	222	505
1963	27,687	359	169	528
1964	28,883	381	170	551
1965	29,314	367	138	505
1966	29,745	329	79	408
1967	30,596	297	71	368
1968	30,755	340	94	434

Source: Customs and Excise annual reports and *Overseas Trade Accounts.*

60. Direct exports are not, however, the only way in which United Kingdom brewers, particularly the major companies, are selling their beers overseas. Both Allied and Watney, for example, have recently acquired breweries in the Netherlands and Belgium respectively, and their beers, brewed on the Continent, will be sold through the local brewers' outlets. D'Oranjeboom and 'De Drie Hoefijzers' (Allied's acquisitions) give Allied a 20 per cent share of the Dutch market, second only to Heineken, and access to some 4,000 outlets. Brasseries Vandenheuval has provided Watney with access to about 1,500 fresh outlets in Belgium as well as 240 in France (120 of which are in Paris). Watney is in fact Belgium's third largest brewery concern, having bought a 90 per cent holding in Brasseries Jules Delbruyere (near Charleroi) in January 1966. Allied is a founder member of the Skol International Ltd. consortium which now brews Skol lager in some 16 countries and was itself formed by brewing and other interests from several countries. Whitbread has a 50 per cent shareholding in a South African brewery (other partners are an Afrikaans group with 37½ per cent and Heineken, the Dutch brewing concern, which has a 12½ per cent interest) which started production in mid-1966. Plans for the construction of a second brewery, in Natal, were announced shortly after (in production by mid-1968), to be followed by a third brewery in Cape Province which was expected to be in production by 1970. The former Charrington United group, now part of Bass Charrington, has a link with Brasseries de la Manche under which this French group brews 'Toby' beer for local consumption. The company is reported to have franchise

operations in North America and Europe. The Guinness company has breweries in Malaya and Nigeria, and an agreement was signed in 1966 to sell Kenya-brewed Guinness stout in Uganda, Kenya and Tanzania. Guinness stout is also brewed under contract in Australia, New Zealand, Canada, Trinidad and South Africa, and the company has a subsidiary, Guinness Europa NV to market Guinness in the Netherlands, the Federal Republic of Germany and Italy. Courage is the majority shareholder in the Blue Nile Brewery at Khartoum, and with British Tobacco (Australia) and an Australian hotel group has built a brewery at Melbourne to produce draught, bottled and canned beers and stout. With Amstelbrouwerij it owns Courage and Amstel International in Amsterdam, set up early in 1967 to further the parent companies' sales outside the United Kingdom, Irish Republic and the Netherlands. One of the smaller brewery companies, Young & Co. of Wandsworth, which has about 140 licensed retail premises mainly in the London area, reached a royalty agreement in November 1967 with the Belgian company, Piedboeuf, under which the latter was to turn over one of its breweries entirely to production of Young's pale ale and distribute it to 4,000 'tied' and 7,000 other outlets in Belgium and later to France, the Netherlands and the Federal Republic of Germany.

Other interests of brewers

Wines and spirits

61. We describe in Chapter 4 the virtually complete control now exercised by brewers over the sales of wines and spirits in their tied licensed houses, a control that has developed since the 1950s.

62. Before the war, and while restrictions on supplies of wines and spirits* remained after it, brewers generally only arranged the supply of these drinks to their managed houses and in the main left their tenanted licensed premises to obtain their supplies from the distillers and wine merchants and importers. (A major wines and spirits supplier told us 'Before the 1939–1945 war most brewery-owned houses were tied only for the company's products which were mostly beers. We as a company had dealt direct with many hundreds and thousands of public houses for wines and spirits supplies for a great number of years'.) The brewers today have extensive wines and spirits interests and are substantial producers, importers and wholesalers of these items. With the easing of restrictions on supplies in the 1950s most brewers began to expand their own wines and spirits departments; this entailed bulk buying and bottling on their part and led to the registration by them of their own new brands, sometimes known as 'house' brands, not only of whisky and gin, but also of sherry, port, brandy, rum, etc. Brewers also acquired, wholly or substantially, wines and spirits businesses whose names or brands of wines and spirits are well known in their own right rather than as part of brewery groups; Grant's of St. James's and Victoria Wine, for example, are now subsidiaries of Allied Breweries Ltd. and 'Stowells of Chelsea' and 'Threshers of Chelsea' are subsidiaries of Whit-

*One major supplier of wines and spirits told us that 'the main selling brands of whisky were in restricted supply up until 1959'; and an off-licensee who, just after the 1939–1945 war, succeeded as tenant on the death of his father, told us that although he had had to sign an agreement tying himself for wines and spirits (where his father had been 'free') 'it was pretty well an impossibility to get spirits from the brewery. To all intents and purposes I was tied on wines and spirits from the day I took over but they allowed the tie to lapse until they could supply me, so I had to get supplies where I could'.

bread. Courage, Barclay & Simonds imports, produces, wholesales and retails wines and spirits through its Charles Kinloch, Arthur Cooper and Saccone and Speed subsidiaries; Bass Charrington, through its subsidiary Bass Charrington Vintners (with an annual turnover of around £70 million and before the Allied/Showering merger (see paragraph 63) the biggest wine and spirit group in the country) are agents for a number of well known-products, including Bacardi rum, Salignac brandy, Bertola sherries, Emva Cyprus sherry (the biggest selling Cyprus sherry in the country) and Mouton Cadet (the biggest selling claret in Europe).

63. The process of expansion and acquisition has continued to the present day; in 1968 for example, Watney Mann acquired a substantial interest (about 38 per cent) in International Distillers and Vintners Ltd. which at that time had a turnover of about £30 millions a year, and producers or importers of such brands as J. & B. Rare whisky, Gilbey's gin, Hennessy brandy, Smirnoff vodka (the largest selling vodka in the United Kingdom) and Croft ports. In the same year, Allied Breweries acquired Showerings, Vine Products and Whiteway's Ltd.—this merger brought to the Allied subsidiary Grant's of St. James's the Babycham perry, Whiteway's, Coates' and Gaymers' ciders, Harvey's sherries and table wines, and Britvic fruit juices of the Showerings' group and thereby also created the largest wines and spirits business in Europe. And in 1968 Whitbread acquired a one-third stake in J. R. Philips—the Bristol wines and spirits concern in which Allied was already a shareholder—agents for Courvoisier brandy (claimed to be the second best selling brandy in the United Kingdom), Cointreau, Chartreuse and Warninks Advocaat.

64. In the last two years a number of major brewers have launched, with heavy advertising campaigns, new brands of table wines, of which an estimated 8 million cases, worth about £40 million retail, were expected by the trade to be sold in 1968, an increase of 15 per cent over 1967.* In 1967, for example, Allied began an extensive sales campaign on a range of French table wines (the 'Nicolas' brand—which Grant's of St. James's claims is now overall leader of branded table wines in the British market) and in 1968 introduced a Spanish range (Don Cortez); Whitbread is promoting on a national scale its Spanish range ('Corrida' and 'Spadela') and International Distillers and Vintners (in which Watney has a substantial interest) introduced in 1968 a sweet red Portuguese table wine ('Docura').

65. The brewers' control of the sale of spirits in their licensed houses has not so far led to brewery control over a majority of the production (i.e. distilling and blending) side of the spirits trade, though in some items the brewers' share of production has increased in recent years. Whisky is the United Kingdom's most popular spirits drink and there are a large number† of whisky brands on sale in the United Kingdom market. Some of the major brewers do have distillery or whisky blending subsidiaries; for example, Scottish and Newcastle wholly owns Mackinlay-McPherson Ltd. of Edinburgh which produces (partly through its own subsidiaries Isle of Jura Distillery Company Ltd. and the Glenallachie Distillery Company Ltd.) 'Mackinlays' and 'Cluny' Scotch; Courage's Charles Kinloch subsidiary is a whisky blender; Bass Charrington's

*It is estimated by the industry that in seven years from 1960 spirits sales increased by 20 per cent; fortified wines (e.g. sherry, port) by 30 per cent; and table wines by 90 per cent.

†200–300 brands. (There are some 2,000 registered brands, including export brands.)

subsidiary in Northern Ireland, Charrington Kinahan, operates the 'Old Bushmills' whiskey distillery in Belfast; and Allied has a whisky blending subsidiary Glen Rossie Distillers Ltd. But non-brewery owned distillers hold the major share of the United Kingdom market with a small number of brands; the Distillers Company Ltd. (which produces among others Haig, Johnnie Walker, White Horse, Black and White, Dewars and Vat 69 whiskies) had about one half of the United Kingdom whisky market in 1966/67 (compared with about three-quarters in 1959/60); with William Teacher & Sons Ltd. and Arthur Bell and Sons having together some 29 per cent of the market.

66. The brewers' share of production of gin, the second most popular spirits drink in the United Kingdom, has shown a marked increase in recent years. Two Distillers Company's brands (Gordons and Booths) together have about 60 per cent of the United Kingdom market; the next biggest share is held by Squires, a brewers' consortium gin, with about 20 per cent of the market. Squires gin was originally introduced in 1957 as a Whitbread house brand; in 1959 a small number of other brewery groups reached agreement with Whitbread to set up Squires Gin Ltd. to produce and bottle a gin for sale in their tied houses, each member contributing an equal share towards the capital of the company. Most of the brewery companies in the United Kingdom are now members of the gin consortium. (In addition to the Squires brand, which is a colourless gin supplied in a dark green bottle, Squires Gin Ltd. in 1961 made available 'Cornhill', a straw coloured gin in a clear bottle; these two gins correspond in colour of gin and colour of bottle to the two most widely consumed brands of gin, Gordons and Booths.)

67. The third and fourth most popular spirits drinks in the United Kingdom are the imported spirits rum and brandy. Brewers' interests in these items have expanded in recent years. Most of the leading brewers now have their own brands of rum; among these are Courage's Liquid Sunshine and Kinloch Navy and Charrington's Bacardi. It is estimated that brands supplied by non-brewery shippers and importers (including the Captain Morgan, Lemon Hart, Myers, Old Charlie's, Lambs and Black Heart brands) have now altogether no more than about half of the United Kingdom market. The major part of the supply of brandy is made by non-brewer shippers and importers. The brand leader, with about 50 per cent of the market, is Martell, imported other than by brewers, but the runners-up, Courvoisier and Hennessy, with approximately 26 per cent of the market between them, are imported by companies in which the brewers, Allied, Watney Mann and Whitbread, now have major interests (see paragraph 63).

68. The brewers have substantial interests in the production of vodka, now the fifth most popular spirits drink in the United Kingdom, consumption having risen from 1·3 million bottles in 1961 to nearly 7 million bottles in 1966; in the latter year less than 5 per cent was imported. About half of the total supply in the United Kingdom market is accounted for by 'Smirnoff', the brand produced by International Distillers and Vintners, in which Watney Mann has recently acquired a substantial interest; DCL's 'Cossack' brand has, since its introduction into the United Kingdom in 1961, won about 16 per cent of the market and the remaining one-third or so is mainly held by brewers' vodka, i.e. by 'Romanoff', a brewers' consortium vodka and by Charrington's 'Imperial'. 'Romanoff', the consortium vodka, was until September 1965 a house brand of Allied Brewers;

at that time Allied put the brand at the disposal of the Brewers' Society which arranged a consortium company in which some 25 brewery companies are now shareholders.

69. Most brewers now have both 'proprietary brands' and 'house brands' of wines and spirits on sale in their on-licensed premises for consumption on and off the premises. Practice varies from brewer to brewer and from house to house but, in general, 'house brands' would be served for consumption on the premises to those customers—the majority, we are told—who do not specify the brand of drink they want but merely order 'a gin and tonic', 'a sherry', 'a whisky and soda'. The house brands served will in the main be brands which the brewers produce or import for themselves or brands for which special arrangements—sometimes including bottling arrangements—are made by the brewers with the 'brand-owning' companies (in some of which brewers hold shares). Long John Whisky (with about 3 per cent of the whisky market) and Grants' Standfast whisky, produced by the non-brewery owned distilleries Seager Evans and William Grant and Sons respectively, have been adopted by a number of brewers as 'house brands'; other brands of whisky adopted by brewers include 'Ballantines' (George Ballantine); 'Cutty Sark' (Berry Brothers and Rudd); 'Queen Anne' (Hill Thompson; Watney's subsidiary Brown, Gore and Welch has all sales rights in England and Wales); 'Wileys Black Label', 'Glen Eden' and 'West Highland' (all bottled by Nimmo, a subsidiary of Whitbread); 'Bonnie Charlie' (Charles Kinloch, a Courage subsidiary) and Teacher's and Bell's whiskies (see paragraph 65). The most generally adopted 'house brands' of gin are 'Squires' and 'Cornhill' (see paragraph 66). Generally, brands of whisky and gin produced by the Distillers Company are not promoted by brewers as 'house brands'.

70. The 'off-licence' (in which we are told that customers almost invariably specify the brands of wine and spirits they want and where the highly advertised long established 'proprietary brands', i.e. non-brewery owned brands, are most likely to be the ones chosen) accounts for a substantial part of the sales of wines and spirits in the country. In addition to their 'house brands', brewers supply 'proprietary brands' to their off-licence premises where, in common with all other off-licence premises, the 'proprietary brands' are more likely to be in demand than the brewers' 'house brands'.

71. Brewers, through whom tenants must generally buy all supplies of wines and spirits (see paragraph 194), charge their tenants higher wholesale prices* than those at which the free trade can buy supplies from non-brewer suppliers. On whisky, for example, brewers generally charge their tenants 585s. a case (48s. 9d. per bottle); discounts of about 12s. a case would generally be given to tenants on 'house brands' of whisky, not on 'proprietary brands'. In general, free retailers can obtain whisky from non-brewery wholesalers at prices about 30s. or even 36s. a case less than 585s. There is generally no difference between brewers' wholesale list prices to the tied and free trades for wines and spirits, but discounts are given by brewer-wholesalers to some free trade customers; the brewers have explained that the level of orders which might be placed by a single free house with a brewer-wholesaler would not generally qualify for

*The wholesale prices given in paragraphs 71, 73 and 74 were those in operation between April 1968 and the imposition of the Economic Regulator Surcharge on 22nd November 1968.

discounts. Such retailers would, in general, draw their supplies from non-brewer wholesalers including cash-and-carry stores.

72. In the last year or so, some major brewers have introduced new discount schemes designed, it was explained to us, to 'assist tenants to meet the very strong competitive forces' which were 'operating at wholesale and retail level'; tenants were 'now getting better terms from the brewer than the terms on which the brewer supplied the free trade'. In some cases, tenants of off-licence premises are given greater discounts than are tenants of on-licence premises.

73. Details of discount schemes for whisky and gin now operated by four major brewers (together with discounts given by the major non-brewer producer of 'proprietary brands' of these goods) are given in Appendix 7. In some cases brewers have introduced discounts for a few 'proprietary brands' but, essentially, these revised discount schemes still provide greater discounts on the brewers' 'house brands' than on the generally more widely known 'proprietary brands'. Allied Breweries, for example, who took the lead in introducing a new discount scheme in October 1967 (the terms of which have been modified on a number of occasions since that date) now gives the discounts shown in the table below:

TABLE X

per case of dozen bottles

	Whisky		Gin	
	House* brands	Proprietary brands	House* brands	Proprietary brands
Current basic wholesale price	585s.	585s.	564s. 6d.	564s. 6d.
Discounts available to all classes of customer	12s.	Nil	10s.	Nil
Additional discounts for tenants:				
on-licence	4 per cent on the value of all purchases in excess of 75 per cent of purchases during 12 months ended 23rd September 1967.			
off-licence	4 per cent on the value of all purchases in excess of 50 per cent of purchases during 12 months ended 23rd September 1967.			
Additional discounts for free trade	Varying rates of percentage discount are allowed according to volume and type of trade done.			

74. Allied told us that its net buying prices per case were 536s. for 'proprietary brands' of whisky and 524s. for 'house' brands; its net selling prices to tenants had been 585s. for 'proprietary brands' and 573s. for 'house brands' in the previous year; the brewer's wholesale margin on both brands had therefore been 49s. per case. The most recent modifications introduced to the discount scheme were expected to result in a reduction of 6s. a case in the selling prices to tenants. On gin, the brewer's net buying prices per case were 525s. 3½d. for 'proprietary brands' and 510s. 10d. for 'house brands'; its net selling price to tenants had been 564s. 6d. for 'proprietary brands' and 554s. 6d. for 'house brands'; the brewer's wholesale margin had been 39s. for 'proprietary brands' and 43s. 8d. for 'house brands'. The most recent modifications introduced to the discount scheme were expected to result in a reduction of slightly less than 6s. a case in the selling prices to tenants.

*House brands: Long John and Standfast whisky; Squires and Cornhill gin.

Cider and soft drinks

75. In Chapter 4 we describe the virtually complete control now exercised by brewers over the sale of cider in their licensed premises and the extensive control over sales of soft drinks.

*Cider**

76. Cider sales in the United Kingdom run at the level of about 25 million gallons a year, i.e. about 2 per cent of beer sales. About 60 per cent of the cider market is now supplied (and has been for the past few years) by H. P. Bulmer Ltd.† of Hereford; the balance is supplied by the Showerings Group (about 20 per cent); by the Taunton Cider Company Ltd., owned by a number of brewers including three of the major brewers (about 15 per cent); and by about a dozen other small producers, including one wholly owned by a brewer (about 5 per cent).

77. With the takeover of Showerings by Allied Breweries (see paragraph 63), the brewers' share of cider production in the United Kingdom is now over 35 per cent.

Soft drinks

78. There are two main types of soft drinks; unconcentrated soft drinks, mostly carbonated (tonic water, ginger ale, soda water, sparkling orange, ginger beer etc.) of which United Kingdom production in 1966 was 245 million gallons, and concentrated soft drinks (fruit squashes etc.) production of which was 54 million gallons in 1966.

79. There are nearly 700 soft drinks manufacturers in the United Kingdom and licensed premises are only one of a number of types of outlet for the sale of soft drinks; it has been estimated that of the total sales of all soft drinks in the United Kingdom about a quarter (mainly unconcentrated soft drinks) is sold in the licensed trade, although for certain producers the licensed outlet is the largest single sector of business. The two biggest soft drinks producers in the United Kingdom are (i) the Beecham Group, within which are produced Ribena, Lucozade, and the Corona, Idris, Hunts and Quosh brands of soft drinks and which also makes Coca-Cola for distribution in Scotland and the North of England and (ii) the Schweppes Group, producers of the Schweppes, Roses and Kia-ora brands and which bottles and sells Pepsi-Cola. Between them, it is estimated that these two companies have nearly a half of the total soft drinks market in the United Kingdom. The licensed trade is the biggest customer for Schweppes,‡ accounting for over three-quarters of the company's home sales; for Beechams, the licensed trade accounts for about 12 per cent of its home sales.

80. It is not possible to estimate the brewers' share of total United Kingdom production of soft drinks nor their share of the amounts of soft drinks sold in the licensed trade. Over a third of the brewers in the United Kingdom manufacture soft drinks, mostly through subsidiaries. Some of the major brewers

*By 'cider' we mean apple cider only, i.e. not including perry.

†The Bulmer subsidiary, The Gloucestershire Cider Company, is owned as to 51 per cent by Bulmer and 49 per cent by West Country Brewery Holding Ltd., a subsidiary of Whitbread.

‡It is estimated that Schweppes supply 70 per cent of the 'mixers' sold in the licensed trade.

hold franchises for 'national' brands of soft drinks; Watney, for example, has subsidiaries in Norwich and Isleworth which manufacture and wholesale Coca-Cola in East Anglia and throughout Southern England respectively; Whitbread has subsidiaries which bottle and distribute Coca-Cola, and Charrington's subsidiary Canada Dry (UK) Ltd. manufactures, bottles and distributes Canada Dry in the United Kingdom.

Trade associations

The brewers

81. The principal trade association concerned with the production and distribution of beer and indeed virtually every aspect of brewers' activities is the Brewers' Society. All but 16 of the brewers in the United Kingdom are full members of the Society; the 16 include the four 'clubs' breweries'* (see paragraph 12), though one of these is an associate member; the 'State' brewery; and eleven of the smaller brewery companies. Together these 16 accounted for approximately 2 per cent of total United Kingdom production of beer in 1967 and own only approximately 500 of the 68,000 licensed premises owned by brewers (see paragraph 168).

The retailers

82. The principal trade associations concerned with the retailing of beer (and other alcoholic drinks) are the Licensed Victuallers' Central Protection Society of London; the National Federation of Licensed Victuallers; the Amalgamated Licensed Retailers' Society; the Northern Districts League of Beer, Wine and Spirit Trades' Defence Association; the Scottish Licensed Trade Association; the Central Council of the Retail Licensed Trade of Northern Ireland; and the National Federation of Off-Licence Holders' Associations of England and Wales. These seven associations are constituent bodies of the National Consultative Council of the Retail Liquor Trade.

*The four 'clubs' breweries' have their own trade association—the Association of Clubs' Breweries.

CHAPTER 2

Licensed premises

83. Licensing law is enacted separately for England and Wales, for Scotland, and for Northern Ireland. In this chapter we describe how the law operates in each of these regions today; how it has operated in the past is described in Appendix 8.

Licensing law in England and Wales

84. The current statute governing liquor licensing in England and Wales is the Licensing Act 1964, a consolidation measure which made no significant changes in the law. The last previous reforming Act was the Licensing Act 1961. Moving its second reading in the House of Commons, the then Home Secretary, Mr. R. A. Butler, recalled that 'over the centuries the pendulum has swung between a rigid form of control, or attempts at it, and periods of laxity in the law and its enforcement'. He described the aim of the measure he was then introducing as 'to strike a balance between the restraints which are still necessary to prevent abuse or social mischief and the legitimate demand for individual freedom of choice and behaviour in an adult and responsible society'. It will be convenient for us to describe the present licensing system by reference to the current Act and to point out when appropriate the changes introduced by the 1961 Act.

The licences

85. Under the Licensing Act 1964 anyone wishing to sell alcoholic liquor by retail must hold a justices' licence. Originally the Act provided that the justices' licence should authorise the holder to obtain an excise licence which contained the actual permission to sell by retail but retail excise licences were abolished by the Finance Act 1967 and the justices' licence now confers directly the right to sell retail. There are four types of justices' licence: on-licence; off-licence; restaurant licence; and residential licence. Each of these licences authorises the retail sale of intoxicating liquor according to categories set out in the Act. Different categories are available for each class of licence:

(a) on-licence:
  (i) intoxicating liquor of all descriptions;
  (ii) beer, cider and wines only;
  (iii) beer and cider only;
  (iv) cider only;
  (v) wine only.

(b) off-licence:
  (i) intoxicating liquor of all descriptions;
  (ii) beer, cider and wine only.

86. Restaurant licences and residential licences are limited forms of on-licence and the categories which apply to them are therefore the same as those which apply to a full on-licence. In practice, most licences are granted for the sale of intoxicating liquor of all descriptions.

87. The scope of each class of licence is as follows:

(a) on-licence: a licence authorising sale for consumption either on or off the premises for which the licence is granted;

(b) off-licence: a licence authorising sale for consumption off the premises for which the licence is granted;

(c) restaurant licence: a licence granted for premises structurally adapted and bona fide used, or intended to be used, for the purpose of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises; it is also subject to the condition that intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal;

(d) residential licence: a licence granted for premises bona fide used, or intended to be used, for the purpose of habitually providing for reward board and lodgings, including breakfast and one other at least of the customary main meals; and subject to the condition that intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons residing there or their private friends bona fide entertained by them at their own expense, and for consumption by such a person or his private friend so entertained by him either on the premises or with a meal supplied at but to be consumed off the premises.

A joint 'residential and restaurant licence' may also be granted for premises used for both purposes and subject to the same conditions as for the separate licences.

88. Where the holder of a licence vacates the premises a protection order may be issued on application to the magistrates' court which enables the prospective successor to carry on the business pending application for transfer to him of the licence.

89. There is a final group of classes of premises which engages in normal retail trade but which is exempt from the requirement to hold a justices' licence, consisting of: premises within the Carlisle and District State Management Scheme, under the control of the Home Secretary; service messes and canteens; theatres, i.e. premises for the performance of stage plays whether under Royal Patent or theatre licence duly granted; and passenger aircraft, passenger vessels and railway passenger vehicles.

90. Another class of establishment which is also exempt from the requirement to hold a justices' licence is the registered club, but this does not engage in normal retail trade (see paragraph 99).

Numbers of licensed and registered premises

91. We list below the different types of licensed and registered premises and give the numbers of each in existence at the end of the last year for which figures are available, and we then describe the nature of these types of premises.

TABLE XI

Premises in England and Wales licensed for the sale of intoxicating liquor, by retail, and registered clubs, at 30th June 1967

Type of premises	*Scope of licence*	*Number in existence*	
(a) on licences			
(i) full on-licences, mainly public houses (see paragraph 92)	all intoxicating liquors	65,042	
	beer, cider and wine or beer and cider	813	
	wine only and/or cider only	61	
			65,916
(ii) restaurants	all intoxicating liquors	4,581	
	beer, cider and wine or beer and cider	3	
	wine only and/or cider only	6	
			4,590
(iii) residential	all intoxicating liquors	1,190	
	wine only/or cider only	1	
			1,191
(iv) combined residential and restaurant	all intoxicating liquors		1,769
(v) licensed clubs	all intoxicating liquors		2,377
Total on-licensed premises			75,843
(b) registered clubs			22,368
(c) off-licences			26,702
Total retail licensed and registered outlets in England and Wales			124,913

Source: Liquor Licensing Statistics for England and Wales (Home Office).

92. The total of 65,916 full on-licensed premises in (a)(i) above covers a wide variety of types of establishments and includes some 600 licensed dance halls, bowling alleys and railway and airport refreshment rooms, as well as public houses and hotels with bars for retail sale to non-residents as well as to residents. While different definitions* of hotels are used for other purposes, we have regarded as hotels—and not as public houses in the generally accepted sense of the term—establishments with 20 or more letting bedrooms, of which it is estimated that there are some 1,600 in England and Wales. There are, therefore, some 63,700 public houses in England and Wales.

Public houses

93. The public house is thus by far the largest single class of outlet for the retail sale of liquor. The Licensing Act provides that the licensing justices shall not grant a new on-licence 'unless the premises are in their opinion structurally

*For the purposes of Wages Orders made under the Wages Council Act (1959) an establishment with 'four or more letting bedrooms' is a hotel.

adapted to the class of licence required', and also gives the justices power, on renewing an on-licence, to order 'such structural alterations . . . as they think reasonably necessary to secure the proper conduct of the business.' Structural alterations by the licensee also require the approval of the justices. In considering the structure of the premises the justices will take into account, amongst other aspects, the evidence of the police, the fire services and the public health authorities, but the Act is not specific and the final decisions are wholly within the justices' discretion.

94. It is exceptional for a public house not to have a public bar. This is the cheapest room in the house and its appearance reflects this. As one witness explained, 'The original idea of the public bar price was to provide facilities at specially low prices for the low paid working man,' and not only were the margins yielded by such prices not intended to allow for more than basic provision of furniture and decoration but anything more elaborate would not have been welcomed by such customers as they were, to quote the same witness again, 'men who wanted to be in that sort of atmosphere where they could play darts and dominoes and cards and could go in their working overalls.' The Brewers' Society in its evidence considered that 'the essential defining characteristic of such a bar is the fact that the price of the working man's pint is controlled there' (i.e. by the maximum public bar prices set by the brewers—see paragraphs 191–193).

95. In addition to the public bar there will usually be a saloon and, if space allows and demand justifies it, there will also be a lounge. In the saloon and lounge, the aim is usually to create an atmosphere of comfort and relaxation, and expenditure on such things as carpets, curtains, chairs, tables and lighting fittings can be considerable. There may also be waiter service in the lounge.* The cost of these furnishings and services is met by charging more for drinks than in the public bar and the brewer does not generally impose on the tenant-licensee any price limit for drinks sold in these two rooms.

96. More draught beer than bottled beer is sold in the public bar but in the other rooms, whilst the proportion of draught beer sales may still be significant, that of bottled beer is higher and the share taken by spirits rises sharply.

Hotels

97. Beyond the fact that, by definition, they may all sell alcoholic liquor as well as providing accommodation, it is not possible to generalise in describing the facilities offered by licensed hotels. They range from the smallest establishment with a full on-licence, such as we have included in the estimated number of public houses given in paragraph 92, to the international class hotel which may number its rooms in hundreds. Provided they can meet the statutory conditions (see paragraph 87(d)) all these premises can obtain residential licences. Table XI shows that 1,191 such licences were held in mid-1967. The table also shows that 1,769 establishments held combined residential/restaurant licences, presumably indicating those hotels which admit non-residents to their dining-rooms and restaurants. Some hotels also have bars which are open to non-residents during permitted hours and for these they hold a full on-licence. Such bars may include

*We were told that waiter service was generally supplied in all bars of public houses in the North of England.

a public bar of the kind found in public houses but most of them are likely to be comfortably, even luxuriously, appointed lounges or cocktail bars. A licensed hotel then may hold: (a) a residential licence only; (b) a combined residential/restaurant licence; (c) either (a) or (b) and a full on-licence.

Licensed clubs

98. A licensed club is usually one where the club is a commercial enterprise owned by individuals or a limited company by whom the club's stock of liquor is also owned and sold retail to club members. Such a club needs to hold a justices' on-licence, to which the justices may attach 'such conditions governing the tenure of the licence and any other matters as they think proper in the interests of the public'.

Registered clubs

99. The registered or members' club is so called because the authority to supply alcoholic liquor is conferred by a certificate of registration which the club obtains from the magistrates' court, not from the licensing justices. The members of the club are the owners of the stock of liquor held by the club and the transaction by which they individually draw on that stock against payment does not constitute a sale in law. Members' clubs include all kinds of political, sports and social clubs, including working men's clubs formed as social and entertainment centres.

Off-licence premises

100. Although a public house is primarily a place where purchase and consumption coincide* a full on-licence gives the right to sell for consumption on or away from the premises; off-sales may take place in any of the rooms of the pub but it is not unusual to find a section completely screened off and used exclusively for take-away sales.

101. Most of the 'take-home' trade however is still done in the outlets which are licensed to sell for consumption off the premises only. These are diverse in kind but fall roughly into two groups, those which deal primarily in liquor, and those whose liquor trade is part of a much wider trade. The first group includes the general off-licence shop, which stocks a wide range of liquor including beers,† wines and spirits, as well as soft drinks, and the specialist wine merchant in whose business beer, if it appears at all, will be of relatively little significance.

102. Approximately half of all off-licence outlets are in the second group. The most numerous element here comprises the grocers' shops, usually of the more expensive kind, which have a counter devoted exclusively to the sale of drinks, alcoholic and soft but primarily the former. There are also a few chemists'

*This is especially true of draught beers.

†The 'off-licence' for beer in general permits the sale of beer on draught as well as in bottles and cans, and at one time the volume of trade in draught beers taken away in jug by the customer was very considerable, but it has now largely disappeared with the growth in popularity of bottled beers. (Some new off-licences were granted in the past with an endorsed condition that sale should only be in closed vessels.)

shops in some parts of the country which hold an off-licence but offer a limited range, possibly of wine only. Many department stores also have an off-licence counter, sometimes their own, sometimes leased to an outside company owning a chain of shops.

103. The biggest developments in recent years have been in the provision of off-licence facilities by supermarkets, offering beers, wines and spirits but generally in a more limited range of brands than the specialist off-licence shop.

Permitted hours

104. The Licensing Act provides that intoxicating liquor shall not be sold, supplied, drunk on or taken away from licensed premises outside the hours permitted in the Act. The 'general licensing hours' laid down in the Act are 11.0 a.m. to 3.0 p.m. and 5.30 p.m. to 10.30 p.m. except on Sundays, Christmas Day and Good Friday when they are 12 noon to 2.0 p.m. and 7.0 p.m. to 10. 30 p.m. These general licensing hours are, however, subject to modifications and tolerances in respect of particular kinds of licences and particular areas and to some extent also at the discretion of the licensing justices. The principal variations are:

(i) an additional half-hour (10.30 to 11.0 p.m.) in the Metropolitan Area and, at the justices' discretion, in other areas;

(ii) at the justices' discretion, some limited variation of the permitted areas in their district without increasing the daily total hours;

(iii) a variation for off-licence shops which enables them to open during normal shop hours as alternative to the general licensing hours, provided the prescribed daily total hours are not exceeded;

(iv) some minor variations of hours for licensed and registered clubs;

(v) an extension of one hour for restaurants if the licence holder so elects;

(vi) at the justices' discretion, certain specified extensions for restaurants, clubs and public houses providing live entertainment or music and dancing together with meals.*

105. A period of 10 minutes is allowed for finishing drinks supplied during permitted hours in all on-licensed premises; this is, in effect, extended to half-an-hour in restaurants. The half-hour 'drinking up' time applies also to establishments granted extended hours as described in paragraph 104(vi). There is, in no case, any obligation under the Act to remain open during the permitted hours.

Sunday closing in Wales and Monmouthshire

106. There was a general provision in the Licensing Act that there should be no permitted hours initially in Wales and Monmouthshire on Sundays; but on a septennial poll the electors of the counties or county boroughs of this region may vote for no change, or for the lifting or re-imposition of this restriction within their county or county borough.

107. This opportunity for review was introduced by the Licensing Act 1961 and the first poll was held in November of that year. The second therefore took place in November 1968. The present situation in Wales and Monmouthshire

*In practice, few public houses can provide the facilities required for obtaining such extensions.

is that the counties of Carmarthen, Cardigan, Merioneth, Caernarvon and Anglesey are 'dry' on Sundays, while in the counties of Brecon, Denbigh, Flint, Glamorgan, Montgomery, Monmouth, Pembroke and Radnor licensed premises may open on Sunday. All the county boroughs (Cardiff, Merthyr Tydfil, Newport and Swansea) are 'wet'.

Carlisle and District State Management Scheme

Origin and development

108. During the 1914–1918 war a large munitions factory was built at Gretna. This attracted a large new working population for whom no adequate housing facilities were available. As a result of the poor social conditions, drunkenness reached alarming proportions. This problem called for urgent remedy, but the ordinary forms of supervision were not sufficiently potent or swift to effect a cure. Under the Defence of the Realm (Amendment) (No. 3) Act 1915, the Central Control Board (Liquor Traffic) was created to assume direct control of the liquor trade throughout what became the Carlisle and Gretna State Management Districts on either side of the Border. The Board closed many public houses, carried out improvements to the remainder and generally raised the standards of management. The cure was effective and the State Management Scheme was soon a successful concern, socially and financially.

109. The Board was wound up in 1921 and responsibility for the administration of the schemes was transferred to the Home Secretary (for the Carlisle District) and the Secretary for Scotland (for the Gretna District) under the Licensing Act of 1921. The present provisions governing the Carlisle Schemes are contained in Part V of and Schedule 9 to the Licensing Act 1964: these provisions have remained virtually unchanged since the Act of 1921.

The Scheme today

110. The Carlisle Scheme is not conducted by an independent or semi-independent corporation; the Home Secretary is directly responsible to Parliament for its operation and policy. In this he is advised and assisted by the State Management Districts Council and the Carlisle and District State Management Advisory Committee.* The Scheme has no capital apart from its fixed assets and is financed by a token Vote from Parliament. All capital projects are financed from takings and the annual excess of income over expenditure is returned to the Exchequer.

111. State management's object in Carlisle is to satisfy the needs of the public for intoxicating liquor, food and accommodation in the best possible conditions under 'disinterested management'. This means that a public house is run by a salaried manager who has no direct interest, by way of commission or otherwise, in the profits on the sale of intoxicants. The Scheme was examined by the Southborough Committee on the Disinterested Management of Public Houses (Cmd. 2862) in 1927 and by the Royal Commission on Licensing (England and

*The State Management Advisory Committee is a statutory body. It consists of 16 members, three of whom are appointed by the Secretary of State. All members of the State Management Districts Council, a non-statutory body, are appointed jointly by the Home Secretary and the Secretary of State for Scotland.

Wales) 1929–1931 (Cmd. 3988) which reported in 1932. Both bodies were in favour of the continuance of the Carlisle Scheme as a social and financial experiment rather than as a means of regulating drunkenness. The experiment was described in paragraphs 63 and 64 of the Southborough report as comprising a reduction in the number of licences concurrently with the evolution of a new, enlarged and improved type of public house. The Royal Commission recommended that 'public ownership should be applied elsewhere in circumstances which will submit the system to a further test both in a social and in a financial sense'. The only attempt made to implement this recommendation was in the Licensing Act 1949 which sought to extend State Management to the New Towns being established under the New Towns Act 1946. It was thought that this might be a good way of securing the provision of public houses of a high standard according to a proper plan. By the Licensed Premises in New Towns Act 1952, however, it was decided to leave it to the Development Corporations, the licensing justices and private enterprise between them to ensure that the New Towns had public houses worthy of them in character, and right in number and distribution.

112. Apart from those authorised through Part IV* (i.e. restaurant and residential) licences and apart from registered clubs, the Secretary of State for the Home Department has sole authority†—within the area, defined in the ninth schedule to the Licensing Act 1964, over which the State Management Scheme operates—to sell intoxicating liquor although he has the power to allow other persons to sell liquor if he so chooses. The Secretary of State and those acting on his behalf are expressly exempted from the need to obtain any kind of licence but this exemption does not extend to such persons as might be authorised by the Secretary of State to sell alcoholic liquor by retail on their own behalf; these applicants must therefore obtain a justices' licence and they may do so either before or after seeking the Secretary of State's authorisation. Authorisation has been granted in a few cases.‡

Licensing planning areas

113. A special word is necessary about these areas and the statutory provisions relating to them. The provisions had their origin in the Licensing Planning (Temporary Provisions) Acts 1945 and 1946, were repeated in the Licensing Act 1953 and have their current form in section 123 of the Licensing Act 1964. They were the result of the recommendations of the Morris Committee on War Damaged Licensed Premises and Reconstruction (Cmd. 6504). Their object is to ensure, in areas affected by serious war damage, co-ordination of the functions of licensing justices and local planning authorities in the redistribution of licensed premises in accordance with local requirements, particularly where there is redevelopment. This responsibility is discharged in each licensing planning area by a licensing planning committee composed of licensing justices and representatives of the local planning authorities in equal numbers, with a chairman appointed by the Home Secretary.

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*Part IV licences—see paragraph 121.

†In effect, the authority applies to full on-licences and off-licences.

‡Seven off-licences, out of 24 applications, have been granted since 1957: two of the successful applications were within the City of Carlisle. Two on-licences, from three applications, were granted in the same period; one was for a holiday camp and the other for a dance hall. No authorities for use of justices' licences have been granted for public houses in the Carlisle district.

114. The power of granting new licences belongs only to licensing justices but every applicant for a new licence must submit his application first to the licensing planning committee and, if the committee object, the justices cannot grant a licence. There is no appeal against the objection of the licensing planning committee.

115. Holders of Part IV* licences and registered clubs are exempt from the licensing planning provisions and since August 1967 off-licences have also been exempt.

Conditions on which licences may be granted

(a) *on-licence*

116. The licensing justices do not have to grant an on-licence; the law only provides that they 'may' do so. They must see that two statutory requirements are met: the person to whom the licence may be granted shall be 'such person, not disqualified under this (1964) or any other Act from holding a justices' licence, as they (the justices) think fit and proper'; and the 'licensing justices shall not grant a new justices' on-licence for premises unless the premises are in their opinion structurally adapted to the class of licence required.'

117. Schedule 2 of the Licensing Act requires an applicant for a new licence (or for removal or transfer of a licence) to give not less than 21 days' notice before the licensing sessions to the clerk to the licensing justices, to the chief officer of police, to the local authority (town clerk, clerk to the parish council or rating authority) and, except in the case of a transfer, to the fire authority. The justices thus have available to them the advice of all these bodies on whether the premises are structurally adapted to the class of licence required and, from the police, who make inquiries into the character of the applicant, evidence on whether he is a person 'fit and proper' to hold a licence. Although there is no statutory obligation in the Licensing Act for the public health authority to be notified by the applicant, the approval of this department will in the case of a new building have had to have been obtained under other legislation, and it seems a fair assumption that new on-licences will usually be required for new buildings.

118. Beyond the provisions relating to persons and premises, the licensing justices receive no statutory guidance in reaching a decision whether or not to grant a new on-licence, nor, we have been told, do they receive any advice on policy from the Home Office as the Department responsible for the administration of the licensing law.

119. The criterion that has come to play the greatest part in the justices' considerations once the statutory requirements have been met is that of 'need'. The justices are not statutorily obliged to take account of need and need has never been statutorily defined; the justices are free to vary their interpretations from bench to bench and over time.

(b) *Off-licence*

120. An application for an off-licence is subject to similar statutory requirements to those which apply to an on-licence application.

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*See paragraph 121.

(c) *restaurant licence; residential licence; residential and restaurant licence*

121. These were the three new forms of on-licence introduced by the Licensing Act 1961. In the 1964 Act they are dealt with in Part IV, and in that Act and elsewhere they are called Part IV licences. The term is used in this report where convenient.

122. Probably the most important condition relating to these three forms of licence is the provision that licensing justices shall not refuse an application for the grant of a new Part IV licence, except on certain grounds specified in Section 98 of the 1964 Act and which may be summarised as: that the applicant is not a fit and proper person to hold a licence; that the premises are not suitable for the intended purpose; that intoxicating liquor will be available by self-service; that the premises have been ill-conducted while a full on-licence, or a licence under the Refreshment Houses Act 1860, was in force; that the premises are or will be habitually used by persons under the age of eighteen not accompanied by adults who pay for them; that while a licence has been in force for the premises, the condition of the Act as to sitting accommodation, or the implied condition of any Part IV licence that suitable beverages other than intoxicating liquor (including drinking water) shall be equally available, has been habitually broken.

123. The essential principle is that in considering an application for a Part IV licence, the licensing justices do not have the unfettered discretion which they may exercise in granting or refusing a full on-licence or an off-licence. The restaurant/hotelier can ascertain the conditions he has to meet for a Part IV licence and he can be reasonably certain that if he meets them the justices will not refuse his application.

124. There are also set out in the Act conditions which apply specifically to restaurant and to residential licences. These are described in paragraph 87(c) and (d) respectively.

(d) *Registered clubs*

125. As we have explained in paragraph 99 registered clubs do not hold a licence granted by the licensing justices, but a certificate of registration issued by the magistrates' court. There are set out in Part II of the Act the conditions a club must satisfy in order to qualify for registration (relating, amongst other things, to the rules of admission to and conduct of the club, and to the arrangements for the purchase by the club and supply to the members of alcoholic liquor), and the Act provides that if these conditions are met 'the magistrates' court shall not, in the absence of an objection duly made in accordance with this Part of this Act refuse the application except as provided by the following provisions of this Part of this Act.' The grounds on which objection may be made include the unsuitability of the premises and disorderly conduct of the club, and those who may so object are 'the chief officer of police . . . the local authority, or . . . any other person affected by reason of his occupation of or interest in other premises'. Amongst the limited grounds on which the magistrates may refuse an application is that a person who will be concerned in the management of the club during the currency of the certificate has been proved to the court to be not a fit person to be so concerned.

126. A members' club can thus largely ascertain the circumstances in which it may be virtually assured of a certificate of registration. And if it should fail,

the magistrates' court is obliged to 'state in writing the grounds of any refusal to issue or renew a registration certificate' and the club presumably then has the knowledge as well as the opportunity to put itself within the scope of the Act.

Appeals

127. The right of appeal against the refusal of a licence by justices was removed by the Licensing Act 1872. It was restored by the Licensing Act 1961 and is now provided for in section 21 of the 1964 Act. An applicant may now appeal to quarter sessions against refusal of a new licence, or of the removal, transfer or renewal of an existing licence. A person who appeared before the justices and objected to the grant of a licence may, if the licence is granted, appeal to quarter sessions against the justices' decision.

128. In the table below we give numbers of licence applications for full on-licences and off-licences made, granted and refused for the years 1962–1967:

TABLE XII

England and Wales

Applications for and grants of justices' licences (all alcoholic liquors only) 1962–1967

	Full on-licences (mainly public houses)			Off-licences		
	applications made	licences granted	percentage granted	applications made	licences granted	percentage granted
1962 Total	629	553	87·9	1,828	1,251	68·4
LPA*	110	101	91·8	153	122	79·7
1963 Total	649	558	85·9	1,669	1,238	74·1
LPA	90	81	90·0	206	168	81·6
1964 Total	639	563	88·1	1,370	1,091	79·6
LPA	105	96	91·4	148	125	84·5
1965 Total	627	527	84·1	1,393	1,110	79·7
LPA	102	87	85·3	131	115	87·8
1966 Total	674	599	88·9	1,038	789	76·0
LPA	109	104	95·4	114	84	73·7
1967 Total	600	511	85·2	1,060	857	80·8
LPA	87	79	90·8	130	113	86·9

Source: Liquor Licensing Statistics for England and Wales (Home Office).

Licensing law in Scotland

129. Liquor licensing in Scotland is governed by the Licensing (Scotland) Act 1959, a Consolidation Act, as amended by the Licensing (Scotland) Act 1962 which implemented certain recommendations made in the first report of the

*LPA: Licensing Planning Areas (see paragraph 113). The totals given include the Licensing Planning Areas.

Committee on the Scottish Licensing Law (Guest Committee) (Cmnd. 1217). The main changes brought about by the 1962 Act were the introduction of (i) two new types of certificate; (ii) Sunday permitted hours for hotels; (iii) standard permitted hours; and (iv) general trading hours for off-sale premises.

130. The authority to sell liquor by retail in Scotland is called a certificate, not a licence, although the body which has power to grant the certificate is called a licensing court. The area of jurisdiction and the composition of the licensing courts are set out in sections 1 and 2 of the 1959 Act and in orders under section 31(2) of the Act. Burgh licensing courts consist of the magistrates of the burgh; county licensing courts consist of county justices of the peace and county councillors, in equal numbers, with the addition of some burgh magistrates in certain instances. There are also licensing courts of appeal whose function is to hear appeals against decisions of licensing courts and to consider applications for the confirmation of new certificates (all new certificates granted by a licensing court must be confirmed by the licensing court of appeal before they become valid). There is no appeal to a licensing court of appeal against the refusal of a licensing court to grant a new certificate. With this exception however, an appeal to a licensing court of appeal may lie against 'anything done by a licensing court'. This means that appeals are not to a court of general jurisdiction, as is now the case in England and Wales where an appeal from the justices' decision may (since 1961) be made to quarter sessions. The area of jurisdiction of licensing courts of appeal are set out in the 1959 Act and in orders under section 31(2) of the Act. No special provision is made in the Scottish Acts for a review by the Court of Session of proceedings in the licensing courts but such a review may on certain grounds be obtained at common law, by means of an action for reduction of the proceedings, raised by a person who has a title and an interest.

Retail certificates

131. Five kinds of certificate are available in Scotland: three were provided for in the 1959 Act—hotel,* public house and off-sale; and two more were added by the 1962 Act—restaurant and restricted hotel. Each certificate lists the kinds of exciseable liquor which may be sold. All certificates except the off-sale certificates specifically authorise the sale of victuals. All certificates, including the off-sale certificate, authorise the retail sale of porter, ale, beer, cider and perry. In each case there may be added to these: wine; or spirits and wine.

132. The hotel certificate and the public house certificate are, in effect, the full on-licence of England and Wales. Both type of certificate authorise the holder to sell 'exciseable liquor by retail for consumption either on or off the premises'.

133. The need for separate hotel and public house certificates arises from the fact that public houses in Scotland have no permitted hours on Sundays. Until the 1962 Act, the hotel certificate enabled the hotel to supply exciseable liquor only to lodgers and travellers on Sundays. Since 1962, hotels with full (seven-day) hotel certificates have been able to open on Sundays for the sale of liquor to the

*A hotel is defined in the 1959 Act as: (*a*) in towns and the suburbs thereof, a house containing at least four apartments set apart exclusively for the sleeping accommodation of travellers; and (*b*) in rural districts . . . a house containing at least two such apartments.

general public (and not only lodgers and travellers) for consumption on the premises only.

134. An off-sale certificate authorises the holder to sell 'exciseable liquor . . . by retail for consumption off the premises only'.

135. The restaurant certificate and the restricted hotel certificate were both introduced by the 1962 Act. The conditions attaching to both certificates are similar to those to which the restaurant and residential licences of England and Wales are subject. The Scottish restricted hotel certificate is however in a form which is equivalent to the joint residential and restaurant licence of England and Wales.

136. The discretion of the Scottish Licensing Courts as to whether or not they grant a certificate of any of the five kinds described is complete. Thus the restaurant and restricted hotel certificate are not obtainable on the same terms as are Part IV licences in England and Wales.

137. There is no provision for licensed (or 'proprietors') clubs.

Registered clubs

138. The 1959 Act provides for the registration of members' clubs by sheriffs and sets out the conditions which must be met and the grounds on which objection may be made. If the conditions are met, and if any objections made are not sustained, the Act provides that 'the sheriff . . . shall grant the application'. The decision of the sheriff in relation to the grant, renewal or cancellation of a certificate of registration is final.

The numbers of licensed and registered premises

139. We list below the different types of licensed premises and give the numbers of each in existence at 31st December 1967.

TABLE XIII

Premises in Scotland licensed for the sale of intoxicating liquor, by retail, and registered clubs at 31st December 1967

Type of certificate	Number in existence
(*a*) ON-SALE CERTIFICATES	
(i) public house	4,230
(ii) hotel	2,404*
(iii) restaurant	221
(iv) restricted hotel	184
Total on-sale certificates	7,039
(*b*) REGISTERED CLUBS	1,715
(*c*) OFF-SALE CERTIFICATES	3,555
Total retail licensed and registered outlets in Scotland	12,309

Source: Civil Judicial Statistics Scotland (HMSO).

*It is estimated that approximately 400 of these have 20 or more bedrooms for letting.

140. In the table below we give numbers of applications made and certificates granted for the years 1962–1967:

TABLE XIV

Scotland

Applications for and grants of new certificates (all classes)*
1962–1967

Calendar year	Applications made	Certificates granted	% granted	Applications† withdrawn or otherwise disposed of
1962	892	674	75·6	49
1963	926	665	71·8	49
1964	861	610	70·7	60
1965	869	604	69·5	70
1966	814	542	66·6	68
1967	749	529	70·6	63

Source: Civil Judicial Statistics Scotland.

Permitted hours

141. The 1962 Act provides that, except in the case of off-sale, exciseable liquors shall not be sold, supplied, drunk on or taken away from licensed or registered premises outside the hours permitted in the Act. The standard permitted hours laid down in the Act are 11.0 a.m. to 2.30 p.m. and 5.0 p.m. to 10.0 p.m. for all classes of premises (save off-sale premises); except on Sundays when the permitted hours are 12.30 p.m. to 2.30 p.m. and 6.30 p.m. to 10.0 p.m. for all premises (save public houses and off-sale premises). (In general, premises with permitted hours on Sundays are not permitted to sell or supply on that day exciseable liquors for consumption off the premises.) Certain minor variations and extensions to the permitted hours can be applied where main meals are being provided and in certain other circumstances (e.g. for athletic clubs in winter). The 1962 Act provides that its permitted hours provisions, and those of the 1959 Act, shall not apply to off-sale premises. These are treated separately in the 1962 Act and have 'trading hours'. On weekdays they may not open before 8 a.m., and they must close not later than 10 p.m.; they may not open on Sundays.

Temperance polls

142. Since 1920 there has been provision in Scotland for the closure of all licensed premises, or of a proportion of them, if a resolution proposing this is carried by electors voting in 'a temperance poll'; there must be at least three years between temperance polls in any temperance poll area. Polls are requested much less frequently now than in earlier years. 'No licence' resolutions are in force in 19 areas and 'limiting resolutions' in 16 areas, from a total of 1,210 areas in which temperance polls may be held.

*No breakdown available as to on-sale and off-sale certificates.
†Not included in figure for applications made.

State management districts in Scotland

143. We have explained in paragraphs 108 and 109 the origin of the Carlisle and District State Management Scheme. Gretna itself, as the site of the munitions factory, suffered from problems similar to those which afflicted Carlisle, and State management was applied to both districts at the same time. Similar troubles were concurrently being experienced in the area around Invergordon as a result of the influx of dockyard workers to the naval base there and only a few months after State management was introduced in Carlisle and Gretna the Scottish scheme was extended to include the Cromarty Firth district.

144. The exclusive right* of the Secretary of State for Scotland to sell excisable liquor and to carry on certain other activities in the State management districts is currently conferred by sections 81 and 82 of the Licensing (Scotland) Act 1959. The districts are defined in the Eighth Schedule to the Act as the Cromarty Firth district (comprising three burghs and eight parishes) and the Gretna district (comprising one burgh and nine parishes). The Schedule also sets out the ancillary functions which the Secretary of State may exercise. These include the provision of hotels at which liquor is sold and of restaurants where liquor is not necessarily sold, the provision of entertainment at any of these premises, and the brewing of beer.

145. There are 33 establishments run by the Secretary of State; 14 public houses; 14 hotels; 4 off-licences and 1 public house/restaurant. The right to brew beer has never been exercised in the Scottish State management districts. The Gretna district buys some of its beer from the Carlisle State management brewery but in Cromarty Firth only 'non-State' beer is sold.

146. The remarks in paragraphs 110 to 112 about the administration and operation of the Carlisle district, apply, in general, to the Scottish State Management districts.

Licensing Law in Northern Ireland

147. The principles governing the grant of licences for the retail sale of intoxicating liquor in Northern Ireland are set out in section 9 of the Intoxicating Liquor Act (Northern Ireland) 1923, as amended by the Intoxicating Liquor and Licensing Act (Northern Ireland) 1927 and the Intoxicating Liquor and Licensing Act (Northern Ireland) 1959.

148. The 1923 Act was the first licensing law to be enacted by the Parliament of Northern Ireland and its objects were:

(1) to prohibit the sale of intoxicating liquor on Sundays or Christmas Day (a prohibition which has since ceased to apply to hotels serving liquor with meals to diners on Christmas Day (not being a Sunday) and to residents and their guests having a substantial meal on a Sunday);

(2) to abolish the loose system of 'spirit grocers' licences.

*Restaurant and restricted hotel certificates may be used without the authority of the Secretary of State for Scotland. Registered clubs need the Secretary of State's written authority as well as the sheriff's certificate—authority is not usually withheld. The Secretary of State may authorise persons to use public house and off-sales certificates granted by the licensing courts; authority is sought from time to time but is seldom given. At the present time, only one certificate holder has written authority to operate his (off-sale) certificate in full.

149. This was not a consolidation Act, so that certain provisions and practices of the licensing law and system of Northern Ireland derive from the time when legislation affecting the whole of Ireland was enacted at Westminster, beginning with the Licensing (Ireland) Act 1833. Northern Ireland is the only part of the United Kingdom where the decision whether a new licence should be granted or an existing licence transferred is made by a judge, not by the magistracy. Application for renewal however is made to Petty Sessions presided over by a Resident Magistrate.

150. There is a right of appeal against refusal of an application for renewal, from the Petty Sessions to the County Court, but there is no appeal against refusal of an application for a new licence. The police, however, have a means of appeal against the grant of a new licence providing they can satisfy the Attorney General (Northern Ireland) that a point of law is involved and that he should therefore require the judge concerned to state the grounds of his decision. Any appeal which followed to the High Court would have to be related to the judge's interpretation of the law as revealed in his statement.

The licence

151. There are five kinds of retail licence in Northern Ireland: publican's licence; hotel licence; off-licence; theatre or music hall licence; railway or airport refreshment room licence. They allow the sale of intoxicating liquor for consumption as follows:

publican's licence:	authorises sale for consumption either on or off the premises;
hotel* licence:	as above, but in hotels other than those licensed (as public houses) before 1902, customers may not be served at a bar counter but must be served by waiters who pour the drinks in a screened-off part of the room;
off-licence:	authorises sale for consumption off the premises;
theatre or music hall licence:	authorises sale for consumption either on or off the premises;
railway or airport refreshment room licence:	authorises sale for consumption either on or off the premises.

152. The categories of liquor which may be sold under the authority of each kind of licence were governed by the provisions of the Customs and Excise Act 1952 relating to excise licences, until these licences were abolished by the Finance Act 1967 and thus correspond to those covered by licences in England and Wales:

(a) publican's, hotel, theatre etc., railway etc., refreshment rooms:
  (i) intoxicating liquor of all descriptions;
  (ii) beer, cider and wines only;
  (iii) beer and cider only;
  (iv) cider only;
  (v) wine only.

*Section 9 of the 1923 Act defines hotel as 'a house containing at least 10 compartments set apart and used exclusively for the sleeping accommodation of travellers'.

(b) Off-licence:

(i) intoxicating liquor of all descriptions;

(ii) beer, cider and wine only.

There is no separate restaurant licence. At present anyone wishing to serve intoxicating liquor in a restaurant must obtain a publican's licence and the restaurant concerned must be structurally adapted to be used and approved for the bona fide use of providing substantial meals, the service of intoxicating liquor therein to be ancillary to the provision of such main meals.

Registered clubs

153. Private clubs run as commercial enterprises, such as dance halls, cannot obtain licences for the sale of intoxicating liquor. The social, or members', type of club may apply to the magistrates' court for a certificate of registration, one of whose effects is to exempt the club from the provisions of the liquor licensing Acts. The club may then 'sell' intoxicating liquor within certain permitted hours to members and, in certain circumstances, to temporary members, in accordance with provisions set out in the club rules, and the club rules must be acceptable to the court before it can grant a certificate of registration.

The numbers of licensed premises

154. We list below the different types of licensed premises and give the numbers of each in existence at the end of the last year for which figures are available.

TABLE XV

Premises in Northern Ireland licensed for the sale of intoxicating liquor, by retail, and registered clubs at 31st December 1967

Type of premises	Number in existence
(*a*) ON-LICENSED	
(i) public houses; railway and airport refreshment rooms; theatres and music halls	2,280
(ii) hotels	171
Total on-licensed premises	2,451
(*b*) REGISTERED CLUBS	185
(*c*) OFF-LICENSED PREMISES	108
Total retail licensed and registered outlets in Northern Ireland	2,744

Source: Ministry of Home Affairs, Northern Ireland.

Permitted hours

155. The hours during which intoxicating liquors may be sold in Northern Ireland are those introduced by the 1959 Act. The 'general licensing hours' laid

down in the Act are 10.0 a.m. to 10.0 p.m. except for Good Friday when they are 2.0 p.m. to 9.0 p.m. and Sundays and Christmas Day when there are no permitted hours. These general licensing hours are, however, extended for particular kinds of licence. The principal additions are:

(i) an hour (10. p.m. to 11.0 p.m.) on weekdays for hotel residents;
(ii) 12 noon to 10.0 p.m. on Christmas Day and Sundays for hotel residents;
(iii) 12.30 p.m. to 2.30 p.m. and 6.30 p.m. to 9.0 p.m. on Sundays for hotel residents and their guests to meals;
(iv) 12 noon to 10.0 p.m. on Christmas Day for hotels (and restaurants—see paragraph 152) serving meals to the public.

Conditions on which licences may be granted

156. The two statutory requirements of the licensing law for England and Wales, that the justices shall be satisfied as to the suitability of the applicant and his premises, have their equivalent in Northern Ireland but whereas in England and Wales the justices have themselves adopted the test of 'need' in deciding whether a new licence should be granted (and could presumably drop it if they wished) and have unfettered discretion in interpreting need, the County Court judge in Northern Ireland has the criteria laid down for him. The 1923 Act put a ban on the grant of any new licences other than for hotels and railway refreshment rooms but gave the court power to lift the ban (if it saw fit—'the restrictions may be relaxed' were the words used) in an area where the population had increased by not less than 25 per cent since the last census, but also required the surrender of two existing licences in exchange. Originally these two surrendered licences had to be from the town or city containing the area for which the new licence was sought but since the 1959 Act they may be from any part of Northern Ireland. The 1959 Act also introduced the provision 'that the court shall not issue (a new) certificate unless it is satisfied that the facilities for the sale of intoxicating liquor in (the) neighbourhood are inadequate'. Thus the licensing courts of Northern Ireland are statutorily obliged to be guided by that which the justices of England and Wales have voluntarily called in aid, the criterion of need.

Protection orders

157. The Public House (Ireland) Act of 1855 (section 1) provides for the grant by a magistrates' court of a 'protection order' where the holder of a licence dies or sells his business or assigns his interest in it; the protection order allows the person to whom it is granted to carry on trading in the licensed premises until the transfer is confirmed and a new licence granted.

Numbers of licensed and registered premises in the United Kingdom

158. In Appendix 9 we give details of the numbers of licensed premises in the various countries of the Kingdom since 1894. In table XVI we show the totals of the various classes of licensed and registered premises in the United Kingdom in 1967:

TABLE XVI

United Kingdom

Premises licensed for the sale of intoxicating liquor, by retail; and registered clubs—1967

Summary table

Type of licensed or registered premises	England and Wales 30th June 1967	Scotland 31st December 1967	Northern Ireland 31st December 1967	Total in United Kingdom
Full on-licence (mainly public houses)	65,916	6,634*	2,451*	75,001‡
Restaurant	4,590	221		4,811
Residential	1,191			1,191
Combined restaurant and residential†	1,769	184		1,953
Licensed clubs	2,377			2,377
Registered clubs	22,368	1,715	185	24,268
Off licence	26,702	3,555	108	30,365
Totals	124,913	12,309	2,744	139,966
Theatres (not requiring a justices' licence in England and Wales—see paragraph 89)	182			

Sources: Home Office; *Civil Judicial Statistics Scotland;* Ministry of Home Affairs, Northern Ireland.

Evidence about licensing

159. A number of witnesses told us about difficulties in obtaining full on-licences and off-licences, and about opposition by brewers, licensed victuallers' associations and individual licensees to applicants in the justices' courts; and we received evidence on the justices' reliance on and interpretation of 'need' as the guiding principle in the exercise of their discretion. We heard also of difficulties encountered in securing licences in 'special areas' e.g. on-licences in a licensing planning area and off-licences in State management districts. Details of this evidence are set out in Appendix 10; the brewers' views on licensing matters, including their comments on opposition to applications, are set out in Chapter 7.

*The Scottish and Northern Ireland figures include theatres (these require the equivalent of a justices' licence in these two countries) and 2,404 and 171 fully-licensed hotels respectively (see paragraphs 139, 57 and 154).

†'Restricted hotel' licence in Scotland (see paragraph 135).

‡Includes approximately 72,400 public houses; 2,000 hotels (with more than 20 bedrooms for letting) and 600 other establishments (dance halls, bowling alleys etc.).

CHAPTER 3

Brewer-Ownership of Licensed Premises

160. We have described in Chapter 2 the variety of classes of licensed outlet that now exists for the retail sale of beer in the United Kingdom. There is, too, a wide variety of ownership of these licensed premises but essentially the licensed trade is characterised by a high degree of brewer-ownership, at least of certain classes of outlet and in some parts of the kingdom. Licensed houses owned by brewers are often called 'tied' houses.

Development of the tied house system

161. In their '*History of liquor licensing in England principally from* 1700 *to* 1830', Beatrice and Sidney Webb noted that 'the purchase of tied houses by the brewers was admitted and defended in 1802'. A Select Committee of the House of Commons in 1817 found that half the licences in London and a greater number in the provinces were then tied.* But the great bulk of brewery acquisitions of licensed premises in England and Wales took place between 1850 and 1900.

162. We have described in Appendix 8 the development of the control of the licensing justices over retail outlets in the period up to the enactment of the Beerhouse Act 1830. To this control historians have attributed the early and comprehensive development of brewer-ownership of, or financial control over, the retail outlet. Thus, Beatrice and Sidney Webb:

> 'When the Justices made it a practice, before granting a licence, to require that the applicant should show that he occupied premises suitable for business, they essentially passed into virtually licensing the houses, as well as the particular occupiers. It then became inevitable that the brewers, commanding large capitals, should advance money to enable alterations to be made, and thus obtain control of a large proportion of the premises on which drink was sold, either by simple purchase of the property or by the publicans' indebtedness. It was re-iterated on all sides that the limitation of the number of public houses, their alteration or enlargement to suit the requirements of the justices, the insistence on substantial sureties for good behaviour, and the general increase of pecuniary responsibilities involved in stricter regulation, all fostered the tied house system.'

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*The Webbs, describing the findings of this Committee, said 'the ownership of public houses by brewers seems to have struck the House of Commons Committee of 1816 to 1817 as a revelation of unsuspected wickedness. They noted, with alarm, that "one half of the victualling houses in the Metropolis were held by brewers as owners, purchasers or equitable mortgagees". In the provinces "it prevailed in a greater degree than in the Metropolis". At Reading, for instance, the local brewers owned or controlled 66 out of 68 licences. To the House of Commons Committee of 1816 to 1817 the most objectionable feature of this monopoly was not any affect it may have had on the consumption of drink or social disorder, but "the restricted power which the public at large possessed of employing their capital in the trade of victualling houses". The committee would not enquire whether or not, as a matter of fact, the houses belonging to brewers were better constructed and better regulated than those which were "free"; or whether the commodity which the great brewers supplied as the product of a highly organised industry, using the newest improvements on a large scale was, or was not, at least equal in cheapness to that which the old-fashioned little ale-house keeper had brewed for himself. The evidence on those points brought by the brewers before this and subsequent committees was left unrefuted.'

163. Throughout the period of 'free licensing',* from 1830 to the enactment of the Beerhouse Act 1869, and thereafter until the early 1900s, the brewers continued to acquire licensed premises. The Act of 1830 resulted in a vast increase in the number of retail beer licences; within six months of its enactment, some 25,000 new beer houses were opened and by 1838 the number had increased to some 46,000. A large number of the new businesses failed; the owners of many others took loans on mortgage from their supplying brewers, with the licensee covenanting, as a condition of the loan, to take most if not all of his supplies, from the lender. Gradually this tie by mortgage gave place to outright purchase by the brewer.

164. By 1900, there were over 102,000 on-licences in England and Wales. No precise statistics are available, but the evidence indicates that, although the degree of brewer-ownership varied in different regions (with a far lower percentage in London), the large majority of these premises were owned by brewers; and the licensees of many of the other establishments not owned by brewers were tied to brewers by virtue of loans on mortgage.

165. In 1899, a Royal Commission on the Liquor Licensing Laws (the *Peel* Commission) recommended steps to secure a large reduction in the number of outlets. The Licensing Act 1904, applying to England and Wales only, created a compensation fund from levies to be made on publicans in each licensing area, from which fund compensation was to be paid to the owners of licences, granted before 1904, whose renewal was refused on grounds of redundancy. (Because of the large degree of brewer ownership of licensed premises, the name 'Brewers' Endowment Act', coined by the temperance members of the Liberal Opposition, came into current use as a nickname for the 1904 Licensing Act.) By 1940 the number of on-licences had been reduced to 73,365. The reduction in number of full on-licences has been continued to the present time—in 1967, there were 65,916 in England and Wales (see paragraph 171, Table XIX). Although much has changed since the turn of the century, one aspect remains the same; brewers still own the great majority of full on-licence premises in England and Wales.

The present position

166. Virtually all brewery companies or groups of companies now own licensed premises; details of ownership at 31st December 1967 are given in Appendix 11. There are only six which own no licensed premises (Harp Lager Ltd.†; Midlands Clubs Brewery Ltd.; Moorfields Ltd.; Northern Clubs' Federation Brewery Ltd.; South Wales and Monmouthshire United Clubs' Brewery Co. Ltd. and the Yorkshire Clubs' Brewery Ltd.)‡. Apart from Harp Lager Ltd., the five brewery companies owning no licensed premises accounted for less than 2 per cent of total beer production in 1967. Thus, more than 97 per cent of the beer supplied within the United Kingdom for retail sale on licensed

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*'Free licensing'—any rate payer wishing to sell beer on his own premises could do so without getting a justices' licence; he had only to pay a fee of two guineas to the local Excise officer (see paragraph 16, Appendix 8).

†The owners of this company (i.e. Guinness; Courage, Barclay & Simonds; Scottish and Newcastle; and Bass Charrington) themselves own licensed premises.

‡Yorkshire Clubs' Brewery owns one off-licence attached to the brewery premises; but all four clubs' brewers are owned by registered clubs.

premises is supplied by brewers who also own licensed premises in the United Kingdom.

167. Out of the total of 139,966 licensed and registered outlets in the United Kingdom, brewers own 67,649. This latter figure relates to the position at 31st December 1967.

168. A detailed breakdown of these figures (and those for 1966) is shown below:

TABLE XVII

Total of licensed or registered premises in United Kingdom		Type of licensed or registered premises	Total owned by brewers		Brewery owned as percentage of total	
(1966)	1967		(1966)	1967	(1966)	1967
(75,109)	75,001	Full* on-licence (mainly public houses)	(59,465)	58,525†	(79·2)	78·0
(4,217)	4,811	Restaurants	(15)	40	(0·3)	0·8
(1,087)	1,191	Residential	(nil)	nil	(nil)	nil
(1,991)	1,953	Combined restaurant and residential	(nil)	nil	(nil)	nil
(23,652)	24,268	Registered clubs	(nil)	nil	(nil)	nil
(2,318)	2,377	Licensed clubs	(nil)	nil	(nil)	nil
(30,203)	30,365	Off-licences‡	(9,554)	9,084	(31·6)	29·9
(138,677)	139,966		(69,035)	67,649	(49·8)	48·3

169. Thus brewers own approximately 48 per cent of all licensed outlets in the United Kingdom, including some 78 per cent of the full on-licensed premises and 30 per cent of the off-licensed premises (or possibly 35 per cent of those actually retailing liquor). Brewer-ownership of full on-licences includes only public houses and hotels; there is no brewer-ownership of the other types of outlet mentioned in first footnote, Table XVII, paragraph 168.

170. Table XVIII shows how the brewers' share of total licensed outlets varies in the different parts of the United Kingdom:

*Includes public houses; hotels with bars for retail sale to non-residents as well as to residents; railway and air terminal refreshment rooms etc., bowling alleys, dance halls etc. The number of public houses in the generally accepted sense is approximately 72,400 (see Table XVI, paragraph 158).

†Includes 489 hotels with more than 20 bedrooms. The rest are public houses in the generally accepted sense (see paragraphs 92–96).

‡At 30th June 1966 nearly 5,000 off-licence retail excise licences were held by holders of wholesale dealers' excise licences. To the extent that these wholesale dealers use their retailer's off-licence only for the purpose of selling alcoholic liquors in smaller quantities than permitted under a wholesale dealer's licence *to the trade* and not to the public, so the number of retailer's off-licences selling liquor to the public is reduced and the brewers' share of ownership of these off-licences increased. If all 5,000 wholesale dealers holding retail licences use these only for the purposes of selling to the retail trade and not to the public, the brewers' share of retail off-licence premises selling to the public increases to 35 per cent.

TABLE XVIII

Brewers' share of total licensed outlets in England and Wales; Scotland and Northern Ireland, 1967

	Total all licensed outlets		Brewery-owned outlets as percentage of total	
	1967	(1966)	1967	(1966)
England and Wales	124,913	(124,003)	52·7	(54·2)
Scotland	12,309	(11,968)	14·8	(15·4)
Great Britain	**137,222**	**(136,144)**	**49·3**	**(50·7)**
Northern Ireland	2,744	(2,706)	Nil	(Nil)
United Kingdom	**139,966**	**(138,677)**	**48·3**	**(49·8)**

171. The table in paragraph 168 shows that brewer-ownership of licensed retail outlets is concentrated almost entirely in two classes of outlet, i.e. full on-licences (public houses including hotels with bars) and off-licences. The tables below show that, for full on-licences, brewer-ownership dominates the scene in England and Wales, is much less in evidence in Scotland,* and is, with the exception of only one on-licensed premises owned by a brewer, non-existent in Northern Ireland.† Brewer-ownership of off-licences is less extensive than in the case of on-licences in England and Wales, is negligible in Scotland and non-existent in Northern Ireland.

**Scotland.* Until the end of the 1939–45 war, very few retail outlets in Scotland were owned by brewers. Brewers told us that 'the real reason in Scotland for brewers not entering the field as quickly as they did in England, nor adopting the "English tenancy system", (see Chapter 4) is the fact that no protection order is available in the Scottish licensing law and therefore a licence is in perpetual jeopardy'—'a publican could lose his licence and the brewer is left with tenement property'. There had also in the past been opposition by many licensing courts to the ownership and management of licensed properties by brewery companies; the licensing courts (and the retail trade associations) had taken the view that the retail trade was essentially one for the individual. Furthermore, provision in the Scottish Licensing Acts for local vetos (see paragraph 142) had had a most 'inhibitive effect' on brewers' interests in acquiring licensed premises. Since the war, there had been some change in the attitude of licensing courts (and the retail trade) to ownership of licensed premises by brewery companies and brewers had found it more practicable to take a wider interest in the ownership (and management) of licensed premises; and 'in the last twenty years, a fairly large proportion of the larger properties in Scotland have come under brewery management and control'. But brewers do not buy public houses until they are offered to them—if they are offered e.g. by retiring members of the trade, 'brewers have to consider very carefully indeed whether we will buy, because if we do we will want to manage them, and we have to think that that house may be within a hundred yards of one of our free customers'.

†*Northern Ireland.* Brewers told us that 'retailers have expressed themselves very forcibly against brewery-owned properties in Northern Ireland' and that representatives of the retail trade had 'frequently made it abundantly clear, in discussion, in writing, and in print' that the retail trade 'was bitterly opposed to any extension of the tied house system in Northern Ireland'. Brewers said that 'if there were any quantity of licensed houses, which there has not yet been, offered to a brewer—we do not go looking for public houses—a brewer would have to think very carefully before he bought them because of the possible effects on the free trade he enjoys in Northern Ireland'. A major brewer thought that the fact that 'a high proportion of total retail sales was represented by Guinness stout, upon which any other brewer's wholesale margin would be very small' would also be a factor in brewers' considerations of ownership of licensed premises in Northern Ireland.

TABLE XIX

Brewery ownership of full on-licences (mainly public houses) in England and Wales, Scotland and Northern Ireland, 1967

	Total on-licences (mainly public houses)		Number owned by brewers		Brewery-owned on-licences as percentage of total		Number of free houses i.e. not brewery-owned		Free houses as percentage of total	
	1967	(1966)	1967	(1966)	1967	(1966)	1967	(1966)	1967	(1966)
England and Wales	65,916	(66,373)	56,741	(57,648)	86·1	(86·9)	9,175*	(8,724)	13·9	(13·1)
Scotland	6,634	(6,541)	1,783	(1,816)	26·9	(27·7)	4,851	(4,725)	73·1	(72·3)
Great Britain	**72,550**	**(72,914)**	**58,524**	**(59,464)**	**80·7**	**(81·6)**	**14,026**	**(13,449)**	**19·3**	**(18·4)**
Northern Ireland	2,451	(2,195)	1	(1)	Nil	(Nil)	2,450	(2,194)	100·0	(100·0)
United Kingdom	**75,001**	**(75,109)**	**58,525**	**(59,465)**	**78·1**	**(79·2)**	**16,476***	**(15,643)**	**21·9**	**(20·8)**

TABLE XX

Brewery ownership of off-licences in England and Wales, Scotland and Northern Ireland, 1967

	Total off-licences		Brewery-owned off-licences as percentage of total	
	1967	(1966)	1967	(1966)
England and Wales	26,702	(26,590)	33·9	(35·8)
Scotland	3,555	(3,449)	0·6	(0·6)
Great Britain	**30,257**	**(30,039)**	**30·0**	**(31·8)**
Northern Ireland	108	(164)	Nil	(Nil)
United Kingdom	**30,365**	**(30,203)**	**29·9**	**(31·6)**

The off-licences owned by brewers are in the main shops that deal primarily in liquor. Virtually all managed off-licences and over half of the tenanted off-licences (see paragraph 102) are of this type; the rest of the tenanted off-licences are grocers' shops with a liquor licence.

The biggest brewer-owners of licensed premises

172. Approximately 81 per cent of the total of 72,550 full on-licences (i.e. public houses, hotels with bars for the public etc.) and 30 per cent of the 30,257 off-licences in Great Britain (see paragraph 171, Tables XIX and XX) are owned by brewers. At the present time, six brewery groups (which accounted for nearly 70 per cent of total beer production in the United Kingdom in 1967 (see paragraph 14) own some 38,000, approximately 52 per cent, of the on-licences and some 6,300, approximately 21 per cent, of the off-licences. The six groups and a detailed breakdown of the premises they owned at 31st December 1967 are given in the table below:

*Includes some 300 public houses owned by companies which have in recent times ceased brewing, i.e. they are no longer brewers-for-sale (see first footnote to paragraph 12).

TABLE XXI

Licensed premises owned by the six largest brewery owners, of which:

Brewer	Total of licensed premises owned	Full On-Licences			Off-Licences		Other licensed premises
		number of public houses and hotels owned:	(of which hotels)	percentage of full on-licences in Great Britain	number owned	percentage of off-licences in Great Britain	
Bass Charrington Ltd.(*a*)	10,615	9,059	(82)	12·5	1,545	5·1	11 restaurants
Allied Breweries Ltd.	10,083	8,341	(45)	11·5	1,742	5·8	
Whitbread Ltd.(*a*)	8,398	7,290	(30)	10·0	1,106	3·7	2 restaurants
Watney Mann Ltd.	7,947	6,605	(50)(*b*)	9·1	1,342	4·4	
Courage, Barclay and Simonds Ltd.	4,994	4,498	(49)	6·2	496	1·7	
Scottish and Newcastle Breweries Ltd.	1,915	1,852	(49)	2·6	62	0·2	1 restaurant
	43,952	37,645	(305)	51·9	6,293	20·9	14 restaurants

(*a*) In 1968 Bass Charrington acquired by takeover of other brewery companies a further 842 premises (758 on-licensed, 84 off-licensed), bringing its total premises to 11,457. Whitbread also acquired by takeovers a further 689 premises (647 on-licensed, 42 off-licensed) bringing its total premises to 9,087. Statistics of licences in force for 1968 are not available, but these acquisitions probably raise the percentages of total premises owned by the six brewers to 56 per cent of on-licences and 23 per cent of off-licences.

(*b*) Includes motels and restaurants.

The other brewer-owners of licensed premises in Great Britain

173. The remaining 20,880 full on-licences (mainly public houses) and 2,790* off-licences owned by brewers were in the hands of 99 brewery companies or groups of companies (see Appendix 11).

174. Apart from the six companies named in paragraph 172 only three others (Greenall, Whitley and Co. Ltd.; John Smith's Tadcaster Brewery Co. Ltd. and Truman Hanbury Buxton & Co. Ltd.) each own more than 1,000 licensed premises. Another nine brewers each own between 500 and 1,000 licensed premises. Eighty-seven smaller owners have between them 10,422 public houses and hotels (14 per cent of total on-licences issued in Great Britain) and 1,391* off-licences (4·6 per cent of the total issued in Great Britain) and of these smaller owners (which includes Arthur Guinness Son & Co. Ltd.—see paragraph 14) 26 each own less than 50 licensed premises. Eight of these 26 each own less than 10 licensed premises.

*Excludes the one off-licence of Yorkshire Clubs' Brewery—see second footnote, paragraph 166.

175. Among the smaller owners of licensed premises we include the State, i.e. the 173 premises included in the Carlisle and District State Management Scheme and the 33 in Gretna and Cromarty Firth State Management Scheme (see Appendix 11 and paragraphs 110–112).

Local monopolies

176. Apart from small villages where the single public house has a local monopoly, there are a very few larger areas where the great majority of the public houses are owned by only one or two brewers. In the County Borough of Bristol, out of a total of 517 public houses, 461 are owned by brewers and over 90 per cent of these are owned by Courage, and Courage is the major supplier of beer to the free trade in that area also. In the County Borough of Birmingham, 729 of the 815 public houses are owned by the two brewers Bass (with 422 houses) and Allied (with 307 houses) and these two brewers are also the major suppliers to the free trade, which includes some 400 registered clubs and 86 public houses.

Numbers of premises under tenancy and under management

177. The premises owned by brewers are either managed by the brewer concerned or let to tenants and, with the exception of one small brewer-owner whose six premises (off-licences) are all under management, all the brewer-owners of licensed premises have both tenanted and managed premises. Approximately 74 per cent of brewer-owned licensed premises are let to tenants; the remainder are brewery managed. A far higher proportion of brewer-owned off-licence premises is under management than is the case with their on-licence premises.

178. The table below shows the numbers of brewer-owned premises under tenancy and under management in the last quarter of 1967:

TABLE XXII

Brewery-owned licensed premises under tenancy and under management

Type of licensed premises	Number owned by brewers		Tenanted	%	Managed	%
ON-LICENCES	**58,525**		**44,696**	(76·4)	**13,829**	(23·6)
Public houses	58,036		44,605	(76·9)	13,431	(23·1)
Hotels	489		91	(18·6)	398	(81·4)
OFF-LICENCES	**9,084**		**5,157**	(56·8)	**3,927**	(43·2)
RESTAURANTS	40		9	(22·5)	31	(77·5)
Total owned by brewers	67,649	(100%)	49,862	(73·7)	17,787	(26·3)

179. Of the total beer sold through retail outlets owned by brewers (see paragraph 43), some 60 per cent was sold through tenanted houses and 40 per cent through managed houses. Thus it appears that, on average, a managed house has nearly twice the sales of a tenanted house.

TABLE XXIII

Tenanted and managed licensed premises owned at 31st December 1967 by the 6 largest brewery owners

	Total of licensed premises	of which:		percentage of total licensed premises		ON-LICENCES						OFF-LICENCES			RESTAURANTS		
						Public houses of which:			Hotels of which:			of which:			of which:		
		tenanted	managed	tenanted	managed	number	tenanted	managed	number	tenanted	managed	number	tenanted	managed	number	tenanted	managed
Bass Charrington†	10,615	6,688	3,927	63·0	37·0	8,977	5,776	3,201	82	2	80	1,545	907	638	11	3	8
of which Bass*	(4,697)	(2,322)	(2,375)	(49·4)	(50·6)	(3,864)	(1,909)	(1,955)	(36)	(2)	(34)	(797)	(411)	(386)	(—)	(—)	(—)
Allied	10,083	6,484	3,599	64·3	35·7	8,296	5,803	2,493	45	3	42	1,742	678	1,064	—	—	—
Whitbread†	8,398	6,434	1,964	76·6	23·4	7,260	5,825	1,435	30	7	23	1,106	602	504	2	—	2
Watney Mann	7,947	6,502	1,445	81·8	18·2	6,555	5,680	875	50	20	30	1,342	802	540	—	—	—
Courage, Barclay and Simonds	5,994	4,177	817	83·6	16·4	4,449	3,998	451	49	—	49	496	179	317	—	—	—
Scottish and Newcastle	1,915	485	1,430	25·3	74·7	1,803	467	1,336	49	—	49	62	18	44	1	—	1
	43,952	30,770	13,182	70·0	30·0	37,340	27,549	9,791	305	32	273	6,293	3,186	3,107	14	3	11
				Percentage		100	73·7	26·3	100	10·5	89·5	100	50·6	49·4	100	21·4	78·6

*Before merger with Charrington in 1967.

†See note (*a*) to Table XXI, paragraph 172, for acquisitions in 1968.

180. The proportions of houses under management and tenancy vary from brewer to brewer and, to some extent, from area to area. Management predominates at present in and around Birmingham (often referred to as 'Bass country'); Liverpool (where the local brewers Higsons Brewery Ltd., Threlfalls Chesters Ltd. (taken over in 1967 by Whitbread) and Bent's Brewery Co. Ltd. (taken over by Bass in 1967) had the majority of their houses under management); and Newcastle upon Tyne (where Scottish and Newcastle Breweries Ltd. and Vaux and Associated Breweries Ltd. are the major owners of licensed premises). The great majority of brewery-owned licensed premises in Scotland are under management (see first footnote, paragraph 171).

181. Table XXIII gives a breakdown into management and tenancy of the licensed premises owned at the 31st December 1967 by the six largest brewer-owners of licensed premises and shows how these proportions vary from brewer to brewer.

182. There has throughout the industry generally been some increase in the last ten years in the proportion of on- and off-licensed premises under brewery management. Many brewery companies have in that period put under management newly built houses replacing houses which had been tenanted and switched some of their existing houses from tenancy to management and/or from management to tenancy, but the net outcome of this flow in both directions has been an increase in the proportion of managed houses from 22 per cent to 26 per cent. In the London area, where the great majority of the 6,000 or so houses are still tenanted, there has been an increase, from 430 in 1959 to 750 in 1966, in the number of houses under brewery management.

183. A number of witnesses claimed that there had in recent years been a marked trend away from tenancy and towards direct management of premises by certain brewery companies while other witnesses said that, while there had been no substantial increase in the total numbers of houses being switched from tenancy to management, there had been an increase in the number of what they described as 'worthwhile public houses' being put under management. One trade association told us that many brewery companies adopted a system of putting under management any 'good tenancy' that became vacant and advertising for tenants for 'bad houses' that had been under management. Another trade association considered that, for off-licences, the brewery companies were aiming at the extinction of the tenanted outlet. The brewers' statements on these views are given in Chapter 7.

CHAPTER 4

Features of the Tied House System

The tie on supplies

The tie on supplies to tenanted premises

184. With only very minor exceptions, all the brewer-owners of licensed premises operate 'tied-supply' arrangements. An essential feature of virtually every tenancy agreement* is an undertaking by the tenant to buy beer only from his brewer landlord. The undertaking covers all beer received, sold or consumed in, upon or from the premises or sold elsewhere by the tenant under any occasional licence granted to him as licensee of the premises. In most cases similar undertakings extend also to wines and spirits and in some cases to other goods. The tie on beer is of very long standing; the extension of ties to wines and spirits and to other goods has in general developed since the end of the war. For their part, brewers generally undertake, in the words of a 'model' tenancy agreement drawn up and approved by the Brewers' Society and retailers' trade associations and recommended by the Society to its members, to 'the best of their ability to supply the tenant with such liquor as he may reasonably require and be ready and able to pay for'.

Alcoholic Liquor

Beer

Undertaking to purchase supplies

185. Subject to the exceptions set out below every tenant undertakes in his tenancy agreement to buy all his supplies of beer† (both that brewed by the brewery owning his premises and products of other brewers) from his landlord and from no other person, firm or company. The exceptions are:

(a) the tenants of the two small brewery companies who do not have formal tenancy agreements (see footnote to paragraph 184) but nevertheless require their tenants to buy beer only from themselves;

(b) the one tenant of a small Scottish brewery company which does not tie him for beers;

(c) a few tenants of another Scottish brewery company who either have no tie for beer or are tied only for certain types of beer.

With these minor exceptions there are about 50,000 licensees who are brewers' tenants (see paragraph 178) and are tied to their landlords for all supplies of beer.

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*Only two small brewery companies (with approximately 140 tenants) do not have formal tenancy agreements.

†The actual definition of 'beer' varies from agreement to agreement; sometimes it falls within the description 'all excisable liquors' or 'all intoxicating liquors', but the description most frequently used in the tenancy agreement is 'all beer, porter, ale and all other malt liquors'.

186. The tie on beer goes beyond the tenant's commitment in his tenancy agreement to buy all his supplies from his landlord. Brewers use the commitment to determine what beers a tenant may buy and in general tenants are not free to stock any beer they wish.

187. The principal practical effect of this restriction on the tenant's trading policy is that he buys mainly his landlord's own beers; as we have said, it is clear that, on average, more than 90 per cent of the beer sold in a tied house is the landlord's own product. This is, no doubt, regarded by practically all tenants as an implicit condition of retaining the tenancy. The tenant can usually exercise his own choice from the range of his landlord's brews, though some brewers insist that the choice shall include a particular brew, e.g. a draught mild beer to meet public bar demand. The tenant may also be able to exercise a limited discretion as to the 'foreign' beers to be stocked in his house, but most brewers purchase only a very limited number of other brewers' beers and, in some cases, makes these available only to their free trade customers and not to their own tied houses; in other cases they are available to some but not all of the tied houses of the brewer concerned. The brewers have said that the other brewers' beers purchased are made freely available by the purchasing brewer to those of his free trade customers and his off-licences who want them, and to his tied on-licence tenants where the public demand justifies it.

Wholesale prices

188. The 'model' tenancy agreement (see paragraph 184) provides for the beer to be supplied to the tenant 'at the prices, in the case of beer, ale, porter and all other malt liquors . . . from time to time charged by the landlords to their tenants in the same district.'

189. The great majority of brewers have tenancy agreements which use either these words or equivalent expressions to set out the terms on which tenants will be supplied. A minority of brewers insert after such words a clause on the following lines: 'but this condition shall not entitle the tenant to question the right of the landlord to make special arrangements with any of their other tenants'. However, we have received no evidence which would suggest that any tenants are treated differently from their fellow tenants as a result of this proviso.

190. We have described the price differentials between tied and free trade customers in paragraphs 50–53.

Retail prices

191. The great majority of brewers include a retail price clause in their tenancy agreements, with wording similar or identical to that contained in the 'model' tenancy agreement (mentioned in paragraph 188) i.e. the tenant undertakes 'to sell in the public bar all goods purchased from the landlords at prices not exceeding those from time to time specified by them' and subject to this provision, 'to supply all liquor and food and other refreshments at reasonable prices'. (Some brewers require their tenants to exhibit the brewery company's maximum price list in the public bar.) A few brewers specify maximum retail prices for all bars. Many of those who do not include a retail price clause in their tenancy agreements do in fact recommend maximum prices for the public bar.

192. The majority of brewers prescribe maximum retail prices in the public bar not only for their own beers but also for beers purchased from other brewers and supplied to the tenant for retail sale. The brewers have said that, in the majority of cases where a brewer prescribes maximum retail prices for another brewer's beer, these prices have either been stipulated in the interchange beer agreement between the two brewers concerned or, where no price is stipulated in that agreement, the purchasing brewer has regard to the price charged by the producing brewer to its own tied trade.

193. We have seen nothing to suggest that tenants generally charge in the public bar other than the maximum retail price prescribed by the brewer landlord for that bar. In other bars,* where tenants generally are free to determine their own retail prices, those prices are generally, and have been for the last thirty years, one penny a pint higher in areas outside London; in London, the differential between public and other bars is now at least twopence a pint.

Wines and spirits

Undertaking to purchase supplies

194. Subject to the exceptions mentioned below, every tenant undertakes in his tenancy agreement to buy all his supplies of wines and spirits† from his landlord or his landlord's nominee.

195. The exceptions are a small number of tenants of seven small brewers (including those mentioned in paragraph 185), though in some of these cases there is a partial tie (e.g. for spirits). Thus nearly all the 50,000 tenants of brewers are tied to their landlords for all supplies of wines and spirits as well as of beer.

196. As for beer, the tie on wines and spirits goes beyond the tenant's commitment to buy all his wines and spirits from his landlord. Brewers use the commitment to determine what wines and spirits a tenant may buy and in general no tenant is free to stock any brands of wines and spirits he wishes. Most tenants are 'required' or 'expected' by their brewer landlords to give preference to certain brands of wines and spirits nominated by the brewer as 'house brands'. While the brewers recognise that there is some degree of public demand for independent 'proprietary' brands and, in general, permit their tenants to meet it they expect their tenants to do their best to sell the 'house brands' whenever possible, more particularly when the customer does not name a brand.

197. In commenting on the use that the brewer makes of the tenants' commitment to buy all supplies from the landlord, the brewers have said that, nevertheless, all leading brands are generally available and the average wine and spirits list of even a small brewery contains some hundreds of lines; large groups may offer up to a thousand lines.

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*The price differential given applies to the next bar up the 'social scale' from the public bar. Prices in other bars would generally be even higher.

†As with beer, the actual description of wines and spirits varies from agreement to agreement; sometimes it falls within the description 'all excisable liquors' or 'all intoxicating liquors'. The majority of brewers use the description 'wines, spirits, liqueurs and cordials, British wines and other sweets'. (Sweets: any liquor which is made from fruit and sugar mixed with any other material and which has undergone a process of fermentation in the manufacture thereof and includes British wines, mead and metheglin.)

Wholesale prices

198. As for beer, the great majority of brewers have tenancy agreements which use the same words as, or equivalent expressions to, those used in the 'model' tenancy agreement to define the terms on which tenants will be supplied with wines and spirits by their brewer landlords. Thus, brewers undertake to 'supply wines, spirits, liqueurs and alcoholic cordials, alcoholic British wines and other sweets at current market prices.' The term 'current market prices' is defined elsewhere in the model tenancy agreement as' the prices charged by leading wine merchants in the area at which the said premises are situated for like quantities and qualities'. Some brewers, however, depart from the expression 'current market prices'—for example, one company within a major brewery group, with a large number of retail outlets, undertakes to supply its tenants at 'fair current prices' and defines this term as 'the price charged by other brewers to their tied tenants', while another company of the same brewery group undertakes to supply at prices which 'will conform with those recommended by the leading brand owners'.

199. We have described the wholesale prices and discounts for tenants in paragraphs 71–74.

Retail prices

200. In his tenancy agreement the tenant undertakes 'to sell in the public bar all goods purchased from the landlords at prices not exceeding those from time to time specified by them' (see paragraph 191). This undertaking, therefore, covers the tenants' sales of wines and spirits but, in practice, brewers do not generally prescribe maximum prices for wines and spirits and tenants are free to fix their own retail prices, both for off- and on-sales and in all bars, subject only to the provision contained in the tenancy agreement that the tenant 'supply all liquor and food and other refreshments at reasonable prices'.

Cider and perry

Undertaking to purchase supplies

201. The great majority of tenants undertake in their tenancy agreements to buy all supplies of cider and perry from their brewer landlords. The number of tenants not formally tied in this way is not more than 1,250 and from evidence received it is apparent that some of these, nevertheless, regard themselves as tied in practice to their landlords for all purchases of cider and perry.

202. Brewers use the commitment to determine what brands of cider and perry a tenant may buy and tenants generally are not free to stock any brand they wish. The brewers have commented that most tenants are supplied with three or more leading brands of cider.

Wholesale prices

203. Brewers undertake to supply their tenants with cider and perry on the same terms as for beer (see paragraph 188) i.e. 'at the prices . . . from time to time charged by the landlords to their tenants in the same district'. Brewers generally charge their tenants higher wholesale prices than those at which the

free trade can buy supplies from non-brewer suppliers and some brewers charge higher wholesale prices than those at which they supply the majority of their free trade customers.

Retail prices

204. The tenant's undertaking 'to sell in the public bar all goods purchased from the landlords at prices not exceeding those from time to time specified by them' (see paragraphs 191 and 200) covers the tenant's sales of cider and perry but, in practice and as for wines and spirits, brewers do not generally prescribe maximum prices for cider and perry and tenants are free to fix their own retail prices, both for on and off-sales and in all bars, subject only to the provision contained in the tenancy agreement that the tenant 'supply all liquor and food and other refreshments at reasonable prices.'

Non-alcoholic drinks and other goods

Soft drinks

205. At least half of the brewers include a tie for minerals in their tenancy agreements, i.e. they require their tenants to buy all supplies of soft drinks and minerals from the brewer or his nominees and, as with alcoholic liquors, use the tenants' commitment to determine what brands the tenant buys. It is mostly the smaller brewers, and not generally the largest owners of retail outlets, who actually include a tie for soft drinks and minerals in tenancy agreements. But a tie operates, in one way or another, on a far greater number of tenants than are actually covered by the terms of their tenancy agreements. Many brewers who do not include mineral ties in their tenancy agreements nevertheless require their tenants, by arrangements made outside the terms of the tenancy agreement, to take their supplies only from a short list of suppliers nominated by the brewers. The evidence that we have seen indicates that the proportion of tenants who are completely free to buy all or any minerals anywhere and from whom they choose at whatever price they can secure is less, and possibly considerably less, than 50 per cent.

206. Where ties on minerals are included in tenancy agreements, brewers generally undertake to supply their tenants on the same terms as for beer and cider, i.e. 'at the prices . . from time to time charged by the landlords to their tenants in the same district.' Brewers generally charge their tenants higher wholesale prices than those at which the free trade can buy supplies from non-brewer suppliers and some brewers charge higher wholesale prices than those at which they supply the majority of their free trade customers. As for wines and spirits and cider and perry, tenants are generally free to fix their own retail prices for minerals and soft drinks.

Cigarettes, cigars and tobacco

207. Approximately a quarter of the brewers, usually the smaller owners of retail outlets, include ties on cigarettes, cigars and tobacco in their tenancy agreements, i.e. they require their tenants to buy their supplies of some or all of these items from the brewer or his nominee. A number of tenants of brewers who do not include such a requirement in their tenancy agreements nevertheless regard themselves as similarly bound.

Supplies to managed premises

208. Managers of brewery-owned licensed premises are salaried employees of the brewers concerned and as such are required 'to manage and conduct licensed premises to the best possible advantage under the direction in all things of the employer.'

209. Brewers' service agreements with their managers invariably require the manager 'to sell such goods as may be supplied to him for sale for or on account of the employers and none other' and most brewers require that 'the goods supplied shall be sold to the public in the same condition, strength and quality as supplied to the manager by the employers and in such quantities and at such prices as the employers may from time to time direct.' The retail prices at which wines and spirits are sold to the public are in general lower from brewery managed off-licence shops than is the case with sales from tenanted off-licence shops or off-sales from tenanted on-licences.

Views of tenants and others on the tie for supplies

The tie for beer

210. While we received many complaints and criticisms about different aspects of the tie for beer, there were few, if any, strong expressions of feeling that the tie should be abolished.

211. Tenants complained about restrictions on the types of beer they were allowed to sell. While a few of these complaints arose from their landlords' refusal to allow them to stock certain beers of the landlords' own brewing, more were concerned with refusal of permission to stock beers (particularly draught beers) produced by other British brewers and lager beers produced by foreign brewers. On the other hand, a number of tenants expressed the view that it was in the interest of the public that they should be offered only as wide a range of beers as a publican could properly handle and serve in good condition. The views expressed by the National Consultative Council of the Retail Liquor Trade, which represents all licensees in the United Kingdom, were in effect echoed by a large number of witnesses. The Council considered that the situation with regard to varieties of beer available to a licensee was much better than it was 10 years ago. One representative expressed the general feeling of the Council that 'the average public house now under the present system has more than enough lines to sell. There are isolated lines in a tied house which no doubt the licensee still requires but I would have thought generally the requirements of a customer can be met in the majority of houses now' and several licensees offered the opinion that it was the atmosphere of the house rather than the house beer or the range of other beers available which determined whether the public would patronise the house.

212. The main body of complaint that we received from tenants and their trade associations about beer concerned the wholesale prices charged by landlords for such other brewers' beers, including imported beers, that tenants were permitted to stock. The National Consultative Council held firmly to the view that (i) there should be uniform wholesale charges for interchange of beers among the various brewers, i.e. that the tenant of one brewery should be able to buy from his landlord a beer produced by another brewer at the same price as

the producer brewer charged to his tied tenants, and (ii) all tied tenants should be able to buy at the same price as each other beers produced by brewers owning no, or few, tied houses, i.e. imported lagers and Guinness stouts. If this were achieved, licensees would be able to make the fullest use of the measure of freedom they now in general possess and would be ready to stock those lines which their brewers already permitted them to stock but which were, under the present pricing arrangements, too expensive for them to deal in.

213. The brewers' practice of fixing maximum retail prices in the public bar came in for much criticism from tenants and their trade representatives; witnesses referred to very low profit margins on sales of beer which they said resulted from the combination of the higher wholesale prices charged to tenants (as compared with prices to the free trade) and the maximum retail prices that the brewers allowed the tenants to charge; tenants considered that they should be given freedom to determine their own retail prices in public bars.

214. We received direct from individual members of the public a few complaints about types of beer not being available in certain houses or areas. In its evidence, the Consumer Council had only what it called 'random observations' to make on the subject of consumer choice. The Council's impression was that 'thanks to reciprocal arrangements between brewers, the public houses offer a reasonable choice of brands and types of bottled beer'. But the Council wondered 'whether the higher prices charged for bottled beer of other brewers in a tied pub are justifiable by higher distribution costs'. The Council considered that the limited choice of draught beers was doubtless justifiable on grounds of storage difficulties but found cause for concern in two respects: (i) where a brewer owned all the public houses in one locality, consumers in that locality might have no choice at all between different brands of draught, and (ii) the Council had 'heard complaints that it was difficult to find pubs that stocked draught Guinness, draught Bass and draught Worthington.'

215. Other complaints that we received concerned the quality of beer. One witness talked of 'this gassy, tasteless stuff which only technically can be called beer' which is being served by all of 'the half dozen big companies who are gaining a near monopoly of pubs' and considered that 'tied houses oblige people to drink (or go without altogether) stuff which they otherwise wouldn't touch'. Another witness suggested that the low salaries paid to managers of brewery owned premises and the small profit margins allowed to tenants put them under constant economic pressure to 'stretch the stocks', i.e. to 'lose' stale beer among fresh beer or to water the beer.

The tie on wines and spirits

216. We received a greater volume of complaint about the tie on wines and spirits than on other aspects and many of those who criticised urged strongly that the tie should be abolished.

217. Tenants, trade associations and others complained about restrictions on the brands of wines and spirits that tenants of brewery-owned premises could sell. Some of these complaints were concerned with the landlords' refusal to allow tenants to stock certain brands of wines and spirits, but more with the restriction of choice resulting from the brewers' promotion, through their wholesale prices and discount structure and through other means, of 'house brands'.

218. A number of witnesses cited examples of the 'other means' by which brewers promote the sale of 'house brands'. We were told the brewers substitute their 'house brands' of wines and spirits for some part of a tenant's order for 'proprietary' brands of wines and spirits; they discourage the sales of 'proprietary' brands of wines and spirits by requiring tenants to take a whole case when they order a few bottles; tenants were provided with 'lists' or 'order forms' drawn up in a manner calculated to induce the tenant to order 'brewer brands' rather than other brands; tenants were refused permission to display on optic independent producers' goods or were issued with instructions that other goods should be displayed; brewers make late delivery (sometimes consistently late delivery) of independent producers' goods to discourage tenants from ordering such goods; independent wines and spirits wholesalers and merchants are specifically requested by brewery companies not to call on brewers' retail outlets; brewers suggest that they will be more easily persuaded by a tenant to make improvements to a house if the tenant's sales of wines and spirits include a high proportion of 'house brands'. A former tenant licensee told us that bottles bearing the names of well-known brands of spirits are refilled with other brands and replaced on the optic, and two wines and spirits wholesalers and manufacturers voiced suspicions that brewers' instructions to licensees to serve regularly certain brands of spirits result in the serving in on-licensed premises of a brand other than that which a consumer names.

219. The main body of complaint from tenants and trade associations concerned the level of wholesale prices that tenants have to pay the landlords for their supplies; these made it virtually impossible for the tenant to compete in his off-licence sales with free off-licences, including supermarkets, and also with off-licence sales from the landlord's own managed houses. These witnesses put forward the view that the term 'current market' prices in tenancy agreements seemed to have been of little consequence because, since the abolition of resale price maintenance, brewers had shown no willingness to relate the wholesale prices for wines and spirits to the prices now operating in the free trade. These witnesses said that brewery companies claimed not to be in a position to make more than limited reductions in the prices of wines and spirits, but the witnesses doubted these claims since, where brewery wines and spirits subsidiaries had to compete with independent wholesalers for trade with free outlets, such as registered clubs, hotels and other free retailers, they were prepared to make considerable reductions in price.

220. Wines and spirits wholesalers and manufacturers told us that the independent brand owners were finding that their brands were being frozen out of distribution by the brewers; these witnesses felt that the brewers' attitude was that they owned the outlets and therefore all the trade that was conducted in them was theirs by right. Because of the large ownership of retail outlets by the brewers, independent brand owners had only limited freedom for launching and testing new brands in the United Kingdom market.

221. The Consumer Council considered that there might be a good case against the tie for wines and spirits (and where they were tied) soft drinks. The requirement that these should be bought through the brewer or his nominee deprived the licensee of the opportunity to take advantage of lower prices available elsewhere.

The tie on cider and perry

222. Cider manufacturers told us of licensed premises which were refused permission by the brewer-owner to sell their products; particular mention was made of cases where the manufacturers' products were barred from outlets after these had been purchased by a brewer or otherwise acquired by a brewery company as a result of a merger or takeover. In some of these cases, the products had been replaced by those of a cider company in which certain brewers had a financial interest (see paragraph 76).

223. There was no substantial volume of criticism from tenants about the tie on cider, although tenants did tell us of brewers' 'preference' for sales of 'the brewers' cider'; one tenant, for example, told us that although he was given a choice of four ciders (the products of three companies) his brewer landlord tried to 'push' a particular cider; moreover, the rebate he had formerly obtained when he bought cider direct from the makers was denied him now that he had to buy through his brewer landlord.

The tie for non-alcoholic drinks and other goods

224. A number of witnesses urged that, for mineral waters and other goods, there should be complete freedom from a tie, whether or not this was incorporated in a tenancy agreement.

225. Tenants and trade associations gave evidence of what they described as 'more subtle methods' adopted by brewers to extend the tie to other goods in those cases where the tie written into the tenancy agreement covered only alcoholic liquors. In some cases, we were told, the tenant is invited to sign a supplementary agreement in which the landlord, in consideration of the tenant tying himself for minerals etc, undertakes to carry out internal decoration of the premises. In other cases, there are 'suggestions' that it would be to the tenant's benefit to purchase minerals etc. from the brewery company. A number of tenants and associations stressed that tenants found it difficult to decline to comply with brewers' requirements since there was always in the background the threat of notice.

226. Some mineral water and soft drink manufacturers gave evidence of what one described as 'substantial royalties and discounts to be given to brewers for the privilege of supplying their licensed houses.' We were told of curtailment of entry into licensed premises where the small local brewery owners of these premises had been acquired by larger brewery companies; and we were told also that restrictions were imposed when old tenants left premises and new tenants were appointed.

227. Some individual consumers complained that (in some tied houses) certain brands of mineral waters were not available.

Summary of views on tie for supplies

228. While the tie on some classes of goods attracted a far greater volume of complaint and criticism than did the tie on others, the views of all those who gave evidence reflected that of certain trade associations whose joint view was 'that the tie should not go beyond beer produced by the brewer landlord and the tenant should be free to buy on the open market all other commodities that he sells'.

Other features of the tied house system

Length of leases in tenanted houses

229. Virtually no tenants have tenancy agreements with their brewers for periods longer than twelve months. For some tenants, the yearly tenancy is terminable by twelve months' notice on either side but the majority hold on yearly tenancies terminable by three months' notice on either side. A considerable number of tenants hold on three or six months' tenancy agreements. There has been some criticism by tenants that the system of short leases affords no security of tenure.

230. The brewers have said that where determination of the tenancy is provided for at twelve months' notice it is the established practice of brewers to release a tenant so desiring at much shorter notice; where determination is provided for at three months' notice many companies nevertheless have the established practice of themselves giving twelve months' notice (except where there is a serious breach of covenant—see paragraph 231), although releasing a tenant so desiring at three months' notice or less.

231. Whatever the period of notice of termination required by the agreement from each side in normal circumstances, the tenancy agreement usually gives the landlord the option of instant repossession if the tenant:

(a) is in breach of any of those conditions of the agreement which require him: to pay the rent; not to assign; not to transfer or surrender the licence; to comply with the law; to renew licences; to perform undertakings; to keep open; not to alter the premises; not to apply for conditions to be inserted in his licence; not to give bills of sale; not to allow acquisitions of easements;

(b) becomes bankrupt, or compounds with his creditors, or suffers his goods or any of them to be taken in execution, or departs out of the country; or

(c) is convicted of any offence rendering him liable to be disqualified or not, or if he renders the licence liable to forfeiture, whether it is, in fact, forfeited or not.

Deposits from tenants

232. Most tenants of brewery-owned licensed premises are required to deposit with their landlords a sum which generally represents from two to four times the value of their weekly order from their brewer-landlords; the sum of money thus deposited with the brewer is intended as security to cover the tenant's indebtedness to the brewery for supplies (on which tenants are generally given 14 days' credit), rent, etc. The total of tenants' deposits for the whole industry is estimated at £13·2 million, an average of £332 per tenancy.

233. Criticism of the deposit system which we have received from tenants has been directed less at the obligation to lodge a deposit than at what they considered to be the low rate of interest paid on it; nevertheless there was objection in principle to the deposit system in that, despite the security that this afforded to the brewer, tenants were given a shorter period of credit than was granted to the free trade. Practically all landlords pay interest on the deposit; where interest is paid, a rate generally between 2½ and 5 per cent applies. In 1966, the Brewers'

Society recommended to its members that interest should be paid at a rate of 5 per cent and the Society has said that most brewery companies do so.

234. For the majority of tenants, the requirement to lodge a deposit with the brewer is not contained in their tenancy agreements. Most of the brewery companies that do include the deposit requirement in the tenancy agreement do not include in that agreement any provision for payment by the landlord of interest on the deposit.

Repairs and decorations

235. Where responsibility for what may be called maintenance work, i.e. repair and decoration of premises as distinct from improvement by modification or reconstruction is to lie is usually settled in the tenancy agreement. The 'model' agreement proposes that the tenant shall agree: 'Except in the case of damage by fire, to keep all windows and the interior of the said premises and all (if any) trade fixtures and effects in good and tenantable repair and condition and for such purpose to carry out all necessary repairs, whitening, papering and painting, as may reasonably be required by the landlords and to keep any yard and draw-in clean and tidy and any land or garden properly cultivated, provided that this clause shall not throw upon the tenant any obligation to repair or maintain the structure of the said premises'.

236. This last proviso is not usually included in tenancy agreements but otherwise brewers in their tenancy agreements use terms which are the same as or equivalent to, those of the 'model' agreement clause. The effect is thus that the tenant is liable for all internal repair and decoration whilst, although this is rarely made explicit, the landlord accepts responsibility for the repair and decoration of the outside of the premises and for structural maintenance.

237. However, some of the evidence which we have received, from both brewers and tenants, suggests that the tenant's responsibility for repair and decoration often does not extend beyond his private living quarters or that if it does he does not have to bear the full weight of it. One of the 'big six' brewery owners of licensed premises told us that while in the tenancy agreement 'the tenant's responsibility for repairs and decorations may include the interior of the whole of the licensed premises . . . in most cases the company now undertakes repairs and decorations to the bars and rooms to which the public have access and requires the tenant to be responsible for the domestic quarters only'. Another of the 'big six' told us that 'notwithstanding the wording of' one of its subsidiary company's 'repairing clause it is the practice of the Group to accept responsibility for all external repairs and decorating and in certain cases for internal repairs and decorations'. Twenty other brewers also either relieve the tenant of responsibility for repairs and decorations in the licensed rooms expressly in their tenancy agreements or have told us that in practice they do not enforce the terms of the agreement requiring the tenant to attend to the whole of the interior but only leave him to look after his own living quarters. One of the brewery companies which places responsibility for the internal state of the premises on the tenant in the terms used in the 'model' tenancy agreement also inserts a condition that the tenant shall pay, in addition to the rent, a certain sum for maintenance of the tenant's private quarters, and another which does

not use the 'model' terms provides that 'in lieu of any liability to (decorate) the interior . . . (the tenant agrees) to pay the landlord the annual sum of . . . for or towards the cost of such internal decoration'.

238. Evidence of brewery acceptance of responsibility for repair and decoration in the public rooms, whatever the tenant's responsibility may be according to the agreement, has come to us from tenants also; a number of tenants have told us that their brewer-landlords meet the cost of repairs and decorations of the business part of the premises. On the other hand, we have received evidence that for some tenants, for example the majority of those in the licensed premises of Greater London, the terms of their tenancy agreements which require them to be responsible for all internal decorations and repairs to their premises are applied.

Opening hours and orderly conduct of business

239. The model tenancy agreement provides for the tenant to undertake 'at all times to keep the premises open during such hours as shall be allowed by law for the sale of liquor and conduct the house in such orderly manner that the necessary justices' licences may not be refused to be renewed or the removal or transfer thereof imperilled' and all brewers include in their tenancy agreements terms which are the same as or equivalent to these to describe the tenants' undertakings on these matters. Some tenants consider that they should be allowed to determine their own hours of sale and have criticised as wasteful the brewers' requirement that houses shall remain open for the full permitted hours.

Amusement machines

240. All tenants undertake in their tenancy agreements not to permit any amusement or gaming machines or other machines not used solely for domestic purposes to be on their licensed premises without the consent in writing of the landlord.

241. Tenants who instal amusement machines in their premises are required to lease such machines from the owners through their brewer landlords and brewers generally require that some part, usually 40 per cent, of the proceeds of the machines shall be paid to them. (The balance goes as to 30 per cent to the tenant and the remainder to the owner of the machine.)

Rents of tenanted premises

242. The fixed rent (sometimes called the 'dry rent') to be paid by the tenant for his premises is written into the tenancy agreement. Practice varies from brewer to brewer but generally the level at which this rent is fixed is explained by the brewers as one which has regard to all the other terms of the tenancy agreement and to such other arrangements as may be made between brewer and tenant outside the terms of the agreement. Thus the fixed rent must be looked at in conjunction with the 'wet rent' in the widest sense, including particularly the price differentials on sale by brewers to their tenants as compared with sales to the free trade (see paragraphs 50–53 and 71–74).

243. The criticisms of the levels of rents of tenanted houses which we have received have come for the most part, and not unexpectedly, from tenants and

their trade associations. These criticisms might best be summed up as expressing the view that the brewers in recent years have been increasing the fixed rents without foregoing any of the wet rent; on the contrary they have, it is said, extended at the same time the range of goods covered by the tie and on which they charge a differential when selling to tenants. As to fixed rents it is said that these tend to go up when one brewer takes over another brewer's business; also that the brewers use an unfair formula for the calculation of rent in that this is reckoned as a percentage of turnover, including products not supplied by or through the brewery, and that rates go up when rent goes up. As to the wet rent element the brewers are said to secure extra rent from their tenants through their control over the installation of amusement machines; and to have eased the burden on themselves of the costs of decoration and repair by substantial contributions from tenants.

244. Expressing a rather different point of view the Consumer Council considered that the 'system under which the tenant pays an uneconomic rent and is charged a higher price for beer than is charged to the free trade attracts too many unenterprising licensees glad to get a low cost roof over the heads.' In the Council's view, a 'market rent would encourage both brewer and tenants to assess more carefully the use of the premises in relation to public demand.'

245. The brewers' comments on the complaints and criticisms set out in this chapter are given in Chapter 7.

CHAPTER 5

The Other Owners of Licensed Premises: The Free Trade

246. All those licensed and registered premises not owned by brewers are generally described as 'the free trade'. A main characteristic of this part of the licensed trade is the general absence, with few exceptions, of substantial chains of premises in the hands of one owner.

247. In 1967, approximately 34 per cent of the total beer supplied in the United Kingdom reached the consumer through 'free trade' outlets. Sixty per cent of this amount (an estimated 20 per cent of the total beer in the United Kingdom) was supplied through registered clubs; and the balance (some 14 per cent of the total) through a wide variety of outlets including public houses, hotels, restaurants, off-licences, licensed clubs, dance halls, bowling alleys, railway and airport refreshment rooms, theatres, service messes, canteens etc.

Registered clubs

248. The largest single element in the free trade, and the sector which, as mentioned above, accounts for more than half of the beer consumed other than on or from premises owned by brewers is the registered club. Although there are registered clubs throughout the whole of the country, the 'clubs movement' is particularly strong, and occupies a special place in the life of the people, in Yorkshire, Durham and Northumberland, South Lancashire, South Wales (particularly in the county of Glamorgan), Monmouthshire and the Midlands.

249. The following table shows the number of clubs in existence in 1953, 1960 and in each year since then:

TABLE XXIV

Numbers of registered clubs in the United Kingdom

	England and Wales (year ended 30th June)	Scotland (year ended 31st December)	Northern Ireland (year ended 31st December)	Total United Kingdom
1953	21,164*	990	125	22,279
1960	23,773*	1,289	148	25,210
1961	24,418*	1,326	151	25,895
1962	21,459	1,379	155	22,993
1963	20,663	1,421	155	22,239
1964	21,010	1,497	156	22,663
1965	21,405	1,554	162	23,121
1966	21,872	1,607	173	23,652
1967	22,368†	1,686	185	24,239

Sources: Home Office, *Civil Judicial Statistics Scotland*, Ministry of Home Affairs, Northern Ireland.

*Licensed clubs are included in these totals up to 1961; until the Licensing Act 1961 the number of licensed clubs was not shown separately.

†In 1967 there were 1,203 registered clubs in Wales; the proportions for previous years were about the same.

Note: A few holiday camps are registered clubs (see paragraph 263).

250. Some 4,000 registered clubs are affiliated to the Working Men's Club and Institute Union.

251. Some clubs, and in particular those in the areas in which these brewers are situated (i.e. Leicester; Newcastle upon Tyne; Glamorgan; York) buy at least some, and in some cases all, of their beer from one of the four 'clubs' breweries' (see paragraph 12). The combined production of beer of these four 'clubs' breweries' however, in each of the years 1964 to 1967, amounted only to some 500,000 bulk barrels, less than 2 per cent of the total quantity of beer brewed in the United Kingdom.

252. Thus the market represented by registered clubs is of substantial importance to the other brewers in the United Kingdom and there is strong competition among them in supplying this sector of the trade. A number of clubs are 'tied' to brewery companies as a result of having borrowed money from them. Most clubs need capital for work which may range from decoration to major reconstruction or extensive re-equipment and most brewery companies are willing to make loans on very favourable terms in return for the club undertaking to buy its beer (and usually wines and spirits and occasionally soft drinks) from the lender; the most usual 'tie' covers 100 per cent of draught beer, and 75 to 80 per cent of bottled and canned beer, wines and spirits, though sometimes the figure is also as high as 100 per cent for wines and spirits. Interest rates for such loans will vary according to the percentage of supplies which the club agrees to buy from the brewery. If the volume of trade is considerable no interest may be payable at all; the maximum rate may be one per cent above bank rate but this is rare and it seems most usual for the rate to be between 2 and 3 per cent. Periods of repayment also vary considerably. The shortest time quoted to us was 2 years and the longest 30 years. The most common periods are 5 and 10 years, but it is by no means unknown for the loan to be written off completely if the volume of trade has been consistently high over a period of say not less than 5 years. There are no precise statistics of the total amount of money on loan to clubs from all brewers (other than 'clubs' brewers') but in 1967 the total of loans to clubs from the seven largest brewery companies was some £14 million, while a further £1 million was on loan to clubs from another brewer in North East England where club life is strongly entrenched.

253. Sales of beer to clubs are made at the normal wholesale free trade list prices of the brewer concerned subject to volume discounts (see paragraph 19). Many clubs in fact qualify for substantial volume discounts.

254. The trade of the four 'clubs' breweries' is almost entirely with clubs, though a handful of other 'free trade' customers are supplied. In addition to beer of their own production, all four supply their customers with bottled Guinness stout (at 6d. per dozen half-pint bottles less than is charged to the free trade by the other brewers in the areas concerned) and with lager beer (one club brewer supplies only one domestic lager; another a domestic and an imported lager; a third with three domestic lagers and one imported; and the fourth with two domestic lagers). Some other 'national beers' e.g. Bass, Worthington and Double Diamond are supplied by one of the 'clubs' brewers'; and this brewer supplies draught Guinness.

255. The four 'clubs' breweries' supply to the clubs their own production of what they describe as 'guaranteed gravity beer' at 'rock bottom economic

prices'* and pay to their customers a bonus of £1 15s. to £3 10s. a bulk barrel. The members of registered clubs determine the prices at which beer is 'sold' in the club; the 'clubs' brewers' say that, in general, their beers would be sold at 2d. to 4d. a pint less than the prices in clubs supplied by other brewers.

256. The 'clubs' breweries' also make loans to clubs, though the amount of money on loan at the present time is on a very much smaller scale than that advanced by the other brewers. The money used for this purpose by the 'clubs' breweries' is derived either, as with the Northern Clubs' Brewery, from accumulated bonuses due to certain clubs which they have left with the brewery to earn interest in this way or, as is generally the case with the other 'clubs' breweries,' from the capital invested in them as loans or shareholdings. Clubs which borrow from the 'clubs' breweries' usually repay the loans from the trading bonuses that accrue.

Full on-licences

257. The table in paragraph 171 shows that there are 16,476 'free' full on-licensed premises in the United Kingdom. These include about 600 licensed establishments such as railway and airport refreshment rooms, dance halls and bowling alleys (see paragraph 92). Also in this group are included some 1500† hotels (with 20 or more bedrooms for letting). Some 150 of these are owned by the Trust House Group,‡ by far the largest hotel group in the country. Other major owners of full on-licensed hotels include British Transport Hotels Ltd. (approximately 30) and Grand Metropolitan Hotels (approximately 30), but there are in the main few hotels belonging to organisations with 10 or more establishments.

258. After taking account of all the different types of establishment other than public houses included in the full on-licence category, the number of free public houses, in the generally accepted sense of the name, is estimated at approximately 14,400 of which some 7,450 are in England and Wales; 4,500 in Scotland and 2,450 in Northern Ireland. While there are some chains of free public houses in the United Kingdom (e.g. about 70—of which a number in London are premises leased from brewers—in the Chef and Brewer group owned by Grand Metropolitan Hotels, some 90 Berni Inns—of which a number are premises leased from brewers—and some 70 Henekey houses owned by Forte's) free public houses are in the main in individual ownership. The free public houses in England and Wales, where the proportion of free houses is considerably smaller than in Scotland and Northern Ireland, are mainly to be found in the countryside, in smaller towns and holiday resorts, rather than in the main centres of population. In Greater London, for example, where there are over 6,500 public houses, it is estimated that only 200 are not owned by brewers. In

*South Wales and Monmouthshire Clubs' Brewery gave as an example its selling price of £17 18s. 0d. per bulk barrel compared with £18 10s. 0d. charged for the same sort of beer by all but one of the other brewers in the area—the exception charged £18 14s. 0d. The 'club brewer' gave its customers a bonus of £2 10s. 0d. per bulk barrel (net selling price £15 8s. 0d.).

†Estimated total of 'hotels' in the United Kingdom is 2,000, of which brewers own approximately 500.

‡The Trust House Group owns some 200 full on-licence hotels; approximately 50 of these have less than 20 bedrooms and have thus been included in 'public house' figures.

both Scotland* (where the majority of houses are free) and Northern Ireland* (where all but one are free) a number of public houses in urban areas are lock-up shops, said to be known in the trade as 'drink shops'; and in Northern Ireland, a number of public houses, particularly in the country areas, are also grocery shops.

Licensed clubs

259. As explained in paragraph 98 licensed clubs, run as a commercial undertaking by a proprietor who is the owner of the club's stock of liquor which he sells to the members of the club, hold a full on-licence with conditions as to the special opening hours which are usually characteristic of licensed clubs and which may cover other aspects peculiar to this kind of enterprise; they are not open to the public at large. Licensed clubs are concentrated in London and the largest provincial cities and include night clubs. The Brewers' Society believes that a certain number of these clubs in some limited areas (possibly up to some 50 clubs in all from the total of approximately 2,400) are in premises which are owned by brewery companies and let to the proprietor. Evidence that we have seen suggests that beer forms only a very small part of the sales of alcoholic liquor in this type of establishment.

Off-licences

260. The total number of off-licensed premises in the United Kingdom in 1967 was 30,365; over 21,000 of these (some 70 per cent of the total) are owned by the free trade. We have shown that the major part of the off-licences owned by brewers are straight off-licences i.e. shops which are practically confined to and specialise in the sale of liquor including beer, wines and spirits as well as soft drinks. In the free trade, however, it is estimated that licensed grocers' shops account for more than one-half of the off-licence outlets. Apart from a few chains of specialist wine merchants (e.g. 150† shops operating under the name 'Wine Ways' and owned by the London Rubber Company Ltd.) and off-licences held by grocery chains,‡ the major part of the free off-licence trade is in the hands of individual owners.

261. A higher proportion of wines and spirits than of beer is sold through off-licence outlets. There are no statistics to show the share of total retail sales of wines and spirits that are made as 'off-sales', but it is generally agreed that off-sales are of substantial importance, and that of these off-sales the greatest part would be through off-licence outlets, rather than as 'off-sales' from on-licensed premises. One major brewer told us that he had based his discount

*Brewers expressed the view that 'public houses in Scotland and Northern Ireland had suffered in comparison to public houses in England in the past because of the lack of substantial investment in the premises'. We were told that, while standards were improving rapidly in Scotland and while there were now some very good free public houses—and hotels and restaurants—(mainly in the hands of what were described to us as 'multiple and enlightened licence holders') both in Scotland and Northern Ireland, in general the standards of the free public houses in both countries, and particularly in the urban areas, were much lower than the general standards of houses, tied and free, in England.

†Approximately 100 of these were acquired from Lovibond in 1968.

‡According to *The Grocer*, May 11th 1968, in a total of 12,470 branches owned by 'multiples' (defined as a company that has 10 or more branches) there were 1,498 off-licences: and in a total of 8,269 branches owned by 'co-operatives' there were 1,076 off-licences.

schemes for wines and spirits for tenants on '25 per cent as being the highest off-licence sales that any publican could have'—'we do not believe it is anything like as high as that in most cases'—'the figure is much more likely to be 8 to 10 per cent'. A major supplier of wines and spirits described the non-brewery owned off-licence outlet as presenting 'tremendous competition' to the brewer. Brewers confirmed that this was the sector which presented competition to them in wines and spirits. By way of contrast, a major brewer told us that 'on the vast majority of spirits that publicans sell'—i.e. by the tot in the bar—'they are not under pressure in regard to price competition'.

262. It was in the free off-licence sector of the trade, and particularly in supermarkets and licensed grocers (which have in part resulted from a more liberal licensing policy at least in some parts of the country) that price competition in wines and spirits developed after the enactment of the Resale Prices Act 1964 and particularly after the decision, in February 1965, by a major spirits producer not to proceed with a claim for exemption from the provisions of that Act. Brewers have described the price competition that developed in the free sector of the trade as being 'so acute' as to require them to bring into force new discount schemes for their on- and off-licensees to enable these licensees to compete in their off-sales with the free trade, and particularly with the supermarkets. A number of witnesses drew our attention to the extent of the price cutting in the free trade; on whisky, for example, we learned that retail prices were between 6s. and 8s. less than a 'recommended retail price' (sometimes described as 'the normal price' in window displays) of 54s. 5d. (of which excise duty is approximately 40s.).*

Restaurant, residential premises and combined restaurant and residential premises

263. This sector of the free trade includes some major business concerns, including holiday camps (with, in effect, 'residential'† licences), and some small chains of premises, but by far the greatest number of establishments are in individual ownership.

Wholesale prices for beer

264. Brewers' policies in the provision of discounts to the free trade are varied in respect of the amounts offered and the conditions attached, between different beers with one brewery company, between similar beers sold by different companies and between outlets of different sizes. Brewers charge on the basis of normal wholesale free trade list prices for beer supplied to the outlets described in this chapter but, in general, substantial discounts are given on these list prices to large customers such as British Rail,‡ certain hotel groups, holiday

*Before imposition of Economic Regulator Surcharge on 22nd November 1968.

†Some holiday camps (e.g. Butlin's camps—except for the camp in Scotland) have full on-licences with conditions; sales are limited to residents, staff and day visitors who have paid entry fees to the camps. Some other holiday camps—including the Butlin camp in Scotland—are registered clubs—see third footnote to Table XXIV, paragraph 249.

‡In addition to hotels (33), railway buffets (approximately 300), and two off-licence shops all of which hold justices' licences, British Rail have some 900 daily scheduled trains with 'licensed' facilities at peak periods. Before the 1967 Finance Act, British Rail and operators of airlines and shipping lines were not required to obtain a justices' licence, only an excise licence—Licensing Act 1964, S.199 (*d*). Since the abolition of retailers' excise licences by the Finance Act 1967, British Rail does not have to obtain any licence to retail liquor on trains. Schedule 7(20) of the Finance Act 1967 requires a train selling liquor to be 'a vehicle in which passengers can be supplied with food'.

camps, grocery chains, etc., as well as the larger clubs; discounts on wines and spirits would also be available to large customers. We have shown, however, that, clubs apart, in the main the free trade outlets, and in particular the 'free public houses', are in individual ownership and, in general, the size of trade done by an individual public house would not qualify that outlet for any discount off list prices.

Brewers' ties on the free trade

265. Brewery companies are able to 'tie' a proportion of the trade in free outlets in a number of ways. We have described in paragraph 252 loans made by brewers to registered clubs and the terms and conditions of those loans. Brewers make loans on similar terms and conditions to other free trade outlets;* the same brewery companies whose loans to clubs totalled some £14 million also had outstanding at the same date loans to the rest of the free trade totalling £10 million.†

266. Another arrangement by which a brewer may secure the right to supply all or a high proportion of the beer sold by a nominally free house arises where a brewery company owns the freehold of a property which it has leased to a non-brewing enterprise, a condition of the lease being that the lessee buys his supplies at least of beers from the brewer. One of the leading brewery companies described these arrangements in the following words—'there are agreements with the licensees of public houses, off-licences and hotels, under which they are tied for the purchase of the whole or a proportion of their requirements of beer or of beer, wines and spirits at free trade prices, such an agreement having been entered into in consideration of the sale or grant of a loan secured by a mortgage thereon, or in consideration of the sale or grant of a long lease of the relevant tied premises to them, or the grant of a loan secured by a mortgage thereon, or in consideration of the relaxation of a restrictive covenant against the sale of liquor to which the property in question was subject'. The brewer in question, who also provided financial assistance to about 450 registered clubs, said that it had about 110 such agreements.

267. In some cases where brewers have sold licensed premises to non-brewers, the brewers have inserted in the contract of sale a restrictive covenant requiring any future occupier using the property as licensed premises to obtain all his supplies from the brewer concerned.‡ One major brewer told us that he would 'start off by trying to get a tie' on premises sold to the free trade 'but if a purchaser was not willing to enter into such an agreement then we would let it go free but we would want a bit more for it'.

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*The brewers have made no loans to the retail trade in Northern Ireland.

†Two of these brewery companies have made loans to the free trade on a greater scale than have their fellows; we were told that this was a result of the two companies concerned 'having a large share of their trade in Scotland where, in the absence of ownership, a loan offers an alternative means of imposing a tie'. Until the end of the 1939–1945 war, there was little brewery ownership of licensed premises in Scotland and 'the participation of brewers in the retail trade in Scotland was largely confined to loans'; brewery-ownership of licensed premises in Scotland has increased since the war but 'a large proportion of the retail trade is still financed by loans'.

‡The Brewers' Society has said that such covenants may not be enforceable in law.

268. It is not possible to form any estimate of the extent of brewers' ties on the free trade,* though evidence that we received from licensees in reply to our questionnaire yielded examples of ties on different classes of outlet. For example, the licensee of a privately owned off-licence shop said that he was tied for a fixed period of years to buy his beer supplies from a brewery subsidiary which, at the time the licence had been granted, had given financial assistance to the applicant for the licence; the applicant was not the present licensee of the premises but the brewery tie was maintained. A company owning some 45 licensed restaurants in England stated that it had tied about one-sixth of its restaurant premises to the beers of a major brewer in consideration of discounts; another individual restaurant owner said that he was tied for beer purchases to a major brewer, having been 'only able to obtain the licence' by giving an undertaking to the brewery to purchase its beers.

*See footnotes to paragraph 265.

CHAPTER 6

Costs and Profits

269. We have obtained information from eleven companies about their sales, costs, profits and capital employed in respect of reference trading and related activities. At the beginning of our inquiry eight of these companies produced some 70 per cent of all the beer produced in the United Kingdom; the 3 other companies (which were selected to provide information about some of the smaller brewers) were together responsible for about another 4 per cent.

270. The assessment of the capital employed presented considerable difficulty. Because of acquisitions and mergers, for example, it has not been possible to establish the amounts by which many of the fixed assets have been revalued and in most cases we have had to work on balance sheet values. Licensed premises comprise some 60 per cent of the average capital employed in the most recent year and, where these have been revalued for balance sheet purposes, the value has been calculated by reference to the profits expected to result from the ownership of those premises, including those earned in brewing and wholesaling. Goodwill, which normally would be excluded from our computation of the average capital employed, has been included on the brewers' argument that it is largely the excess of the purchase price over the book value of assets acquired by acquisition or merger. Trade investments have been included where their ownership is considered by the brewer to be directly beneficial to his trading activities.

271. The calculated average return on capital employed on reference and related activities achieved by the eleven companies investigated was about 10 per cent (see Appendix 12). This figure however is subject to the qualifications mentioned in the preceding paragraph.

272. For reasons which are set out in Appendix 12, the Brewers' Society argues that the capital employed should not be apportioned between sectional activities; broadly the Society's contention is that the ownership of licensed premises is of paramount importance to the landlords in their capacities as brewers and wholesalers, that the results of their investments and trading can only be considered as a whole, and that, in particular, there is no meaningful way in which the capital invested by brewers in licensed premises can be apportioned between their activities as retailers, or landlords of retailers, in those premises and their brewing and wholesaling activities which are promoted by their ownership of the premises. For our own purposes we nevertheless made a provisional apportionment of capital on the assumption that the investment in licensed houses should be regarded as capital employed in retailing (if the houses were managed) or in earning rents (if the houses were tenanted); and the brewers, having made their objection in principle, co-operated in this exercise. We have concluded, however, that the apportionment is unrealistic and we make no use of it in this report (see Appendix 12, paragraph 7).

273. We have transferred, from sales in beer activities (Appendix 12, Table 2) to rents less outgoings of properties (Appendix 12, Table 5), the wholesale price

differential between the tied trade and the free trade (the wet rent defined in Appendix 12, paragraph 6(a)). The costs charged against sales in each of the 4 types of 'trading', (1) beer activities (2) wines and spirits, minerals, etc. (3) managed houses and shops and (4) 'rents less outgoings of properties,' have generally been supplied by the brewers from their own accounting records. Where such records did not provide the necessary division, a basis of allocation was agreed with the company concerned. Although some individual brewers have made reservations about minor details of the computations, none of them has objected in principle to this calculation. The results are set out fully in Appendix 12. For the most recent year examined (financial year with average terminal date, September 1967) the aggregate results for the 11 companies may be set out as follows:

	Sales and other income	**Profit**
	£'000	£'000
Brewing activities	615,503	78,792
Wines, spirits, minerals etc.	223,804	14,006
Managed houses and shops	378,661	8,989
Other licensed premises	23,682	2,142
	1,241,650	
Less: Element of double counting (sales to managed houses and shops)	228,487	
	1,013,163	103,929

These figures must of course be considered in conjunction with the brewers' submissions referred to in paragraph 272. Since, in the light of their own figures, licensed houses (managed and tenanted) account for some 60 per cent of their capital, it would seem to follow that more than half of the profits attributed above to brewing activities must be regarded as accruing from the investment in licensed houses.

CHAPTER 7

The Brewers' Case

274. The brewing industry's case has been put to us by the Brewers' Society (see paragraph 81) in submissions agreed amongst its members and advanced on behalf of the industry as a whole* and at a hearing with representatives of the Society and by four individual brewery companies (Allied Breweries Ltd., Whitbread Ltd., Arthur Guinness Son and Co. Ltd. and Tollemache and Cobbold Breweries Ltd.—all members of the Brewers' Society) at separate hearings. Those brewery companies which are not members of the Brewers' Society were invited to submit their views on the matters concerned and six of these availed themselves of our invitation. Except where indicated in subsequent paragraphs the views expressed by these brewers did not conflict with those submitted by the Brewers' Society for the industry as a whole. The case for the four 'clubs' breweries' was put to us at a separate hearing with the Association of Clubs' Breweries Ltd.

General

275. The Society maintains that the tied house system is in the public interest. The arguments advanced to support this contention may be briefly summarised as follows. In the Society's view, the public interest lies in a system which provides the consumer with the best balance, in relation to his requirements, of quality, choice, amenity and convenience, at a price which he is prepared to pay. The Society claims that the tied house system is the best adapted to give the consumer what he wants, where he wants it, at the lowest price consonant with the quality of the goods and the standard of surroundings desired today. Ownership of licensed premises brings the brewer into direct contact with the public, to whom he has responsibilities. The Society claims that these responsibilities are discharged; that there is nothing incompatible between the brewer's need to sell beer and the needs of the public who drink it; that those needs are met, so far as the licensing laws permit; and that they would not be met to the extent that they now are under any system which did not include the tied house. The tied house system has provided the only framework within which brewers could have achieved the economies of production and distribution that they have in fact realised, and within which they would have been willing to provide the large sums for improvements in the standards of the public house which they have in fact provided. They say that both these matters have been of undoubted benefit to the consumer. They are such as to outweigh the degree of restriction of consumer choice which is inherent in the tied house system. The system does not prevent new suppliers of products from entering the market but can provide a means by which newcomers can be enabled to market their products without undue expense. We explain the various points made in greater detail in subsequent paragraphs.

*One small supplier (a member of the Brewers' Society) made an additional submission. The views expressed by this supplier, although more limited in scope, were generally in accordance with those advanced by the Brewers' Society for the industry generally.

The supply of beer

276. The Society contends that brewers' arrangements for the supply of beer on licensed premises as a whole do not operate and nor may they be expected to operate against the public interest.

277. The Society points out that no public house can offer all the beers available. Certain constraints on choice are unavoidable. Bottled beers generally stay in good condition for much longer than draught beers, and amongst draught beers keg has a longer life than cask beer, but no beer will keep indefinitely. Storage space in outlets is limited too and the total stock which that space allows will consist, as far as the licensee can arrange, of beers that will sell before they begin to go off. Even where it might be possible to widen the range this would involve distribution and other costs which would have to be added to the retail price. For these reasons, the Society suggests, the average free house gives no wider choice than a tied house of comparable size.

278. The Society admits to some restriction of choice in brewery-owned houses, but argues that competitive pressures are sufficient to ensure that there is no undue restriction of choice. Choice is one of the factors in the competitive environment; and if the public is demanding a wider choice of beers than a particular public house is providing, then unless that pub offers characteristics which the consumers rate more highly than breadth of choice, the effect must be that it will lose trade to other outlets. In other words, a brewer can only ignore at his peril public demand for a wider choice of beers.

279. The Society drew our attention to the results of an investigation* which it conducted into choice between outlets. It summed up the results of this investigation as showing that, apart from isolated villages where the single public house would have a local monopoly in any event, there are no localities where the customer does not have easy access to outlets owned by different brewers and to free outlets and that, even in areas where there might be thought to be a high degree of 'local monopoly', there is a substantial degree of competition and choice between the products of different brewers. The Society argued also that the increasing mobility of customers, through ownership of private cars, must in any case reduce the risk that any brewer can establish a monopoly with a captive public.

280. The Society says that all tenants are generally free to stock any of their landlords' brews that they wish and in the quantities that they wish, since in general it is in a brewer's interest to supply his tenants with any of his brews that they require. But there are exceptions;† technical considerations and limitations of space may make it impracticable to supply certain beers to particular outlets, and quality or economic considerations may lead a brewer to withhold supplies of a particular brew in circumstances where there is insufficient level of consumer demand for it. Some companies have regional beers popular in a particular locality, but not generally popular elsewhere, and may decline to distribute to their tenants in other areas because to do so would be uneconomic.

*The Brewers' Society furnished us with detailed and extensive calculations and graphs in support of the arguments advanced in paragraph 279.

†One major brewer gave as an example of a 'restriction' imposed on tenants in the matter of the landlord's own beers that brewer's insistence that all tenants stock a 'low-priced draught beer', despite occasional pressure from his licensees to be allowed to stock only a 'premium beer' on which they can get a 'higher cash margin'.

281. The Society insists that it is reasonable that a tied house should concentrate primarily upon the beers of the owning brewery; if it were otherwise there would be no reason for the brewer to own the pub or to spend money on improving its amenities. The public takes the benefit of the tied house system and accordingly must accept the degree of restriction of choice which is inherent in it. Nevertheless the growth of 'national beers' and the now widespread number of reciprocal arrangements demonstrate 'the flexibility of the tied house system in a situation developing in the technological sense, and the manner in which the system has adapted itself to giving a wider choice where that is required by public demand'. The Society states that a reciprocal arrangement has considerable advantages for the brewer; it enables him to increase the choice of beers available in any one outlet or in a number of outlets while at the same time it gives him access to other on-licensed premises into which, unless he has a national brand for which there is a substantial consumer demand, he could not sell his beer. A reciprocal arrangement will work only if the two brewers, parties to the agreement, make it work; a one-sided reciprocal agreement is no agreement at all, and the most certain method of losing the advantages of the agreement would be 'to charge wholesale prices or set retail maximum prices so prohibitively high that such beers were made unattractive to the consumer'. Wholesale prices are, in fact, frequently specified in agreements.

282. Somewhat different considerations are relevant in the case of non-interchange beers, largely the 'national' beers, since there is no element of reciprocity. It is still the case that the brewer derives an advantage from selling other brewers' beers, whether interchange or non-interchange, because he can offer greater variety and so enhance the attraction of his houses and increase the total volume of his trade. However, other brewers' beers compete more or less closely with his own, and the more he sells of one the less he can expect to sell of the other. In so far as sales of his own beers suffer he loses his wholesale profit and the advantages of increased volume of beers of his own production. In addition he has to bear increased handling charges which mount with increases in variety and the consequent reduction in the size of individual deliveries. The Society maintains that the differentials normally charged on non-interchange beers sold in tied houses do not exceed a reasonable compensation for revenue lost or costs incurred. The consumer is entitled to reasonable variety at reasonable price, but he must expect to pay a price which covers the extra handling costs and enables the owner of retail outlets to secure a reasonable return on his capital.

283. The Society stresses that the particular brand of beer sold in a pub is not the only thing that matters to the customer and may not even be what matters most. Choice is only one element in the package which the pub offers. The rest of the package consists of the standard of furnishings and decorations (carpets, curtains, wall coverings, seating, tables, lighting fittings etc.); facilities for games; availability of food; the personalities of the licensees; and the company to be found in the house. Thus, the Society concludes, the price of a pint is compounded of two elements, the product itself and the provision of the environment in which its consumption is enjoyed. The industry looks on the provision of amenity as a field in which competition is necessary if the vertically integrated enterprise is to pay and the Society suggests that a good deal of the industry's annual outlay on construction and development must be attributed to expenditure

designed to improve amenity. For the 5 years 1963–1967, capital and current spending on licensed estate was at an annual average of nearly £25 million, comprising about £10 million on new houses, slightly less than £10 million on minor improvement of existing premises, and about £5 million on major improvement.

284. The Society says that the specialist brewer without his own retail outlets runs the risks that demand for his specialised products may decline or that vertically integrated producers will develop effective substitutes for it. Should either of these things happen, the lack of retail outlets must clearly create problems; but it is the changed pattern of demand, together with the licensing system, rather than the particular structure of the tied house system, that is their cause. On the other hand, such a producer whose commodity is in demand avoids many of the complexities of vertical integration, and in particular the need, by manufacture or purchase, to maintain a full line of products at the point of consumption. He can also 'ride' on the distribution networks established by others (almost every vertically integrated company bottles and distributes such national brands as Guinness,* Bass, etc.). It is not unreasonable that he should expect to pay for these advantages; he is selling his goods through someone else's retail shops.*

285. So far as new entry to the brewing trade in the United Kingdom is concerned, the Society maintains that it is not such control as the brewers do exercise which accounts for the lack of new brewers, but rather the evolution of technology and consequent gains to be had from economies of scale in production. This is supported by comparison with the United States and Canada, where no independent brewery has been successfully established in the past 25 years. Moreover, in 'a market where there is a specialised palate for beers' and that market is adequately supplied by well-established brewers, it must necessarily be difficult for new entrants to establish themselves in precisely the same field. However, as regards what might be called specialist beers, the experience of Guinness, Bass and Harp makes it clear that, if the product is good enough, it will be sold everywhere. And there is a sufficiently extensive free trade to form an initial base for a supplier if he has a product in that category. The Society adds that, while the possible impact of the tied house system on new entry may merit consideration, it is certainly of no less importance to consider the effect of the tied house system in enabling existing suppliers to sell in the market. In the absence of the tied house system, there is no doubt that the reduction in the number of brewers would be greatly speeded up, and in such circumstances it would be likely to be even more difficult than it is now for a new entrant to enter the market.

286. So far as the products of foreign brewers are concerned, it is certainly the brewers' object to keep imported beers out of the United Kingdom market

*The Guinness company told us that it has to rely a very great deal on the technical skill of other brewers who mature and bottle Guinness stout. The company also has to rely on the expertise of licensees in handling draught Guinness stout and in this connection the company values highly the training which brewers give to licensees and the supervision exercised by the skilled managers and inspectors on brewery staffs. The company said that it 'would view with apprehension anything which went to increase the distribution costs of Guinness. We think that the present system does keep those distribution costs down as low as they possibly can be kept'. The company 'accepts that there is really an obligation upon them that their product should contribute to the provision of amenities in the pubs from which their sales and customers for their beer benefit'.

where demand for the type of beer in question can be economically satisfied from United Kingdom sources. British brewers met the growing demand for bottom-fermentation beers (lagers) by installing production facilities for such beers and making them available at lower cost. It is very much in the national interest that imports of consumer products should be avoided where demand for them can be satisfied from indigenous sources. But public demand determines what imported beers are sold in the market.* To the extent that there remains consumer preference for the imported product, the tied house system does not prevent its being marketed. In support of this the Society quoted the 120th Annual Report of the Carlsberg organisation (1966/67) which said 'In Great Britain, which continues to be Carlsberg's biggest customer, sales efforts resulted in handsome progress'. The Society considers that foreign brewers probably have a better chance of marketing their products under the tied house system than they would have without it, for they can make arrangements with British brewers for bottling and avail themselves of those brewers' distribution networks.

287. The Society states that whatever the price at which brewers sell their beer to their tied tenants, there is nothing to stop the tenant from reselling the beer at as low a price as he pleases. The only restriction on the tenant's pricing policy imposed by the brewer is the maximum price of beer in the public bar. The Society has no doubt that tenants would raise public bar prices if it were open to them to do so and, therefore, the Society asserts, the maximum public bar price operates to keep the public bar price lower than it would otherwise be, and indirectly has the effect of restraining prices in other rooms (since too great a differential could not be sustained) and in free houses for the same brewer's beer.

288. The Society considers it most unlikely that if brewers ceased to charge their tenants higher wholesale prices than they charge to the free trade for their own brews, the reduction would be passed on to the consumer in the form of lower retail prices. The proof of this can be found in the free house prices, which are on balance above tied house prices for the same beers. One reason for the unlikelihood of tenants passing on reductions to the consumer is the small amount of the wholesale price differential when translated into terms of a pint; it seldom represents more than 1d. a pint, and in many cases is less than ½d. In circumstances in which tenants are striving to enlarge their retail margins, the probability is that they would reserve a saving of this order to themselves, even if the whole of it were available to be passed on to the consumer. It would not be available because the loss of the element of 'wet rent' involved in reducing the wholesale price would have to be compensated to the brewer in other ways, e.g. by an increase in the dry rent, involving higher fixed overheads for the tenant.

289. The Society believes that the concept of increased price competitiveness between tenants, in the sense of some choosing to charge lower retail prices, is unrealistic. The very modest price reduction of 1d. or less a pint is unlikely to divert sufficient trade to a tenant to place him overall in a better financial position. Such a reduction would not be likely to divert custom to him from a club

*A major producer of British lager told us that he 'discouraged the stocking of (foreign lager) in his tenanted houses'. The brewer did not put it on the order list for tenants; if a tenant wanted foreign lager he would have to write a separate note to his landlord saying that he wanted it.

(even one selling the same beers) for a club can always undersell a public house, and the attractions of a club in any case reside principally in features other than price. Diversion of trade from a free house is also unlikely, since the tenant may very probably already be selling at a lower price than the free house. Again, to divert trade from the tied house of another brewer would require the overcoming of strong consumer preferences. The tenant would have more prospect of diverting trade from a competing tied house of his own landlord. But he would have to reckon that for a large number of people a difference of 1d. a pint is not the deciding factor in determining where they drink (if it were the saloon bar would be empty). He would also have to reckon with the relative difficulty (compared with other retailers) of publicising his lower prices. And, finally, he would have to face the prospect that if he did succeed in diverting any substantial trade from the competing tied house, the licensee there would probably feel compelled to make a similar price reduction—with the likely result that the trade would return to its previous equilibrium, but with both licensees worse off.

290. In commenting on the supply of beer to the free trade, the Society urged on us its assurance that it is not the policy of brewers, by their pricing policy or otherwise, to discourage independent ownership of retail outlets. Brewers' prices on sales to the free trade cannot be said to be excessive; thus, in the Society's view, it follows that if any free trade customers find the margin on beer inadequate that is not the result of the pricing policy of the brewers.

291. In commenting on suggestions that the original gravity of beer should be declared, the Society recalled that this matter had been discussed extensively with the Minister of Agriculture who had accepted the Society's objections which were 'based upon a belief that the printing of gravity on labels would in fact mislead the consumer as to the comparative qualities (of a kind relevant to him) of different beers.' The Society considers that there is no parallel to be drawn between labelling spirits with degrees of proof and labelling beers with degrees of gravity; the first shows alcoholic strength of the spirits in the bottle—the second gives no direct indication of the alcoholic strength of the beer.

The supply of products other than beer

292. The Society maintains that there is nothing contrary to the public interest in the way in which any of the goods other than beer are supplied through tied houses. It resists any suggestion that the only proper function of a brewer is to brew and sell beer. That brewers acquired their houses for the purpose of ensuring a throughput for their beers is merely a part of history; the brewer's business now is that of providing for the requirements of consumers who frequent his houses, whether these requirements are for beer or other alcoholic liquors or soft drinks or other goods generally associated with their consumption. As consumer requirements in licensed houses have altered to include products other than beer, so the development of the tie to include products other than beer represents an extension by the brewer into fields which are properly his own. And brewers naturally seek to obtain a profit on the sale of 'other goods' on their licensed premises. In a separate submission made by a non-member of the Brewers' Society, one of the smaller brewers told us that 'it is imperative that all commodities sold on the premises must contribute something to the overall capital employed.'

293. Brewery ownership of licensed premises does not mean that brewers control the market for the goods in question. Brewers do, however, exercise some influence on the market through their ownership of licensed premises; moreover, those brewers who—because of their financial and commercial interests in wines and spirits subsidiaries—are in business as suppliers of wines and spirits, exert an important competitive influence on the production side of the market. Ownership of licensed premises gives brewers some degree of control over what is sold to the consumer (including control over quality) and over the price which the consumer pays in the brewer's outlets; this 'control' has enabled the brewer to obtain considerable quantity discounts from the non-brewer supplier of goods other than beer, and especially spirits. Further, the certainty which the brewer has of distribution in his managed outlets and the probability of distribution in the rest of his tied outlets, has enabled the brewer to promote new brands of wines which he would not otherwise have been able to do and at prices which have brought the purchase of a bottle of wine within the reach of a significantly greater number of people than before.

294. The Society admits to some restriction of choice in brewery-owned houses, but asserts, as for beers, that competitive pressures are sufficient to secure that brewers do not unduly restrict the public's choice of these goods. Any brewer who sought to do this would lose trade to houses of other brewers or to other outlets which provided a range of choice in accordance with public demand. Such restrictions on choice as exist would have to be measured against the extent of choice which would be offered to consumers if the market were freed; the Society doubts that the range of choice would be increased or that the prices would on average be lower if the tie were to be prohibited.

295. The Society maintains that, while there is an incentive to the tenant to buy, in preference to other brands, those brands of goods which are provided by the brewer at lower wholesale prices, whether the tenant will do so, and the extent to which he will do so, will be determined by his assessment of the acceptability to his customers of those lower priced brands.* And it is entirely a matter for the tenant to decide whether he will pass on to the retail customer the benefit of any saving made by him on the wholesale price. The Society asserts that, unless there is evidence, and it knows of none, that the wholesale prices for the goods concerned are excessive, yielding the brewer an excessive profit, brewers' pricing policies cannot be said to discourage price competition on the part of tenants selling the goods.

296. The Society pointed to the termination of resale price maintenance on wines and spirits as having subjected all licensed premises, and especially off-licensed premises, to serious retail competition. Brewers were finding that some of their off-licensed premises had become unprofitable, and there had in recent months been a considerable drop in brewer ownership of off-licences. One major brewer told us that 'it has become apparent since the abolition of resale

*One of the major brewers who appeared before us told us that 'in wines and spirits, there is the alternative of the proprietary brands and the house brands, but we do expect our products to be sold by the licensees and we think it is his function to do that. We have our Squires' gin, . . and if a licensee has a request for gin we expect him to sell our Squires' gin. We do not expect him to sell it if there is a request for Gordon's gin but we do expect him, if someone asks for gin, to go to our optic and supply our gin. We give him a slight benefit for doing that—1s. a bottle. We expect that he should sell our gin as opposed to someone else's'.

price maintenance that it is only high volume units which have a chance of making a reasonable profit and giving a sensible return on the investment. Therefore, generally speaking, small premises on unimportant sites are tending to disappear'.

297. The serious retail competition to which brewery-owned outlets are now subjected has made the brewers' obligation, contained in the tenancy agreement, to sell 'at current market price' difficult to define or specify, but the brewery is aware that the overall profitability of an outlet depends on its turnover, and that if the tenant cannot match or beat the prices of his competitors, the profitability of that outlet is endangered. Brewers are endeavouring to meet this situation; they are not holding out against tenants and against the very strong competitive forces which are now operating at wholesale and retail level and tenants are, increasingly, getting better terms from the brewers than the terms on which brewers supply to the free trade.* The Society has no doubt that, throughout the industry generally, further changes will be made as the process of adaptation to a new market situation continues.

298. The Society asserts that the fact that some tenants might be able to buy some brands of proprietary spirits at a price lower than the price they pay at present if the whole market were 'free' is no guarantee that the consumer would pay less even for these brands. First, the cumulative effect of the loss of revenue to the brewer could be such that the brewer would increase the other elements of the wet rent. Secondly, all tenants and consumers would lose the advantage of the present strong competitive position of the brewers in the wines and spirits trade, and their consequent ability to secure large quantity discounts from non-brewer suppliers. Thirdly, given the involvement of brewers in maintaining and improving the quality of their houses, the brewers would lose an important part of their revenue necessary to secure such improvements and would be subjected to greater pressures on their attempts to delay increases in the wholesale prices of beer. And fourthly, the Society pointed to a survey which it conducted of whisky retail prices in 317 free houses—prices were higher than tied house prices in almost half the cases surveyed, and lower in less than a quarter.

299. In the Society's view, brewers' individual arrangements in respect of goods other than beer do not make it more difficult than would be the case in the absence of such arrangements for non-brewer suppliers to enter the market. For all the goods concerned, the public house is likely to be proportionately less important as an outlet than it is in the case of beer. It may well be that the existence of tied houses could make it easier for a new entrant to achieve penetration of the market. If a supplier of the goods in question reaches an arrangement with a brewer under which the brewer makes the supplier's goods available to his tenants and/or stocks them in his managed houses, the supplier may be able to obtain widespread distribution more speedily and at lower cost than he otherwise would. But the product, if it is to succeed, must be one which is able to command consumer support.

300. The Society rejects as without foundation any suggestion that the arrangements make it more difficult for non-brewer suppliers of the goods concerned to retain their existing shares of the market, even where there is a

*The comparison is between the tenant and the single free house—see paragraph 71.

strong consumer demand for the product. If there is a strong consumer demand for a brand, brewers will supply that brand, but it will have to compete for the tenant's favour (which means in effect the requirements of his customers) with all other similar brands handled by the brewer.

301. The Society maintains that royalties or other special payments or allowances made to brewers by suppliers of goods other than beer represent marketing costs incurred by the suppliers of the goods in question. The Society has no information as to the proportion of the total marketing costs of any given supplier that is attributable to these items but considers it highly unlikely that there is any case in which they are so significant that in their absence the price of the goods to the public would be any different. The effect could not, in any case, be properly evaluated without knowing what additional marketing and administrative costs would be incurred by the suppliers if they did not have the facility of entry which flows from making these payments.

Tenancy and management

302. The Society explains that, while practice varies from brewer to brewer and while there are circumstances in which virtually any brewer would see advantages in managing public houses, brewers generally believe that letting houses to tenants is preferable in their own interests.* Allied Breweries, one of the major companies in which witnesses claimed to have noticed a marked switch from tenancy to management, told us of the circumstances in which it considered management to be appropriate. There were two broad criteria; although not an 'absolute rule', the company was 'inclined to put in managers in all new houses, which were very expensive—£30,000, £40,000 or £60,000—and they are not remunerative places for us unless we get not only the wholesale but the retail profit from the activities'. The company 'also inclined towards managers in big houses'—in the company's view there is 'a size of house beyond which it is better to have a manager'. The company considered that 'if the size of the house is so big that the personality of the licensee is no longer very important, because there are a number of bars and a number of different activities and he cannot be in all places at the same time, and he does not have the effect of creating a pleasant atmosphere in one or two bars, we are inclined to go for managers'. The company hoped to get increased efficiency in the larger houses through a managerial system rather than a tenancy system; nevertheless, the company did not follow a system of switching deliberately to managers. In support of this contention the company pointed to only a 'marginal' increase in its managed estate in the last four years, from some 2,440 to 2,500 at the present time. In that period the company had opened 146 new managed houses; in the company's view, these new houses should be 'taken out' of the data and if this were done, it would show that there had in fact been 'a slight decline in our managed estate.'

*Brewers told us that the views of licensing justices could affect their decisions on management and tenancy. One major brewer said 'We are not in all areas of the country entirely our own masters in this, because there are certain licensing benches which, maybe for very good reasons, are very much against managed houses, and there are certain places where if we had a completely free choice, we would put houses under management, but the licensing justices in their discretion do in fact make it very clear what they think we should do'. Another major brewer, referring to an area in which a high proportion of his houses are under management, told us that in this area 'the very converse applies . . . the licensing justices there prefer management, as giving better control over the place'.

The brewer/tenant relationship

303. The Society describes the relationship between brewer and tenant as 'a form of co-partnership' and the tenant as 'an integral part of a vertically integrated enterprise . . . who is given a degree of freedom and initiative that is unusual in such circumstances' i.e. the circumstances in which one partner, the brewer, provides the great bulk of the capital. The industry regards the 'wet rent' arrangements as a logical consequence of the partnership; they provide for a sharing of the profits between the partners inasmuch as the total rent paid and received varies with the turnover, and they help the partner with small working capital to cope with seasonal and other fluctuations in trade—we were told that 'overtime money is beer money'—since his monthly rent is lowest at times of lowest turnover. The tenant is well aware of the financial basis of his commercial arrangements with the landlord, though, of course, the precise amount of wet rent which will accrue cannot be known in advance. What matters to the tenant is the amount of 'dry rent' which represents an outgoing and a fixed overhead of his business. One major brewer told us 'we share the risks and we also share the profits if the licensee does well' and stressed 'how risky' the trade is for a licensee, 'even when he is very good'. 'If there is in a locality a recession, even quite a slight recession, it means working class peoples' earnings go right down and the takings of the public house also go down very substantially . . . The effect can be spread over a wide area. Recessions in the motor car industry, for instance, can cause a substantial drop in the takings of licensees over a wide area'. Other factors, including the weather, the risk of a club's opening in the vicinity, town planning developments and the consequent movement of populations away from certain areas, can all affect the takings of licensees. This brewer (and others) told us that 'we believe it is true that although on the face of it we are taking away some of the profits of the most successful publicans in the way of a wet rent . . . they quite like the fact that we share the profits and the risk.' This particular brewer also believed that the 'wet rent' system, however illogical it may seem, was a desirable arrangement in the public interest; the system 'possibly does make for less high-pressure salesmanship and therefore it is desirable in the public interest' since it could be 'undesirable that pressure should be put too much on the public to drink alcohol, especially expensive alcohol'. This brewer urged for our consideration his view that the system made for a 'better type of licensee—a more relaxed type of licensee who allows people just to sit in his public house and not making a profit for him. It may also make for better relations with the public and it may also be more consistent with the way the justices expect us to operate our public houses'.

304. The Society commented on the various criticisms that had been made about other features of the brewer-tenant relationship, such as short term leases, the credit terms allowed to tenants, deposits paid by tenants and the interest on these deposits, the terms on which amusement machines may be installed in tenanted houses, the provisions as to opening hours and the extent of the control and supervision of tenants.

305. On short term leases, the Society pointed to an investigation that it had conducted into the length of tenancies and reasons for their termination and concluded from this investigation that the tenant does enjoy in practice very considerable security of tenure. The survey, which covered the whole industry, concerned 7,390 terminations of on-licence tenancies during the twelve months to

July 1968 and showed that over 22 per cent of tenancies last for more than 10 years. Nearly a quarter of the terminations were due to death or retirement, and a further 19 per cent for health or domestic reasons. Fifteen per cent were terminated by mutual arrangement (often because the tenant was moving to another tenancy with the same company), while another 7 per cent moved to tenancies with other companies. Only 3 per cent are known to have left because they felt they could not make an adequate living, though a further 16 per cent went to jobs outside the industry. The Society states that it is true that, on paper, the tenancy is subject to termination on short notice, but no brewer is likely to terminate the tenancy of a tenant who is maintaining or increasing the volume of trade in a pub. If bad tenants have no security of tenure, this is solely to the disadvantage of the bad tenant. Both the brewer and the consumer want him out as quickly as possible.

306. The termination clause is rarely invoked by the brewer. If he does so, it is normally because he believes that the tenant is not making enough of the premises, or because of some aspect of his behaviour which threatens the continuance of the licence. In those circumstances, it would be unrealistic to impose on the landlord an obligation to pay the outgoing tenant a goodwill payment when the landlord has received no increased benefit from that tenant's occupation. If a tenant terminates, as he may upon reasonable notice, it is again unrealistic to impose upon the landlord an obligation to pay over money as a result of a voluntary act by the tenant who wants a change or thinks he can do better elsewhere.

307. On credit terms allowed to tenants and deposits lodged by tenants, the Society stresses that publicans are cash traders (precluded by the Licensing Act 1964 from selling intoxicating liquor on credit) and in the very large majority of cases they take delivery of their beer supplies 'load over load' at weekly intervals, and of wines and spirits at fortnightly intervals. Moreover, brewers do not have the sanction available to suppliers in most other trades of being able to withhold supplies from retailers who are bad payers; to do so would obviously damage the trade of their own houses and possibly imperil the licence. The allowance of one, and in some cases two, weeks' credit (with extensions at unusual times such as Christmas) is not unreasonable in the light of the tenants' own essentially cash trading position.

308. The great majority of tenants receive interest on their deposits of 5 per cent or more, which compares favourably with the rates obtainable from savings banks or most other institutions with which relatively small sums can be deposited with near perfect security.

309. The practice of requiring tenants to lodge a deposit against stock needs to be considered in the light of the total relationships between brewer and tenant; overall the publican's capital investment is normally relatively small in the light of the business opportunities that he could 'buy' for it in other directions; the deposit terms are one small element in this total investment.

310. On amusement machines, the Society admits that the division of income between brewer and tenant is, in a sense, arbitrary, but it needs to be viewed as a part of the overall 'wet rent' arrangement. The machines enhance the attractiveness of a house, and so the earning opportunities of the tenant, besides providing him with a direct source of income. The brewer also benefits from

increased sales resulting from making the house more attractive, and the installation of the machines reduces his need to seek revenue from other parts of the 'wet rent' arrangement.

311. On opening hours, the Society states that until the Licensing Act 1961—'which declares that the law does not require premises to be kept open for the full permitted hours'—it had generally been assumed that failure to keep open might endanger renewal of the licence, because it could be argued that conditions were not being met; tenants' agreements consequently required the premises to be kept open during such hours. The Society points to more discretion in this regard now, but emphasises that service to the public remains the brewer's prime concern. Both tenant and brewer have to face competition from other licensed premises in the locality. Complete discretion could result in some less enterprising tenants allowing their standards of service in this respect to fall, and so losing goodwill, in a way which would be damaging to the brewer as well as to their own long term interests. The Society considers it at the same time noteworthy that owners of three-quarters of the outlets are willing to make special arrangements on appropriate occasions.

312. As to the control and supervision exercised by brewers over their tenants, the Society denies that the extent of this is such that tenants can be regarded virtually as managers rather than independent traders. If this were so, the Society argues, there would not be the ambition of so many managers to become tenants. The tenant must, of course, accept that he is part of a vertically integrated enterprise and the relationship between the tenant and the brewer involves a considerable degree of partnership, using that word in a non-technical sense. Nevertheless, the tenant, within and outside the ties of his tenancy agreement, has full power of decision, as a manager has not. While there will doubtless be occasions on which a brewery company will find it necessary to remind a tenant that he is a participant in a vertically integrated enterprise, and that his interests and the brewers 'are intimately bound together, the Society does not accept that brewers' administrative staffs or representatives adopt an intimidating attitude towards licensees or mislead licensees as to their rights under tenancy agreements; brewers would not approve of such conduct.

313. Replying in general terms to complaints about the brewer-tenant relationship, the Society states that technical and structural changes within an industry which is constantly adapting itself to meeting and anticipating consumer preferences inevitably creates problems and, in a body of over 45,000 people, it is not surprising that a few should feel they have a grievance. The Society believes, however, that the overwhelming majority of tenants would share its view that the landlord-tenant relationship is a happy one.

314. Neither the direct evidence concerning tenants' income nor the indirect evidence from tenants' behaviour or from brewers' profits suggests that the earning power of tenants as a whole is unduly low or that the division of income between tenant and brewer is unreasonable. If this is so as the result of the overall bargain between brewer and tenant, then individual items in the agreement should not be criticised in regard to their effects on tenants' income but need to be considered individually in relation simply to the type of incentive which each provides and its likely consequences for the operating methods and efficiency of the industry.

315. The Society asserts that since the over-all return on capital received by the brewers is no more than reasonable, any loss suffered from changes in the 'wet rent' system would have to be made good in some other way. Tenants who object to detailed aspects of the system commonly ignore the potential disadvantages to them of what might be thought to be relevant alternatives such as e.g. the rental arrangements commonly made for other types of retail properties.

316. Replying to suspicions that brewers' pricing policies and the restrictions they impose on the sale of certain brands of wines and spirits increase the risk that tenants and managers will indulge in subterfuge, such as adulteration or substitution, the Society confirmed that the brewer can afford to and does sell house brands of spirits to the tenant at lower prices than he is able to sell proprietary spirits and conceded that the tenant may be tempted to substitute the one for the other, but it thought that brewers were not alone in following such pricing policies and that in fact instances of substitution were 'minimal'. To the suggestion that the temptation to substitute might be furthered by the licensee not being supplied with the brands he ordered, or to the full amount he ordered, the Society said that 'no brewer declines to provide brands of spirits which are in public demand' and doubted whether there would be any case in which a brewer substituted his own brand for another brand ordered by a tenant. In reply to a specific criticism on this point made about a major brewer, this brewer told us that it had 'discovered', in August 1968, that one of its subsidiary companies (acquired in 1961) expected its tenants to ensure that one-third of all gin sold was Squires' gin and that this proportion was delivered whether ordered or not by tenants; this policy had been in operation since about 1946. The brewer concerned* pointed out that Squires' gin had long been an 'accepted thing' in the area in which the subsidiary company operated, and there had in fact been no complaint about the policy from any of the local licensed victuallers' associations and none from the public.

Licensing

317. The Society acknowledges that the licensing system has an important impact on the industry, since it provides the framework and limitations within which the industry has to operate, but it disclaims all responsibility for the way in which the licensing law is applied or for its consequences, pointing out that the licensing system is operated not by brewers but by licensing justices and that the total number and, to a large extent, the character of retail outlets must result from the way the justices implement the law.

318. In commenting on various criticisms made about brewers' opposition to applications for retail licences, the Society thinks that, although the 1964 Act lays down no criteria beyond those relating to the character of the applicant and the suitability of the premises, 'it is quite clear that the justices are intended to consider such evidence as is made available to them on the merits or demerits of particular cases'. It follows that opposition *per se* cannot be held to be objectionable; it is a necessary part of the legal decision process. The weight which justices choose to attach to particular arguments can and does change through

*This brewer has since told us that tenants of the company concerned have now been told that they can order whatever gin they like and will receive it.

time —as illustrated, for example, by the changing attitudes to need and convenience respectively in the consideration of off-licence applications—but this is a policy decision taken by the justices.

319. Brewery companies do not oppose applications, or support opposition, at random. They do so only when there are genuine arguments that existing needs are already being met. Since the licensing justices apply the criterion of public need in deciding on licence applications, any attempt by brewers to oppose the grant of a licence for no better reason than to safeguard a nearby investment will necessarily founder. The Society acknowledges that trade might always be at risk if a new competitor goes into a locality, but points out that, whilst harm to a brewer's business might be what moves him to oppose an application, this is not a consideration that the justices ought to take into account. The Society could find no evidence whatever that brewers refrained from opposition to new licence applications on condition that non-brewer applicants tied themselves for supplies to particular brewers.

320. While insisting on the legal right of brewers to oppose applications for new licences, the Society expressed the opinion that in fact over the last few years the practice among brewers of opposing such applications had declined markedly and that, in particular, the off-licence application had almost ceased to be opposed except in the case of supermarkets where the local off-licence associations were afraid of the cut price policies pursued by the supermarkets. Whitbread told us that, in the early days after the abandonment of resale price maintenance, it had gone on opposing off-licence applications very strongly but it found that licences were being granted more freely and, out of regard for its commercial interests as a whole, had decided to cut down its opposition to off-licence applications. The company still opposed applications for new full on-licences where it saw no justification for a new outlet and where it thought that the effect of a new licence might well be that the economic possibilities of a new public house would destroy its own and that the whole standard of amenities and houses would in the end deteriorate. Allied Breweries told us that it would not oppose on-licence applications or, except for supermarkets, off-licence applications. The company sought to inform the justices, who sometimes did not know the situation, of what licensed outlets already existed in the neighbourhood. It believed it had an obligation, in the interests of its shareholders, to oppose in cases where it had premises of its own close by and where it thought the neighbourhood was fully catered for by grocers, supermarkets and other kinds of outlets but it did no more than make the point to the justices and left them to decide the question of need. The details of the information the company put before the justices concerned existing facilities within 200 to 400 yards of the site of the new outlet. Tollemache and Cobbold, operating in the area in which one of our witnesses claimed to have encountered brewery opposition to its applications for off-licences for supermarkets (see Appendix 10) told us that it did not oppose applications for the sake of opposing. There had been a growing demand for licences from supermarkets over the last few years and it recognised that need and convenience had to be considered. The company felt that, nevertheless, there must be a place left for the specialist wine merchant who provided a far wider choice than a supermarket and certain expert knowledge and advice. As to full on-licences, the company thought that too much competition or too many houses would result in lower standards of houses.

321. We invited the Society to say what it thought of the hypothesis that the only conditions to be met in order to obtain an on-licence and an off-licence should be the fitness of the character of the applicant and the suitability of the premises. The Society said that, as a Society, it had never discussed such an aspect of licensing, and could not therefore offer a collective view. A representative of a major brewing company, however, said 'I think that if the proof of need, which is the normally used expression, were taken away it would be a pity because I think it might inevitably lead to a proliferation of licences, and that might well cause a lowering of standards of houses, because I hope we have proved to you that it is not a cheap thing to have to keep public houses in repair. I think it might also lead to such competition between those who own those licences that they might almost be forced to resort to practices which certainly would not be in the public interest'. This brewer considered that, 'bearing in mind that throughout history there has always been a social obligation on the community to see that drinking facilities are not made so plentiful that in that way they can be abused, there was a *prima facie* case that, where there was an established licensee, no further need for licensed premises existed'.

322. We also sought the Society's view on whether restrictions on the use of licences should be lifted so as to enable premises to remain open for whatever number of hours and at whatever times the licensee chose and so as to allow admission of all customers and at all times to all parts of the premises. The Society recalled that it had studied such matters at the time of the Bill leading to the 1961 Licensing Act. The brewers had taken into account views expressed on these matters by retailers 'who were very much against loosening up of hours and other things' and a memorandum submitted at that time by the Society to the Home Office had had regard to these views and to the brewers' judgment of the effects of 'loosening-up' on the brewer-tenant relationship and their future dealings with tenants. Representatives of major brewing companies told us that, nevertheless, they considered that more flexibility on hours and access might well be introduced. A representative of one of these companies said 'If a view were to be put forward by the Commission and picked up as being one that appealed to Parliament, we would adjust ourselves very willingly to whatever is necessary and whatever is thought to be best'.

The tied house system as a whole

323. The Society urged that brewers' activities and businesses should be examined and judged by us as a whole; its submissions on costs and profits are set out in Chapter 6 and Appendix 12.

324. The Society considers that it would not be very useful to speculate at this remove of time what the situation with regard to the supply of beer would be today if the brewing industry had not been characterised by a high degree of vertical integration for something approaching a century. The Society believes, however, that the tied house system has provided the only framework within which breweries could have achieved the economies of production and distribution that they have in fact realised, and within which they would have been willing to provide the large sums for improvements in the standards of the public house which they have in fact provided. Both these matters have been of undoubted benefit to the consumer. They are such as to outweigh the degree of restriction of consumer choice which is inherent in the tied house system. The

tied house system has moved under the impact of technological change and the pressure of competition in the direction of offering wider choice. While the process of merger and amalgamation in the industry may be expected to continue, with a consequent reduction in the number of independent brewers and, over time, of the brands offered, it is not to be expected that the brewing industry will fail to respond to ascertainable demand.

325. The benefits of the tied house system have not been achieved at the expense of technological progress and innovation, nor at the expense of the stifling of competition. The Society does not think that any fair-minded observer could fail to recognise the extent of technological change and innovation in the methods of production and distribution of beer which have taken place in this vertically integrated industry over the last twenty years. Not only has the industry come to supply new products (e.g. keg beers and lagers) but it is now physically possible to transport beers and sell them in places far removed from the point of production. This last factor has produced and intensified competition in the market in which beer is now sold. The situation in which particular brewers could enjoy a relative immunity from competition has passed.

326. Due to one or other of the following factors:

(a) the existence of a substantial number of free trade outlets;

(b) reciprocal arrangements with other brewers;

(c) the demand created with the assistance of advertising for certain 'national' and 'regional' beers;

(d) mergers and amalgamations;

brewers have been able to achieve penetration of regional markets where they previously had no base. The fact is that every area of the United Kingdom is now open to a brewer who has the financial and technical resources to market his beers in that area, provided only that they are acceptable to consumers in that area. The tied house system has not prevented, and cannot prevent, the consequence of these developments. In the long run the over-riding question is the demand which a tenant receives from his customers and 'in the policy of a particular brewer'.

327. Further, all the changes that one could expect to see in a competitive industry, one of whose characteristics is the benefits obtained from economies of scale in production, have in fact occurred. This is shown by the increased share of the market held by a small number of companies, the steady reduction in the number of uneconomic brewing plants, and the rationalisation of distribution networks which the large companies have achieved. The consequent economies of scale achieved by the larger companies necessarily operate to increase the pressure on smaller companies to improve their own cost efficiency.

328. The Society contends that the tied house system does not preclude competition in the industry. It points to the fact that there are over 100 independent brewers in the country. The free trade, for the custom of which brewers must compete, accounts for some 35 per cent of all the sales of beer in the country. In these circumstances brewers are subjected to effective competitive pressures. The competition has been intensified by technological change and by the processes of merger and amalgamation, both of which factors have led to beers being distributed in areas of the country in which they had previously not been dis-

tributed. Competition would be impaired in the absence of the tied house system, since that would particularly weaken the competitive position of the small brewer.

329. Competition at retail level is currently extremely keen, with brewer competing against brewer and the tied outlets competing with each other as well as with the free trade. The extent of retail price competition in the sale of beers and other alcoholic liquors is greater than it would be in the absence of the tied house system. The reduction in the number of licensed premises which would result if the tied house system were removed would accentuate the degree of local monopoly enjoyed by any given outlet. Moreover, the reduction in capital expenditure which would occur if brewers no longer had the incentive to provide the sums which they now do for that purpose would lead to a substantial lowering of the standard of on-licensed premises. Since the environment offered by a given public house is an important factor in the competition offered by that house, a reduction in the standard of that environment would involve a reduction in the competition.

330. The Society asserts that it would be a mistake to think that the choice of alcoholic liquors offered to the public would be widely expanded in the event of the abolition of the tied house system. There are a number of factors which must inevitably limit the range of products available to consumers in licensed houses and which are independent of the tied house system. These factors include:

(a) the size of the pub and the consequent physical limits on the number and range of products which can be stocked there;

(b) the need, in the case of beers, to achieve a reasonably fast stock-turn (in particular for draught beers) to maintain quality and give the consumer the satisfaction which can only be derived from beer in prime condition. Draught beers in particular are highly perishable;

(c) the economies of retailing, which tend towards the smallest range of products compatible with serving the needs of the customers. A retailer does not want more working capital than necessary to be tied up in stock at any given time.

331. The Society says that it may well be that in the absence of the tied house system the choice offered to a consumer in a given pub would be different from what it is now. And the range and choice over a given area might be wider than it is now, if different retailers pursued different policies. But it is not a self-evident proposition that they would do so. It would be as likely, and, the Society suggests, more likely, that they would play safe and stock only 'national' beers. In such a case the diversity of choice at present enjoyed would disappear. But even if a somewhat wider choice did emerge, that is only one aspect of the matter. A balanced judgment on the problem can only be formed by taking account of the advantages enjoyed by consumers as a result of the tied house system which they would not enjoy in its absence. In the absence of the tied house system, prices in public houses would be likely to be higher for all consumers, and standards of amenity lower since consumers would suffer loss of convenience by the disappearance of public houses which would not be viable in the absence of vertical integration; and some consumers would lose particular beers because of the heavy impact of loss of control of retail outlets on smaller brewers. This

would be a heavy price to pay for such wider choice as might emerge, and unless the choice available in existing circumstances wholly failed to satisfy public demand, the balance of advantage must lie with the existing system.

332. The Society considers it worth pointing out to those who suggest that the tied house system produces too small a range of choice that the Prices and Incomes Board* suggested in the context of the tied house system that production could be made more economic through a reduction in the number of brands produced without any undue restriction of the choice to the consumer. Brewers, the Society asserts, have to think both of consumer preference and of efficiency in production and distribution and, the Society claims, its evidence is that the outcome is a satisfactory one.

333. The Society's conclusion is that the tied house system has proved itself over the years to be efficient and economic for distribution of beer and other alcoholic drinks to the consumer, and for the provision of an acceptable environment in which to consume them. The Society notes an observation of the Consumer Council that 'pubs are not meeting the demand for something, though exactly what that something is remains a matter for dispute'. The Society does not think that it can be assumed that there is any demand that all public houses should necessarily set out to feed and entertain the general public otherwise than by the supply of liquor in congenial surroundings; the preponderant demand, the Society asserts, is for the traditional British pub.

*National Board for Prices and Incomes. Report No. 13. *Costs, Prices and Profits in the Brewing Industry*. (Cmnd. 2965. HMSO 2s. (2s. 3d)).

CHAPTER 8

Conclusions and Recommendations

I The 'Conditions'

334. In 1967 the total quantity of home-brewed and imported beer delivered for consumption in the United Kingdom amounted to approximately 32m. barrels (see paragraph 9). There are a few small brewers, responsible in aggregate for a negligible proportion of this total, who own no licensed retail premises; subject to this exception* virtually all of the total was delivered by brewers who, either directly or through subsidiary companies, own both managed and tenanted licensed premises to which they deliver beer. We are primarily concerned in this reference with the supply of beer within the United Kingdom for retail sale on licensed premises. Where a brewer delivers beer to his own managed premises it is perhaps arguable that he cannot be said to supply himself and that, in such a case, the beer is not at any stage supplied for retail sale on licensed premises. We do not think it necessary to resolve this technicality since it is quite clear that, whether or not beer supplied to the public through brewers' managed houses should be deducted in calculating the total amount of beer supplied within the terms of the reference, virtually all of the total amount is supplied by brewers who own tenanted licensed premises and who supply beer to the tenants concerned on terms which restrict the tenants as to the sources from which they may buy beer and, effectively, as to the brands of beer they may buy, stock and sell (see chapters 3 and 4).

335. We therefore conclude that conditions to which the 1948 Act, as amended, applies prevail as respects the supply of beer within the United Kingdom for retail sale on licensed premises because at least one-third of all the beer so supplied is supplied by persons who so conduct their respective affairs as to restrict competition in connection with the supply of beer inasmuch as, being the owners of licensed premises, they prescribe the brands of beer which shall and shall not be sold on such premises.

II The Public Interest

Introductory

336. As will be clear from the foregoing chapters we have been led to examine various aspects of the brewers' businesses which might be argued to be rather wide of the terms of our reference. In practice, however, we have found it impossible to form a judgment upon the restrictions on competition in the supply of beer to licensed houses without taking into account the tied house system as a whole and the extent to which brewers now carry out the functions of producers, wholesalers, retailers and landlords of retailers not only of beer but also of wines, spirits, cider, mineral waters and various other goods which licensed houses retail to the public. Historically, no doubt, vertical integration in this industry stems from the desire of brewers to safeguard outlets for their primary product, beer. In course of time their investment in licensed houses has

*Guinness is not an exception since it owns a few licensed premises in this country (see paragraph 174).

come to exceed their investment in brewing. They have naturally sought every means of obtaining a return on their investment and this has led increasingly to involvement at all stages in the supply of beer and of other products that are sold in licensed houses. Thus many of the activities of brewers which might appear at first sight to be outside the terms of our reference are intricately involved with their function as suppliers of beer to licensed houses and, in some cases at least, might be regarded as direct or indirect consequences of that function. The Brewers' Society, representing the great majority of brewers, has itself urged that brewers' activities and businesses should be examined and judged by us as a whole.

337. We accept this and therefore regard the various matters referred to in paragraph 336 as relevant in one way or another to our judgment upon the question whether the conditions we have found to prevail, or all or any of the things done by the parties concerned as a result of, or for the purpose of preserving, those conditions, operate or may be expected to operate against the public interest.

338. In the United Kingdom as a whole there are at present nearly 140,000 licensed outlets,* of which nearly 110,000 have on-licences* and the rest off-licences. Of the on-licensed outlets about 75,000 are public houses (including some 2,000 hotels with full on-licences), about 26,000 are clubs (mainly registered), the remainder being restaurants, residential hotels etc., with limited licences.† Brewers own about 58,500 (78 per cent) of the public houses and about 9,000 (30 per cent) of the off-licensed premises,‡ but no clubs and very few of the outlets with limited on-licences; and altogether the outlets owned by brewers amount to nearly 50 per cent of all outlets. Brewer ownership is largely concentrated in England and Wales where they own 86 per cent of the public houses and 34 per cent of the off-licensed premises, or 53 per cent of all outlets;§ in Scotland they own only 15 per cent of the outlets and in Northern Ireland one brewer owns one outlet. The most important elements in the 'free' retail trade consist of about 26,000 clubs (which are effectively on-licensed) and about 16,000 off-licensed outlets;¶ the rest of the free trade is made up of about 14,400 public houses (of which half are in England and Wales), about 2,100 other outlets with full on-licences (hotels, British Railways bars etc.), and about 8,000 outlets with limited on-licences. Purchases by 'free' outlets account for about 34 per cent of brewers' total home sales of beer; purchases by clubs account for nearly two-thirds of this (i.e. 20 per cent). We have no comparable figures for other products sold in licensed premises but inasmuch as a higher proportion of wines and spirits than of beer is supplied through off-licensed outlets it is likely that the 'free' retail outlets have a larger share of the wines and spirits trade than of the beer trade.

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*i.e. including registered clubs, which we regard as effectively on-licensed.

†These figures are necessarily approximate, since licensing conditions differ as between England and Wales, Scotland and Northern Ireland—see chapter 2.

‡Nearly 5,000 of the, approximately, 30,000 off-licences are believed to be held for technical reasons by wholesalers who do not, in practice, conduct a retail trade (see third footnote, Table XVIII, paragraph 168). Thus the brewers own nearly 36 per cent of the off-licensed retail premises.

§As to the existence of local monopolies (in the sense that particular brewers own a high proportion of houses in particular areas), see paragraph 176.

¶i.e. excluding the off-licensed wholesalers—see third footnote to paragraph 338.

339. Rather more than one-quarter of the licensed premises owned by brewers (i.e. about 14,000 public houses, and about 4,000 off-licensed premises) are 'managed' houses;* or in other words in nearly 13 per cent of all outlets in the United Kingdom the brewers themselves act as retailers of beer and of the other products sold there. The rest of their houses are let to tenants who, in effect, conduct the retail trade on the terms and conditions laid down by the brewer-landlords. The free retail trade buys most of its beer direct from the brewers, who also sell beer direct to one another; thus, although there are some independent bottlers and wholesalers, the greater part of the wholesaling trade in beer is in the hands of the brewers. As to products other than beer we again have no precise statistics, but since the supply of virtually all the wines, spirits, cider and minerals required by their tenanted as well as their managed houses is channelled through the brewers, who also have some trade with free houses, it is clear that a very substantial part of the wholesaling trade is in their hands. As to production of these other goods, brewers now control the sources of about 40 per cent of the cider supplied in this country but only certain minor sources so far as spirits and minerals are concerned; they are also importers of wines. In all these fields the brewers meet strong competition from independent producers (or, in the case of wines and some spirits, importers) but their interests have increased substantially in recent years, partly by mergers with formerly independent suppliers, partly by setting up or adding to their own production or importing businesses.

Relevance of the licensing laws

340. The law provides, in effect, that only persons who hold licences (or their equivalent) permitting them to do so may sell alcoholic liquor of any kind by retail.† The implementation of this policy of restrictive licensing limits competition. Licensed retail outlets are individually and collectively protected from competition by the restrictions on the establishment of new competitors in the licensed trade. The degree of individual protection differs from case to case. In general, on-licensed premises are more protected than off-licensed premises (see paragraph 388).

341. The general effect of restrictive licensing occurs regardless whether the owner of the licensed premises is a brewer, manufacturer of other beverages, independent wholesaler, multiple retailer or single-outlet retailer. It is our task to examine the consequences or likely consequences of the fact that brewers own or control the licensed outlets to the extent indicated in paragraph 338.

342. We recognise that the present licensing system has a bearing on the particular effects of brewer ownership and the tied house system. The distinguishing feature of brewer ownership and control of retail outlets, especially in the on-licensed trade, is that each brewer, as a producer of beer and as a wholesaler of beer and other products, has a largely protected, or captive, retail market. We have to examine within the framework of the existing licensing system the implications for competition, efficiency and consumer interest of the captive market enjoyed by each vertically integrated brewer.

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*In Scotland nearly all brewer-owned houses are 'managed'.
†See Chapter 2.

The brewers' captive markets

343. More than 80 per cent of the brewers' captive outlets are on-licensed premises, i.e. public houses. Although, as indicated above, these are likely to enjoy a higher degree of protection than off-licensed premises, the protection the brewer's products enjoy there is not absolute.

344. In the first place brewers' public houses are exposed to a measure of competition from other on-licensed premises. Numerically clubs provide the most important element of this competition, particularly in England and Wales (see paragraph 338); they account for about 20 per cent of the beer consumed in this country. They are taking trade which might otherwise largely have gone to public houses. The increase in the number and volume of business of clubs in the present century is, no doubt, part of the explanation of the reduction in the number of public houses (see Appendix 9). In present conditions, there may be an element of price competition in some cases; registered clubs are non-profit making, some of them can and do provide beer and other drinks for their members at lower prices than those charged in public houses and some of the public may become members of clubs mainly for this reason. Others, no doubt, join clubs because they prefer the kind of amenities provided there to those of public houses. There are many members of the public, however, who are not members of clubs and do not, apparently, regard a club as a possible alternative to a public house. To a large extent, therefore, in present conditions public houses and clubs cater for different needs; they are not, on the whole, in direct competition. Moreover, clubs are concentrated heavily in certain parts of the country (see paragraph 248), so that such competition as they offer is not a generally pervasive influence in the market.

345. The rest of the on-licensed premises which compete with brewers' public houses consist of 'free' public houses together with various hotels and bars with full on-licences (see paragraphs 257 and 258). In England and Wales there are a number of chains of 'free' public houses and these, like the free hotels, tend to provide amenities which are more individual or more luxurious than those of an ordinary public house. The rest of the 'free' public houses, those in single ownership, are few in number compared with the brewers' tied houses and geographically scattered. By virtue of their location the more isolated free houses are not in competition with other houses; and for reasons which we explain more fully in paragraph 389 the less isolated houses are generally in no position to offer vigorous competition with the tied trade. Thus the 'free' public houses and hotels in England and Wales either tend, like the clubs, to cater for different needs from those that are met by the brewers' public houses or compete defensively from positions of relative weakness. As we have explained this situation is peculiar to England and Wales, since brewers' tied houses are in a minority in Scotland and virtually non-existent in Northern Ireland.

346. Secondly, the public houses of each brewer are exposed to competition from those belonging to other brewers insofar as the tied house chains of different brewers interlock or overlap geographically. In practice, there is no uniformity of situation in this respect. Most small brewers own a number of houses within a fairly small radius of their breweries. The growth of larger brewing and tied-house-owning units has, however, been to some extent haphazard geographically, and the tendency at present is for some half dozen very

large brewers each to control retail houses on a national scale.* In thinly populated districts any public house is liable to have a largely captive clientele. In towns and cities on the other hand, few public houses enjoy such a high degree of security. And while brewer ownership of public houses is geographically patchy and particular brewers' inn signs are seen more frequently in some areas than in others, we believe it to be generally true that in nearly all urban areas there are public houses owned by several different brewers within walking distance of one another.

347. There are, however, some exceptional cases, in particular Bristol and Birmingham, where there is abnormally concentrated ownership of public houses. We are told that competition of clubs is particularly vigorous in those two cities, but as indicated above we think that the impact of club competition is limited. The brewers argued in this connection that the increasing mobility of customers, through ownership of private cars, must in any event diminish the risk that any brewer can establish a local monopoly with a captive public; and they submitted some fairly elaborate calculations designed to show that even in areas of relatively high concentration of ownership, it was quite easy for the drinker to drive to public houses in different ownership (see paragraph 279). We cannot accept this argument; driving for the purpose of drinking is not a socially desirable safeguard, and in practice only a minority of drinkers are prepared to 'shop around' in such a way.

348. Subject to the exceptions indicated in the last paragraph, however, a brewer's public houses may be said to be in competition with those of other brewers. We consider the nature of this competition in more detail in paragraphs 381 to 391; for the present it is sufficient to say that this appears to take the form of rivalry in amenities rather than of competition in price or in the range of products offered.

349. Thirdly, all premises offering facilities for on-drinking must to some extent be in competition with off-licensed shops which, in effect, offer the public the alternative of drinking at home. This competition is a relatively negligible factor so far as beer is concerned, since draught beer is essentially for on-drinking (see paragraphs 21 and 100). So far as other drinks are concerned, the most that can be said is that while drinking at home is cheaper a high proportion of the drinking public are ready to pay for the 'package' which includes the environment offered by the public house as well as the drinks actually bought there. If, by the intervention of an extraneous factor, the public house's 'package' falls into comparative disfavour, then the off-licence trade may gain some of what the public house trade loses. This, we understand, is what may have happened to some extent after the introduction of the 'breathalyser'; and the spread of television is said to have had a rather similar effect over a longer period. Such occurrences apart, the two sections of the market are only marginally interdependent because, effectively, they do not offer the public the same commodity.

350. Fourthly, it is not commercially practicable for any brewer to protect the sale of his own products in his own public houses to the extent of entirely excluding from them the products of other brewers. A brewer, however, allows his houses to stock other brewers' beers only to the extent that he finds it to be in his own interest to do so. In practice no licensed house can stock and sell

*This is broadly true of England and Wales. Some of these brewers' tied house chains also extend into Scotland.

other than a small selection of all the brews of beer available; it would be commercially impracticable to stock a complete range and, in the case of draught beer, also physically impossible. Where the house is owned by a brewer, the range actually stocked there is selected mainly from the brewer's own products, but supplemented by other brewers' beers for which there is expected to be a significant demand. Some of the larger brewers have brands which are in 'national' demand, and other brewers will stock these to meet demand for them in their own houses. In other cases there are reciprocal agreements between brewers to buy some of each other's beers. In broad terms each brewer wants to maximise his sales of beer and, more particularly, of his own beer. In the main he uses his own public houses to promote his sales, but if he were to try to confine his houses exclusively to his own beer he would drive away some public demand from those houses altogether. Rather than lose this custom he satisfies it with other brewers' beers, on which he takes a wholesaling margin. Where he is able to make a reciprocal agreement he is further compensated by selling some of his own beer through the tied houses of the brewer whose beer he is buying for his own houses.

351. On average not more than 10 per cent of the beer sold in a brewer's tied house is 'foreign' beer;* and since, very roughly, Guinness stout accounts for one-half of this 'foreign' beer it is clear that, with this exception, the variety of choice provided in tied houses by so-called 'national' beers and interchange beers is marginal. Effectively the brewer determines that by far the greater part of the beer offered for consumption in his own public houses shall be of his own brewing and he keeps the sale of 'foreign' beers within bounds in his own houses by making a surcharge upon them. The brewers describe these surcharges as their wholesaling margins or, from the consuming public's point of view, the extra charge that has to be paid for the increased variety of choice which is provided by making the 'foreign' beers available. While we agree that, other things being equal, the public may have to pay somewhat higher prices in any retail house which provides a wider range of choice, an independent retailer would be likely to spread the additional cost over all his stocks or adjust the selling prices of particular products to suit his assessment of demand. The brewers' method of surcharging on the other hand affects consumer choice inasmuch as the whole of the extra charge for wider choice is placed upon the 'foreign' beer.

352. Finally, in considering the extent to which the ownership of public houses affords each brewer a protected market it is necessary to draw certain distinctions between beer and the other drinks sold in public houses. The brewers' trade in wines, spirits, minerals etc. through their own public houses is exposed to competition from clubs and 'free' public houses to much the same extent as their trade in beer (paragraphs 344 and 345). Competition between the public houses of different brewers, being as we have said largely concerned with environment and amenities, also has much the same effect in relation to all products (see paragraph 348). As we have pointed out in paragraph 349 the trade of off-licence shops is far more important in relation to other drinks than to beer and, in this sense, the competition of off-licence shops has more impact upon the trade of tied public houses in other drinks than in beer. But the principal point of distinction is that competition within brewers' own public houses takes

*See footnote to paragraph 45.

a different form because the brewers do not control production of other drinks as they do in the case of beer. While the United Kingdom brewers are practically the only sources of all the beer sold in this country they are still largely wholesalers of most other drinks; but a number of them have also become producers or importers in competition with the independent suppliers whose products they purchase or, in some cases, have made special arrangements with particular independent suppliers.

353. Thus the main interest, and in some cases the sole interest, of many brewers in this field is to maximise their earnings of wholesaling margins on their tied houses' requirements of these products. But most of the larger brewers now have 'house brands' of wines, spirits, minerals etc. (i.e. brands which are produced by the particular brewing group or by an associated company or in respect of which the group has made a special arrangement with the supplier—see paragraph 69). In such cases the brewer has an interest in increasing the sale of house brands in his tied houses at the expense of the sale of independent brands, so far as this can be achieved without turning away too much custom from those houses. The position of such a brewer in this respect is by no means as strong as in the case of beer; for some of the independent suppliers' brands—particularly of spirits and of minerals—were established as 'national' brands before the brewers entered this field and have a strong element of public goodwill attached to them. In their own public houses, however, brewers can and do, up to a point, succeed in selling their house brands at the expense of other brands. The public appear to be less discriminating in the matter of brands of whisky, gin and minerals, and perhaps also of wines, when ordering at the bar than when buying by the bottle. Where no brand is specified the brewer's tenant or manager is encouraged to supply a house brand; and the tenant at least is given an inducement to do so in the form of a lower purchase price for the house brand, on which he can normally earn a higher margin than on an independent brand.* Briefly, therefore, it may be said that a brewer who owns captive public houses is able (1) to ensure that all their requirements of wines, spirits etc. are purchased from him, so that he can take a wholesaling margin upon them, and (2) to protect and promote the sale of his own house brands to the extent that this is acceptable to the public.

354. Off-licensed premises owned by the brewers are, as we have said, less well protected against competition than their public houses, and provide a less secure market for the brewers' own products. In the first place the brewers are less strongly entrenched in this section of the retail market; their shops face competition not only from many 'free' specialist off-licensed shops but also, increasingly, from groceries and self-service stores which hold off-licences (see paragraph 388). Secondly, beer is a minor part of their stock-in-trade. Thirdly, the public when buying by the bottle appear in the main to prefer the old-established brands to the brewers' house brands and to ask for them.†

*It is alleged that, on occasion, licensees carry the practice further by putting house brand spirits into bottles bearing other brand labels (see paragraph 218). So far as the temptation to do this may arise from disparity in margins on products which can plausibly be substituted one for the other, we do not think that, if it happens, it is a peculiarity of the tied house system. We have the brewers' assurance that it is not a practice they would condone.

†This probably applies more particularly to spirits and perhaps also minerals. The brewers themselves have participated in, and in several cases actively helped to promote, the growth in the trade in wines in recent years; and the variety of wines is such that brand names probably have less significance for the public than in the case of spirits.

Brewers as investors in licensed premises

355. To the extent that the trade of a public house owned by a brewer is protected against retail competition, that public house is likely to be more valuable as a public house to a brewer than to any other potential owner. Because of the protection enjoyed, ownership of the house offers him the prospect of a relatively secure sales outlet for his own products (mainly beer) and those in which he has a wholesaling interest. Whereas an independent would-be owner can normally look forward only to such profits as may be earned by conducting a retail business on the premises (or by letting the premises to a retailer) the brewer, in addition, acquires a portion of the market for his products and wholesaling services by virtue of his investment in the retail premises. Generally, a brewer's best method of increasing his share of the market is to increase his share of the available outlets, since he knows that the ability of other suppliers to compete with him by creating new outlets for their products is severely restricted.

356. Developments in the techniques of production and distribution have offered the more enterprising brewers the prospect of achieving economies by brewing on a larger scale. To ensure themselves shares of the market commensurate with such scale of production these brewers have sought to acquire more tied houses. Since most public houses were already owned by brewers this has meant, in effect, that the more progressive brewers have sought to take over some of the smaller brewing companies for the sake of their chains of tied houses.

357. In England and Wales this situation—that brewers as a rule have been and continue to be willing to pay higher prices for desirable licensed premises than alternative potential purchasers—has significant consequences for the 'free' trade.* It is, of course, because brewers have been prepared to pay higher prices that the number of 'free' public houses is relatively small. Some of them, as we have already pointed out, offer amenities of a special kind and may have remained in free ownership because the owner is better equipped to exploit the house's special features than a brewer would be, or in other words because, in these exceptional cases, the value of the house to the 'independent' owner with special expertise is greater than its value to a brewer without such expertise.

358. Investment in off-licensed premises does not follow the same pattern for the reasons we have already given. Off-licensed shops are not, in the main, secure outlets for the brewers' own products and do not therefore offer the same sales promotion potential as public houses. Moreover new off-licences are now more easily obtainable than new on-licences; and the retailing of liquor for off-consumption can be profitably combined with the retailing of groceries or

*In Scotland and Northern Ireland the ownership of licensed houses offers less prospect of remuneration for brewers. In Scotland it is apparently an effect of the licensing system that a brewer cannot rely on a licence remaining attached to any house he owns unless he is prepared to manage it himself; and, generally speaking, brewers prefer only the larger houses for management. In Northern Ireland Guinness is so entrenched that any other brewer owning licensed houses there would find it difficult to run them profitably as outlets mainly for his own products. For these reasons the ownership of licensed houses in Scotland or Northern Ireland would not necessarily provide a brewer with a reliable captive market there.

other goods. For these various reasons off-licensed premises are not necessarily more valuable to brewers than to other potential purchasers and, indeed, brewers have in recent years been disposing of some of their off-licensed properties.

Extent and nature of competition among brewers

359. In dealing with the brewers as owners of licensed premises we have already examined certain areas in which brewers compete with each other. We have shown that they compete (1) to augment their shares of the market through acquisition of licensed houses, (2) to attract custom to their own licensed houses mainly by offering (directly in managed houses or indirectly in tenanted houses) better amenities, service and environment than in the houses of other brewers, and (3) to a limited extent, to penetrate each other's captive markets by developing—through advertising and other forms of sales promotion—brands which become known on a more or less national scale, so that consumers tend to demand them at licensed houses not owned by their producers. In addition brewers compete with each other (4) for the custom of the free retail trade for beer; and it is only under this head that price competition among brewers is at all vigorous. In the case of beer, the free trade represents some 35 per cent of the retail market; clubs account for the greater part of this trade and the brewers compete with one another for their custom and for that of the larger chains of free houses. Although the free trade probably covers an even higher proportion of the retail market for other drinks, the independent suppliers themselves deal direct with this section of their market and the brewers' aggregate share of free trade custom is not large.

360. The competitive attitudes of brewers and the extent and manner in which they indulge in these various forms of competition are not uniform. Competition under head (1) is now most acute among the larger brewers, the tied houses owned by the smaller brewers being their principal potential sources of additional captive outlets for themselves. It is also the largest brewers who compete under head (3) and it is particularly in the houses of the smaller brewers that they can hope to penetrate with their national brands without conceding equivalent penetration of other brewers' brands in their own houses. Probably all brewers make considerable efforts to compete under head (2), but there are some, particularly among the larger brewers, who appear to concentrate on promoting the group identity of their houses more than on promoting their brands. As for head (4), practically all brewers sell some of their products to the free trade; in some cases this may be due to a modified form of tie but generally speaking such sales are achieved in the face of competition, or potential competition, from other brewers in quality and price; the larger brewers obtain the greater part of this custom, but small brewers may be able to compete in meeting local 'free' demand.

361. To the extent that brewers compete in the ways we have described, each brewer incurs heavy expenditure on promotion in one way or another and, at the same time, is under a measure of pressure, from the competition of other brewers, to improve his efficiency, achieve cost savings and pursue innovations which will help towards these ends or to expand his sales. The movement resulting from this is apparent in all the brewers' activities. Vertical integration in an industry where new retail competition was inhibited by restrictive licensing might have led to an extremely rigid system where each brewer was concerned

only to supply to, and exclude other suppliers from, that part of the market that he had reserved to himself. In fact the tied house system as a whole is not as rigid as this. Each brewer is under some pressure to compete and this pressure is felt at all levels of his vertically integrated business. But at the retail level the pressure is less to compete for success and profits as a retailer or retailer's landlord than it is to contribute to the success and profitability of the brewer's whole enterprise.

362. When we came to examine profitability, the brewers themselves were insistent that their businesses should be looked at as a whole. In particular, although for the purposes of their own internal records they allocated sales and other income and the variable costs between their activities as brewers, as wholesalers of other goods, as retailers (in managed houses) and as landlords of retailers (in tenanted houses), they submitted that it would be quite unrealistic to attempt to allocate the capital employed among these various activities. As we have recorded (see paragraph 272 and Appendix 12), we have accepted this argument and our only calculations of profits in relation to capital for the purposes of this report are in respect of the total capital employed by the brewers concerned in their integrated businesses.

363. In fact we have found that even these latter calculations were of doubtful significance for our purpose. In the latest year examined licensed properties, as valued by the brewers, accounted for about 60 per cent, on average, of the capital employed of the brewers examined. But these licensed properties were valued by methods based on the profits the brewers expected to earn in the whole of their businesses through ownership of the properties (see paragraph 270 and Appendix 12). The final results expressed in terms of profit on capital employed, as calculated, must therefore be much influenced by these expectations. On average the profits so calculated were of the order of about 10 per cent on capital; the variation from company to company was not wide, except for one of the smaller brewers and for Guinness whose capital includes only a very small element of licensed property.

364. Briefly, therefore, while the information on costs and profits obtained from the brewers has not in the event proved particularly useful for our purpose we have found nothing here which is incompatible with the conditions of limited competition among brewers which the rest of the evidence disclosed, as described above.

The tied house system and brewing

365. In origin the tied house system derives from the desire of owners of breweries to safeguard the outlets for their products. During the period when most public houses were falling into the hands of brewers, breweries were small and for the most part served local markets; it was not practicable to sell draught beer except within a fairly small radius of the brewery which produced it and it was only bottled beers which could achieve a wider distribution. Thus the brewers' tied houses—his captive market for his staple product—were generally local. In some cases this may have led to a local monopoly, in the sense that one brewer owned practically all the public houses within a small district and was the only source of draught beer for that district. Such a situation was probably more

likely to occur in country districts than in large towns, where there might be a number of brewers with overlapping chains of tied houses.

366. Modern techniques of brewing and distribution have made possible the development of large scale brewing for wide scale distribution. A large brewery must in any case have access to a wider market than that afforded by a small brewer's local tied houses, and the development of these techniques by certain brewers has, therefore, had the effects, first, of making much of the brewing capacity of other brewers redundant, and secondly of causing the innovating brewers to look to the tied houses owned by these other brewers as practically the only available source of the new outlets they needed. The mergers which have taken place in the brewery industry in recent years have basically conformed with this pattern; the process has been one of concentration of existing captive outlets around large units of brewing capacity.

367. For reasons which we elaborate below we do not think that captive outlets are essential to the success of a modern large brewing and distribution unit or that the potential economies of such a unit are necessarily best achieved through a tied house system. But the existence of the tied house system, in conditions in which the creation of new outlets was severely restricted by the licensing laws, meant that the large brewers had virtually no alternative but to seek their necessary markets by taking over existing tied houses. The tied house system thus became self-perpetuating. A further effect was that the expanding brewers, in order to obtain increased access to the market, had to absorb the businesses of the small brewers, including their redundant brewing capacity. The fact that the process of concentration of production has had to take place in this particular way has had certain consequences. We deal here with the consequences in relation to production.

368. In the first place, the achievement by the more enterprising brewers of the potential benefits of those technical innovations to which we have referred has involved mergers of breweries, although in many cases all or part of the brewing capacity of one of the parties was inefficient, even obsolete, and redundant in relation to the requirements of the merged company. In one sense it might be said that ownership of tied houses on the part of brewers with inefficient or high-cost brewing capacity has provided an incentive to concentration of production; the expanding brewers have bought up complete businesses for the sake of the additional captive outlets and closed down the inefficient plant as a result. But it would not have been necessary for them to buy inefficient or high-cost breweries at all, or breweries not required after take-over, if these had not had tied houses attached to them. Moreover, the ownership of tied houses has, in itself, afforded the less efficient brewers some protection. The brewers themselves have told us that the tied house system has allowed a number of small brewers who could not otherwise have survived to co-exist with the large brewers. We think that this is true and it suggests that concentration of brewing capacity, and the elimination of the less efficient brewers, have not proceeded as far or as fast as they would have done if a large part of the industry had not already been vertically integrated. Elimination of less efficient units has depended too much upon the ability of the more efficient and aggressive brewers to acquire sufficient protected shares of the market through mergers involving large scale

investments on their part, including the acquisition of some assets not required for their own sake.

369. The existence of the tied house system has also had effects on the diversity of brews which are put on the market. First, insofar as the system has helped to keep a number of small brewers in existence (see paragraph 368) it has also preserved their brews for (usually) local consumption. Secondly, all brewers with tied houses try to maximise the sale of their own beers in their own captive outlets (see paragraph 350 and 351) and must have a variety of brews for this purpose. It is not commercially profitable for brewers with tied houses to narrow their range of products so as to achieve the full economies of specialisation. The only large specialist brewer is Guinness, which has only a few tied houses. As the brewers have said (see paragraph 284) a successful specialist can 'ride' on the distribution networks established by other brewers; but the tied house system keeps the share of the market available to such specialists within narrow bounds, and as we have shown 'national' beers other than Guinness stout have had a very limited impact (see paragraph 351).

370. We also doubt whether the process of concentration through merger has necessarily produced particularly 'rational' concentrations of tied houses for purposes of low cost distribution from breweries. As we have pointed out in paragraph 346 the tied house chains of the large brewers have grown in somewhat haphazard fashion geographically and there is a tendency towards the development of a few chains which are more or less nation-wide and overlapping, though in somewhat patchy fashion. In spite of the problems posed by the geographical spread of the outlets they have taken over, the brewers concerned have been able to achieve considerable savings in distribution by applying new techniques. That is not to say, however, that these savings are necessarily greater than, or even as great as, those that might have been achieved if the main retail outlets had not been tied to particular brewers through ownership. In such circumstances brewers might be delivering to independent wholesalers, independent chains of retailers and individually owned outlets; and it could well be that, if prices were adjusted to reflect savings from scale and regularity of delivery and the incidence of transport costs, such a system could be more economical than the present one.

371. The question of local monopoly* in relation to the tied house system—and more particularly in relation to those developments of the system that have accompanied the emergence of large-scale breweries—is somewhat complex. In the past, local monopolies so far as they existed, were integrated monopolies in the sense that a single brewer produced all the beer and owned all the retail outlets in a given area. Such monopolies were protected not only by the tied house system but also by the impracticability of 'importing' draught beer from outside the area. The new techniques of brewing and distribution have removed this latter protection but have also led to much larger and more widespread chains of tied houses. There is clearly some danger that in some areas particular large brewers may obtain dominant positions in the retail trade by absorbing the tied chains of all or most of the brewers in that area. On the other hand, however, these large brewers, in competing with each other to acquire captive outlets, are not inhibited by those considerations which would formerly have

*See fourth footnote to paragraph 338.

prevented any brewer from delivering beer outside an area close to his own brewery; and the chains they have formed do, as we have said, overlap to a very considerable extent. We return to this matter in dealing with the tied house system in relation to retailing (see paragraph 391), since it is that field, rather than the field of production as such, that may give cause for future concern in this respect.

372. Finally in this connection, we have considered whether the tied house system has impeded, or may be expected to impede, new entrants to the brewing industry. The brewers say that the main deterrents to new entry are the technical and marketing efforts now required, but that the tied house system would offer to a newcomer with an attractive product the prospect of marketing it, by arrangement with one or more brewers, without undue promotional expense. As to this latter argument, the position is that such a newcomer could obtain access to more than half of his potential market only with the consent of his competitors and on their terms. Moreover, with the emergence of a few very large brewers, much of the wholesale trade in beer is now in their hands, and without their co-operation the newcomer might even find it difficult to place his product with the 'free' trade and establish its reputation. If he reached agreement with any brewers we have little doubt that it would be upon terms which, in the brewers' view, could be expected to keep his sales, like those of other 'foreign' beers, within bounds in their own houses. Thus the tied house system constitutes an additional barrier to new entrants to the field of production.

The tied house system and wholesaling

373. The brewers' wholesaling operations have developed out of their ownership of captive retail outlets. For that reason, these activities involve, in the main, the supply by brewers to their captive outlets of their own products and of other products bought in bulk. In the course of time the brewers have also come to act, to some extent, as wholesalers for the 'free' retail trade. Here, again, what they are doing is, mainly, to sell their own products direct to the 'free' retailers, though these retailers may also order, through their principal brewer supplier, their marginal requirements of other brewers' beers and to this extent the brewers are fulfilling a more traditional wholesale function. So far as goods other than beer are concerned, the free retail trade can, on the whole, get its requirements from the independent suppliers and wholesalers and is not, as a rule, interested in brewers' house brands; the brewers' wholesaling activities in this respect are not, therefore, very important. It has to be recognised, however, that, so far as beer is concerned, there are other reasons besides the tied house system why a strong independent wholesaling trade might not have developed. Draught beer, by its very nature, is not suitable for stocking by wholesalers, and it may well be that their trade in beer would in any event have been confined to bottled and canned beer.*

374. In these circumstances the brewers' activities as wholesale suppliers, whether of their own or of other manufacturers' products, are not exposed to

*Thus, in Scotland, where the tied house system is not predominant the brewers are the principal wholesalers of beer for the 'free' trade. In Northern Ireland, licensed houses obtain their draught beer direct from the brewer, but there is an independent wholesale trade which handles bottled beers.

the test of competition except in their dealings with the free retail trade. Since the principal retail outlets, the brewers' managed and tenanted houses, are not permitted to bargain with alternative sources of supply, the market available to independent wholesalers is greatly diminished; new entry to wholesaling is discouraged and the independent wholesale trade is weaker than it would otherwise be. Inasmuch as the brewers are in active competition with each other for the custom of the free trade for beer (see paragraph 359) they may in this part of their wholesaling activities be exposed to pressure to maximise their efficiency and minimise their costs. Otherwise, in the absence of price pressure from most of the outlets they are serving, they have no obvious incentive to efficiency beyond the general desire to increase the profitability of their businesses.

375. So far as goods other than beer are concerned the brewers have not always assumed the function of wholesalers to the extent they now do. As owners of managed houses they have always been responsible for purchases for those houses, but in the past many tenants were left free to make their own purchases, except of beer. In more recent years, however, nearly all brewers with tied houses have established themselves as central buyers for all their tied houses' requirements of wines, spirits etc. in their efforts to maximise their return on their investments in these houses. To an increasing extent also they have entered the field of production (or importation) of those other drinks.

376. Thus, exploiting their control of retail outlets, the brewers have exerted their strong bargaining power to buy at particularly favourable prices from the independent suppliers of these products. And in some cases they have taken business from these suppliers by selling their house brands through their tied houses (see paragraph 353). These results could be brought about without necessarily offering a superior or more economical system of distribution or a superior product.

377. So far as prices are concerned, the brewers contend that the price advantages they obtain from the independent suppliers because of their buying power as owners of tied houses are to some extent passed on to their retailer customers and to the public. It is undoubtedly the case that the brewers have brought pressure to bear upon the specialist suppliers who, mainly for fear of finding their products restricted in or excluded from the brewers' tied houses, have allowed them special discounts or, in some cases, 'royalties' in consideration for access to these houses. But the products bought by the brewers are not ultimately sold to the public at lower prices than identical products which reach the public through other channels. Nor is there any evidence that the brewers' tenants receive any special benefit.

378. It is no doubt arguable that the brewers, by using their buying power, have set up a healthy restraint upon the specialist suppliers' selling prices which has been of benefit to all buyers at all stages, but the argument is only convincing insofar as the brewers are under pressure to pass on the price advantages they receive. Such pressure is minimal in the public house trade. In the off-licence trade it is much greater since the abandonment of resale price maintenance and the development of extensive retail price competition. The initiative in the development of this competition came, however, not from the brewers or their managed or tenanted houses, but primarily from 'free' off-licensed retailers and secondarily

from independent suppliers. Brewers have had to respond by making price reductions.

379. As to the effects of the brewers' exploitation of their control of captive outlets upon the specialist suppliers of wines, spirits, minerals etc., the brewers argue that their impact upon them has been stimulating. Although the brewers have not explicitly criticised these suppliers it might be contended that certain of them had, and still have, dominant positions in their particular markets and that the additional competition provided by the brewers was likely to be to the advantage of the public interest. Since the primary subject of our reference is beer, we have not taken all the evidence which would be relevant to a judgment upon these dominant positions nor in fact are we called upon to make such a judgment. But with regard to the part played by the brewers in this connection we do not accept, for the reasons already given, that any price advantage is afforded to the public by the brewers' assertion of their bulk buying power. Moreover, the brewers' encroachments upon the fields of production and importation of the specialist suppliers have not been effected entirely by the creation of new business and new productive capacity; in a number of cases they have acquired or entered into alliance with existing suppliers, as for instance in the quite recent cases of IDV and Showerings (see paragraph 63). This process does not increase the numbers of competitors though it may alter the character and weight of the competition.

380. As to the effects of the brewers' activities upon the introduction of new products (other than beer) the brewers argue that, as in the case of beer itself (see paragraph 372), the tied house system facilitates their introduction by independent suppliers. We accept that it may be possible for a newcomer with an attractive product to negotiate a mutually advantageous arrangement with a brewer which will enable him to promote and sell the product in the brewers' tied houses; for although the new introduction may involve a risk of displacing other products, these other products could well be those of other independent suppliers and not—as is the case with beer—the brewer's own products. The fact remains that, so far as trade in tied houses is concerned, the newcomer can only enter on the brewer's terms and is not likely to be given the opportunity if his product would seriously affect sales of house brands. It is true, on the other hand, that the free retail trade, being relatively much larger, provides much wider opportunities for the new supplier of wines and spirits to enter the market than for the new supplier of beer; but this may involve disproportionate promotional expense without the opportunity of access to all the market, and some established suppliers have told us that they have found it impossible to introduce a new product successfully because it was not accepted by brewers for their tied houses.

The tied house system and retailing

381. The brewers, as we have shown, are not interested in retailing and the ownership of retail premises exclusively for the sake of the profits to be earned from these activities, as such. This produces certain consequences in the retail trade itself.

382. The choice offered to the public is affected. The choice offered by an independent retailer, who would aim at maximising his profits as a retailer,

would depend on such factors as the terms on which various products were offered to him by their suppliers, his view of the strength of demand for one product as against another, and his estimation of the likely effects on his costs and on the volume and speed of turnover of maintaining one particular range of stocks as against another. The choice he offered after resolving these factors would be likely to be different from that offered in a retail house controlled by a brewer, whose aim is to maximise his profits as a brewer-wholesaler-retailer or brewer-wholesaler-landlord. The brewers acknowledge that this is so but contend that a tied house offers the consumer at least as wide a range of choice as an equivalent free house would be likely to offer. As we have shown, brewers produce a range of beers because they have tied houses (see paragraph 369), but they do not offer in their own tied houses a wide choice of beers not of their own brewing (see paragraphs 350 and 351); so far as other drinks are concerned, some brewers may be said to have extended the range of choice offered by introducing their house brands, but they appear to have done so to take advantage of public indifference rather than in response to public demand (see paragraph 353).

383. This matter of choice is one aspect of competition in the retail trade. The choice offered in brewers' public houses is such as to enable each brewer to avoid exposing his own beers to the competition of the beers of other brewers in his own houses except to a limited and controlled extent. As we have said in paragraph 348, competition between the public houses of different brewers appears to us to take the form largely of rivalry in amenities. We recognise that this has contributed to improved standards of amenity in public houses. But competition is concentrated upon amenities because price competition is largely absent and because the brewers' attitude to retailing (see paragraph 381) affects the attitude of the tenants.

384. So far as price competition in public houses is concerned the brewers stress the point that in on-licensed premises the trade is not simply a matter of selling beer along with other drinks but that what is sold is a 'package' of drinks and an environment for their consumption. They say that it would in any event be unrealistic to expect licensees to enter into fierce price competition with each other in these circumstances and that so far as public houses can compete with each other they must do so by trying to offer an environment and atmosphere which will be attractive to the public, who are likely to be more influenced by such considerations than by differences in price which, having regard to the incidence of excise duty, could only be very small.

385. Broadly, we accept that this is so and think that this situation is in some measure a consequence of the licensing laws which severely restrict the introduction of additional competitors and of different types of competing outlets. The licensee of a public house is in a fairly protected position so far as existing and potential competition is concerned; he does not have an entirely captive public but most public houses have a profitable nucleus of regular customers, whose 'loyalty' is not likely to be disturbed so long as the number and location of established competitors are regulated and so long as new retailers offering a different sort of 'package' are largely prevented from competing with him. There is, however, a further disincentive to retail price competition which arises directly from the tied house system. Price competition between tied houses would mean price competition between brewers. The brewers in general would

have to stand the adverse effects of retail price competition on the level of their prices and profits, without compensating benefits. We do not think that brewers, especially having regard to their investments in tied houses for the sake of security of market, wish to compete with each other in this way, which would be largely self-defeating from each brewer's point of view. Their relations with their tenants, and the general character of the tenants they accept, appear to us to reflect this attitude on their part.

386. The tenants who are appointed are those who, in general, are prepared to work under the restraints insisted upon by their brewer landlords. They therefore tend to be of a somewhat homogeneous type, modest in their commercial ambitions and not aggressively competitive in their business attitudes. The effect is to blunt such incentives to competition among public houses as might otherwise exist within the confines of restrictive licensing. The licensing system itself has the effect of encouraging a rather stereotyped pattern of premises for the consumption of drinks by the public and of virtually preventing the appearance of competitive alternatives.

387. There is an element of paternalism in the brewer-tenant relationship, of which the rental arrangements are symptomatic. We have described in earlier chapters the arrangements by which the income a brewer receives from his tenant is in the form partly of a fixed rental, partly of 'wet rent' (or, in effect, a surcharge on certain of the tenant's purchases)—see paragraphs 50, 71 and 242. The brewers contend that these arrangements are convenient and fair to all parties and reflect a relationship between partners, one of whom provides the greater part of the capital required; the fact that the total rent payable varies with the turnover helps the partner with little working capital to cope with seasonal and other variations in his trade. But although these arrangements may seem to meet the needs of landlords and tenants reasonably enough in the existing circumstances, we think that they have the effect of discouraging enterprise, including competitive pricing, on the part of tenants. The fact that rent varies with turnover may not positively discourage a really enterprising tenant from seeking to expand his sales at the expense of other public houses; but the wet rent system—as opposed to a system of fixed rentals only—is inhibiting in that it reduces for the tenant the additional profit to be gained from additional competitive effort and enterprise. Thus if the tenant is of limited ambition he might prefer—by keeping his bar prices up—to earn his living on a basis of a modest turnover with consequent modest rent.

388. We note that there is now price competition between off-licensed shops of a kind that hardly occurs in the public house trade. When the Resale Prices Act 1964 became effective the independent suppliers and free off-licensees introduced an element of retail price competition which had not existed before, and the brewers have felt compelled to respond by permitting their managers and tenants to meet the prices offered by competitors. This tendency has been enhanced by the greater freedom with which off-licences have been granted in recent years to supermarkets and other self-service stores which have taken the lead in cutting retail prices.

389. For reasons given in paragraphs 345 and 357 there are in England and Wales relatively few free public houses which are in direct competition with brewers' tied houses. In most areas they represent a small part of the total market

for beer; they tend to be scattered; and their individual purchases are not large on the average. In consequence, competition among brewers for their business is more limited than it would be if such houses were both more numerous and also geographically more concentrated. An individual free house may well depend for its supplies of beer upon one brewer who provides, primarily for his own tied houses, a wholesaling service in the area; the range of beers stocked by such a house is unlikely to differ greatly from that of its tied house competitors, nor are its selling prices likely to be lower than theirs. For other drinks, however, such a house is not dependent upon the wholesale services of a brewer, and it can and does buy from independent wholesalers. Thus, while the effectiveness of the competition offered by free houses tends in any event to be circumscribed, they are rather more likely to offer retail price competition in other drinks than in beer; and some of these houses, we understand, while selling beer at rather higher prices than are charged in neighbouring tied houses, sell spirits at rather lower prices.

390. There are two other points that need to be touched upon under this heading. The first relates to the brewers' contention that brewer ownership of outlets under the tied house system has kept in being a number of public houses which might not otherwise have been able to continue on an economic basis. This is likely to be true, because the value of a public house to a brewer is normally greater than its value to an alternative owner. There may well be a case on social grounds for the survival of outlets in isolated villages. Under the present licensing laws such outlets are not likely to be preserved by any proprietor other than a brewer.

391. The second point is in regard to the danger of local retailing monopolies. As we have said in paragraph 371, such monopolies need no longer be associated with local breweries. In modern conditions the growth of large chains of retail houses would have been likely in any event. These chains have in fact been formed almost exclusively under brewer ownership through the mergers and amalgamations of brewers who already owned most of the houses. If independently owned chains could have developed, it is most unlikely that the pattern would have been identical with the present one. Indeed we think it likely that such chains would have been on a more regional basis than the tied houses of the present large brewers. Under the present tied house system there is, however, abnormally high concentration of ownership of public houses in certain areas. If there should be further mergers of large brewers, similar situations could occur in other areas.

Some other aspects of brewer-tenant relations

392. We have received from brewers' tenants a number of criticisms of particular features of the brewer-tenant relationship, such as short term leases, deposits paid by tenants to landlords and interest thereon, the credit terms allowed to tenants, the terms on which gaming machines are permitted to be installed in tenanted houses, the provisions as to opening hours and, more generally, the degree of control exercised by the brewer-landlord over the tenant's activities and the disparity of power, as between the two 'partners', in case of

difference of opinion between them. These criticisms are set out in chapter 4,* and the brewers' comments and replies are given in chapter 7.† In general we do not regard the volume of criticism received as significant of prevailing discontent on the part of tenants; we agree with the brewers that, given the general character of the relationship and the numbers involved, there would in any event be some proportion of dissatisfied parties. It would be easy to point to apparent inequalities between tenants and free retailers, and even between tenant and tenant, in respect of such matters as deposits, credit terms and terms for gaming machines. But all these matters must, in the tenant's case, be regarded as parts of an overall arrangement with his brewer-landlord which also covers, inter alia, the 'wet rent', the level of the fixed rental and the extent, if any, to which the tenant is held responsible for repairs and maintenance. If the terms offered were, in total, such as might be thought inadequate in terms of level of reward we would expect the brewers to experience difficulty in recruiting tenants; but we are told that there are, in fact, long waiting lists. On the whole, given the existence of the tied house system and given the type of tenancy arrangements that brewers appear to prefer, in their totality the terms offered to tenants do not seem open to objection.

Effects of the tied house system: summary

393. We have found that the tied house system, as operated in the conditions of restricted competition which in any case result from the licensing laws, has certain disadvantageous effects. These effects derive from the ownership by brewers of large numbers of licensed outlets. The principal disadvantages are:

(1) that the elimination of inefficient, high-cost and redundant brewing capacity is retarded;

(2) that the tied house system is to some extent detrimental to (as well as being inessential to) the creation by brewers of 'rational' and efficient systems of distribution in contemporary conditions;

(3) that the tied house system, as exploited by the brewers, has weakened, or prevented the growth of, independent wholesalers of wines, spirits etc., and that the brewers are not under pressure (except when selling certain products through the off-licensed retail trade) to pass on any of the price advantage they gain by the exercise of their strong bargaining power vis-a-vis independent producers and suppliers;

(4) that the entry of new producers and new products (other than brewers' own new products) is hindered;

(5) that competition among brewers principally takes the form of competition to acquire captive portions of the retail market and to improve the amenities of their captive outlets; that as a result the retail trade is generally more uncompetitive than it would be in any event in conditions of restrictive licensing; and that, in particular, in the on-licensed retail trade price competition is practically absent and licensees tend to conform to a type which is content to avoid active competition.

394. In the course of our examination we have recognised that the brewers are not free agents—in the sense that they must take the licensing system as

*See paragraphs 229, 233, 238, 239 and 243.
†See paragraphs 304 to 315.

they find it and make the best of it from their point of view—and have nevertheless effected some important changes and improvements in the industry in recent years. But we have found few positive advantages that appear to us to stem from the tied house system itself, apart from its contribution to the improved standard of public house amenities which results from concentration on this particular aspect of competition, and the preservation of some isolated public houses that might not have survived except in brewer ownership.

395. The terms of our reference relate to supply in the United Kingdom. We have found that the 'conditions' of the Act prevail in that market as a whole; and in discussing the public interest issues we have necessarily had very much in mind the situation in England and Wales which is the predominant section of that market in terms of population, of production and consumption of beer, and of numbers of licensed houses. The disadvantages and advantages of the tied house system, as summarised in paragraphs 393 and 394, relate particularly to the situation in England and Wales. As we have pointed out only 15 per cent of outlets in Scotland and only one outlet in Northern Ireland are brewer-owned.

396. It should be made clear that the situations in Scotland and Northern Ireland do not afford us any useful basis of comparison with England and Wales. In Northern Ireland the market is dominated by Guinness, supplying from the Irish Republic; British brewers do not seem to have regarded it as a potentially rewarding market and have for the most part not thought it worth while either to set up breweries or to buy licensed outlets there (see paragraph 171, second footnote and paragraph 10, first footnote). Until some 20 years ago Scotland was also regarded by the brewers as a rather unattractive market; and, not least because of the way in which the licensing laws operate there, they are still disinclined to buy houses in Scotland for letting to tenants (see paragraph 171, first footnote). We do not think therefore that the market conditions existing in Northern Ireland or Scotland could be regarded as typifying those that would exist in England and Wales if the restrictions imposed by licensing were to remain in force while those arising from the tied house system were absent (as in Northern Ireland) or affected only a relatively small proportion of the outlets (as in Scotland).

Alternatives to the tied house system within the framework of restrictive licensing

397. What we have to decide in the first place, therefore, is whether there are practicable alternative arrangements within the framework of restrictive licensing which would remove the defects of the existing tied house system without creating counter-balancing disadvantages. We have given very serious consideration to this aspect of our inquiry, which necessarily has involved discussion of what would be likely to happen in various hypothetical situations. We do not think it necessary to set out these speculations at length or to deal exhaustively with every conceivable modification of the system but indicate below our final views on a number of possible alternatives.

(1) Prohibition of ownership of licensed houses by brewers

398. Since the existing tied house system is founded upon the ownership of licensed houses by brewers, the logical remedy for the faults of the system as described in paragraph 393 might appear to be to abolish the system by prohibiting such ownership.

399. A state of affairs in which brewers did not own or control premises licensed within the framework of the licensing laws would not, in general, have the detrimental effects summarised in paragraph 393. There would, however, be serious problems and disadvantages in a remedy which required brewers to dispose of their licensed premises.

400. The ownership and control of licensed premises by brewers have extended over many decades and are now well entrenched. A remedy which required brewers to dispose of these outlets would include the following among its consequences: the cost of formulating, implementing and policing a policy of enforced disposal would be high; the consumer interest would be affected adversely for some time by the enforced withdrawal of the brewers' long experience and management skills in the operation and supervision of retail outlets, and by the disturbance in the running of these outlets; the property market would be dislocated by the forced sales of a large part of the assets of brewery companies.* Although the phasing of the implementation of the policy could reduce some of the adverse impact of change, it would itself prolong the period of uncertainty and disturbance.

401. In our view the consequential problems created would be so serious that we cannot recommend the separation of brewing from the ownership or control of retail outlets, although we are of the view that, but for the difficulties of change and transition, a state of affairs in which brewers did not own or control licensed outlets would be preferable to the tied house system.

(2) Prohibition of tie for houses owned by brewers

402. Since, as we have said, a tie does not necessarily depend upon ownership, an alternative method of abolishing the tied house system—and therefore of removing the defects arising from the system—might be to prohibit the tie without prohibiting ownership.

403. It is difficult to envisage the prohibition of a tie in brewers' own managed houses other than by requiring brewers to sell or rent them. If brewers were allowed to continue to manage their own retail houses, the prohibition of a tie in tenanted houses would simply encourage conversion to managed houses. In any event, the prohibition of formal ties on tenants would encourage the selection and installation of tenants likely to co-operate in applying the brewer's sales policies without a formal tie. We do not regard the prohibition of the tie as a realistic remedy.

(3) Modification of tie for houses owned by brewers

404. We have considered whether there might be advantages in prohibiting any tie in brewer-owned houses, except in the case of beer; or, as a further modification, the tie might be confined to draught beer. In effect, this would be to recognise that a brewer's retail houses form a natural captive market for his own primary product while denying him the right to control the supply of other products in those houses. But it appears to us to be open in modified form to the objections which apply to complete prohibition of ties and would not go very far towards removing the disadvantageous effects of the tied house system in the on-licensed retail trade, where beer is the staple product sold.

*Other possible consequences would be the development of near-exclusive supply arrangements between brewers and retailers and of local retailing monopolies; these could be dealt with if (in conditions of restriction of entry to retail trade) they developed on any scale.

(4) Prohibition of 'wet rent' arrangements in brewers' tenanted houses

405. We have also considered whether there would be advantages in prohibiting the arrangements under which brewers' income from tenanted houses is in the form partly of fixed rentals, partly of surcharges on sales (or 'wet rent'). The ostensible advantage would be to remove one of the disincentives to retail competition, particularly in the on-licensed trade, which is a feature of the tied house system. The advantage in this respect would be negligible, however, without other remedies. The remedy would not alter the brewers' control of their captive outlets, though it might incline them to convert tenanted houses to management unless this were also to be prohibited.

Relaxation of the licensing system

406. As shown in paragraphs 397 to 405 it is our view that there are no practicable alternative arrangements within the framework of restrictive licensing which would remove the defects of the existing tied house system, either wholly or in part, without creating disadvantages which would outbalance the advantages. In view, therefore, of what we have said in paragraphs 340 to 342 as to the bearing of the licensing system itself upon the effects of the tied house system, we have no final alternative but to consider whether a remedy for the defects of the tied house system is to be found in modification of the licensing system.

407. We recognise that we are treading here upon ground that may be regarded as outside the scope of our judgment. It is certainly not our function to criticise the social objectives or effects of the licensing laws. But we have found it impossible to evaluate the effects of the tied house system without taking into account at every turn the economic effects of the licensing system within which the brewers and the retail trade must operate. What we now have to consider is whether the economic effects are a necessary adjunct of the social objectives.

408. We are informed by the Home Office that the licensing laws in England and Wales in their present form are designed 'to restrain the abuse of intoxicants by placing those who sell them under public supervision and by limiting the opportunities for over-indulgence'. It was also said by the then Home Secretary, when introducing the bill which became the Licensing Act 1961, that the aim was 'to strike a balance between the restraints which are still necessary to prevent abuse or social mischief and the legitimate demands for individual freedom of choice and behaviour in an adult and responsible society'. In Scotland and Northern Ireland the underlying intentions appear to be broadly similar, but the form, the administration and the effects of the licensing laws differ in a number of respects. Less explicitly the licensing laws in all parts of the United Kingdom not only represent compromises between necessary restraint and individual liberty but were enacted against a background of widely differing views as to the degree of restraint that is socially desirable.

409. Broadly speaking, the licensing laws would appear to us to put an effective restraint upon drinking in public—and, to a very marginal extent only, upon drinking in private—during the hours when licensed houses are not permitted to open. Their effects during opening hours are much more debatable. Insofar as the laws involve scrutiny of the premises and the character of the

licensee they may prevent the setting up of retail houses of the kind that might actively encourage excessive drinking by customers. This apart, the limitation in numbers of licensed houses does not appear to deprive anyone of the opportunity to drink in excess if he is so inclined. Furthermore the issue of the full on-licence, which enables the licensee to serve drinks without an accompanying meal but also involves the acceptance of various special restrictions (e.g. as to opening hours, access to bars etc.), appears to be operated in such a way that only a conventional public house, or a hotel which also offers the facilities of a public house, can normally be expected to qualify. This prevents the growth of the kind of popular catering establishment that would serve meals or drinks or both as the customer desired, and tends to concentrate public drinking in houses which are primarily designed for no other purpose; we doubt whether this can discourage excessive drinking.

410. It seems to us to follow that there is at least a *prima facie* case for saying that the licensing laws could be changed in certain ways which could go far to remove the defects of the tied house system, as it now operates within the confines of those laws, without detriment to the social objectives underlying the laws.

411. The principal change we have in mind is that the present licensing system should be substantially relaxed, the general objective being to permit the sale of alcoholic drinks, for on or off consumption, by any retailer whose character and premises satisfy certain minimum standards. Various regulations would still be necessary in relation to the premises concerned in the interests of health and safety, but it should be possible to lay down and enforce standards in these respects and for such other purposes as may be deemed socially desirable—e.g. as to opening hours, the suitability of the premises and even the character of the retailer concerned—without a system of licensing controlled by justices. Insofar as restrictions on opening hours were necessary, these could be operated more flexibly than at present; and restrictions on access by children might become unnecessary if retailers were free to provide environments for drinking which were different from those of the public house. If the purpose of the laws were to maintain the minimum standards referred to above, without any intention, explicit or implicit, to limit numbers of outlets, the administration of the laws would appear to us to be a function which might be undertaken by local authorities and the Government Departments concerned.

412. We think that such a relaxation of the licensing laws as we have described could eventually have the following results:

(i) If, as is suggested below, the tendency would be for the 'free' retail trade to grow in size and strength at the expense of the tied trade, brewers would find themselves competing directly with each other for an increasing proportion of the trade, while their tied houses would be less secure outlets for their products than they are at present. Their wholesale prices would be subjected to more competitive pressures than at present, there would be more market pressures leading to the elimination of excess brewing capacity and inefficient brewers, and new entry to brewing would be facilitated because the free trade would provide outlets for any attractive new products.

(ii) The position of the brewers in relation to the supply of wines, spirits, minerals etc. would be weakened insofar as this depends upon their being intermediaries between independent suppliers and their own captive retailers (since the latter would have a smaller share of the total market). Correspondingly, the emergence of a more extensive and stronger free retail trade could lead to the development of a stronger independent wholesale trade, more particularly in wines, spirits, minerals etc., but possibly also in bottled and canned beers.

(iii) So far as the retail trade is concerned we do not envisage the disappearance of the traditional British public house or suggest that this would be desirable. But the relaxation of licensing would remove the protection which the tied public house now enjoys. It would have to face more competition and the public would be given the opportunity—which they do not have now—to decide whether drinking in public (without necessarily taking a meal) should be virtually confined to the public house. If the public want only public houses for this purpose, the relaxation of licensing would permit the setting up of new premises by non-brewers and by brewers (who would probably also dispose of their less profitable existing houses); in the long term we think the 'free' proportion of the trade would increase, with some growth of independent chains. If, on the other hand, a significant part of the public showed that it was ready to use different amenities for drinking from those provided by public houses, the relaxation would lead not only to the setting up of new catering premises but also to the sale of drinks for on-consumption by numbers of existing premises which already cater for the public in various ways (more particularly those providing meals but also many in the field of entertainment) but are precluded at present from offering the kind of services that would compete with those offered by public houses. These services could be provided by more intensive utilisation of existing premises and therefore without heavy new investment.* We are encouraged in the belief that this would happen by the response of the catering industry to the introduction of the restaurant licence in 1961. The result of such a development would be a more heterogeneous retail trade, with greater differentiation in the amenities and 'package' offered and in the prices at which they were offered, and much more competition; investment in amenities would be determined by the choice of the public and the prices it was prepared to pay for them. These effects could overflow into the tied public houses themselves, which would have to adapt themselves to the competition. So far as the off-trade is concerned, the relaxation of licensing would permit more shops than at present to stock and sell alcoholic drinks as a side-line, and competition would, therefore, be likely to become more widespread and intensive. Given the freedom of entry envisaged, we would see little danger of the development of local monopolies in either the on-trade or the off-trade; indeed those which exist at present within the tied house system (see paragraph 347) could expect to have to meet new competition.

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*There would, of course, be some new problems in relation to working hours, and costs, for both employers and employed but we think these should be capable of ready solution if there is a demand to be met.

(iv) To the extent that vertical integration, as such, may be a source of efficiency in particular companies, brewer ownership of retail outlets would continue; but its merits would be exposed to the test of the market as they are not at present.

413. Leaving aside the question of social effects (see paragraphs 407 to 410), it may be said that relaxing the licensing laws in this way could bring certain disadvantages in that the values of existing licensed properties might be reduced and that brewers might find it was no longer worth while to keep open some isolated rural public houses. As to the first point we do not think the public interest requires that property values attributable to the monopoly element inherent in a restrictive licensing system should be maintained if and when the system can be relaxed. As to the second point, the relaxation of the licensing system would allow such public houses to be replaced by alternative and more economic methods of selling drinks in the areas in question.

414. Having regard to what we have said in paragraph 395, it is particularly in England and Wales that the tied house system operates against the public interest and that a remedy for the defects of that system is called for. So far as Scotland is concerned, brewer-ownership of licensed houses has increased somewhat in recent years; if this process were to continue the tied house system might be expected ultimately to have disadvantageous effects similar to those we have found to exist in England and Wales. So far as Northern Ireland is concerned, if the tied house system were to develop there, similar effects could be expected. It is, accordingly, our view that the licensing system in England and Wales should be relaxed. We presume that in this case the situations in Scotland and Northern Ireland would be separately reviewed by the authorities concerned.

III Conclusion and Recommendation

415. We conclude that the conditions which we have found to prevail (see paragraph 335) operate and may be expected to operate against the public interest since the restrictions on competition involved in the tied house system operated by the brewer suppliers concerned are detrimental to efficiency in brewing, wholesaling and retailing, to the interests of independent suppliers (including potential new entrants), and to the interests of consumers (see paragraph 393).

416. We recommend that, by way of remedy for the defects which we have found in the tied house system in the United Kingdom, the licensing system in England and Wales should be substantially relaxed, the general objective being to permit the sale of alcoholic drinks, for on or off consumption, by any retailer whose character and premises satisfy certain minimum standards. We are not in a position to specify what the minimum standards should be or how they should be administered or precisely what other relaxations (e.g. as to flexibility of opening hours, access by children) might be necessary and advisable (see paragraph 411). We recognise that these are matters which would call for consultation between the departments concerned and for the approval of Parliament.

ASHTON ROSKILL (*Chairman*)

ROGER FALK

HENRY HARDMAN

E. L. RICHARDS

S. A. ROBINSON

J. M. A. SMITH

B. S. YAMEY

E. L. PHILLIPS (*Secretary*)
13th February 1969

APPENDIX 1

(referred to in paragraph (i) of the Introduction)

The Reference made by the Board of Trade

The Monopolies and Mergers Acts 1948 and 1965

Reference to the Monopolies Commission
Beer

WHEREAS it appears to the Board of Trade that it is or may be the fact that conditions to which the Monopolies and Restrictive Practices (Inquiry and Control) Act 1948 (hereinafter called 'the Act of 1948') as amended by the Restrictive Trade Practices Act 1956 and the Monopolies and Mergers Act 1965 applies prevail as respects the supply of beer.

2. NOW therefore the Board of Trade in pursuance of Section 2(1) of the Act of 1948 as so amended hereby refer to the Monopolies Commission for investigation and report the supply of beer within the United Kingdom for retail sale on licensed premises.

3. The Commission shall as respects such supply investigate and report on—

(i) whether the conditions to which the Act of 1948 as amended as aforesaid applies in fact prevail and if so in what manner and to what extent;

(ii) the things which are done by the parties concerned as a result of or for the purpose of preserving those conditions;

(iii) whether the said conditions or all or any of the things done as aforesaid operate or may be expected to operate against the public interest.

Dated this 27th day of July 1966.

F. W. GLAVES-SMITH
(An Under Secretary of the Board of Trade)

APPENDIX 2

(referred to in paragraph (iii) of Introduction)

Principal Sources of Evidence

Allied Breweries Ltd.
Bass Charrington Ltd.
H.P. Bulmer and Company Ltd.
The Brewers' Society.
The Association of Clubs' Breweries Ltd.
Courage Barclay and Simonds Ltd.
The Distillers Company Ltd.
Arthur Guinness Son and Company Ltd.
International Distillers and Vintners Ltd.
The National Consultative Council for the Retail Liquor Trade.
Schweppes Ltd.
Scottish and Newcastle Breweries Ltd.
Showerings, Vine Products and Whiteways Ltd.
Tollemache and Cobbold Breweries Ltd.
Truman Hanbury Buxton and Company Ltd.
Vaux and Associated Breweries Ltd.
Watney Mann Ltd.
Whitbread and Company Ltd.

Evidence was also obtained from all other brewers in the United Kingdom, from a foreign supplier of beer, from a trade association representing beer bottlers' and wholesalers, from other suppliers of wines, spirits and soft drinks and trade associations, from constituent bodies of the National Consultative Council for the Retail Liquor Trade, from individual licensees, from companies operating chains of licensed premises, including supermarkets, and trade associations, from certain Government Departments, from associations representing magistrates and their clerks, from consumers, from consumer associations, from the Consumer Council and from the British Travel Association.

APPENDIX 3

(Referred to in paragraphs 8, 9, 29 *and* 36)

The brewing of beer; gravity; the duty on beer

(i) The brewing of beer *(referred to in paragraph* 8)

1. Barley is the basic material from which beer is made. Brewing takes a little less than 10 per cent of the barley grown in the United Kingdom; the quantity of imported barley used for beer has since 1940 been negligible.

2. In brewing, barley grain is first converted into malt and it is the quality of this which, more than any other ingredient or treatment, affects the character and flavour of the final product. The colour and flavour provided by the standard malting process are suitable for such beers as draught bitter and light ales generally but for brown ales and stouts a small percentage of roasted barley and an even smaller percentage of caramelised sugar are added.

3. Barley seed contains starch and protein which provide food for the embryo until roots have developed enough to draw sustenance from the soil for the growing embryo. The food in the seed must first however be changed into a form in which the embryo can use it, a state which is brought about by the action of enzymes generated when growth begins. Beer-making requires both the enzymes and the starch and protein content; malt is barley in which growth has been induced and then halted at what is judged to be the point at which the maximum yield of the constituents will be obtained. Barley is soaked in water and then left to germinate in an atmosphere of controlled temperature and humidity. When enzyme production has reached its peak but before the embryo has had a chance to make too great an inroad into the food store, growth is stopped by transferring the malt to a drying kiln, where the temperature is regulated so as to kill the embryo but not the enzymes.

4. Breweries are usually sited in towns, where floor space is dearer than in the country. For this reason, and also because it is cheaper to carry to the brewery three hundredweights of malt than it is to carry the four hundredweights of barley required to yield it, malting is usually carried out in the region where the barley is grown. About half the malt used in brewing comes from maltings owned by brewery companies, and the other half from maltings owned by maltsters-for-sale; the tendency appears to be for the proportion provided by the latter to be increasing.

5. At the brewery, the malt is crushed but only coarsely, enough to facilitate the extraction of the vital constituents and the separation of the husk. Hot water is added to the crushed malt, or grist, to form the 'mash', hence the vessel in which this is done is the 'mash tun'. The enzymes in the malt now become active again and the mash is left until they have completed their work of turning the insoluble starch into soluble sugars, some fermentable, some not. The sweet extract, called wort, is filtered out of the mash tun leaving behind the former husks, now known as spent grains, which still contain both carbohydrate and protein and are used for cattle food.

6. Hops are then added to the wort which is boiled so as to extract from the hops the oils and resins which effect the flavour, providing the bitterness which characterises British beer, and which also act as preservatives. It was the addition of hops some 500 years ago that first created the distinction between beer, with hops, and ale, without. The wort is then filtered again and cooled before being run into the fermenting vessel.

7. Fermentation is achieved by the addition of yeast, which converts the fermentable sugars into alcohol. The kind of yeast used has an important effect on the character, including the flavour, of the beer and each brewer has his own strains of yeast. They may vary from one beer to another but for any one beer the strain will have been the same for decades. During the two or three days of fermentation the yeast reproduces

itself to about four times the volume that was originally added. It collects on the surface of the beer and is skimmed off, the brewer taking what he needs for further brewing and selling the rest for use in making soups and certain cooking extracts among other things. Carbon dioxide is also given off during fermentation and is collected so that it can be returned to the beer later. When fermentation is completed, the beer is cooled and clarified. Isinglass, made from sturgeons' swimming bladders, is used to clarify the beer; spread on the surface, it sinks and carries with it fragments of yeast and any other residual matter.

Lager beer

8. 'Lager' is the German word for storage, the length of which is one of the basic differences between lager preparation and the general method of beer preparation described above.

9. The other two basic differences in the way lager beer is produced involve the type of yeast used and the temperatures at which fermentation takes place. We have said in paragraph 7 of this Appendix that during fermentation yeast collects on the surface of the beer and is skimmed off; this is part of the 'top fermentation' process. Lager is bottom fermented, a method of brewing developed in Germany in the 15th century. A different type of yeast is used which, after working in the beer, sinks to the bottom of the fermentation vessel and is retrieved after the beer is run off into vats for a second period of fermentation.

10. Fermentation during the top fermentation method normally takes only a few days. With the bottom fermentation method the first period of fermentation takes about eight days, after which most of the fermentable ingredients have been converted into alcohol; there then follows a second, slower method of fermentation (which can be for as long as three months) known as the 'lagering' period, during which protein matter and yeast settle, the beer improves in flavour and is charged with carbon dioxide. Lager beer is often filtered and carbonated after the first period of fermentation in order to cut down the subsequent 'lagering' period.

11. During both the first and second stages of lager beer fermentation temperatures are kept much lower than during the top fermentation process. At the start of top fermentation the wort is at 60°F and is raised to about 70°F during the process. During the approximately eight days of bottom fermentation, the temperature of the wort varies between 40° and 50°F, and during the 'lagering' period the beer is kept at a temperature of about 32°F.

Delivery of beer from brewer

12. Draught beer is delivered either in wooden casks or metal kegs, or in bulk tanks permanently mounted on lorries and from which the beer is pumped into containers kept in the licensee's cellar. Beer for bottling is chilled at the bottling plant and specially filtered to make it—and enable it to remain—bright and clear, even though it may not cross the counter for several weeks.

(ii) Gravity (*referred to in paragraphs* 8 *and* 29)

13. Gravity is the standard by which the strength of beer is measured. The original gravity of beer is that of the wort when all the ingredients except yeast have been added and thus before anything has been lost through fermentation. Since the specific gravity of water is 1000°, the extent by which the gravity of the unfermented wort exceeds 1000° indicates the combined quantity of malt, hops and sugars that have been added. The gravity of the wort is the original gravity of the beer.

Gravity and alcoholic strength

14. As has been indicated in paragraph 13 of this Appendix, to say that a wort has an original gravity of, say, 1040°, is to say that 100 gallons of this wort would weigh 1,040 lbs. compared with the 1,000 lbs. weight of 100 gallons of water. This extra 40 lbs. is a measure of the sugars, protein matter, etc. in the 100 gallons of wort. When the

fermentation process is begun the yeast which has been added feeds on certain of the sugars and gives off alcohol and carbon dioxide; the longer the process is continued the 'thinner', more attenuated (i.e. of lower gravity) the beer may become and the more alcohol may be produced.

15. If both the original gravity and gravity after attenuation are known it is possible to calculate the rough percentage of alcohol by weight present in the finished beer, by dividing the difference between the two gravities by 10. Thus a wort at 1040° original gravity 'attenuated' by 30° would produce 3 per cent alcohol by weight in the final beer. If only the original gravity of a beer is known it is still possible to use this method to obtain an idea of the percentage of alcohol in the beer by assuming that final gravity of beer is about one quarter of the original gravity, e.g. original gravity of 1044°, final gravity of 1011°.

16. It is also generally possible to calculate from the original gravity of a beer what its percentage proof spirit content is, by dividing the original gravity by six. For example, a beer having an original gravity of 1040° could contain about 6·6 per cent proof spirit, i.e. 40 divided by six. However both this calculation and the previous one take no account of exceptions in, for example, the lengths of attenuation governed by individual brewery practice in making various types of beer; the relationship between original gravity and final alcoholic strength may not therefore be constant.

(iii) The duty on beer (*referred to in paragraphs* 8 *and* 36)

Excise duty

17. Excise duty is paid by every brewer-for-sale on the beer he produces. The rates of duty are related to the original gravity of the beer. Duty is assessed on the worts, i.e. the liquid produced from the mash before fermentation has begun. A statutory deduction of 6 per cent is made from the assessment to allow for subsequent wastage and loss during the preparation of the beer for consumption. The rates of duty, before the imposition of the Economic Regulator Surcharge on 22nd November 1968, were £9 8s. 8d. for every bulk barrel of original gravity of 1030° or less, plus eight shillings per bulk barrel for every degree over 1030°; since that date these rates have been increased by 10 per cent.

18. Duty was first imposed on beer in 1660. There were two rates: four shillings and ninepence a barrel on strong beer and one shilling and threepence a barrel on small or table beer. Later there were duties on the materials used in beer: a malt tax, from 1697 to 1880; a hops duty from 1711 until 1862; and a sugar duty from 1850 until 1880. This complex of duties (apart from the already defunct hop duty) was replaced, in Mr. Gladstone's* Budget of 1880, by a single duty on beer levied on a standard barrel of 36 gallons at a 'standard' gravity of 1057°—the average gravity of beer produced at that time—and a flat rate licence duty of £1 on all brewers-for-sale.† (The 'standard' gravity was reduced to 1055° in 1881.) The duty payable on beer of an actual gravity higher or lower than the standard strength was calculated as for a quantity of beer proportionately less or greater than the capacity of the standard barrel. Thus 100 barrels of beer of 1027° would have been assessed for duty as 47·36 barrels at 1057°.

19. The practice of charging duty on the standard barrel of standard strength continued until 1933 when Mr. Neville Chamberlain introduced the present method of fixing a minimum duty for the lowest gravity which was then customary (1027°) and adding an increment of duty for every degree over the basic gravity. Under Mr. Gladstone's system, the burden of duty was spread evenly over the whole range of gravities but this effect had been partly off-set in 1923 (when the duty per barrel had reached 100 shillings) by Mr. Baldwin's introduction of a rebate of 20 shillings a bulk barrel. As the bulk barrel is 36 gallons of beer of any gravity, the result had been to set a flat-rate rebate against a graduated duty and thus to lighten the weight of duty on lower gravity beers more than on higher beers. This indirect effect was thus made overt by Mr. Chamberlain. Discrimination in favour of weaker beers has persisted

*Prime Minister and Chancellor of the Exchequer in 1880.

†Brewer-for-sale licence duty is now £15 15 shillings per annum.

throughout the changes which both the basic duty, since 1950 levied at 1030° instead of 1027°, and the rate per additional degree of gravity have undergone (except during the period July 1940 to 1st April 1949 when the basic rate and the extra degree charge were so arranged that the duty was directly proportional to the strength throughout the scale).

Import duties

20. Import duties on beer are also related to its original gravity. Beer imported from Commonwealth countries, EFTA countries or the Irish Republic bears import duty on the same scale as that of the excise duty on home brewed beer, but on all other imported beer the basic rate before the imposition of the Economic Regulator Surcharge on 22nd November 1968 was £1 higher at £10 8s. 8d. a bulk barrel, with an additional import duty of 8s. a bulk barrel for every degree over 1030°; since that date, these rates have been increased by 10 per cent.

Incidence of excise and import duties

21. In the table below we show the amount of excise or import duty included in the 'price of a pint':

	Excise duty on United Kingdom beers and import duty on Commonwealth, EFTA and Irish Republic		Import duty on other beers (mfn)	
	pence per pint		*pence per pint*	
1030°	7·86	(8·65)*	8·70	(9·56)
1033°	8·86	(9·75)	9·70	(10·66)
1036°	9·86	(10·85)	10·70	(11·76)
1039°	10·86	(11·95)	11·70	(12·86)
1042°	11·86	(13·05)	12·70	(13·96)
1045°	12·86	(14·15)	13·70	(15·06)
1048°	13·86	(15·25)	14·70	(16·16)
1051°	14·86	(16·35)	15·70	(17·26)

An indication of the relative strengths of types of beer is given in paragraph 29.

Drawback and repayment

22. As exporters, brewers receive drawback (i.e. repayment in full) in respect of (*a*) the excise duty they have paid on beers of United Kingdom brew which they export and (*b*) the import duty they have paid on any beers they have imported and subsequently exported. Drawback is also granted to brewers who have paid excise duty on beer supplied for ships' stores or warehouses prior to exportation, and Customs and Excise can also remit duty paid on beer which may be accidently spoilt on the brewer's or licensee's premises.

*Figures in brackets show rates and incidence of duty *after* imposition of Economic Regulator Surcharge on 22nd November 1968.

APPENDIX 4

(referred to in paragraph 12)

Brewery companies or groups at 31st December, 1967 (and takeovers during 1968)

A. Brewery companies or groups at 31st December 1967

1. Adnams and Co. Ltd.
2. Allied Breweries Ltd.
3. J.B. Almond Ltd.
4. J. Arkell & Sons Ltd.
*5. Messrs. L.C. Arkell.
6. Bass Charrington Ltd.
7. George Bateman & Son Ltd.
8. Daniel Batham & Son Ltd.
9. Bentley's Yorkshire Breweries Ltd.
10. Boddingtons Brewery Ltd.
11. Border Breweries Ltd.
12. S.A. Brain and Co. Ltd.
13. W.H. Brakspear and Sons Ltd.
14. Brickwoods Ltd.
15. Matthew Brown & Co. Ltd.
16. Buckley's Brewery Ltd.
*17. Burt & Co. Ltd.
18. Burtonwood Brewery Co. (Forshaws) Ltd.
*19. Carlisle and District State Management Scheme.
20. J.W. Cameron and Co. Ltd.
21. Cobb and Co. (Brewers) Ltd.
*22. G.E. Cook and Sons Ltd.
23. Courage Barclay and Simonds Ltd.
24. B. Cunningham Ltd.
*25. W.M. Darley Ltd.
26. Davenports C.B. & Brewery (Holdings) Ltd.
27. J.A. Devenish and Co. Ltd.
28. Dudgeon & Co. Ltd.
29. Eldridge, Pope & Co. Ltd.
30. Elgood and Sons Ltd.
*31. Everards Brewery Ltd.
32. The Felinfoel Brewery Co. Ltd.
33. Fuller Smith and Turner Ltd.
34. G. Gale and Co. Ltd.
35. Garne and Sons (Brewers) Ltd.
36. Gibbs, Mew & Co. Ltd.
*37. Gray and Sons (Brewers) Ltd.
38. Greenall, Whitley and Co. Ltd.
39. Greene, King and Sons Ltd.
40. Arthur Guinness Son & Co. Ltd.

41. Hall & Woodhouse Ltd.
42. Wm. Hancock and Co. Ltd.
43. Hardy's Kimberley Brewery Ltd.
44. Harp Lager Ltd.
45. Hartley's (Ulverston) Ltd.
46. Harvey and Son (Lewes) Ltd.
47. Heavitree Brewery Ltd.
48. Higsons Brewery Ltd.
49. Edwin Holden's Hopden Brewery.
50. Joseph Holt Ltd.
51. Home Brewery Co. Ltd.
52. Hook Norton Brewery Co. Ltd.
53. T. Hoskins Ltd.
*54. Howcroft's Brewery (Bolton) Ltd.
55. Hull Brewery Co. Ltd.
56. Hyde's Anvil Brewery Ltd.
57. Jennings Bros. Ltd.
*58. J.P.S. Breweries Ltd.
59. John Joule and Sons Ltd.
60. King and Barnes Ltd.
61. J.W. Lees and Co. (Brewers) Ltd.
62. Maclay and Co. Ltd.
63. McMullen and Sons Ltd.
64. Mansfield Brewery Co. Ltd.
65. Marston, Thompson and Evershed Ltd.
66. Melbourn Bros. Ltd.
*67. Midlands Clubs' Brewery Ltd.
68. Mitchells of Lancaster (Brewery) Ltd.
*69. Moorfields Ltd.
70. Morland and Co. Ltd.
71. Morrell's Brewery Ltd.
†72. Northern Clubs' Federation Brewery Ltd.
73. Oldham Brewery Co. Ltd.
74. Paine and Co. Ltd.
75. J.C. & R.H. Palmer Ltd.
*76. D.C. Pardoe.
77. Plymouth Breweries Ltd.
78. T. Ridley and Sons (Breweries) Ltd.
79. Frederic Robinson Ltd.
80. G. Ruddle & Co. Ltd.
81. St. Austell Brewery Co. Ltd.
82. Scottish and Newcastle Breweries Ltd.
83. Shepherd Neame Ltd.
84. James Shipstone and Sons Ltd.
85. John Smith's Tadcaster Brewery Co. Ltd.
86. Samuel Smith's Old Brewery (Tadcaster) Ltd.
*87. South Wales and Monmouthshire United Clubs' Brewery.
88. W. Stones Ltd.
89. Strong and Co. of Romsey Ltd.
90. J.G. Swales & Co. Ltd.
91. Timothy Taylor & Co. Ltd.

*92. T. & R. Theakston Ltd.
93. Thornley-Kelsey Ltd.
94. Daniel Thwaites & Co. Ltd.
95. Tollemache & Cobbold Ltd.
96. Tomson and Wotton (Combined Breweries (Holding) Ltd.).
97. Truman Hanbury Buxton & Co. Ltd.
98. Vaux and Associated Breweries Ltd.
99. Wadworth and Co. Ltd.
100. S.H. Ward and Co. Ltd.
101. Watney Mann Ltd.
102. Samuel Webster and Sons Ltd.
103. Charles Wells Ltd.
104. Richard Whitaker and Sons Ltd.
105. Whitbread & Co. Ltd.
106. Wolverhampton and Dudley Breweries Ltd.
107. The Workington Brewery Co. Ltd.
108. Yates and Jackson Ltd.
*109. Yorkshire Clubs' Brewery Ltd.
110. Young & Co.'s Brewery Ltd.
111. John Young and Co. Ltd.

B. Companies still licensed as brewery companies at 31st December 1967 but no longer actively brewing at that date (*see first footnote to paragraph* 12)

*1. Alnwick Brewery Co. Ltd.
2. Aylesbury Brewery Co. Ltd.
3. Beard and Co. (Lewes) Ltd.
4. James Mellor and Sons Ltd.
*5. S. Powell.

C. Brewery companies taken over during 1968 (*see paragraph* 12)
(these are included in A above)

1. J.B. Almond Ltd.—acquired by Burtonwood Brewery Co. (Forshaws) Ltd.
2. Bentley's Yorkshire Breweries Ltd.—acquired by Whitbread & Co. Ltd.
3. Cobb and Co. (Brewers) Ltd.—acquired by Whitbread & Co. Ltd.
4. Wm. Hancock and Co. Ltd.—acquired by Bass Charrington Ltd.
5. W. Stones Ltd.—acquired by Bass Charrington Ltd.
6. Tomson and Wotton Ltd.—acquired by Whitbread & Co. Ltd.
7. Whitaker, Richard & Sons Ltd.—acquired by Whitbread & Co. Ltd.
8. Young, John & Co. Ltd.—acquired by Whitbread & Co. Ltd.

D. Total of active brewery companies or groups at December 31st 1968 (*see paragraph* 12) (*i.e. excluding B. above*)

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*Not members of Brewers' Society (see paragraph 81).
†Associate Member of Brewers' Society (see paragraph 81).

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(referred t

Production and

Number of brewers producing	Production	Sales by class of DRAUGHT				BOTTLED			
		Brewers' own outlets	Other brewers, wholesalers bottlers	Free outlets	Rest*	Brewers' own outlets	Other brewers, wholesalers bottlers	Free outlets	Re
1	2	3	4	5	6	7	8	9	
Over 1 million bulk barrels 7 brewers	23,852,574	10,427,388	1,844,312	4,156,714	125,969	4,200,741	3,439,080	1,752,793	26
250,000–1 million bulk barrels 7 brewers	3,146,745	1,587,728	42,503	935,657	13,750	569,436	45,924	199,637	
100,000–250,000 bulk barrels 21 brewers	3,431,784	2,050,332	46,391	742,808	261	672,268	63,890	267,656	
50,000–100,000 bulk barrels 12 brewers	897,409	614,320	8,370	146,499	250	223,418	15,522	88,962	
40,000–50,000 bulk barrels 7 brewers	323,012	201,051	801	30,706	343	137,347	2,712	23,842	
30,000–40,000 bulk barrels 4 brewers	137,832	112,524	—	2,633	—	36,078	268	934	–
20,000–30,000 bulk barrels 7 brewers	172,391	101,556	20,793	28,711	375	45,459	986	28,478	
10,000–20,000 bulk barrels 19 brewers	281,034	145,718	2,073	95,292	2,914	74,090	3,802	43,211	
5,000–10,000 bulk barrels 13 brewers	95,057	60,141	2,659	15,749	—	36,146	1,344	10,776	–
Less than 5,000 bulk barrels 13 brewers	32,128	19,023	1,147	9,477	—	8,579	3	9,200	
Grand total (110 brewers†)	32,369,966‡	15,319,781	1,969,049	6,164,246	143,862	6,003,562	3,573,531	2,425,489	26

Source: Brewers' returns.

*'Rest' includes export, NAAFI, ships' stores etc.
†Figures for Harp Lager Ltd. are included in the figures for the owning companies—see footnote, paragraph 13.
‡Includes 1·2 million bulk barrels brewed in Irish Republic—see paragraph 34.

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igraph 44)

of Beer in 1967

bulk barrels

				Sources from which brewers obtained beer sold in columns 3–14 inclusive								
Canned				Draught		Bottled		Canned		Bottled Canned		Total sales
ers' n ets	Other brewers, wholesalers bottlers	Free outlets	Rest*	Brewers' own beer	Other brewers' beer	Brewers' own beer	Other brewers' beer	Brewers' own beer	Other brewers' beer	Imported		
1	12	13	14	15	16	17	18	19	20	21	22	23
,537	100,237	194,943	80,343	15,973,002	581,381	7,753,924	1,823,005	466,827	26,996	75,926	237	26,701,298
,341	1,166	9,895	—	2,537,262	42,376	582,711	216,031	15,092	1,306	16,290	4	3,411,072
,640	589	4,927	1,987	2,750,980	88,812	603,553	376,016	12,756	1,347	25,061	40	3,858,565
,737	42	3,226	205	732,053	37,386	167,239	137,618	1,716	3,418	23,190	76	1,102,696
,134	1,032	760	2,711	212,655	20,246	101,612	61,025	5,431	202	1,536	4	402,711
174	—	13	—	112,611	2,546	21,770	15,283	111	75	227	1	152,624
,647	—	2,648	—	134,027	17,408	31,463	41,483	1,021	3,257	2,061	17	230,737
352	42	1,342	69	216,373	29,642	64,611	55,877	86	1,584	1,916	135	370,206
76	—	21	—	70,808	7,741	23,523	24,308	75	20	435	2	126,912
88	—	113	—	23,617	6,030	8,615	8,827	—	199	417	2	47,707
,726	103,108	217,888	85,315	22,763,388	833,550	9,359,021	2,759,473	503,115	38,404	147,059	518	36,404,528

APPENDIX 6

(referred to in paragraph 49)

Wholesale prices of beer

Wholesale prices charged to their tied houses and to free trade customers by some major brewers, for their main lines of draught and bottled beers and for certain other brewers' beers: 1967

1. The following schedules give examples of the wholesale prices charged by five brewers: Allied, Courage, Scottish and Newcastle, Watney and Whitbread, for: (*a*) their own beers; and (*b*) other brewers' beers.

2. The beers included in part (*a*) are broadly each brewer's basic lines in mild, bitter and keg beers, and certain bottled beers. The national brands and their brewers included in part (*b*) are:

Brand	*Brewer*
Red Barrel	Watney
Bass Worthington	Bass Mitchells and Butlers (Bass Charrington)
Double Diamond Skol lager	Allied
Younger's Tartan Newcastle Strong Brown	Scottish and Newcastle
Mackeson	Whitbread
Guinness stout	Guinness
Harp lager	Guinness: Scottish and Newcastle: Courage: Bass
Carlsberg	Imported

3. The prices given for draught beers are per bulk barrel. Those for bottled beers are per dozen half-pint bottles.

Wholesale prices charged to tied houses and free trade customers by some major brewers for main lines of draught and bottled beers, and for certain national and imported beers.
1967 prices

A. ALLIED

(a) Own beers:

1	Tied trade 2 £	s.	d.	Free trade* 3 £	s.	d.
ANSELL'S DRAUGHT MILD						
sold by: Ansell's in Aston and S. Wales	18	16	0	18	15	8
Ind Coope (West Midlands)	19	6	6	18	15	8
Ind Coope (East Midlands)	18	15	8	18	15	8
ANSELL'S DRAUGHT BITTER						
sold by: Ansell's in Aston and S. Wales	21	18	0	21	17	0
Ind Coope (East Midlands)	21	17	0	21	17	0
IND COOPE D DRAUGHT						
sold by: Ind Coope (West Midlands)	24	11	6	24	11	6
Ind Coope (London), Ind Coope (Oxford and West), Ind Coope (East Anglia), Friary Meux (Guildford)	24	19	6	24	19	6
IND COOPE BEST BITTER (DRAUGHT)						
sold by Ansells—Aston	21	6	6	21	4	6
—South Wales	20	8	6	20	6	6
Ind Coope (East Anglia)	21	8	6	21	8	6
Ind Coope (West Midlands)	21	4	6	21	4	6
Ind Coope (East Midlands)	21	6	6	21	6	6
Ind Coope (London), Ind Coope (Oxford and West), Friary Meux (Guildford), Benskins (Watford)	21	8	6	21	8	6

(b) Other brewers' beers:

4	Allied prices Tied trade 5 £	s.	d.	Free trade* 6 £	s.	d.	Producer's prices Tied trade 7 £	s.	d.	Free trade 8 £	s.	d.
RED BARREL (DRAUGHT KEG)												
sold by: Ansell's (Aston), Ind Coope (West Midlands), Ind Coope (East Midlands)	28	2	10	24	15	7	25	2	9	24	5	8
Ansell's (South Wales), Ind Coope (East Anglia), Ind Coope (London), Ind Coope (Oxford and West), Ind Coope (Northern), Friary Meux (Guildford), Benskins (Watford)	27	10	10	24	15	6						
Bottled												
BASS RED TRIANGLE												
sold by: Ind Coope (London)				16	9							
Ind Coope (Oxford and West)	19	3		16	2		16	3		16	3	
Benskins				17	2							
Ind Coope (Northern)†	No tied houses											

*Allied states that it supplies large numbers of its free trade customers at prices below the list prices shown here, and there is a great variety of these discounts.

†Ind Coope (Northern) Ltd is a trading company only and does not own any licensed premises.

A. ALLIED—continued.

(a) Own beers

1	Tied trade 2 £ s. d.	Free trade 3 £ s. d.
DOUBLE DIAMOND, DRAUGHT		
sold by: Ansell's Aston, Ansell's South Wales	25 12 0	24 12 0
Ind Coope Scotland†	25 4 0	25 4 0
All other Allied companies	25 12 0	24 12 0
SKOL LAGER, DRAUGHT		
sold by: Ansell's Aston, Ansell's South Wales	24 12 0	24 6 0
Ind Coope (Scotland)†	24 15 0	24 15 0
Benskins	24 16 0	24 16 0
All other Allied companies	24 12 0	24 6 0
DOUBLE DIAMOND BOTTLED		
sold by: All Allied companies	13 10	13 0
SKOL LAGER, BOTTLED		
sold by: Ind Coope (Scotland)†	12 8	12 8
Ansell's	13 9	13 0
Benskins, Friary Meux, All other Allied companies	13 9	13 0

†Ind Coope (Scotland) Ltd. has no tenanted houses and the tied trade list prices shown for that company 'are the prices at which the supplies are charged to its managed house estate'.

(b) Other brewers' beers

4	Allied prices: Tied trade 5 £ s. d.	Allied prices: Free trade 6 £ s. d.	Producer's prices: Tied trade 7 £ s. d.	Producer's prices: Free trade 8 £ s. d.
BASS BLUE TRIANGLE				
sold by: Friary Meux, Ind Coope (London)	Tied trade not supplied	15 0	14 7	14 7
Ind Coope (Northern)	No tied houses	14 8		
Ind Coope (West Midlands)	15 1	14 10		
Ind Coope (East Midlands)	14 7	14 7		
Benskins	16 1	15 1		
WORTHINGTON GREEN SHIELD				
sold by: Ind Coope (East Anglia)	Tied trade not supplied	15 0	14 7	14 7
Friary Meux, Ind Coope (London)	16 1	15 0		
Benskins		15 1		
Ind Coope (West Midlands)	15 1	14 10		
Ind Coope (East Midlands)	14 7	14 7		
WORTHINGTON WHITE SHIELD				
sold by: Ind Coope (East Anglia), Ind Coope (London)		16 9	16 3	16 3
Friary Meux	19 3	17 1		
Ind Coope (Oxford and West)		16 2		
Benskins		17 2		
Ind Coope (Northern)	No tied houses	16 5		

MACKESON					
sold by: Ansells	15 10	14 0	14 0		14 0
Ind Coope (Scotland)†	13 11	13 8			
Ind Coope (East Anglia)	15 4	14 0			
Ind Coope (East Midlands)					
Ind Coope (London)					
Friary Meux					
Ind Coope (West Midlands)		15 2			
Benskins		14 6			
Ind Coope (Oxford and West)	14 2	14 0			
Ind Coope (Northern)	No tied houses	14 0			
Draught					
YOUNGER'S TARTAN KEG BITTER					
Not sold by Allied					
Bottled					
NEWCASTLE STRONG BROWN					
sold by: Ind Coope (Northern) only	No tied houses	12 4	12 4		12 4
GUINNESS					
Draught					
sold by: Ind Coope (East Anglia)	29 10 4	26 7 0	27 15 0		
Ind Coope (London)	Tied trade not supplied		5% cash discount allowed if paid for before 15th of the month following delivery.		
Ind Coope (West Midlands)					
Ind Coope (East Midlands)					
Ind Coope (Northern)	No tied houses				
No other Allied companies supply draught Guinness			Rebate of £3 a bulk barrel given to customers who buy more than a certain barrelage and who carry out transport and other services.		

†Ind Coope (Scotland) Ltd. has no tenanted houses and the tied trade list prices shown for that company 'are the prices at which the supplies are charged to its managed house estate'.

A. ALLIED—continued.

(*a*) **Own beers**

1	Tied trade 2	Free trade 3

(*b*) **Other brewers' beers**

4	Allied prices Tied trade 5	Allied prices Free trade 6	Producer's prices Tied trade 7	Producer's prices Free trade 8
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
GUINNESS—(*continued*)				
Bottled				
sold by: Ansell's (Aston)	14 3	13 5		13 7
Ansell's (South Wales)	14 5			to
Ind Coope (Scotland)†	14 7	14 4		
Ind Coope (East Anglia)	14 10	13 9		14 4 according to area
Ind Coope (West Midlands)	14 8		Quantity discount of from 5% to 10% given.‡	
Ind Coope (East Midlands)		13 6		
sold by: Ind Coope (London)		14 0	Guinness' price in Great Britain for Extra Stout supplied in bulk for bottling and canning from £24 18s. 2d. to £25 12s. 7d. according to area.	
Ind Coope (Oxford and West)	14 10	13 2		
Ind Coope (Northern)	No tied houses	13 7		
Friary Meux		14 0		
Benskins		13 9		

†Ind Coope (Scotland) Ltd. has no tenanted houses and the tied trade list prices shown for that company 'are the prices at which the supplies are charged to its managed house estate'.

‡Prices charged to the retail trade by companies in the T.B. Hall group (a Guinness subsidiary); sales by T.B. Hall companies are the only sales of Extra Stout in bottle made by Guinness in Great Britain and represent approximately 2% of the total barrelage of Guinness Extra Stout sold for bottling in Great Britain.

5% cash discount for payment before 15th of month following delivery.

Rebate of 2s. a bulk barrel to customers taking delivery in road tankers, road-rail tankers or 14-barrel bulk tanks.

HARP LAGER

No Allied company supplies Harp Lager to either tied or free trade.

CARLSBERG LAGER

sold by: Ansell's	not supplied	
Ind Coope (Scotland)†	15 5	15 2
Ind Coope (London)	16 4	15 4
Ind Coope (West Midlands)	16 7	
Ind Coope (Oxford and West)	Tied trade	15 0
Ind Coope (Northern)	not supplied	
Friary Meux	No tied houses	
Benskins	16 6	

†Ind Coope (Scotland) Ltd. has no tenanted houses and the tied trade list prices shown for that company 'are the prices at which the supplies are charged to its managed house estate'.

B. COURAGE

(a) Own beers

1	Tied trade 2 £	s.	d.	Free trade 3 £	s.	d.
Draught						
Mild	17	12	0	17	0	0
Mild	18	6	0	17	18	0
Bitter	18	2	0	17	8	0
Alton and EIPA	24	0	0	23	10	0
Director's bitter	28	18	0	28	2	0
Harp lager*	33	18	0	30	18	0
Tavern keg	26	2	0	25	4	0
Bottled						
Brown ale / Light ale	10	0		10	0	
Stout (velvet and glucose)	13	8		13	1	
John Courage	13	11		13	4	
Bulldog	18	3		18	3	
Harp lager	13	10		13	0	

(b) Other brewers' beers

4	Courage prices Tied trade 5 £	s.	d.	Courage prices Free trade 6 £	s.	d.	Producer's prices Tied trade 7 £	s.	d.	Producer's prices Free trade 8 £	s.	d.
Red Barrel, keg	28	4	0	24	15	7	25	2	9	24	5	8
Bass, draught / Worthington E, draught	(a) 25 6 0 / (b) 27 0 0			24 6 0 / 24 14 0			24	14	0	24	10	0
	(prices are varied according to local competitive conditions).											
Bass Red Triangle / Worthington White Shield	17	4		(a) 16 8 / (b) 16 5			16	3		16	3	
Bass Blue Triangle / Worthington Green Shield	15	8		(a) 15 0 / (b) 14 9 / (c) 14 5			14	7		14	7	
	(prices are varied according to local competitive conditions)											
Double Diamond (bottled)	15	7		13	10		13	10		13	10	
Skol lager (bottled)	14	2		13	0		13	9		13	0	
Mackeson (bottled)	(a) 14 6 / (b) 14 0			14	0		14	0		14	0	
	according to local competitive conditions											
Younger's Tartan Bitter / Newcastle Strong Brown	not supplied to Courage tied houses											

GUINNESS			
Draught Keg	30 12 0	26 7 0	27 15 0 5% cash discount allowed if paid for before 15th of the month following delivery. Rebate of £3 a bulk barrel given to customers who buy more than a certain barrelage and provide transport and other services.
Bottled Stout	(*a*) 14 8 (*b*) 14 1	14 0 13 5	13 7 to 14 4 according to area
	according to local competitive conditions		Quantity discount of from 5% to 10% given. (Note I) Guinness' price in Great Britain for Extra Stout supplied in bulk for bottling and canning: from £24 18s. 2d. to £25 12s. 7d. according to area. 5% cash discount for payment before 15th of month following delivery. Rebate of 2s. a bulk barrel to customers taking delivery in road tankers, road-rail tankers or 14 barrel bulk tanks.

B. COURAGE—continued.

(a) Own beers

1	Tied trade 2 £ s. d.	Free trade 3 £ s. d.

(b) Other brewers' beers

4	Courage prices Tied trade 5 £ s. d.	Courage prices Free trade 6 £ s. d.	Producer's prices Tied trade 7 £ s. d.	Producer's prices Free trade 8 £ s. d.
HARP LAGER*			**Guinness prices†**	
Draught	33 18 0	30 18 0	19 10 0 according to area	23 6 0 according to area
Bottled	13 10	13 0	12 8 according to area: quantity discounts, varying between 5% and 10% of the invoice price, are given.	13 0
			Harp lager supplied in bulk for bottling and canning: £19 18s. 0d. Allowances, varying from 3d. to 1s. per dozen half pints, given to certain customers who supply Harp lager to multiple trading organisations.	
CARLSBERG				
Bottled	16 0	15 0		

*Prices charged to the retail trade by companies in the T.B. Hall group (a Guinness subsidiary); sales by T.B. Hall companies are the only sales of Extra Stout in bottle made by Guinness in Great Britain and represent approximately 2% of the total barrelage of Guinness Extra Stout sold for bottling in Great Britain.

†Until 1st October 1967, the company through which Harp lager was sold in Great Britain (Harp Lager Ltd.) was a Guinness subsidiary (see footnote, paragraph 13). Courage, as one of the brewers of Harp lager, regarded it as one of its own beers.

C. SCOTTISH AND NEWCASTLE

(a) Own beers

1	Tied trade 2 £ s. d.	Free trade 3 £ s. d.
1.		
SCOTLAND		
Draught		
McEwan's }	16 14 0	16 14 0
Younger's }	18 17 0	18 17 0
	21 17 0	21 17 0
McEwan's keg }	18 16 4	18 16 4
Younger's keg }	21 16 3	21 16 3
	25 8 4	25 8 4
Harp lager	25 4 0	25 4 0
Bottled		
McEwan's Blue Label	9 11	9 11
McEwan's Export	12 11	12 11
Younger's Sweet Stout	10 9	10 9
Younger's D.C.A.	15 11	15 11
Newcastle Strong Brown	13 6	13 6
Pale Screws	18 7	18 7
Pale Crowns	18 4	18 4
Newcastle Strong Brown	24 1	24 1

(b) Other brewers' beers

The only beers not of its own brewing which Scottish and Newcastle supplies in Scotland are Guinness stout, Harp lager, and Holstein lager:

4	Scottish and Newcastle prices Tied trade 5 £ s. d.	Scottish and Newcastle prices Free trade 6 £ s. d.	Producer's prices Tied trade 7 £ s. d.	Producer's prices Free trade 8 £ s. d.
SCOTLAND				
Draught				
Guinness	27 15 0	27 15 0	27 15 0	
Harp lager	25 4 0	25 4 0		

5% cash discount allowed, if paid for by 15th of the month following delivery.

Rebate of £3 a bulk barrel given to customers who buy more than a certain barrelage and provide transport and other services.

Guinness prices†

From £19s. 0d. to £23 6s. 0d. according to area.

C. SCOTTISH AND NEWCASTLE (*continued*)

(a) Own beers

1	Tied trade 2			Free trade 3		
	£	*s.*	*d.*	£	*s.*	*d.*

(b) Other brewers' beers

4	Scottish and Newcastle prices: Tied trade 5			Scottish and Newcastle prices: Free trade 6			Producer's prices: Tied trade 7			Producer's prices: Free trade 8			
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*	
Bottled													**Guinness prices†**
Guinness		14	4		14	4							From 13s. 7d. to 14s. 4d. according to area; quantity discount of from 5% to 10% given§. Guinness price in Great Britain for Extra Stout supplied in bulk for bottling and canning: from £24 18s. 2d. to £25 12s. 7d. according to area. 5% cash discount for payment before 15th of month following delivery. Rebate of 2s. a bulk barrel to customers taking delivery in road tankers, road-rail tankers or 14 barrel bulk tanks.
Harp		12	8		12	8							From 12s. 8d. to 13s. 0d. according to area; quantity discount of from 5% to 10% given.

2.

NORTH EAST ENGLAND

Draught*

McEwan's 60s. Younger's xxx xxP Newcastle IPA	18	6	0	17	13	0	Holstein	15	9		15	9			
McEwan's 70s. Younger's xxPS	20	14	0	19	13	6	Red Barrel Keg	not supplied							
McEwan's 80s. Younger's IPA Newcastle Exhibition Younger's No. 3	23	16	0	23	0	0	**Draught** Bass Pale Worthington E	24	10	0	24	2	0	24	14	0	24	10	0
Newcastle Starbrite	21	12	0	21	2	0	**Keg** Bass Pale Worthington E	25	4	0	24	16	0	24	16	0	24	12	0
Younger's Tartan Bitter	23	16	9	23	3	8	Harp lager	24	6	0‡	24	6	0‡	See entry above under 'Scotland' for Guinness' prices.					
Newcastle Blue Star	26	0	11	25	11	8	**Bottled**												
McEwan's Export	27	10	4	26	14	10	Bass Blue Triangle Worthington Green Shield	14	7		14	7		14	7		14	7	
Newcastle Brown	Not supplied to tied trade			29	10	0	Double Diamond	14	4		13	10		13	10		13	10	
							Skol lager	13	0		13	0		13	9		13	0	
							Mackeson stout	15	2		14	0		14	0		14	0	
							Guinness stout	13	8		13	8	See entry above under 'Scotland' for Guinness' prices.					

Harp lager supplied in bulk for bottling and canning; £19 18s. 0d.

Allowances, varying from 3d. to 1s. per dozen half pints, given to certain customers who supply Harp lager to multiple trading organisations.

C. SCOTTISH AND NEWCASTLE—(*continued*)

(a) Own beers

1	Tied trade 2 £	s.	d.	Free trade 3 £	s.	d.
Bottled						
Newcastle Strong Brown		12	4		12	4
McEwan's Export		12	7		12	1
Newcastle Amber Younger's Pale		8	10		8	10
Younger's Stout		11	1		10	7
Younger's Monk Export		12	7		12	1
Younger's D.C.A.		14	7		14	3

(b) Other brewer's beers

4	Scottish and Newcastle prices: Tied trade 5 £	s.	d.	Free trade 6 £	s.	d.	Producer's prices: Tied trade 7 £	s.	d.	Free trade 8 £	s.	d.
Harp lager		13	0		13	0						
Carlsberg Pilsner		15	0		15	0						

*Discounts are allowed on draught and keg beers in north-east England, as follows:

tied trade—8s. a barrel with a minimum discount of 40s. a week, i.e. if a tenant takes less than 5 barrels, he gets 40s. discount; for 6 barrels he gets 48s.

free trade—the discount per barrel on draught and keg beers (based on average weekly barrels per month) is: 0–5 barrels—14s. a barrel; over 5 and under 10 barrels—19s. a barrel; 10 barrels and over—24s. a barrel.

†Until 1st October 1967, the company through which Harp lager was sold in Great Britain (Harp Lager Ltd.) was a Guinness subsidiary (see footnote, paragraph 13). Scottish and Newcastle, although one of the brewers of Harp lager, classes this beer as 'other brewers' beer'.

‡In north-east England, Scottish and Newcastle charges a rental of £1 a month for a cooler it supplies for use with draught Harp lager, and makes a consequent reduction of 6d. a gallon (18s. a barrel) in the price it charges customers in the north-east, compared with the price it charges in Scotland and elsewhere in England.

§Prices charged to the retail trade by companies in the T.B. Hall group (a Guinness subsidiary); sales by T.B. Hall companies are the only sales of Extra Stout in bottle made by Guinness in Great Britain and represent approximately 2% of the total barrelage of Guinness Extra Stout sold for bottling in Great Britain.

D. WATNEY

(a) Own beers

1	Tied trade 2 £	s.	d.	Free trade 3 £	s.	d.
Draught						
Special bitter	24	13	6	24	3	6
Tamplin's Sussex bitter	19	15	4	19	5	4
Special mild	19	2	2	18	15	0
Keg						
Red Barrel	25	2	9	24	5	8
Bottled						
Watney pale		10	2		10	2
Watney brown		10	2		10	2
Red Barrel export		13	8		13	8
Cream label		12	9		12	9
Phipps Stein lager		13	3		12	2
Steward and Patteson:						
pale ale		10	8		10	2
brown (pints)		19	0		18	0
stout		11	0		10	6

(b) Other brewers' beers

4	Watney prices Tied trade 5 £	s.	d.	Watney prices Free trade 6 £	s.	d.	Producer's prices Tied trade 7 £	s.	d.	Producer's prices Free trade 8 £	s.	d.
Bottled												
Bass Blue Triangle Worthington Green Shield	15	7		14	11		14	7		14	7	
Worthington White Shield	17	7		16	11		16	3		16	3	
Double Diamond	15	7		13	10		13	10		13	10	
Skol lager	13	6		13	0		13	9		13	0	
Tartan Bitter Newcastle Strong Brown	Not supplied											
Mackeson	14	0		14	0		14	0		14	0	
Guinness stout	14	9		14	0		From 13s. 7d. to 14s. 4d. according to area; quantity discount of from 5% to 10% given*.					

Extra Stout supplied in bulk for bottling: from £24 18s. 2d. to £25 12s. 7d. according to area.

5% cash against discount for payment by 15th of month following delivery. Rebate of 2s. a bulk barrel to customers taking delivery in road tankers, road-rail tankers or 14 barrel bulk tanks.

D. WATNEY *(continued)*

(a) Own beers

1	Tied trade 2			Free trade 3		
	£	s.	d.	£	s.	d.

(b) Other brewers' beers

4	Watney prices Tied trade 5			Watney prices Free trade 6			Producer's prices Tied trade 7			Producer's prices Free trade 8		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
Harp lager†	13	0		13	0		From 12s. 8d. to 13s. 0d. according to area. Guinness price† for Harp lager supplied in bulk for bottling: £19 18s. 0d.					
Carlsberg lager	17	0		15	0							

*Prices charged to the retail trade by companies in the T.B. Hall group (a Guinness subsidiary); sales by T.B. Hall companies are the only sales of Extra Stout in bottle made by Guinness in Great Britain and represent approximately 2% of the total barrelage of Guinness Extra Stout sold for bottling in Great Britain.

†Until 1st October 1967, the company through which Harp lager was sold in Great Britain (Harp Lager Ltd.) was a Guinness subsidiary (see footnote, paragraph 13).

E. WHITBREAD

(a) Own beers

1	Tied trade 2 £	s.	d.	Free trade 3 £	s.	d.
Draught						
Whitbread Best Mild	18	18	0	18	12	0
Dutton's Mild	17	12	0	17	12	0
West Country Best Bitter	20	9	0	20	1	0
Whitbread Bitter	22	4	0	22	0	0
Keg						
Tankard	26	8	0	24	12	0
Flower's				24	16	0
Mackeson D	27	12	0	27	0	0
Bottled						
Whitbread pale		11	5		11	5
Mackeson stout		14	0		14	0
Brewmaster		13	6		13	6
Schloss lager		12	9		12	0
Ski lager		12	6		12	6
Heineken lager		15	5		15	0

(b) Other brewers' beers

4	Whitbread prices Tied trade 5 £	s.	d.	Free trade 6 £	s.	d.	Producer's prices Tied trade 7 £	s.	d.	Free Trade 8 £	s.	d.
Draught												
Red Barrel Keg	26	8	0	Not normally supplied			25	2	9	24	5	8
Bass	27	8	0	Not normally supplied			24	16	0	24	12	0
Worthington												
Bottled												
Double Diamond	14	10		13	10		13	10		13	10	
Younger's Tartan bitter	Not supplied											
Newcastle Strong Brown	12	10		12	4		12	4		12	4	
Guinness stout	14	9		14	0		From 13s. 7d. to 14s. 4d. according to area; quantity discount of from 5% to 10% given*.					

Guinness price in Great Britain for Extra Stout supplied in bulk for bottling: from £24 18s. 2d. to £25 12s. 7d. according to area.

5% cash discount for payment before 15th of month following delivery.

E. WHITBREAD—(*continued*)

(a) Own beers

(b) Other brewers' beers

1	Tied trade 2	Free trade 3	4	Whitbread prices Tied trade 5	Whitbread prices Free trade 6	Producer's prices Tied trade 7	Producer's prices Free Trade 8
	£ s. d.	£ s. d.		£ s. d.	£ s. d.	£ s. d.	£ s. d.
			Guinness stout (*continued*)			Rebate of 2s. a bulk barrel to customers taking delivery in road tankers, road-rail tankers or 14-barrel bulk tanks.	
			Harp lager	14 6	13 0	From 12s. 8d. to 13s. 0d. according to area.	
						Guinness price† in Great Britain for Harp lager supplied in bulk for bottling: £19 18s. 0d.	
			Carlsberg	17 3	15 0		

*Prices charged to the retail trade by companies in the T.B. Hall group (a Guinness subsidiary); sales by T.B. Hall companies are the only sales of Extra Stout in bottle made by Guinness in Great Britain and represent approximately 2% of the total barrelage of Guinness Extra Stout sold for bottling in Great Britain.

†Until 1st October 1967 the company through which Harp lager was sold in Great Britain (Harp Lager Ltd.) was a Guinness subsidiary (see footnote, paragraph 13).

APPENDIX 7

(referred to in paragraph 73)

Discounts on Whisky and Gin

(April—November 1968)

Allied Breweries Ltd.

per case of dozen bottles

	Whisky				Gin			
	House* brands		Proprietary brands		House* brands		Proprietary brands	
	s.	*d.*	*s.*	*d.*	*s.*	*d.*	*s.*	*d.*
Current basic wholesale price	585	0	585	0	564	6	564	6
Discounts available to all classes of customer	12	0	Nil		10	0	Nil	

Additional discounts for tenants: on licence — 4% on the value of all purchases in excess of 85% of purchases during 12 months ended 23rd September 1967.

off licence — 4% on the value of all purchases in excess of 60% of their purchases during 12 months ended 23rd September 1967.

Additional discounts for free trade — Varying rates of percentage discount are allowed according to volume and type of trade done.

*House brands: Long John and Standfast whisky.
Squires and Cornhill gins.

Courage, Barclay and Simonds Ltd.

	Whisky				Gin			
	House* brands		Proprietary brands		House* brands		Proprietary brands	
	s.	*d.*	*s.*	*d.*	*s.*	*d.*	*s.*	*d.*
Current basic wholesale price	**585**	**0**	**585**	**0**	**564**	**6**	**564**	**6**
Discounts to tenants:								
on licence:								
(contract allowance)	15	0	Nil		10	0	Nil	
(discount on invoice)	5	0	9	0	6	0	6	0
off licence:								
(contract allowance)	15	0	Nil		10	0	Nil	
(discount on invoice)	5	0†	12	0	8	0†	8	0
Discounts to free trade								
Club accounts (discount on invoice—approximate)	17	6	17	6	16	11	16	11
Military accounts (discount on invoice—approximate)	25	0	14	7	25	0	14	1

*House brands: Bonnie Charlie whisky.
Squires and Cornhill gins.

†Discounts increased to 11s. for whisky and 14s. for gin on 21st October 1968.

Watney Mann Ltd.

	Whisky*				Gin*			
	House* brands		Proprietary brands		House* brands		Proprietary brands	
	s.	*d.*	*s.*	*d.*	*s.*	*d.*	*s.*	*d.*
Current basic wholesale price	**585**	**0**	**585**	**0**	**564**	**6**	**564**	**6**
Discounts to tenants:								
on and off	16	0	16 (Haig; White Horse; Dewar; Black and White) Nil (all others)	0†	10	0	8 Gordons; Booth's (straw). Nil (all others)	0†
Discounts to free trade	Variable as to sales volume negotiated individually per account: from Nil to 29s. 3d. for whisky				from Nil to 28s. 3d. for gin			
Additional allowances for all customers	1 or 2 unbroken cases—6s. per case. 3 or more unbroken cases—8s. per case.							

*House brands: Queen Anne whisky.
Squires and Cornhill gins.

†Discounts for *certain* proprietary brands were introduced on 4th March 1968; before this date no discounts were given on proprietary brands of gin and whisky.

Whitbread & Co. Ltd.

Discounts to tied trade for spirits

	House* Brands		Proprietary Brands		House* Brands		Proprietary Brands	
	s.	*d.*	*s.*	*d.*	*s.*	*d.*	*s.*	*d.*
Basic wholesale price per case	**585**	**0**	**585**	**0**	**564**	**6**	**564**	**6**
Discounts per case								
on-licensed (for off-sales)	12	0	Nil		12	0	Nil	
off-licensed	24	0	Nil		24	0	24	0

*House brands: Standfast and Wiley's Black Label whiskies.
Squires and Cornhill gins.

Distillers Company Ltd.

	Whisky
Basic price to wholesalers (including brewers)	per case of dozen bottles **585s. duty paid (105s. 4d. under bond)**
(*a*) Basic wholesale discount	36s.
(*b*) Quantity discounts*	
per annum 500– 1,000 cases	6s. per case
1,001– 5,000 cases	7s. per case
5,001–10,000 cases	8s. per case
10,001–25,000 cases	9s. per case
Over 25,000	10s. per case
	(Brewers get a discount of 8s. a case for all purchases up to and including 10,000 cases per annum).
(*c*) Further discounts to wholesalers buying more than 100,000 cases per annum†	2s. per case
(*d*) Additional discounts to wholesalers buying more than 1,000 cases per annum if purchases from the DCL Group represent more than certain proportions of purchasers' 'overall Scotch whisky trade', as follows:	
60% or more	2s. per case
65% or more	3s. per case
70% or more	4s. per case
(*e*) Discount for cash with order	3s. per case

*These categories are cumulative e.g. a purchaser of 5,001 cases receives a discount of 8s. per case in each of 5,001 cases.

†The only customers who fell within this category were Whitbread, Allied, Bass, Courage, Charrington and Watney.

	Gin
Basic price to wholesalers (including brewers)	per case of dozen bottles **564s. 6d. duty paid (82s. 3d. under bond)**
(*a*) Basic wholesale discount	36s.
(*b*) Additional discounts to brewers‡ in respect of their purchases for sale in their on-licensed premises	4s. per case
(*c*) Discount for cash with order	3s. per case

‡This discount is also given to a limited number of wholesalers other than brewers who also have their own on-licensed premises.

APPENDIX 8

(referred to in paragraphs 83 *and* 163)

Early history of licensing

1. The present position on licensing is set out in Chapter 2; in the following we describe the early history of licensing.

2. Control of premises on which alcoholic liquor was sold has in England always been exercised through the local justices and its extent has depended not simply on the powers made available by the central government but often, and at some periods principally, on the use the justices made of them.

3. The first national measure of control was Henry VII's statute of 1495, giving any two justices power to suppress useless alehouses; this, according to Sidney and Beatrice Webb in '*The history of liquor licensing in England principally from* 1700 *to* 1830', was 'part of the policy of discouraging indoor games, which diverted the people from archery'. By the middle of the following century however the direct consequences of intoxication had apparently replaced the indirect effects on toxophily as grounds for extending control of drinking and in Edward VI's Act of 1552 licensing was introduced as a means of dealing with what the Act called 'the intolerable hurts and troubles to the commonwealth of the realm, daily growing and increasing'. For the first time the justices had the power to choose the licensee.

4. The Act specified no term for the licence but it became the justices' practice to require annual renewal. This was given official approval in a royal proclamation of 1618 (James I) but not made statutory until 1753. Refusal to renew came largely to replace the power of suppression.

5. Although it appears from the county and town records and annals of the times that the justices applied the Act of 1552, and, indeed, that the Privy Council, through its 'books of orders', tried to see that they did so, there seems to have been some lack of observance or evasion and in 1606 the original Licensing Act was strengthened by another which made it an offence for an unlicensed alehouse keeper to sell ale.

6. Whilst the justices had complete discretion in how they applied the law, the Privy Council had made it their concern to ensure that the law was applied and in this they had had the help of the judges of assize who, on circuit, issued to the justices such directions as they thought necessary to the implementation of Privy Council orders. The judges' decrees were usually confined to the suppression of what were considered to be unnecessary alehouses.

7. Demonstrating from time to time that they were prepared to use their powers of suppression, the justices were able to require licensees to close at a certain time at night, not to open on Sundays, not to allow tipplers to remain on the premises more than one hour, and to impose any other conditions which they thought it necessary to impose. The Civil War which began in 1642 brought this system to an end. There were no more Privy Council orders and gradually the assize judges withdrew from their function of seeing that the law was applied administratively as well as judicially. Freed from supervision and either encouraged by, or perhaps sharing in, the post-restoration atmosphere, the justices appear to have adopted a policy of no restraint. The Royal Commission on Licensing of 1929–31 noted that 'the spirit of the Restoration period was unsympathetic to . . . restrictions and the enactments directed against tippling and drunkenness appeared to have become almost a dead letter'.

8. There followed what the Webbs called 'a period of laxness', which went unchecked until 1787. The justices stopped suppressing alehouses and issued new licences freely but licensing ceased to mean very much anyway, for coffee houses, which were not licensed for the sale of alcoholic drinks also began to sell beer.

RSB F

9. The expansion in sales of alcohol was not confined to those of beer. Since early in the 17th century the sale to tavern keepers of licences to sell wine had been an important source of royal revenue and here too the post-Restoration period saw an increase in the numbers.

10. But the increases in beer and wine drinking were outstripped by the increase in consumption of spirits, brought about by government policy. At the time of the 'Revolution' of 1688, the distillation of spirits in England was still a fairly recent development. Production was confined to the Distillers' Company and a few other holders of the royal patent and was limited, but spirits were also imported. As part of the commercial warfare waged by the new regime against France, severe restrictions were placed on imports of foreign brandy and a complementary freedom given in 1690 to anyone who wished to distil and retail spirits made from English-grown corn. The duties on such spirits were made minimal. Not only did spirits thus become more abundant and cheap but no licence was needed for their retail sale. At no stage therefore was there any hindrance to consumption, the increase in which was at first rapid and then alarming. The number of places where spirits were sold, called 'dram shops', grew rapidly, especially in the capital, until at the beginning of the 18th century there were estimated to be between six and seven thousand dram shops. This was not all. The Webbs found that,

> 'cheap gin was given by masters to their work people instead of wages, sold by the barbers and tobacconists, hawked about the street on barrows by men and women, openly exposed for sale on every market stall, forced on the maidservants and other purchasers at the chandler's shop, distributed by the watermen on the Thames, vended by pedlars in the surburban lanes, and freely offered in every house of ill-fame until, as one contemporary writer put it, 'one-half of the town seems set up to furnish poison to the other half'.*

They also quote another contemporary writer who drew the following picture,

> 'everyone who now passes through the streets of this great Metropolis and looks into the distillers' shops must see, even in the shops of a creditable and wholesome appearance, a crowd of poor ragged people, cursing and quarrelling with one another over repeated glasses of these destructive liquors. In one place not far from East Smithfield a trader has a large empty room backwards where, as his wretched guests get intoxicated, they are laid together in heaps promiscuously, men, women, and children, till they recover their senses, when they proceed to drink on, or, having spent all they had, go out to find wherewithal to return to the same drunken pursuit, and how they acquire more money the sessions paper too often acquaints us'.†

This was the picture which Hogarth portrayed.

11. Not until 1729 did Parliament try to deal with the situation by passing the first Gin Act, which added to existing low duty on gin and other compounded spirits what was then the very heavy burden of 5s. a gallon and required retailers to hold a licence costing £50 a year. It was easy to distil spirits not covered by the Act, which, rendered thus completely ineffective, was repealed in 1733 and replaced in 1736 by an Act covering all spirits and imposing heavier duties and licence fees. Had this Act been fully effective it would have brought about a situation akin to prohibition. In fact the reaction to so severe a measure was to ignore it. Only two licences were recorded as having been issued to, it must be assumed, exceptionally conscientious retailers who chose to pay the £50 fee when all others were selling, albeit covertly, without the licence. During the seven years after the Act consumption of spirits continued to increase so that, as Lord Bathurst was able to say '(spirits) were clandestinely retailed in every coffee house and alehouse, and in many shops and private houses'. This was in 1743, during discussion of the third attempt to find a solution. The Act which was passed in that year showed a new approach, the principles of which have not been departed from. The licensing fee was fixed at the moderate level of £1 and provision was made for revenue duties on both the manufacture and the retail sale of spirits to be adjusted to the needs (both social and fiscal) of the moment. Thus the licence fee ceased to be a deterrent (to spirits retailers) to compliance with the law and the justices

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*_Gentleman's Magazine_, February 1733.

†A pamphlet published in 1736.

were able to establish systematic registration of retailers, while the duties were, to quote Lord Bathurst again, such as would 'make (spirits) come so dear to the consumer, that the poor (would) not be able to launch out into excessive use of them'.

12. The specific problem of spirit drinking having been dealt with, attention then turned to strengthening the licensing law in general, again through adding to the responsibilities and authority of the justices. The Brewster Sessions, introduced by an Act of 1729 as annual sessions at which licences could be issued, were now made the sole source of licences. The procedure for the transfer of licences was formally prescribed. Justices who were either brewers or distillers were prevented from considering licence applications. The fee payable to the justices' clerk was fixed. A licence was to be granted only for a particular house and only to the keeper of that house, who had to live on the premises. The provisions of an Act of 1751, that premises which sold spirits as well as beer should be rated to the poor rate and additionally that those in London should be of at least £12 rental or £10 rateable value, provided some assurance of a minimum size and so some protection against the sordid and squalid conditions which went with overcrowding. From 1753 the licensee had to find two other persons willing to provide sureties for his good behaviour, in addition to the recognisances which he entered into himself. Except in London and corporate towns an applicant for a licence had to produce the certification of the incumbent and church wardens of the parish, or of not less than three substantial householders, that he was 'of good fame and sober life and conversation'.

13. It seems however that the justices showed little inclination to use the powers which they now had. Since it was neither difficult nor expensive to get a licence (it has been suggested that even references were not looked at by the justices as critically as they might have been) there was no point in going without one and the irregularity of selling liquor without a licence disappeared but the justices did not appear to concern themselves with what went on under cover of a licence. Parliament, whether from a belief, grounded in doctrine or in administrative convenience, that it had done its job and that it was now up to the justices, or as a result of what the Webbs called 'the characteristic desire of the 18th century governing class to extract revenue out of the evil propensities of the population', did not interfere. If the writers of the time are to be believed, considerations of revenue, public on the one hand and private on the other, did indeed influence the attitudes of the government and justices. Thus the *Gentleman's Magazine* in 1739:

> 'We are unhappily falling into a way of raising great part of the public and civil list revenue on malt, beer, wine, etc., the consumption of which, and consequently the revenue, is mightily increased by the vices of the people. This naturally stops the current of justice, and is an over-ruling argument with avaricious ministers and falsely loyal magistrates, not to exert themselves, according to their duty, to nip the first buddings of vicious, disorderly spirits. Hence the innumerable alehouses with which England abounds; hence the non-execution of so many good laws against tippling houses. To this may be added a supine neglect of duty too apparent in many magistrates, who seem to have little sense of the concatenation of vicious habits and unruly actions with each other, and over some of whom the large fees for warrants, licences, mittimuses, orders, etc. which pass into their clerks', or their own pockets, may reasonably be supposed to have some little influence'.

And in 1773 a writer in the Monthly Review reported of the brewers and distillers that they were 'not contented with such trade and gain as might fairly and spontaneously arise', but were

> 'known to buy up paltry houses and settle retailers in every little parish, as well in every town and city, and for fear there should be a place in the kingdom exempt from their advantage we have scarce a village without some of their cottages and huts, where servants and labourers, inferior tradesmen and handicraftsmen, young people and old, are secreted and allured by various sports, pastimes and fooleries, till, intoxicated with every mixture that can tempt the palate or drain the pocket, they swallow in like swine the filth of debauchery, and are a disgrace to our laws and a reproach to human nature'.

14. This casual attitude to licensing continued until after the accession to power of William Pitt in 1783, when there began a period, short in itself but of lasting effect, in

which there was a complete change of attitude to licensing and an attempt made to cut down the numbers of licensed premises and to keep a closer watch on the conduct of those that were left. The magistrates themselves seem to have realised that the number of public houses and the behaviour of those who frequented them were passing beyond what could be tolerated; and public opinion, which had long been critical of the way in which the liquor trade had been allowed to develop, was finally endorsed by government action which took the form of a proclamation by the King against vice and immorality, prompted by William Wilberforce in 1787, and distributed by the Home Secretary to all magistrates. All parts of the country were affected by the drive which was then launched by the magistrates to clean up the drink trade and they used all manner of devices in their campaign. At Brewster Sessions renewals were refused in large numbers but in many places the justices did not wait for the Brewster Sessions but suppressed licences immediately when they heard that either the alehouse keeper or his customers had allowed or indulged in misconduct. The most frequent forms of this were gaming, cock-fighting, bull-baiting and bear-baiting, and tippling, that is habitual drinking as distinct from drinking for refreshment. Houses that kept their licences were now often required to close on Sundays or at least only to be open on Sundays during times which did not coincide with those for divine service. Above all perhaps the justices made it clear that they thought there were far too many public houses and that superfluity alone was sufficient ground for suppressing some of them.

15. The policy of restriction and regulation initiated in 1787 was aimed at restoring seemliness in the behaviour of public house customers both on the premises and after they had left them but by 1816 it was found by Parliamentary committees examining the State of the Police of the Metropolis, and Public Breweries, reports on which were published in 1817 and 1818 respectively, that the new policy had had other effects, which now proved to be at variance with the prevailing political philosophy. In the first place the reduction in the numbers of licensed premises had increased the value of those that were available. Secondly the magistrates were seeking to raise the standards of accommodation of licensed premises and they were able to insist on this because of their power to refuse renewal. Improvements cost money and it was natural that the brewers should put up the money necessary for the improvement of the premises where their products were sold. Whether this led as it did in many cases to outright ownership or stopped short at the publican's indebtedness to the brewery, it gave the brewer control of the trade. Thus the committee found that the brewers were 'owners, purchasers, or equitable mortgagees, of one half of the victualling houses in the Metropolis'. Out of 48,000 licensed alehouses in the country at large, 14,200 were shown in 1816 as owned by brewers. Many more were controlled by brewers as a result of the licensees' indebtedness. The House of Commons committee did not examine the consequences for the consumption of drink or for social order of this brewery control; they assumed from the first that it was wrong in principle and that a policy which imposed restrictions on the numbers of licensed premises but none on the power of brewers to acquire more of these premises had the inevitable results of restricting 'the power which the public at large possessed of employing their capital in the trade of victualling houses', price fixing by brewers (it was alleged that this was done in London) and the consumer paying 'an extravagant price' for his beer. Since the situation was so clearly attributable to the powers of the licensing justices, the House of Commons committee recommended that those powers should be severely curtailed.

16. Gradually benches throughout the country began to relax their attitude towards the granting of new licences until the movement culminated in 1830 in two measures designed to create free trade in beer. The first was a budget of that year which removed the tax on beer and cider. The second was a Beer Act, under which any ratepayer wishing to sell beer on his own premises could do so without getting a justices' licence, needing only to pay a fee of two guineas to the local Excise Officer. The Bill took effect on the 10th October and before the end of the month Sydney Smith was able to say 'The new Beer Bill has begun its operations. Everybody is drunk. Those who are not singing are sprawling. The sovereign people are in a beastly state'. By the end of the year 24,342 new retailers had paid their two guineas. The first rush over, the number of applicants continued to increase and by 1838 the number of those holding the Excise Licence was 45,717. Although the consequences of the Act soon became apparent and

provoked continued criticism* from members of the public, social reformers, the clergy and the church wardens, and magistrates deprived of their power of control, nothing was done, apart from minor tinkerings which had no real effect on the situation, for nearly 40 years.

17. The Wine and Beerhouse Act 1869 restored the obligation to obtain a justices' licence whatever the style of premises, whether on- or off-licence, and whether for the sale of beer, wine, cider or spirits. The justices were not allowed to refuse either renewal of a licence for an existing beer shop, or the grant of new beer and wine off-licences, except on certain specified grounds. These were:

(i) that the applicant had failed to produce evidence of good character;

(ii) that the house or adjoining house occupied by the applicant was of a disorderly character or frequented by thieves, prostitutes or persons of bad character;

(iii) that the applicant having previously held a licence to sell intoxicating liquor had forfeited it for misconduct;

(iv) that the applicant or the house was not duly qualified as required by law.

18. The justices' discretion in the grant of new beer and wine on-licences was complete but so was the absence of statutory guidance on the use of this new power of refusal. Not knowing precisely the grounds on which they ought to refuse, the justices seem generally not to have done so and the marked decline in the number of premises licensed, which might have followed the 1869 Act, did not happen.

19. The provisions of the 1869 Act, a temporary measure, were made permanent in the Wine and Beerhouse Act (Amendment) 1870, and there followed Licensing Acts in 1872, 1874, 1880, 1881, and 1882 but none of fundamental effect. The brewers continued to acquire licensed premises; the temperance movement grew stronger and became a force in Liberal politics; and the Peel Commission (see paragraph 165) recommended steps to secure a large reduction in the numbers of licensed premises. The next major piece of legislation came with the Licensing Act 1904. By this time the climate both politically and socially more and more encouraged a policy of restriction in the issue of new licences; the Licensing Act 1902, for example, prescribed new penalties for customers who drank to excess and also increased the power of the justices by enabling them to require, or refuse approval of, structural alteration of on-licensed premises.

20. The government's intention in the Licensing Act of 1904 was to enable the number of licensed premises to be reduced and the standard of those remaining to be improved and to this end the grounds on which renewal of an on-licence could be refused were extended. The justices' existing powers to refuse renewal were related to the ill-conduct or structural unsuitability of the premises, or to the character of the applicant, and there was no change in these grounds, but there was added a provision that where the justices were of the opinion that the question of renewal required consideration on grounds outside their own powers, they should refer such cases to quarter sessions in which the power of refusal on the new grounds was vested. The additional grounds were in fact without limit in law, being described in the Act as any ground other than the grounds on which the justices could refuse renewal. Quarter sessions could thus refuse renewal for any reasons of social policy (including simple excess of numbers of on-licensed premises) which might suggest themselves to the minds of the magistrates.

21. Linked to the new power of suppression by refusal of renewal were provisions for the payment of compensation to the deprived licensee and for the creation of a compensation fund to be financed by a charge on all future renewals of on-licences in existence on the date when the new Act received the Royal Assent (15th August 1904). Such licences are now formally known as 'old on-licences' and the provisions for the levy on their renewal and the compensation on refusal of their renewal have continued throughout subsequent legislation and appear in the Licensing Act 1964. The amount of compensation payable was, and is, defined as the difference between the

*George Cruikshank's prints of 'The Bottle' and 'The Drunkard's Children' (1847–1848) were circulated in tens of thousands.

value of the premises when licensed and their value without a licence. (A similar formula was used in another part of the 1904 Act where this difference was called 'monopoly value' and was to be applied in assessing a sum to be paid into public funds by a person to whom a new on-licence was granted. This levy on the grant of new on-licences was abolished by the Finance Act 1959.)

22. Since the 1904 Act there have been a number of Licensing Acts of varying degrees of importance, their cumulative effect being to preserve the authority of the justices and facilitate the regulatory function which was the intended role of the licensing system, but there were no fundamental changes until the Licensing Act 1961 restricted the justices' discretion in the grant of restaurant and residential licences, and restored to the applicant the right of appeal (removed by the Licensing Act 1872) against the refusal of a licence. (The provisions of the Licensing Act 1961 (as consolidated in the Licensing Act 1964) are set out in detail in Chapter 2.) Since 1904, there has been a marked reduction in the numbers of public houses (the brewers have continued to own the majority of them—see Chapter 3), an increase in the numbers of registered clubs, and no marked change in the numbers of off-licensed premises.

APPENDIX 9

(referred to in paragraph 158)

Numbers of licensed premises in England and Wales, Scotland and Northern Ireland

England and Wales

Numbers of Publicans' and other On-licences, Off-licences and Registered Clubs

Year*	Public Houses		Restaurant		Residential		Restaurant and Residential	Licensed Clubs	Registered Clubs	Off-licences
	Full	*Beer/Wine*	*Full*	*Beer/Wine*	*Full*	*Beer/Wine*	*Full*	*Full*		
1894	103,341									
1899	102,189									
1904	99,478								6,589	25,405
1909	64,129	28,355							7,536	24,438
1911	63,105	26,834							8,209	23,815
1913	62,104	25,556							8,738	23,408
1915	61,291	24,598							8,520	22,977
1917	60,696	23,948							7,972	22,473
1919	60,021	23,411							8,994	22,198
1921	59,377	22,677							10,663	22,108
1923	58,887	22,100							11,471	22,135
1925	58,336	21,524							12,138	22,149
1927	57,896	20,907							12,775	22,189
1929	57,465	20,356							13,526	22,166
1931	57,072	19,814							14,377	22,105
1933	56,687	19,268							15,298	22,056
1935	56,356	18,706							15,982	22,115
1937	56,233	18,093							16,563	22,109
1939	56,112	17,460							17,362	21,995
1941	55,961	17,249							15,864	21,756
1942	55,901	17,191							15,682	21,653
1943	55,868	17,137							15,732	21,628
1944	55,856	17,109							15,678	21,610
1945	55,875	17,085							15,590	21,599
1946	56,009	17,017							16,496	21,693
1947	56,305	16,927							17,470	21,848
1948	56,850	16,534							18,370	22,025
1949	58,140	15,282							18,962	22,218
1950	59,054	14,429							19,221	23,532
1951	59,757	13,664							19,511	23,669
1952	60,333	13,035							19,903	23,717
1953	60,869	12,351							20,348	23,810
1954	61,265	11,708							20,772	23,863
1955	60,670	10,574							21,164	23,548
1956	61,087	9,788							21,438	23,531
1957	61,471	8,882							21,988	23,517
1958	61,762	8,151							22,567	23,530
1959	62,039	7,416							23,232	23,571
1960	63,682	5,502							23,773	23,670
1961	64,570	4,366							24,418	23,934
1962	65,615	2,422	1,297	21	549	1	942	1,153	21,459	24,644
1963	65,627	1,823	2,106	24	709	—	1,180	1,940	20,663	25,258
1964	65,483	1,448	2,817	24	837	—	1,358	2,040	21,010	25,838
1965	65,353	1,217	3,495	25	962	1	1,506	2,193	21,405	26,352
1966	65,353	1,020	4,116	11	1,087	—	1,650	2,318	21,872	26,590
1967	65,042	874	4,590		1,191		1,769	2,377	22,368	26,702

Authority: Liquor Licensing Statistics, Home Office.

*At 31st December until 1949; at 30th June from 1950.

The Compensation provisions have been in operation since 1st January 1905 (see Appendix 8, paragraph 21). The figures are not available for the years immediately preceding but those for 1894 and 1899 are given for comparative purposes.

Scotland

Certificates and Registered Clubs

	Public houses	Hotels		Grocers (off-licences)		Registered clubs
1913	5,175	1,584		3,516		613
1915	5,088	1,569		3,412		549
1917	4,966	1,502		3,210		493
1919	4,870	1,464		3,072		455
1921	4,618	1,430		2,944		511
1923	4,572	1,411		2,892		544
1925	4,531	1,401		2,818		597
1927	4,519	1,410		2,762		603
1929	4,481	1,410		2,708		643
1931	4,417	1,419		2,637		633
1933	4,328	1,441		2,592		650
1935	4,257	1,460		2,534		687
1937	4,214	1,491		2,475		687
1939	4,177	1,524		2,404		695
1941	4,125	1,509		2,281		661
1942	4,101	1,501		2,247		649
1943	4,098	1,502		2,214		651
1944	4,105	1,498		2,218		657
1945	4,080	1,506		2,188		681
1946	4,084	1,565		2,204		740
1947	4,103	1,646		2,257		773
1948	4,111	1,690		2,313		834
1949	4,115	1,709		2,342		884
1950	4,118	1,740		2,366		912
1951	4,123	1,768		2,380		944
1952	4,111	1,770		2,387		966
1953	4,134	1,800		2,409		990
1954	4,156	1,826		2,424		1,021
1955	4,162	1,821		2,426		1,056
1956	4,176	1,846		2,434		1,132
1957	4,201	1,872		2,444		1,169
1958	4,181	1,893		2,482		1,219
1959	4,177	1,942		2,499		1,245
1960	4,186	1,987	Restricted	2,580		1,297
1961	4,206	2,056	Hotel*	2,782	Restaurant*	1,326
1962	4,218	2,096	60	2,961	44	1,379
1963	4,212	2,138	111	3,131	106	1,421
1964	4,222	2,196	142	3,242	148	1,497
1965	4,213	2,265	149	3,385	175	1,554
1966	4,222	2,319	170	3,384	201	1,607
1967	4,230	2,404	184	3,555	221	1,686

Source: Civil Judicial Statistics Scotland. No figures available before 1913.

*Introduced by the 1962 Licensing (Scotland) Act.

Northern Ireland

Licensed premises and Registered Clubs

	On-licences	Off-licences	Registered clubs
1923	2,963	1,553	52
1925	2,908	501	53
1927	2,843	460	70
1929	2,789	426	76
1931	2,807	424	76
1933	2,743	416	78
1935	2,695	411	78
1937	2,646	409	81
1939	2,608	394	82
1941	2,994	380	82
1942	3,299	377	82
1943	3,413	381	83
1944	2,971	371	84
1945	2,871	368	88
1946	2,770	368	86
1947	2,571	366	94
1948	2,436	130	101
1949	3,130	131	105
1950	2,530	130	109
1951	2,512	123	113
1952	2,513	118	118
1953	2,495	118	125
1954	2,473	119	135
1955	2,442	120	135
1956	2,454	118	138
1957	2,437	120	139
1958	2,427	126	144
1959	2,410	129	147
1960	2,410	132	148
1961	2,410	144	150
1962	2,435	159	155
1963	2,413	149	156
1964	2,402	161	155
1965	2,391	163	164
1966	2,369	164	174
1967	2,451	108	185

Source: Ministry of Home Affairs, Northern Ireland. No figures available before 1923.

APPENDIX 10

(referred to in paragraph 159)

Observations of retailers, retailers' organisations and others

1. In the course of our inquiry we have received evidence from some 1,300 individual retailers (both 'tied' and 'free'), from associations representing retailers, from owners (other than brewers) of chains of retail outlets, from suppliers of goods other than beer to licensed premises, from the Consumer Council, from some consumers' associations and from individual consumers. For the most part the information given was in reply to questionnaires from us, although in some cases it was volunteered by those concerned.

2. The principal observations of these witnesses on those matters which refer to the brewers' arrangements as described in Chapters 1, 3 and 4 have been given in those chapters, and, in particular, in Chapter 4. In so far as the views expressed are critical, directly or by implication, of the brewers they have been brought to the brewers' attention and their comments will be found in Chapter 7.

3. We have also received evidence from a number of witnesses, including the Home Office, the Magistrates' Association, the Justices' Clerks' Society, the Consumer Council, the British Travel Association and would-be retailers of alcoholic liquor, about aspects of the licensing law and practice, as described in Chapter 2. Some of the evidence, and particularly that from would-be retailers, was volunteered by those concerned, but for the most part the information given was in response to our questions. We give below details of this evidence and summarise the principal observations made by these witnesses. As with other aspects (see paragraph 2 of this Appendix) we brought to the brewers' attention those views on licensing matters which express or imply any criticism of the brewers and their comments will be found in Chapter 7.

4. The evidence we received about licensing was concerned mainly with the difficulty of obtaining full on-licences and off-licences and, in particular, with the justices' reliance on and interpretation of 'need' as the guiding principle in the exercise of their discretion.

5. A number of witnesses described to us their efforts to obtain licences. We give below details furnished to us by four of these witnesses, whose applications were for (i) an on-licence (ii) a number of off-licences (iii) an on-licence in a licensing planning area and (iv) an off-licence in a State management district.

On-licence

6. The applicant for the on-licence was the owner of a hotel standing on a main road leading into a seaside resort. He held a restaurant licence for the premises but not a residential licence. The witness told us that during the two years he had owned the hotel he had made four applications to the justices for a full on-licence. All were refused. The witness said that in November 1968 he appealed to quarter sessions against the refusal of his fourth application. The appeal did not succeed. The hotel owner claimed that he provided facilities (including car park, lawns, children's playroom, and proper and adequate lavatories) which were not available at other licensed premises in the neighbourhood; he also claimed that both local opinion and the police were in favour of the premises becoming fully licensed. The nearest fully licensed premises were a public house across the road from the hotel, and owned by a brewery company which had opposed each of the hotel applications. The witness told us that in the summer the public house was unbearably crowded and that its lavatories were inadequate—there was one ladies' lavatory inside, and for men one outside in a disgusting condition. According to the witness quarter sessions turned down the appeal on the grounds that it was not desirable to have a children's room on licensed premises, that

the wider choice of beers which the new licensee would offer the public was irrelevant, and that relieving crowded conditions was no argument for an additional licence because people liked to drink in such conditions. The chairman of quarter sessions was reported in the press as having said that crowded public houses during holiday times were 'part of the fun'.

Off-licences

7. A company with a chain of retail grocery shops told us of its applications since 1964 for a number of *off-licences*, not in one town but in a number of different localities in the area in which the company operates. On Site A, an application for an off-licence on a housing estate, with a trading population of about 8,500, was first made by the company in April 1964. The company told us that there was no other off-licence shop in the area; there was a public house which could carry on an off-licence trade during on-licence opening hours. This application was refused. It had been opposed by the local licensed victuallers' association and forty individual licence holders in the town. The company appealed against the refusal to quarter sessions in July 1964. Objections were lodged by the same people as at the application and the press reported that it was argued by counsel on their behalf that 'existing licensees would lose a good percentage of trade from customers who might be attracted by the terms offered by the new licensee'. The appeal was dismissed. In November 1967, the company applied again for an off-licence for these premises. This time it was granted. The objectors appealed to quarter sessions against the grant but their appeal was dismissed.

8. On Site B, an off-licence application was made for premises in the centre of a town of about 140,000 population and the application was made at the same hearing, in April 1964, as that at which the application for site A was refused. There were six existing off-licences in the area of the town centre, although none was in the same street as Site B. The application was refused. An appeal to quarter sessions, again in July 1964, was dismissed. Following its failure to obtain a licence, the company sought to remove to the premises for which the application was sought a licence it already held for premises some distance away. The company's case was that the new premises would provide it with better storage and its suppliers and customers with parking space, and that the removal would improve the distribution of off-licences in the town. According to our witness the objectors' case against these arguments was that the removal would take away some of the trade from licensees already established in that part of the town where the new premises were. The application was refused. The applicant company appealed to quarter sessions in September 1966, where its counsel argued that the objectors' purpose was to stop competition and that the objections sprang from self-interest, not public interest. The appeal was dismissed.

9. On Site C, an off-licence application was made for premises in a town of some 17,000 inhabitants some 11 miles from the scene of the first two applications. There was, we were told, one existing off-licence in the area. The application was opposed by the licensed victuallers' association and by eight individual off-licensees. One of the grounds of objection was that the premises would be inadequate. The application was refused on the grounds that need had not been shown and the justices added that even had it been they were not satisfied that the premises would be adequate. The company appealed to quarter sessions, including in the grounds of appeal that it was prepared to demonstrate the adequacy of its premises by comparison with existing off-licences. The objectors withdrew their objection on this point. The appeal was allowed and the licence granted.

10. On Site D, an off-licence application was made for premises in yet another town, whose shopping centre served an area of about 10,000 population. There were in this locality 10 public houses, one having a licence to sell for consumption off the premises outside on-licence hours, one wine off-licence and two full off-licences. The application was heard in March 1967. It was opposed by the local licensed victuallers' association and the two full off-licences. Counsel for the objectors described the applicant, so the company has told us, as 'an octopus—not content with serving its customers with anything they wanted but wanting "the lot".' The applicant has pointed out to us that the two off-licences on whose behalf counsel was appearing belonged one

to a brewery company and the other to another retail grocery chain, each of which was bigger than the applicant. The justices granted the licence. The objectors appealed to quarter sessions against the grant and the appeal was upheld. It was on this occasion, according to our witness, that the quarter sessions chairman said it was in the public interest to protect established licensees and that a new licence would substantially reduce the trade of the existing experienced members of the licensed trade, both that of off-licensees and that of public houses with off-licence facilities. In August 1968 the company made a second application to the justices. It thought that its case had been strengthened by the great increase in trade which had followed the conversion of the formerly counter service shop to a supermarket and that it would also be helped by reduced opposition this time, since the grocery chain owning the off-licence shop which had opposed the previous application decided not to object to the second. (This chain had itself recently been granted an off-licence in a neighbouring town where our witness company already had an off-licence.) The application was however refused; an appeal to quarter sessions in October was dismissed.

11. On Site E, the company sought an off-licence for a supermarket on a new housing estate. The plan for the estate's shopping precinct included a public house adjacent to the site on which the supermarket would stand. The brewery company which owns the public house site did not however oppose the off-licence application. There were only two objectors. One was a brewery owned off-licence just over three-quarters of a mile from the new premises but still the nearest off-licence to them, and the other was the owner of a supermarket, about half a mile from the site and a little less from the other objector's off-licence, who had himself been refused an off-licence earlier in the year and now argued that if the justices were to be consistent, they must reject the new application. The application was refused.

12. On Site F, the company had, for many years before the Finance Act 1967, held an excise licence (under the authority of a justices' licence) for the sale of wine only in the pharmacy section of its shop. (One consequence of the abolition of excise licences by the Act was that wine-only licences for off-sales were also abolished. There are now only two classes of off-licences: intoxicating liquor of all descriptions; and beer, cider and wine.) When the company sought the renewal in February 1968 of its authority to sell medicated wines, it was given a new licence for beer, cider and wine as the current form of licence nearest to that which it had formerly held. The company began to use the wider authority which it had thus been given to sell a wider range of alcoholic drinks; the business in beers and wines grew rapidly and it was decided that it would soon reach a level where it could become too great to handle in the pharmacy section and would interfere with the service which should be provided to the public there. An application was therefore made to the justices in September 1968 for removal of the licence to the premises next door to the pharmacy, where the company had a food hall; an application was made at the same time for the licence to be replaced by one for intoxicating liquor of all descriptions. Both applications were refused. The company appealed to quarter sessions in November 1968 against the refusal of the removal application only. The appeal was allowed, although the chairman was reported to have said that had the application been for a new off-licence they would have had to come to a decision against it.

On-licence in a licensing planning area*

13. This case was brought to our notice by the Consumer Council. The applicant owned premises for which he held a restaurant licence and for which he wanted a full on-licence. Because the premises were in a licensing planning area he had first to obtain the licensing planning committee's 'no objection' certificate. This he had sought 10 times and each application had been refused.

Off-licence in the Carlisle State Management District

14. The applicant here was the owner of a self-service grocery store who in November 1965 was granted an off-licence by the licensing justices. He then had to apply,

*For explanation of licensing planning areas see paragraph 113.

through the Local Advisory Committee, for authority to use the licence. This was refused. In February 1967 the justices renewed the licence. The applicant was still denied permission to use it.

Principal observations on licensing

15. A few witnesses told us that they thought that off-licences had become easier to obtain in the last two or three years; one major company of supermarket operators which said that off-licences were not easier to obtain nonetheless said that 'at Quarter Sessions there is a very much more realistic approach to licensing and it is in these courts that we have been granted the majority of our licences (31 out of 35 applications in 1967)'. But most of our evidence concerned difficulties in obtaining licences. A retail grocery chain which told us of its efforts to obtain licences spoke of 'strong and regular' brewery opposition to licence applications; another grocery chain said that it had 'formed the opinion that established trade interests' were 'using the provisions of the Licensing Act to protect their special interest against the general interest of the consumer. In all the cases which have been fought in the courts, the only opponents which we have had have been the licensed victuallers' associations and holders of off-licences. . . . None of our opponents has sought to discredit the evidence which we have brought to show how great was the demand we wished to meet. They have added to it by emphasising that they would lose much trade to us. But they have distinguished need from demand and the distinction has been accepted. The representatives of the licensed trade have always said openly that the magistrates should give them some protection and in at least one case the chairman of the bench has said that it was the policy of the bench to give that protection'. A third grocery chain said that 'the local associations forward their objections' to licence applications 'in many guises but their principal objective is to protect their own trade interests', and another chain described the difficulties it encountered in securing licences as arising from 'indiscriminate opposition by vast brewery organisations and licensed victuallers. This is nothing less than legal protection of their trade and profits'. One of the retail grocery chains that gave evidence told us of having received offers of 'no-opposition' in return for an undertaking to deal exclusively with the brewer in a position to oppose. The company told us it was not its policy to give such undertakings.

16. One of these witnesses included in its evidence submissions to the justices made by objectors to licence applications. These submissions included the following. 'Most of my clients have well-established family businesses and they are entitled to look to you for the protection which they now seek . . .' 'Existing licensees would lose a good percentage of trade from customers who might be attracted by the terms offered by the applicants. There is nothing to justify a radical and dangerous and sudden disturbance of the licensed trade in the area'. The same witness told us that 'at Quarter Sessions, the Chairman upheld the objectors' appeal and said that it was in the public interest to protect established licensees. A new licence would substantially reduce the trade of existing experienced members of the licensed trade in respect both of off-licences and of public houses offering off-licence facilities'.

17. We sought evidence from clerks to the justices through the Justices' Clerks' Society. One clerk to the justices, who is credited by his fellows with special authority in the field of liquor licensing law, told us: 'I think it is fair to say that licensing law is born of compromise against the pressure of the forces of the trade on the one hand, and the forces of teetotalism on the other: on one thing only have these bitterly opposed forces been agreed and that is that new licensed premises shall not be established unless licensing justices are satisfied that there is local need. It became quite usual when application was made for a new licence (whether on- or off-) for there to be vigorous opposition by advocates of temperance who asserted that there was no need for increasing facilities for drinking, and no less vigorous opposition by existing licence holders who protested that they were organised to fill any need that could be shown to exist. The applicant would produce a petition containing many signatures supporting a statement that there was a need for at least one more licensed house in the district, and sometimes there would be a similar petition supporting the contrary opinion. Also whenever an 'old' on-licence was extinguished subject to payment of compensation it was always on the ground that it was redundant i.e. that there had ceased to be a need for it in the

neighbourhood. The emphasis on all sides was on 'need' (or the lack of it) for new licensed premises and this requirement of need hardened into practice if not into law . . . . With the principle of 'need' both the trade and teetotalism could agree and they have not let licensing justices forget it. The trade supports the principle because it is a protection against the intrusion of newcomers; teetotalism has liked it because it can be presented in simple terms and issue can always be joined upon it. Licensing justices have accepted it because it has provided a solid foundation for a policy; a policy that was born and developed side by side with statistics of convictions for drunkenness offences exceeding a quarter of a million each year. Since the war the forces of teetotalism have not been active in opposition and this has produced the paradox that the existing licence holders have lost a valuable ally; rarely nowadays is there opposition on a wide front. It is a long time since it was commonplace for an application to be opposed on public grounds; nowadays the only opposition is designed to protect existing businesses from competition, except very occasionally from people living in close proximity to the premises sought to be licensed who are fearful of noise, etc. interfering with their comfort'.

18. Other observations on the concept of need made to us by clerks to the justices included: 'Need is the principal test' . . . 'the justices consider themselves as concerned only to guard the public interest as to number, location and management of licensed premises; they are not concerned to protect the interests of other licensees in the neighbourhood'. . . . 'The justices' concern may be to ensure that there are sufficient outlets to meet the need but to limit the number of houses to that which the available trade will support so as to maintain a proper standard of service to the public. It may be argued that if licences were granted indiscriminately the weakest would go to the wall. So they would but they may take a long time doing so and in the interim the public may have to suffer the absence of a landlord who needs other employment to survive with all the difficulties that follow in its train. Enough then, in this situation, is that sufficiency that can cater properly for the public need and no more'. . . . 'If a district were 'over-licensed' licensees would not be able to sustain a good standard, which could be detrimental to the public interest'. . . . 'It is now said that the needs of the public must be met—the present day problem is to judge when saturation point has been reached (particularly with off-licences)'. . . . 'It must be recognised that opposition from religious bodies and temperance and total abstinence organisations has virtually disappeared. Opposition is now generally from the trade alone'. . . . 'Although the justices may be advised that it is not essential to prove need but that the question is whether it is in the public interest—to which question 'need' may to some extent be relevant—they still seem to decide most applications on whether in fact they think there is a need'.

19. We also sought the help of licensing justices themselves, through the Magistrates' Association. On the concept of need, the Magistrates' Association said 'Decisions as to whether there are enough facilities in the area are based on such facts as numbers of existing premises, population of area, influx of visitors and demand etc. It would be manifestly imprudent to grant a new licence in an area where there are so many existing licensed premises that the supply already exceeds the demand. Uneconomic premises inevitably become run down providing a poor service and uncomfortable conditions'. The Magistrates' Association also pointed out that, 'although proof of need may not be required specifically in any statute, it had arisen through the imposition of a monopoly value which the grantee of a new licence was obliged to pay to the Customs and Excise on the grant of a new justices' on-licence. Licensees, having paid a monopoly value, expected some protection of their monopoly, and on an application for the grant of a new on-licence it was invariably found that the grant was objected to by other licensees in the area on the ground that the need in the area in which the new licence was sought was adequately met by existing licensed premises'. The Association's view was that 'such evidence, which might be coloured by self-interest, was received with caution. Apart from evidence of need, which would be given by the applicant, and of the absence of need which would be given by objectors, licensing justices used their own special knowledge of the area and of changes in social habits. Different standards would be applied in the case of an application for new licensed premises in the town centre from those in a residential housing estate. On the one hand, the licensing justices would have some information about peak floating population, and on the other, population of the housing estate and the class of persons living there. It would be a safe

assumption that there was a need if the application was not opposed by other licensees or by the licensed victuallers' association. If any further evidence of need was required the licensing justices could ascertain from their clerk national statistics of the average barrelage of all on-licensed premises for England and Wales, and the ratio of public houses to population'.

20. The Consumer Council in evidence to us told us 'We think that the criterion of need as widely applied by the justices has become a means of protecting existing businesses from competition. The problems of widespread public drunkenness and proliferating beer houses selling cheap liquor are no longer with us, so that there is no longer any need for the justices to exercise close restraint on the setting up of new licensed outlets. We do not think that the justices should concern themselves with problems of consumer demand'.

21. The Home Office, in a memorandum, gave us the following description of what the liquor licensing law is intended to achieve: 'In its present form it is intended to restrain the abuse of intoxicants by placing those who sell them under public supervision and by limiting the opportunities for public over-indulgence. There is an obvious difficulty in securing a proper balance in this field between reasonable personal freedom to enjoy a drink on the one hand and the restrictions necessary in the public interest on the other'.

22. Without disclosing its origin we quoted the Home Office description of the aim of the licensing law to the Justices' Clerks' Society. We give below some of the comments it provoked from members of the Society. 'If the definition referred to ever existed I think it must be agreed it has now ceased to have any relevance in view of the fact that the 1961 Licensing Act was passed with the intention as expressed by Parliament of making it easier for people to obtain a drink'. . . . 'I should have thought that everyone must have agreed with the definition and that this has been the objective for many years' . . . 'The definition would appear accurately to reflect the views of members of this branch of the Society. This is a view understood by the justices and has been conveyed to them by their knowledge of the practical problems of the district, their conversations with older colleagues and advice from the clerk'. . . . 'Whatever may have been the origin of the licensing laws, there is certainly now no question of them operating in order to limit the opportunities for public over-indulgence except only with regard to licensing hours. In these days of easy travel it would only be possible to limit such opportunities by making the public wait in a queue in every public house within their area. We certainly do not agree with the definition'. . . . 'So much depends upon the area in question but I would suggest that the duty of the justices is to bear in mind that the sale and supply of intoxicating liquor is to satisfy public demand and that provided they are reasonably certain that a demand exists they should grant the licence unless other considerations are paramount'. . . . 'My licensing justices are very conscious of this definition.' . . . 'The licensing justices are concerned to administer the licensing law without prejudice to what may or may not be the reasons for it except so far as the statutes and case law reveal it'. . . . 'It would probably be more accurate to say that the licensing laws are designed to regulate behaviour in places of public resort. The behaviour of both the licensee and the patron is subject to regulation. There would appear to be more reason to suppose that the intention of the licensing law and other laws recently enacted is to protect the community at large from the tippler rather than the tippler from himself'. . . . 'This may have been the original intention historically but the modern approach is to afford a measure of protection to the trade so that licensees are likely to be men of ability and character who will maintain good standards in their houses and by their influence and firmness exercise control over their patrons'. . . . 'This definition is generally acceptable although a bit outdated. Availability of cash is now a substantial check on the money spent on liquor. It is questioned whether there can be said to be much over-indulgence nowadays. Permitted hours are generally more acceptable to the public now. It is well known that clubs are more and more popular and there is rarely trouble from this direction'. . . . 'It is not thought that this is a matter for the justices to consider or that it gives any guidance to them at all'. . . . 'My committee does not feel that the licensing law is there to prevent the abuse of over-indulgence. It feels that by and large, provided that the premises are suitable and that the applicant is a person of sound character, then within reasonable limits persons should have reasonable facilities for the purchase of intoxicating

liquor'. . . . 'If the licensing law is so designed, this is appreciated by the justices in only a vague sort of way . . . so far as public over-indulgence is concerned I doubt if this enters into it at all'. . . . 'In that at the present time there is, on the whole, very little sign of a blatant over-indulgence in intoxicating liquors, it can be said that the definition has not quite the force that it may once have had. Nevertheless it can still be regarded as a careful guideline'.

23. (One of the retail grocery chains which had told us of difficulties in securing licences ended its comments with the question 'Why do courts vary and even have opposite views on the same point?')

A 'special' kind of on-licensed premises

24. Exceptionally, we were told of one case where a full on-licence has been obtained by the owner of premises in which he serves a full range of hot and cold beverages, snacks, light meals and full meals throughout the day and where, during permitted hours, customers can buy alcoholic drinks, either on their own or with any of the other items sold on the premises. In other words this is not just a public house serving only, or mainly alcoholic drinks, nor is it a restaurant licensed to serve alcoholic liquor only as an ancillary to a substantial meal. Children have access to licensed areas, because the sales of food and all other forms of non-alcoholic refreshment exceed the sales of alcoholic liquor in the licensed rooms which are therefore not bars as defined in the 1964 Act and from which persons under the age of 14 are therefore not excluded. This licensee argued in a memorandum to us that the licensing law needed no amendment but already allowed the creation of two kinds of licensed premises which he described as

(*a*) refreshment houses, serving a full range of refreshments including tea, coffee, fruit juices, snacks, light meals and full meals together with or separately from beers, wines and spirits; and

(*b*) buffet bars, smaller than refreshment houses but with a similar range of refreshments excepting full meals.

This witness thought that, if such alternative types of establishment were created, any question of monopoly in the ownership by brewers of fully licensed outlets would cease to exist. The witness urged that where such a full range of refreshment was available there was no reason why alcoholic drinks should not also be available at all times and the amendment of the present law as it related to permitted hours was the only reform necessary.

25. The Consumer Council was less confident that such establishments, which it also favoured, would be able to flourish without more far-reaching changes in the law. They pointed out that the application for the licence which our witness had obtained had not been opposed by local licensees because they had thought that the application was for a restaurant licence. Nor could it be assumed that benches elsewhere would adopt a similar interpretation of what the present statute permitted. They drew attention also to the expenses of legal representation and the uncertainty inherent in the possibility that justices' decisions might be reversed by quarter sessions on appeal by the objectors.

26. The British Travel Association, speaking for 'the overseas visitors and the British holiday maker', also stressed the desirability of the development 'of a greater number of establishments which would be open to all age groups and which would offer a wide range of refreshments (coffee, soft drinks and snacks as well as liquor)'. The Association recalled that, before the enactment of the Licensing Act 1961, it had made a number of recommendations urging amendments to, and greater flexibility in, the licensing law. It acknowledged the 'substantial improvements' made in that Act, and welcomed the 'fact that a number of establishments had taken advantage of those changes in the Act which gave the owner or proprietor of a hotel or catering establishment the chance of improving his service in several ways'. The Association told us that, whilst acknowledging the almost free availability of residential, restaurant and combined liquor licences it had had experience of a limited number of cases in which hotel or catering establishments needed full on-licences to develop visitor services, but where the present system made the granting of a licence difficult if not impossible; in

its view, 'a more liberal attitude on the part of the licensing justices in such cases would seem to be necessary'. So far as public houses were concerned, the Association thought that the permitted hours under the licensing laws would seem to be the main factor limiting the ability of the retailer to meet needs expressed by visitors to this country, a number of whom had cited 'early closing of shops and pubs' as the aspect of their visits they had liked least. The Association told us that it continued to recommend the adoption of those of its proposals not implemented by the 1961 Act, namely (i) permission for the service of drinks with meals at all reasonable times (ii) general orders of exemption in places where visitors resort, for the whole or part of the year and (iii) uniformity in the regulations in England, Scotland and Wales. The Association considered that 'the ownership by brewers of over three-quarters of the inns in Britain and their control over the makes of beer sold in those inns, has given them the opportunity —an opportunity of which they have taken advantage on a considerable scale—to bring about improvements to premises and facilities'.

APPENDIX 11

(referred to in paragraph 166)

Numbers and types of licensed premises owned by brewery companies or groups

Brewery ownership of licensed premises at 31st December 1967

Numbers of brewers owning:	Total number of licensed premises	Public Houses			Off-Licences			Hotels			Restaurants		
		Total	Tenanted	Managed	Total	Tenanted	Managed	Total	Tenanted	Managed	Total	Tenanted	Managed
OVER 2,000 LICENSED PREMISES 5 brewers	42,037	35,537	27,082	8,455	6,231	3,168	3,063	256	32	224	13	3	10
1,001—2,000 LICENSED PREMISES 4 brewers	6,909	6,042	3,996	2,046	787	586	201	67	2	65	13	1	12
501—1,000 LICENSED PREMISES 9 brewers	6,885	6,153	4,768	1,385	674	438	236	48	1	47	10	2	8
401—500 LICENSED PREMISES 4 brewers	1,841	1,571	1,478	93	237	185	52	33	20	13	—	—	—
301—400 LICENSED PREMISES 5 brewers	1,800	1,514	1,379	135	279	235	44	7	2	5	—	—	—
201—300 LICENSED PREMISES 13 brewers	3,201	2,794	2,293	501	382	277	105	23	7	16	2	2	—
101—200 LICENSED PREMISES 23 brewers	3,270	2,930	2,288	642	301	159	142	38	17	21	1	1	—
51—100 LICENSED PREMISES 16 brewers	1,165	1,021	897	124	131	82	49	13	7	6	—	—	—

Number of brewers owning:	Total number of licensed premises	Public Houses			Off-Licences			Hotels			Restaurants		
		Total	Tenanted	Managed	Total	Tenanted	Managed	Total	Tenanted	Managed	Total	Tenanted	Managed
1—50 LICENSED PREMISES 27 brewers*	541	474	424	50	62	27	35	4	3	1	1	—	1
NO LICENSED PREMISES 5 brewers	Nil												
Grand Total	67,649	58,036	44,605	13,431	9,084	5,157	3,927	489	91	398	40	9	31
Number of companies still licensed as brewers but no longer actively brewing at 31st December 1967 (referred to in first footnote to paragraph 12 and first footnote to Table XIX paragraph 171)													
5 companies	299	279	243	36	20	8	12	—	—	—	—	—	—

Source: Brewers' returns.

*Includes Yorkshire Clubs' Brewery: see second footnote, paragraph 166.

APPENDIX 12

(referred to in paragraphs 271, 272 and 273)

Costs and Profits

1. Information about costs and profits and related matters was obtained from the following:

1. Allied Breweries Ltd.
2. Bass Mitchells & Butlers Ltd.
3. Charrington United Breweries Ltd.
4. Courage Barclay and Simonds Ltd.
5. Arthur Guinness Son & Co. Ltd.
6. Scottish & Newcastle Breweries Ltd.
7. Watney Mann Ltd.
8. Whitbread & Co. Ltd.
9. Tollemache & Cobbold Breweries Ltd.
10. Truman Hanbury Buxton & Co. Ltd.
11. Vaux & Associated Breweries Ltd.

Note: Bass Mitchells & Butlers Ltd. and Charrington United Breweries Ltd. merged after our inquiry had started but during the period for which we have obtained figures the two companies have been treated as being separate.

2. In 1966 (when we began our inquiry) the first eight companies together produced nearly 70 per cent of the total United Kingdom production and the 11 companies nearly 74 per cent of the total. As the result of subsequent mergers the percentages have increased and in 1967 the eight companies accounted for 72·7 per cent of the United Kingdom production.

3. Initially we intended to collect information about the five most recent years, but as a result of representations by the Brewers' Society we modified this request to one embracing figures for only the first of that series of years in addition to the year on which work was then proceeding and the following years as they became available. We have grouped together the figures for the latest year, the penultimate year and the first year for which figures have been obtained.

4. The primary purpose of our accountancy investigation was to obtain details of sales, costs, profits and capital employed in relation to reference goods (i.e. beer supplied within the United Kingdom for retail sale on licensed premises). However, it became apparent from our discussion with the companies concerned that we should need also to be provided with information about related activities. Accordingly the 11 companies were asked to submit financial information about managed and tenanted houses and about wines and spirits, cider, minerals, tobacco, in addition to that concerning the supply of beer to licensed premises.

5. Subsequently the Brewers' Society stated that the industry did not consider an apportionment of capital employed between beer, wines and spirits and licensed premises to be meaningful and that the relationship of sectional profits to such apportioned capital would be misleading. It also said that such an approach would lead to presenting relatively high returns on beer, varying returns on wines and spirits and negligible returns on licensed premises and that it would be erroneous to conclude therefrom that the level of profits on beer was too high and that its return on licensed premises was so low that the industry could not be making effective use of its resources. It gave the following reasons for not apportioning capital employed between:

(a) **(i) Production and wholesaling and (ii) Retailing**

(a) The industry is vertically integrated.

(b) Expenditure on licensed premises is in the nature of a selling expense.

(c) Additional profits arise from production and wholesaling on the acquisition of additional premises.

(d) The basis of fixing prices of beer and wines and spirits sold to tenanted houses varies with the basis of charging rents.

(e) Practices vary between companies when charging beers and wines and spirits to managed houses.

(b) **Products**

(a) The operations of the industry are inextricably bound together.

(b) The ownership of the licensed premises is of paramount importance and there is no logical or meaningful way in which the capital employed can be apportioned between products.

6. Whilst recognising that these arguments would need serious consideration when forming a judgment on the public interest issues arising from the inquiry, we preferred to keep an open mind on the subject and decided that we ought to see the results of making such an allocation of capital as we had envisaged before we made any decision. At our request, therefore, the 11 companies supplied financial information of sales, costs, profits and capital employed subdivided as follows:

(a) **Beer activities**—beer brewing and wholesaling but excluding wet rent (defined in this context as the difference between the published selling prices to the tied trade and to free customers).

(b) **Wines and spirits, minerals and cider and tobacco**—the wholesaling of these goods but including royalties received from suppliers in respect of goods which the latter invoiced directly to the tenants of the companies' licensed premises.

(c) **Managed houses and shops etc.**—trading by managed houses, shops, hotels etc., in the majority of cases goods being charged to managed houses etc. at tenanted house prices and costs including a notional rent corresponding to that charged in the case of tenanted properties.

(d) **Licensed and unlicensed properties**—net income from wet and dry rents of licensed and unlicensed properties and from amusement machines after taking into account the expenses of maintaining those premises.

7. In the event, we decided in the light of the brewers' submissions that the apportionment of capital was not realistic and we have not used the allocated figures in this report.

8. We have some reservations about the computation of the total capital employed, the principal ones being:

(a) **Historic cost of premises**

With one exception, all the companies which we investigated have revalued all or part of their properties at one time or another. Because of re-organisations, following upon acquisition or merger, or for other reasons, the position was claimed to be so obscure that it was not possible for the historic cost to be ascertained in more than one or two instances. Consequently it has not been possible to produce figures entirely on an historic cost nor entirely on a revaluation basis. The figures of capital employed, therefore, are based for the most part on balance sheet values, although in one or two instances fixed assets have been adjusted to historic or revaluation bases.

(b) **Valuation of licensed premises**

Where licensed premises have been revalued, it is customary in the industry for the valuation to be calculated by reference to the profits expected to be earned from those outlets as part of a vertically integrated business of producing, wholesaling and retailing. The factors used appear to vary between companies and between buildings according to the type of building, locality, potential and other factors. As licensed premises

comprise some 60 per cent of the average capital employed by the 11 companies it follows that because of this method of valuing licensed premises the overall return on capital employed, to some extent, is pre-determined.

(c) **Goodwill**

Some of the 11 companies investigated claimed that goodwill should be included in the figures of overall capital employed because it comprises the difference between the value of the net assets acquired on acquisition or merger and the book value. Consequently it is argued that the difference is largely attributable to the true value of the assets' exceeding the book value rather than to future profits. We think, however, that part of the goodwill figures may relate to future profits but, because we have not been able to identify any such amounts, we have included the full amount of goodwill in the capital employed. Over the 11 companies as a whole the inclusion of goodwill in the capital employed (contrary to our usual practice) has reduced the average return on capital employed by the 11 companies by about one half per cent.

(d) **Trade investments**

The brewers investigated hold trade investments in other companies trading in beer, wines and spirits, minerals or cider. In some cases the shareholding brewer has gained a seat on the board of directors as a result of the holding. In those cases where the company investigated claimed that the trade investments were of benefit to its trading activities and were held for that purpose, we have included the cost of the investments in the average capital employed. In other cases, where the company considered that its ownership was not known to the company in which the shares were held, the trade investments have been excluded from the capital employed on the grounds that they had not contributed in any way to the trading profits earned.

(e) **Unlicensed premises**

In most cases it has not been possible to separate the value of unlicensed premises from licensed premises. Accordingly in eight of the 11 cases investigated the unlicensed premises have been included in the average capital employed and the income therefrom in the net profit. The effect of the inclusion of these unlicensed premises on the overall return on capital employed, however, has been negligible.

9. The results of trading in reference and related goods by the 11 companies in total are given in Tables 1 to 5 at the end of this Appendix. Some brewers have told us that it is not their practice to consider profits in terms of sales because changes in duty alter sales disproportionately to profits. In Table 2, therefore, although we have expressed profits as a percentage of sales, we have also shown the net trading profit on average in terms of a bulk barrel (36 gallons) of beer.

10. The figures are subject to criticism by the individual brewers and by the Brewers' Society in the following respects:

(a) **Wet rent**

Adjustments have been made to reduce sales and profits under 'Beer Activities' by the estimated amount of wet rent and to include this income with rents (described as 'dry rents') and other income relating to licensed and unlicensed properties. The adjustment which has been made for wet rent has been defined by the Brewers' Society as being 'an assessment of the difference between the overall wholesale price of beer charged to the tied trade as compared with the average wholesale price charged to the free trade before taking discounts into account'. Most of the brewers investigated have accepted this interpretation but one was inclined to the view that discounts to the free trade should also be brought into account and another said that it would be wrong to assume that the additional rents which could be charged to tied tenants if they were to occupy premises on an arm's length basis, without other trade considerations, might be measured in this way.

(b) **Royalties**

Royalties on beers delivered directly to tied houses by other brewers are included as trading receipts in the profits on 'Beer Activities' and those received in connection with wines, spirits, cider, etc. similarly are included in the profits on 'Wines and Spirits,

Minerals and Cider and Tobacco'. The Brewers' Society considers that these royalties should be included under 'Managed Houses and Licensed and Unlicensed Premises' as it is because of the ownership of these premises that royalties arise and consequently they should be related to the capital employed from which they are derived.

(c) **Cross charges**

In some instances cross charges are made by beer subsidiaries (which own the licensed premises) to the wines, spirits and mineral subsidiaries in the same group of companies for the right to supply the beer subsidiaries' premises. These cross charges have been ignored for our purposes although the Brewers' Society considers that they are equivalent to the royalties charged to third party companies and should be treated in the same manner. Whilst the sums involved in royalties and cross charges were large in relation to the calculated profit or loss on licensed and unlicensed properties they were not large enough to have a significant effect on the figures relating to beer and to wines and spirits.

TABLE 1

Summary of Sales, Profits and Returns on Capital employed

Eleven Companies

	Average terminal date of financial years					
	December 1962		September 1966		September 1967	
	£'000	%	£'000	%	£'000	%
Sales and Other Income (net) (after transferring wet rent from beer etc. to licensed properties and including income from trade investments)						
Beer Activities	387,917	62·4	564,872	59·2	615,503	60·8
Wines and Spirits, Minerals and Cider, and Tobacco	135,583	21·8	222,023	23·2	223,804	22·1
Managed Houses and Shops	227,126	36·6	348,004	36·5	378,661	37·4
Licensed and Unlicensed Properties (see Note 1)	8,085	1·3	19,895	2·1	23,682	2·3
Together	758,711	122·1	1,154,794	121·0	1,241,650	122·6
Deduct Element of Double Counting-Sales to Managed Houses and Shops	137,476	22·1	200,559	21·0	228,487	22·6
Total	621,235	100·0	954,235	100·0	1,013,163	100·0
Net Profit or [*Loss*] (after transferring wet rent from beer etc. to licensed properties and including income from trade investments)						
Beer Activities	50,361	76·9	72,248	74·5	78,792	75·8
Wines and Spirits, Minerals and Cider, and Tobacco	9,042	13·8	13,706	14·1	14,006	13·5
Managed Houses and Shops	8,599	13·1	9,587	9·9	8,989	8·6
Licensed and Unlicensed Properties	[2,462]	[3·8]	1,486	1·5	2,142	2·1
Total	65,540	100·0	97,027	100·0	103,929	100·0
Net Profit or [*Loss*] *as per centage of:*		%		%		%
(*a*) *Sales and Other Income*						
Beer Activities		13·0		12·8		12·8
Wines and Spirits, Minerals and Cider, and Tobacco		6·7		6·2		6·3
Managed Houses and Shops		3·8		2·8		2·4
Licensed and Unlicensed Properties (see Note 1)		[10·7]		7·5		9·0
Total		10·6		10·2		10·3
(*b*) *Average Capital Employed* (see Note 6) (including Trade Investments, Goodwill and Capital Work in Progress) based principally on *Balance Sheet Values*		10·9		10·0		9·9

Notes

1. Excluding one company's income from licensed premises in 1962.

2. The average return on capital employed by manufacturing industry generally was as follows:

Average return on capital employed
Manufacturing industry

Calendar year	Historic	Replacement
	%	%
1962	12·6	9·9
1966	12·3	9·9
1967	*12·3	*9·9

*=estimated

The methods of calculation of the above figures by the Commission have been described in previous reports and, in particular, in *Colour film, a report on the supply and processing of colour films* (1966–67, HC1; HMSO; 10s. 6d.) Appendix 7.

3. Licensed premises usually have not been depreciated. Brewery Properties on the other hand, and plant and machinery, casks, vehicles etc. have been variously depreciated by the eleven companies. For our purpose we have used the depreciation charged by each of the companies in their accounts.

4. Exports of beer are relatively very small (rather more than one per cent of total of beer sales). Consequently, it has not been considered worth while to attempt to segregate costs, profits or capital employed.

5. The costs charged against sales in each of the four types of trading, (1) beer activities (2) wines and spirits, minerals etc. (3) managed houses and shops and (4) 'rents less outgoings of properties', have generally been supplied by the brewers from their own accounting records. Where such records did not provide the necessary division, a basis of allocation was agreed with the company concerned.

6. The variation from company to company was not wide, except for one of the smaller brewers and for Guinness, whose capital includes only a very small element of licensed property.

TABLE 2

Trading results—Beer activities

Eleven companies

		Average terminal date of financial years		
		December 1962	September 1966	September 1967
		'000	'000	'000
I Quantities (*bulk barrels*)				
PRODUCTION				
Unfermented on which duty assessed (after 6% allowance)*		17,658	21,383	22,396
PURCHASE OF OTHER BREWERS' BEERS		2,865	3,626	3,901
SALES INCLUDING TRANSFERS TO MANAGED HOUSES AND SHOPS IN THE GROUP				
Home		20,534	25,105	26,367
Export		286	297	301
Together		20,820	25,402	26,668
		£'000	£'000	£'000
II Trading results				
SALES INCLUDING TRANSFERS TO MANAGED HOUSES AND SHOPS IN THE GROUP (NET)				
Home		385,484	564,176	615,004
A	*Deduct:* Wet rent	2,686	5,424	5,963
		382,798	558,752	609,041
Export		4,476	5,131	4,953
B	*Together*	387,274	563,883	613,994
Costs		337,556	492,624	536,711
C	NET TRADING PROFIT ON SALES AND TRANSFERS (excluding wet rent)	49,718	71,259	77,283
D	INCOME FROM TRADE INVESTMENTS	643	989	1,509
E	NET PROFIT INCLUDING INCOME FROM TRADE INVESTMENTS	50,361	72,248	78,792
		£	£	£
Net trading profit (excluding wet rent)—per bulk barrel		2·4	2·8	2·9
		%	%	%
Net trading profit as percentage of sales:				
Including wet rent in sales and profits (A and C% of A and B)		13·4	13·5	13·4
Excluding wet rent from sales and profits (C% of B)		12·8	12·6	12·6
Net profit (including income from trade investments) as percentage of total income (E% of B and D)		13·0	12·8	12·8

*Excise duty is assessed on the unfermented quantity and an allowance of 6% is granted to cover losses at the various stages up to and including bottling. In most cases we have not been able to establish the quantity actually lost in comparison with the 6% allowance. From the information available to us we consider that, although in the case of some individual beers the losses may be in excess of 6%, taken overall the losses rarely, if ever, exceed 6%.

III Costs	£	£	£
PER BULK BARREL SOLD OR TRANSFERRED	16·2	19·4	20·1
AS PERCENTAGE OF TOTAL COSTS:	%	%	%
Manufacture (including bottling)	19·6	18·7	17·9
Duty	48·5	50·1	51·0
Purchases of beer	16·4	16·1	16·5
Storage, warehousing, selling and distribution	8·8	8·9	8·8
Advertising and promotional activity	2·4	2·0	1·8
Research	0·1	0·1	0·1
Administration	4·4	4·2	4·0
Interest (net) on loans and deposits	[0·2]	[0·1]	[0·1]
	100·0	100·0	100·0

TABLE 3

Trading results—Wine and Spirits, Minerals and Cider, and Tobacco

Ten companies
(i.e. excluding Guinness)

	Average terminal date of financial years		
	December 1962	September 1966	September 1967
	£'000	£'000	£'000
SALES INCLUDING TRANSFERS TO MANAGED HOUSES AND SHOPS IN THE GROUP (NET)			
Home	N/A	217,215	218,519
Export	N/A	2,993	3,239
Total sales (net)	134,578	220,208	221,758
OTHER INCOME (including income from trade investments and royalties)	1,005	1,815	2,046
Total income	135,583	222,023	223,804
COSTS	126,541	208,317	209,798
NET PROFIT	9,042	13,706	14,006
	%	%	%
NET PROFIT AS PERCENTAGE OF TOTAL INCOME	6·7	6·2	6·3

N/A=not available.

TABLE 4

Trading results—Managed Houses and Shops

Ten companies
(i.e. excluding Guinness)

	Average terminal date of financial years		
	December 1962	September 1966	September 1967
	£'000	£'000	£'000
SALES	227,126	348,004	378,661
COSTS	218,527	338,417	369,672
NET PROFIT	8,599	9,587	8,989
	%	%	%
NET PROFIT as percentage of sales	3·8	2·8	2·4
COSTS AS PERCENTAGE OF TOTAL COSTS			
Purchases from other companies or departments in the group	62·9	59·3	61·8
Other costs	37·1	40·7	38·2
	100·0	100·0	100·0

Notes

1. Transfers from other departments were charged at tenanted house prices in the majority of cases.

2. With one exception costs include a notional rent corresponding to that charged in the case of tenanted properties. In the case of the exception the cost of maintaining the properties was included instead of a notional rent.

TABLE 5

Rents less outgoings of Properties

Ten companies
(i.e. excluding Guinness)

	Average terminal date of financial years		
	December 1962‡ £'000	September 1966 £'000	September 1967 £'000
RENTS AND OTHER INCOME			
Licensed premises*	4,458	13,210	16,326
Unlicensed premises†	921	1,261	1,377
A *Total*	5,379	14,471	17,703
B EXPENSES	8,949	18,409	21,540
C Net [deficit] before crediting wet rent	[3,570]	[3,938]	[3,837]
D *Add* Wet Rent§	2,706	5,424	5,979
E NET SURPLUS OR [DEFICIT] after crediting wet rent	[864]	1,486	2,142
	%	%	%
Net surplus or [deficit] as percentage of rents and other income:			
Before crediting wet rent (C% of A)	[66·4]	[27·2]	[21·7]
After crediting wet rent (E% of A and D)	[10·7]	7·5	9·0

*Includes income from amusement machines, except in 1962 when such machines were not permitted in licensed premises.
†Two companies excluded rents received from unlicensed premises from their figures.
‡Excludes one company (in addition to Guinness) which was not able to provide details of 'Rents and other income' nor of 'Expenses'. This company had a net deficit of £1,598,000 and, therefore, the total deficit of the ten companies (i.e. excluding Guinness) in this year was £2,462,000.
§Wet rent generally relates to sales both to tenanted and managed houses.

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