



# PART I



Vote 6 o'clock closing. Alexander Turnbull Library, Wellington, N.Z.

## A BRIEF HISTORY OF LIQUOR LEGISLATION IN NEW ZEALAND

### THE SIX O'CLOCK SWILL

*"They are three or four deep, and drinking not as human beings, but often like animals, fighting to get it, and **passing handles over each other's heads.**"<sup>1</sup>*

*"In many cities the crowd around the bar is so thick that instead of filling glasses from the old-fashioned beer pumps, the hotel staff **take the beer to the glasses by long plastic hoses** – a dreadful sight to those unused to it."<sup>2</sup>*

## KEY FACT AT A GLANCE

Introduced in 1917 as a wartime measure, six o'clock closing was finally abolished after a public referendum in October 1967.

# LOOKING BACK IN TIME

## CHAPTER 1

### LESSONS FROM THE PAST

These descriptions refer not to the Wellington Sevens or a University Orientation event, but to some of our grandparents' and great-grandparents' behaviour in public bars fifty and sixty years ago. Specifically, they describe the drinking culture that was associated with six o'clock closing, a distinct feature of New Zealand's liquor laws which survived for half a century.

Introduced in 1917 as a wartime measure, six o'clock closing was finally abolished after a public referendum in October 1967. As historian Dr Paul Christoffel argues in his doctoral thesis "Removing Temptation: New Zealand's Alcohol Restrictions, 1881-2005",<sup>3</sup> part of the explanation for the endurance

of six o'clock closing lay in our deep ambivalence towards alcohol and politicians' nervousness at upsetting the delicate equilibrium between the so called 'wets' and 'dries':<sup>4</sup>

Once instituted, early closing proved difficult to undo despite the fact that the law was widely evaded and gave rise to an unpleasant institution that became known as the six o'clock swill. With regular licensing polls showing significant residual support for prohibition, MPs were nervous of liberalising drinking laws.

While that particular chapter in our drinking history is long closed, there remains a remarkable circularity to our national debates about alcohol since it was first introduced to the indigenous

population by the whalers in the early 1800s. Although the context for this current review of our liquor laws is different from that in which previous reviews have taken place, many of the issues – and mooted solutions – are remarkably similar.

Interestingly too, the original Licensing Act 1881, which provided the foundation for our liquor laws for a century, contained many features which remain to the present day, including the basic legal requirement that no one may sell liquor without a licence and that there be a minimum purchase age.

The Act also contained some curiosities, such as restrictions on various forms of entertainment on licensed premises including dancing, listening to music

Witnesses to the 1945 Royal Commission on Licensing gave evidence on the impact of trading hours on drunkenness; the number of licences and conditions attached to them; and the relationship between hours and outlet numbers on levels of intoxication, public disorder and the disturbance of 'domestic harmony'.



Vote 6 o'clock closing. Alexander Turnbull Library, Wellington, N.Z.

and eating, in the belief that to associate such pleasurable activities with alcohol was to encourage drinking. In 1910, this puritanical thinking reached its zenith with a law banning the employment of new barmaids, because it was feared "an attractive, pleasant mannered barmaid... was considered to be one way in which publicans enticed numbers of men, particularly young men, into public bars".<sup>5</sup> The ban was not rescinded until 1962.

Today, licensing conditions positively specify that food must be integral to the business of selling liquor with the aim of creating the type of environment conducive to moderate and civilised drinking. But in other important respects the present thrust for legal reform takes us back to the principles of that 1881 Act which placed the control of licensing decisions in the hands of local communities.

Under the 1881 Act, locally elected licensing committees controlled the issuing and renewal of licences. The total number

of licences in an area could only increase if agreed to by voters in a local poll, and between 1893 and 1918 voters even had the power to close all the liquor outlets in their electorate. In 1911 the triennial licensing poll on National Prohibition was introduced and this continued as a defining feature of our system of liquor regulation right up until 1987.

More than a century after the principle of local control was first enshrined in law, a Parliamentary select committee is once again debating the role local councils and their communities should play in determining the number, placement and hours of trading of licensed premises in their communities as it considers the provisions of the Sale and Supply of Liquor and Liquor Enforcement Bill.

A central tenet of liquor regulation then was the simple contention that the greater the availability of liquor in society, the more people will drink and the greater

the incidence of all manner of harms from drunkenness to dependence. Commonly described today as the availability theory, it posited that restricting access to alcohol in society would reduce consumption and with it the levels of harm.

Restricting, or, at its most extreme, prohibiting access to alcohol altogether was at the heart of New Zealand's prohibition movement. This movement was at its most influential throughout the late 1800s and early decades of last century. The country came close to adopting prohibition in 1919, before a doubling of liquor taxes in 1921, followed by the Great Depression, sent alcohol consumption to its lowest historical levels in the early 1930s.

The following decades were marked by an uneasy truce between the liquor industry and the temperance movement, both of which had a shared interest in continued restrictions. From the industry's point of view, restrictions on the issuing of licences protected them from competition, while the temperance supporters believed they protected the public from increased harm.

However, by the end of World War II pressure for change was mounting and in 1945 a Royal Commission on Licensing was set up to address some of the worst aspects of years of restrictive licensing and local control. These included the drastically uneven distribution of bars around the country and the poor drinking practices and facilities associated with this lack of competition.

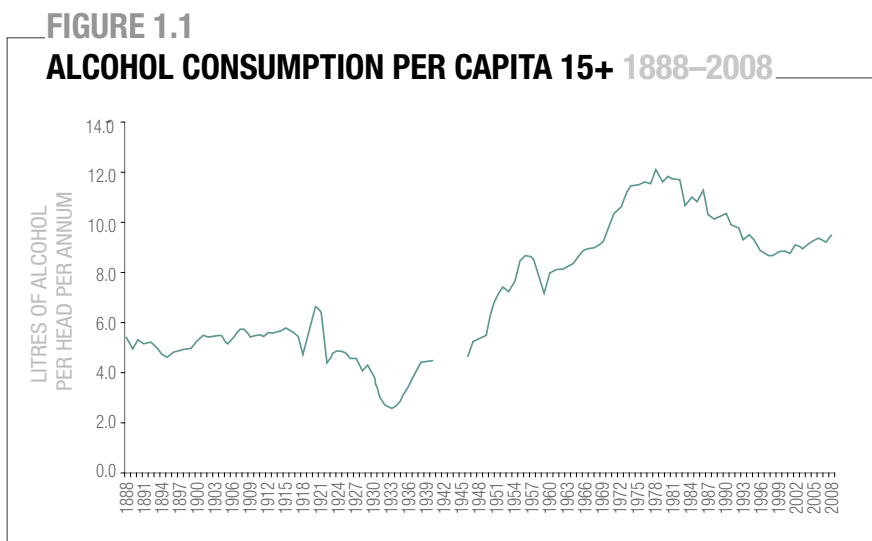
The issues canvassed during the hearings of that 1945 Commission underscore the timelessness of our concerns about alcohol: witnesses gave evidence on the impact of trading hours on drunkenness; the number of licences and conditions attached to them; and the relationship between hours and outlet numbers and levels of intoxication, public disorder and the disturbance of 'domestic harmony'.<sup>6</sup> Submitters also petitioned the Commission about the moral perils alcohol posed for women, young people and Māori – all groups regarded as requiring the special protection of the state when it came to regulating their drinking,<sup>7</sup> and all singled out some sixty years later in

less paternalistic terms as 'at risk' groups by some of today's policy makers:<sup>8</sup>

Witnesses to the Royal Commission routinely commented on the problem of increasing numbers of women drinking in bars, and the policy of some hotels to eject women from lounge bars by 5pm was greeted with universal approval. The prevailing view appeared to be that home rather than the bar was where women should be, to be joined by her breadwinning husband as soon as possible after he finished work.

Although the Royal Commission proposed loosening restrictions on trading hours with the introduction of some evening drinking, the politicians preferred to put the issue to a public referendum in 1949. The public opted to retain six o'clock closing.

It was another decade before the reforms began with the licensing of restaurants and the introduction of barmaids and 'taverns'. Then in 1967, 50 years after its introduction, a public referendum finally brought six



Source: Statistics New Zealand. Note that data is unavailable for the period of World War II.

o'clock closing to an end. The liberalisation process accelerated over the next two decades after a second Royal Commission in 1974 ushered in further reforms resulting in thousands of sports bars being granted licences, hundreds of restaurants being granted BYO licences and big increases in licensed restaurants.

As figure 1.1 shows, alcohol consumption had been rising since the end of World War II and peaked at over 12 litres of pure alcohol per head per annum in 1978, as the bulk of baby boomers moved through their late teens and 20s.

Members of the baby boomer generation who went on to become part of the

Alcohol consumption had been rising since the end of World War II and peaked at over 12 litres of pure alcohol per head per annum in 1978, as the bulk of baby boomers moved through their late teens and 20s.



Customers of the Porirua Tavern drinking inside the pub on the last day of 6 o'clock closing, *Evening Post* 1967, Alexander Turnbull Library, Wellington, N.Z. PADL-000185.



reduction of liquor abuse so far as that can be achieved by legislative means".<sup>14</sup> However, the Laking committee had modest expectations of the law's ability to modify drinking behaviours – particularly as roughly 59 per cent of all liquor was estimated to be consumed away from licensed premises.<sup>15</sup> Changing drinking cultures was best tackled through public education rather than liquor laws in the committee's view.<sup>16</sup>

Ten years on, after a further review chaired by Sir John Robertson,<sup>17</sup> the lucrative retail beer market (although not spirits) was also opened up to supermarkets.<sup>18</sup> The 1999 Act also lowered the minimum purchase age from 20 to 18, while imposing greater host responsibility obligations on licensed premises.

The Robertson review offered a largely optimistic assessment of the impact of liquor liberalisation in New Zealand, suggesting the reform of the licensing system in particular was responsible for promoting healthy and safe drinking environments and so contributing to a more mature and sophisticated drinking culture.

In 1967, 50 years after its introduction, a **public referendum** finally brought six o'clock closing to an end.



Vote for six as closing time. Alexander Turnbull Library, Wellington, N.Z.

## CHAPTER 1 ENDNOTES

- 1 A witness gives evidence to the 1945 Royal Commission describing the scene in some Wellington bars: Proceedings of the Royal Commission on Licensing (1945) 1379-1380.
- 2 Leslie Hobbs *The Wild West Coast* (Whitcombe and Tombs, Christchurch, 1959) 37.
- 3 Paul Christoffel "Removing Temptation: New Zealand's Alcohol Restrictions, 1881-2005" (PhD Thesis, Victoria University of Wellington, 2006).
- 4 Christoffel, above n 3, 165.
- 5 Anthony Grigg "Prohibition and Women: The Preservation of an Ideal and a Myth" (1983) 17 *New Zealand Journal of History* 144, 148.
- 6 Christoffel, above n 3, 133-206.
- 7 Christoffel, above n 3, 133-206.
- 8 Christoffel, above n 3, 150.
- 9 Report of the Working Party on Liquor "The Sale of Liquor in New Zealand" (October 1986) 18 [*Laking Report*].
- 10 *Laking Report*, above n 9, 18.
- 11 *Laking Report*, above n 9, 45.
- 12 See Sale of Liquor Act 1962, ss 74-78.
- 13 Alan Dormer, Alastair Sherriff and John Crookston *Brooker's Sale of Liquor* (Brookers, Wellington, 1990) 1-2(b).
- 14 Sale of Liquor Act 1989, s 4.
- 15 *Laking Report*, above n 9, 36.
- 16 *Laking Report*, above n 9, 48.
- 17 Report of the Advisory Committee "Liquor Review" (1997) 9-12.
- 18 Sale of Liquor Amendment Act 1999.