

DÁIL ÉIREANN

AN ROGHCHOISTE UM DHLÍ AGUS CEART AGUS COMHIONANNAS

SELECT COMMITTEE ON JUSTICE AND EQUALITY

Dé Céadaoin, 14 Feabhra 2018

Wednesday, 14 February 2018

Tháinig an Romhchoiste le chéile ag 9 a.m.

The Select Committee met at 9. a.m.

Comhaltaí a bhí i láthair /Members present:

Teachtaí Dála /Deputies	
Colm Brophy,	
Jack Chambers,	
Clare Daly,	
Peter Fitzpatrick,	
Charles Flanagan (Minister for Justice and Equality),	
Jim O'Callaghan,	
Mick Wallace.	

I láthair /In attendance: Deputies Alan Kelly and Donnchadh Ó Laoghaire.

Teachta /Deputy Caoimhghín Ó Caoláin sa Chathaoir/in the Chair.

Intoxicating Liquor (Breweries and Distilleries) Bill 2016: Committee Stage

Chairman: We now have a quorum and the Select Committee on Justice and Equality is in public session. As we are in public session I ask members and visitors alike to ensure that all mobile phones are switched off as they cause interference with the recording equipment.

This meeting has been convened to consider Committee Stage of the Intoxicating Liquor (Breweries and Distilleries) Bill 2016. It is a Private Members' Bill that has been sponsored by Deputy Alan Kelly and I welcome him to the meeting. I welcome back again the Minister for Justice and Equality, Deputy Charles Flanagan, and his officials. Fáilte romhaibh uilig.

Does Deputy Kelly wish to introduce his Bill first before we move on?

Deputy Alan Kelly: I thank the Chairman. I do not intend to make a Second Stage speech except to say that this is a short piece of legislation that supports the thriving craft brewing industry in Ireland. The legislation also helps out a number of other producers of various different forms of beverage whether it is cider or perry distilleries. There are two winemakers in Ireland, which was news to me.

I was motivated to draft this legislation because the brewing industry is thriving and growing all of the time. It can be found in the four corners of Ireland and in various rural areas, which brings employment. There is an anomaly in the licensing laws whereby brewers cannot sell their produce on site unless they have a wholesale licence where they can sell on a large scale. They cannot sell on site. They cannot have visitors, give them tours of their breweries and allow visitors to buy their products. I felt that the anomaly is holding back the industry and the industry approached me about the matter. I have spoken in depth with tourism authorities. Fáilte Ireland wants to create a branded product and cater for visitors to Ireland who are interested in this topic. My Bill deals with the anomaly. My Bill proposes to create a licence where a person can go to the District Court or Circuit Court in order to sell on-sales and off-sales, depending on which one wants, but a person could sell both. The legislation also proposes that if there is a tour, the brewer can have on-sales in the brewery. It is also my intention that anyone who visits a brewery can take away off-sales. Parts of my legislation are very important and we will tease out any issues.

I thank the officials from the Department of Justice and Equality, in particular Mr. Seamus Carroll, for working very closely with me on this matter for more than a year. I also thank everyone who spoke on Second Stage because we had unanimous support in the House. My legislation will not create new pubs or off-licences and is restricted to the actual products that are brewed on site. Let us imagine how it would feel if one could not purchase products on site having visited a vineyard in Italy, Spain, France or, indeed, the west coast of the United States where there are many craft breweries. The industry employs nearly 500 people at present and enactment of my legislation will allow a fledgling industry to flourish. I hope that we can deal with the Bill quickly and it will move on to Report Stage, and then through the Seanad because many of the craft brewers are waiting to expand their premises and create visitor centres, etc. All they need is for the legislation to be passed.

Chairman: I thank Deputy Kelly.

NEW SECTION

Chairman: Amendment No. 1 is in the name of the Minister. I must point out for the in-

formation of members that amendment No. 1 has been grouped with amendments Nos. 2 to 5, inclusive. Amendments Nos. 1 to 5, inclusive, may be discussed together. If the question on amendment No. 1 is agreed then amendments Nos. 2 to 5, inclusive, cannot then be moved. Acceptance of amendment No. 1 involves the deletion of section 1 of the Bill as it has presented to us this morning so it is a new section. I invite the Minister to address his amendment, please.

Minister for Justice and Equality. (Deputy Charles Flanagan): I move amendment No. 1:

In page 3, between lines 8 and 9, to insert the following:

“Licence for sale of intoxicating liquor at brewery, distillery, etc.

1. (1) Where a person who holds a relevant licence (in this section referred to as “the applicant”) duly gives notice of his or her intention to apply for a licence under this section in

respect of a relevant premises and, at the proceedings in relation to the application, the applicant shows to the satisfaction of the Court that—

(a) a relevant licence is in force in respect of the premises, and

(b) an appropriate mechanism is in place to restrict the sale pursuant to a licence granted under this section of intoxicating liquor on the premises to persons who have completed a guided tour of the premises, the Court shall cause a certificate to be granted to the applicant entitling him or her to receive a licence in respect of the relevant premises (in this section referred to as a “producer’s retail licence”), unless the Court prohibits the issuing of the licence on the grounds of—

(i) the character, misconduct or unfitness of the applicant,

(ii) the unfitness or inconvenience of the premises, or

(iii) the unsuitability of the premises for the needs of persons residing in the neighbourhood.

(2) Notwithstanding anything contained in the Licensing Acts 1833 to 2018, the Revenue Commissioners shall, subject to *subsections (6) and (7)*, on application to them being made in that behalf by an applicant and on presentation of a certificate granted under *subsection (1)*, issue a producer’s retail licence in respect of the relevant premises concerned.

(3) Subject to *subsections (6) and (7)*, the Revenue Commissioners shall renew a licence issued in accordance with *subsection (2)*.

(4) On the issue of a producer’s retail licence in respect of a premises, any other licence issued under the Licensing Acts 1833 to 2018 attached to the premises, other than a relevant licence, shall be extinguished.

(5) Notwithstanding anything contained in the Licensing Acts 1833 to 2018, a licence issued or renewed under this section shall operate to authorise the sale on the premises to which the licence is attached, between the hours of 10.00 a.m. and 6.00

p.m. each day other than Christmas Day, to persons who have completed a guided tour of the premises, of intoxicating liquor manufactured in accordance with a relevant licence on the premises—

(a) for consumption on or off the premises, where the certificate referred to in *subsection (1)* has been granted by the Circuit Court, or

(b) for consumption off the relevant premises where the certificate referred to in *subsection (1)* has been granted by the District Court.

(6) There shall be charged, levied and paid on every licence issued pursuant to this section and on its renewal, a duty of excise of €500.

(7) A licence shall not be issued or renewed by the Revenue Commissioners under this section unless a tax clearance certificate has been issued to the applicant in accordance with section 1094 of the Taxes Consolidation Act 1997 and such tax clearance certificate has not been rescinded under subsection (2A) of that section at the time of the issue or renewal, as the case may be.

(8) A person who sells intoxicating liquor, for the sale of which he or she is required to take out a licence under this section, without taking out such a licence, shall be guilty of an offence and shall be liable on summary conviction to a Class A fine.

(9) A person who holds a licence issued under this section and who contravenes the terms of the licence or sells intoxicating liquor otherwise than he or she is authorised by the licence shall be guilty of an offence and shall be liable on summary conviction to a Class A fine.

(10) In this section—

“brewer of beer for sale licence” means a licence for the manufacture of intoxicating liquor to be taken out annually pursuant to section 49 of the Finance (1909-1910) Act 1910 by a brewer of beer for sale;

“Court” means—

(a) in relation to an application under this section for a certificate entitling the applicant to receive a producer’s retail licence authorising the sale of intoxicating liquor for consumption on or off the relevant premises, the Circuit Court, and

(b) in relation to an application under this section for a certificate entitling the applicant to receive a producer’s retail licence authorising the sale of intoxicating liquor for consumption off the relevant premises only, the District Court;

“distiller of spirits licence” means a licence for the manufacture of intoxicating liquor to be taken out annually pursuant to section 49 of the Finance (1909-1910) Act 1910 by a distiller of spirits;

“maker of cider or perry for sale licence” means a licence for the manufacture of intoxicating liquor to be taken out annually pursuant to section 10 of the Finance Act 1940 by a person who makes cider or perry for sale;

“maker for sale of sweets licence” means a licence for the manufacture of intoxicating liquor to be taken out annually pursuant to section 49 of the Finance (1909-1910) Act 1910 by a maker for sale of sweets;

“rectifier or compounder of spirits licence” means a licence for the manufacture of intoxicating liquor to be taken out annually pursuant to section 49 of the Finance (1909-1910) Act 1910 by a rectifier or compounder of spirits;

“relevant licence” means—

- (a) a brewer of beer for sale licence,
- (b) a distiller of spirits licence,
- (c) a maker of cider or perry for sale licence,
- (d) a maker for sale of sweets licence, or
- (e) a rectifier or compounder of spirits licence;

“relevant premises” means a premises to which—

- (a) a relevant licence is attached, and
- (b) persons are admitted for the purpose of a guided tour of the premises.”.

Committee members will be aware that on Second Stage the Government agreed not to oppose this Bill on the basis that a number of amendments would be tabled on Committee Stage in order to ensure that there would not be any unforeseen or intended consequences on the legislation, as initially published. It was made clear that, in particular, the granting of a licence by the Revenue Commissioners would be conditional upon the presentation of a court certificate, which members will be aware is the normal procedure applicable to retail sales.

I am very keen to ensure that we can advance this piece of legislation this morning and, as Deputy Kelly has said, that we can proceed to the appropriate next Stages with an objective in mind that we would have matters completed over the next few weeks, which would facilitate an early commencement.

Amendment No. 1 contains the Government’s principal proposals. End of Take It will replace section 1 of the original Bill in its entirety. Subsection (1) provides for the granting of a court certificate to an applicant who is the holder of a manufacturer’s licence in respect of manufacturing premises to which persons are admitted for the purposes of a guided tour of the premises.

The court will grant a certificate to the applicant in respect of the premises on being satisfied of a number of things. First, the court will need to be satisfied of an appropriate manufacturing licence being in force in respect of the premises. Second, a system will need to be in place to restrict retail sales to those who have visited the premises and to those who have participated in a guided tour of the premises unless it prohibits the issuing of the licence on a number of other grounds, which are already known in legislation, being the character, the misconduct or the unfitness of the applicant, the unfitness or inconvenience of the premises in issue or the unsuitability of the premises for the needs of persons residing in the neighbourhood. This provision, which will be known to members, is based on section 28 of the Intoxicating Liquor Act 2000

which governs the grant of retail licences. I draw members' attention to the fact that, unlike section 18, there is no need to extinguish an existing licence for the purposes of obtaining a licence under this legislation.

Subsection (2) provides that the Revenue Commissioners shall, on presentation of the court's certificate, issue the licence in respect of the premises concerned while subsection (3) provides for the renewal of the licence. All retail licences for the sale of intoxicating liquor of any description are subject to an annual renewal process.

Subsection (4) provides that where a retail licence is issued in respect of the premises any other licence, apart from the manufacturer's licence, shall be extinguished. This corresponds with section 1(4) of the original text of the Bill, the view being that this will discourage holders of public house licences that may have an on-site brewery from applying for the licence or feeling that they have the need to apply for the licence, as they will have a public house licence in any event.

Subsection (5) provides that the licence issued under this section will permit the sale of intoxicating liquor products manufactured on the premises between 10 a.m. and 6 p.m. every day of the year, and this has regard to recently passed legislation. It also provides that the supply of the products will be for visitors who have participated in a tour of the premises. Where the court certificate has been granted by the Circuit Court, the products may be sold for consumption on or off the premises and where granted by the District Court, the products must be consumed off the premises.

Subsection (6) provides for excise duty of €500 at the request of the Revenue Commissioners, which is in line with other excise licences, and subsection (7) imposes the standard requirement for the applicant for a retail licence to have a current up-to-date tax clearance certificate.

Subsections (8) and (9) make provision for the offences. In subsection (8), it shall be an offence for a person to sell intoxicating liquor, for the sale of which a licence is required, without such a licence and subsection (9) corresponds with the original text. Subsection (10) contains the required definitions and I draw attention to the definition of the court. It means the Circuit Court if the applicant intends to sell products produced on the premises for consumption on or off the premises. If the intention is to sell products for consumption off the premises, an application may be made to the District Court.

I will deal with the other amendments when Deputy Wallace moves his amendments Nos. 2, 3 and 5.

Deputy Mick Wallace: I commend Deputy Alan Kelly on bringing this forward as it is a good idea and makes sense. It addresses an area which has been ignored. The development of small craft breweries is a new phenomenon in Ireland, though not so new in Europe, and it is good that we address it.

I have a vested interest. First, Wallace wine bars only sell craft beer. At the beginning we imported beers from Italy but we now use a lot of Irish beer because they are getting better and better and brewers in Ireland are getting better at what they are doing all the time, which is brilliant. My son, Fionn, is also building a brewery so it would be remiss not to declare my interest in this topic.

The Bill is a little bit fuzzy and we need to clean it up a bit. I am aware that there have been challenges in bringing the Bill forward but I prefer Deputy Kelly's initial Bill to the one with

the amendments. I am not suggesting massive changes but I hope that, on Report Stage, we might address some anomalies. The Government amendments would effectively replace the Bill as initiated, and, at the same time, if accepted would make my amendments null and void. It would make for legislation that would only serve a few large breweries and not give a financial boost to many of the microbreweries getting on their feet in this country in recent times.

I have four amendments to the Bill as initiated, namely, amendments Nos. 2 to 5, inclusive. Amendment No. 2 is addressed in the Government amendments in that winemakers would also be included in the new licence. The intention of amendment No. 3 is to do away with the necessity to have a guided tour in order to obtain this licence. I understand the Government's thinking on this matter but this provision is expanded and strengthened in the Government amendments, which would be to the detriment of microbreweries.

Amendment No. 4 would serve to extend the hours of the operation of this licence by one hour in order to allow for people to call by after work to buy beer from their local brewery, and also in order to allow the breweries to complete the brew in the morning on weekend days as this will most commonly be the time microbreweries have the opportunity to open up the brewery to the public while still having time to set up for visitors and get in a few hours of tasting for the beer tourists they attract. Is the Minister being a bit cynical?

Deputy Charles Flanagan: The Minister has not said anything.

Deputy Mick Wallace: Amendment No. 5 covers some of the same areas covered in the Government amendments, namely, addressing the recent change to the legislation around the closure of bars on Good Friday. It also includes winemakers in the list of those who can avail of this licence. In effect, the Government amendment No. 1 runs counter to my amendments Nos. 3 and 4 in that it keeps the hours for operating this licence at between 10 a.m. and 6 p.m. each day, and it doubles down on the necessity of the tour provision.

I will explain why these two elements of the Government amendments should not be accepted. The hours question follows on from the arguments around the tour requirement, so that can be discussed afterwards. Government amendment No. 1 invents two licences, one for on and off sales, for which one needs to apply to the Circuit Court, and one for off sales only, for which one applies to the District Court. With the provisions in subsection (1) of the proposed new section 1, both licences could only be attained if the applicant could prove to the court that he or she is fit to hold the licences and of decent character, that the premises is convenient and fit - for tours and the consumption of alcohol on the premises, one guesses, although the legislation is not clear on this point - and that having tours and possible consumption inside the premises would not be inconvenient for neighbours. The legislation is not clear on how these conditions will be proven. Must the applicant get a certificate from some Government body to prove his or her suitability in all these areas? Is there a public consultation process and timeframe for complaints against the application for the licences? Either way, hurdles are being erected and, where the applicant is out of favour with the local authorities, the local publicans or the locals generally, there is plenty for them to go on to halt this process.

Furthermore, there is a contradiction in the proposed Government amendment. For an applicant to qualify for an off-sales licence, or off and on-sales licences, he or she must show that guided tours can be held on the premises and that the premises is suitable for guided tours in the first place. This automatically rules out a great number of the microbreweries in Ireland from qualifying for these licences. Many microbreweries are packed to the rafters with fermenters, pipework and brewing and packaging materials as many producers start out with small enough

kits and, as they see increasing demand, purchase more fermentation and storage vessels until they have no more room to move in their workspaces. These breweries which are doing a lot in a small space, generally due to lack of investment and available funds to expand to bigger premises, are both precisely those who need the help this Bill could offer them financially and, because of the way in which the Government amendments are crafted, those who will not benefit from the Bill. These overcrowded breweries will not have the space to have guided tours or on-sales consumption either. They will not qualify past requirement (ii) in subsection (1) of the Government amendment, that is, “the unfitness or inconvenience of the premises”.

The most pernicious part of the legislation is that if one cannot prove one’s suitability to operate a tour, not only can one not have on-sales consumption of the products one makes, but one is also prohibited from off-sales. The Government amendment is very clear in subsection (1)(b) that the sale of alcohol is restricted to persons who have completed a tour of the premises. Nowhere else do the Government amendments make a special provision for off-sales, or those who do not have the space to have a tour. This makes a mockery of the invention of the second licence. If one does not have the space to satisfy the suitability criteria for a tour, one cannot have off-sales anyway, so why do we need a special off-sales-only licence? If one had the space for the tour, presumably one would have the space for on-site consumption too, the ability to clear an area for a group of people to sit down and have a tasting experience. There does not seem to be much reason to apply for the off-sales-only licence if one qualified for any licence in the first place.

What is proposed here is legislation designed to benefit the bigger breweries, that is, those that are on their second expansion and have some extra space on their new premises. The smaller breweries trying to get off the ground, if the Government amendments are passed, will not even be able to sell six-packs to their next-door neighbours because they do not have breweries with enough space for tours. Add to this the ridiculousness of the requirement to provide a tour to every person who wants to buy a can of beer or bottle of wine - and to be able to prove that one has given a tour to the person who buys the six-pack or whatever else. How will this be enforced? The amendment states in the proposed subsection (1)(b) “an appropriate mechanism is in place to restrict the sale pursuant to a licence granted under this section of intoxicating liquor on the premises to persons who have completed a guided tour of the premises”. It is difficult not to read this as saying the Government is not mad about the Bill in the first place.

In the UK, at weekends, some breweries do their work in the morning, clean up and then open up an entrance at one end of the brewery, cordoning off access to the nuts and bolts of the brewery and set up a tasting facility whereby they get to sell directly to their customers and get instant feedback on new brews that perhaps one can only taste on these days. In some states in the US there are breweries that only sell their beers directly from the breweries. People travel from far and wide for a chance to purchase some special edition brews that are only available on that day at that place. This is beer tourism. It is not about the setting up of a pub scenario; it is about people who are passionate about these products travelling to places to have experiences they cannot get anywhere else. It is great for the finances of the brewery as it means that on a small percentage of its production it can get margins that usually go to others along the chain and it can have a better chance of survival. Four microbreweries have closed down in Ireland in the past year. The people travelling to have these experiences inject money into the local economies surrounding the places of alcohol production that otherwise would not come to those areas. In the long run Ireland can become the proper drinks tourism destination that it is not quite at present.

Regarding the issue of opening hours, the reality is that breweries are usually staffed with just enough people to do what is necessary and these people all multitask. It is a hard graft, especially at the start, when it is difficult to afford to employ many people given the tight margins when production is small. This means that for smaller breweries the weekend would probably be the only suitable time to have tours, tastings and off-sales - and tours for every person who buys a beer. The Government amendment sets up a very busy time for those working to make this licence work for them financially - that is, if they were able to qualify for the licence in the first place, taking into account how the amendment is stacked against smaller producers. The requirement of a tour for every off-sale and the requirement of a guided tour for every on-sale means in reality that smaller breweries will not be able to avail of the licence while producing their product. During the week, from 10 a.m. until 6 p.m., the vast majority of Irish people will be at work. This, coupled with the guided tour requirements in the amendment, is designed to stop local people from buying alcohol products from their local producers. The Bill will give with one hand and take away with the other. The Government amendment will make the Bill less fit for purpose except for the bigger breweries that have extra staff and extra space. If the operation of the licence were extended to 7 p.m., local people could drop by to buy some products after work and producers could get their everyday work out of the way on weekends and get some use out of the licence, with a couple of hours for the tastings. In short, there must be some differentiation between this licence and a normal pub licence. The fact that the hours are so short and will be over before most people even go to the pub and that one can only drink or buy the products made at these places is a pretty big difference already, but the amendment hangs all that difference on the requirement to provide a tour. In the process the Government amendment sets up a situation in which many of those that need the benefits of the legislation the most, namely, the smaller breweries, will not get licences in the first place.

Deputy Kelly and I are probably the only two members present who have been in the breweries in Ireland. They can be a little all over the shop. Of course, for health and safety reasons, tours cannot be allowed in places that cannot meet health and safety standards. Anyone visiting these breweries will see that having tours in some of them just would not be practical, and I assure the Minister that he can completely forget about tours taking place while they are brewing. This would not be possible. Italy started this 20 years before us and is well ahead of us, but even in the Italian breweries, which are fantastic to walk around, and where one can see tours work really well, one could not have a tour while brewing is taking place. It is out of the question. There is just too much stuff such as pipes all over the place and too much activity.

I look forward to the enactment of the legislation. I just ask that we think a little more about the smaller guy whom we need to help get off the ground. This is indigenous industry, and the Government does not need me to tell it that Ireland has been very weak in supporting indigenous industry for as long as we can remember. We are so dependent on foreign direct investment. Of course we are delighted that foreign direct investment provides so many jobs in Ireland, but it is becoming more and more obvious, especially in rural areas of the country, that any new foreign direct investment coming to Ireland, if it does not involve extensions to places in Cork, Limerick or Galway, is coming to the Dublin hub because that is where all the action is and everyone wants to be near Dublin now. It is becoming even more difficult to get those involved in foreign direct investment to start something new away from the Dublin hub. That further emphasises the need for us to be more supportive of indigenous industry.

The craft brewing industry can be powerful and will help small distillers. Wine and other drinks are being made. It is a win-win for the country. Approximately 365 craft breweries open in Italy every year. They are small in nature and often expand when they find their feet and

are then more sensible and economic to run. If 365 breweries open in Italy every year, one can imagine that they cannot possibly become large breweries. That would not make sense because the market would not be there.

In Ireland we have an opportunity to help the industry grow. People already recognise that Ireland has gained a powerful reputation for distilling whiskey. We are becoming renowned worldwide for it and can do the same with craft beer. I hope that we can improve the anomalies in the Bill and make it better on Report Stage.

Chairman: I am tempted to say I could nearly do with one now after that contribution.

Deputy Jim O’Callaghan: Like Deputy Wallace, I commend Deputy Kelly on bringing forward the Bill. We said on Second Stage that we would support it and will support it on Committee Stage. We would like to see it passed.

Any time a Bill with the words “intoxicating liquor” in it goes through the Oireachtas, it should be said that we have an extremely troubled and complicated relationship with alcohol in this country. The graveyards and hospitals of the country are full of people whose lives were destroyed by alcohol. It shows that we need to develop a more mature attitude to how we consume and our relationship with alcohol. The Bill will probably be helpful in developing a more mature attitude to alcohol. The craft breweries which are being developed encourage people to be more interested in the taste of alcohol rather than its effects and will assist in making the country more mature about its relationship with alcohol.

I listened to what Deputy Wallace had to say about his amendments. I will wait to hear what the Minister and Deputy Kelly have to say in reply. I noted the amendments put forward by the Minister and Deputy Wallace have references to something called “perry”. Is that a type of sherry? What is perry?

Deputy Charles Flanagan: It is a sparkling wine.

Deputy Jim O’Callaghan: I thank the Minister.

Deputy Mick Wallace: It has not reached the leafy suburbs of Dublin 4 yet.

Deputy Jim O’Callaghan: Dublin 6.

Deputy Mick Wallace: Sorry. I did Deputy O’Callaghan a serious disavour.

Deputy Donnchadh Ó Laoghaire: It is a very valuable Bill; I can see the value in it. I do not have a vested interest, as it happens. In terms of competing amendments, I have different views on them and there is value in both. I disagree with Deputy Wallace on some areas. As Deputy O’Callaghan said, no matter the circumstances, we have to take intoxicating liquor seriously. There is sense in having criteria in respect of the suitability of a premises. One has to take into account proximity to schools and all of that. That is relevant. Having said that, the case has been well made in respect of small microbreweries where it would be neither suitable nor workable to provide a tour. Whatever about on-sales, in terms of off-sales, there is an obvious logic in people being in a position to travel to microbreweries and purchase directly. I would be interested in listening to the Minister and Deputy Kelly. The case has been well made about the ability to purchase on site in very small microbreweries.

Deputy Jack Chambers: Like the other members, I welcome the Bill and thank the Minister and Deputy Kelly for the work they have done. Deputy Wallace mentioned that the €500

fee will be prohibitive for some of the smaller start-up breweries. Is there any flexibility around the amendment he has proposed?

I refer to the guided tour obligation. What oversight does the Minister propose for that? In terms of people who purchase a guided tour, how will completion be assessed in the context of the licence? Is it unnecessarily difficult in the context of the Bill? Will a licence provider sell a particular tour with an option for completion? Perhaps the Minister could explain how completion will be assessed in the context of the licence being proposed. While I understand the reasons behind it, I am not sure how State oversight can be provided for in the legislative criteria in the context of the licence. It could easily be circumvented by particular microbreweries if a tour is not possible, as Deputy Wallace said. How does the Minister see the amendment being adhered to in the context of what he is proposing?

Chairman: I will take Deputy Brophy and then come back to the Minister. Deputy Kelly might like to make a contribution at that point.

Deputy Colm Brophy: I welcome the Bill. I wish to acknowledge that Deputy Kelly has produced a very good piece of legislation. From my perspective, there are two aspects on which I would like to comment. The first is the issue of tours. I can understand the reservations being expressed about it and they are fair. At the end of the day, if one takes out the tour element, one effectively transfers this from what I understood it to be, which was the development of legislation to enable a tourism promoted sector and the ability of people to access a tour and purchase alcohol to, in effect, a licence for a commercial premises to sell its products to manufacturers and retail stores. They are two different things. I can understand why any small microbrewery or manufacturer would want to have a retail operation for the reasons mentioned by Deputy Wallace, such as margin and everything else. It is something which is inherently different from the notion of facilitating a process like a tour which is designed to have a very different element.

In respect of the 6 p.m. cut-off, an extra hour would be very beneficial because if tours are being conducted and there is an access point, the cut-off will be 4 p.m., 4.30 p.m. or 5 p.m. depending on the length of the tour. The proposal for an extra hour has some validity. I would be cautious about moving to remove the tour element completely because it would turn this into a licence for a manufacturer's retail store. We need to examine that carefully in terms of the other aspects of what we are trying to do around alcohol in the country.

Chairman: Before I bring the Minister in, Deputy Peter Fitzpatrick has indicated that he wishes to speak and I will bring him in at this point. I will then revert to the Minister.

Deputy Peter Fitzpatrick: I commend the Minister for Justice and Equality, Deputy Flanagan, and Deputy Kelly on introducing the Bill in front of us. I believe 64 new microbreweries have been set up in the country in recent years which have created almost 500 jobs. That is a massive plus. However, I do have a concern about the sale of alcohol and I must disagree with my colleague here. I believe the opening hours, from 10 a.m. to 6 p.m., are a good start. The last thing I want to do is to encourage people to go to these breweries just to buy drink and take drink home.

Tours of these facilities is a good idea. I have been regularly lobbied in County Louth because a few of the new breweries are located there. I visited one or two of them myself and they have fantastic set-ups. Instead of changing everything in one go, I believe we should wait and see what happens over the next couple of years. I would be delighted if jobs were created and if it encourages tourism in different areas, that would be a major plus. As a non-drinker, a

pioneer, I was very impressed with the set-up in these breweries. I know that Deputy Wallace has much more experience than I do in going to Italy and having a look at such places. Italy might have a 20-year head start on us, but we should be taking our time with this anyway. It is something that could really kick off in this country. I spoke last week in the debate on the Public Health (Alcohol) Bill, and there was debate on Irish whiskeys and different types of labels. I would hate to see a stigma attached to this. Ireland is known as a country that manufactures good alcoholic products. I believe we have an opportunity of increasing tourism with these microbreweries but we should take one step at a time. Let us work with the Minister. It could be something good and could lead to employment opportunities. It might also help to educate young people about what actually goes into their drinks.

Tours would be a massive plus, especially for schools. Many people do not know what actually goes into the manufacturing of alcohol or about all the different contributors, such as local farmers, who get involved in the process. A tour would be a fantastic way to get young people to understand the manufacturing process of the drinks.

We are talking about increasing the opening hours from 10 a.m. to 7 p.m. I believe that would give the wrong impression.

Chairman: I am going to alter the order of this. It might be as well for the Minister to also hear Deputy Kelly's response to the various contributions.

Deputy Alan Kelly: I thank members of the committee for their contributions and the general support for this measure.

Ultimately, what we are doing is supporting a fledgling industry that is growing all the time. It is an industry that has probably reached capacity in terms of how much it can grow and expand under the current legislation. I do not believe it can grow much more. It has probably reached its peak. It is possible that we can create a scenario whereby we can educate more people around the country, and particularly internationally, about the brand of Irish craft beer. That is what this is about. It has knock-on effects for the agriculture industry, the servicing industry, the transport industry and a whole range of other things as well. It could grow exponentially.

In terms of education on alcohol and its misuse, this is a very positive step because this shows what brewers are doing at a local level, how beer is made, what ingredients go into it and the culture and the history of many of these breweries. There is a whole process. One can go to Tipperary and see White Gypsy or to Laois to see 12 Acres, to west Kerry and see the breweries down there or those in Carlingford in Louth. Each area has its own beer. There is an education process around that. Each beer has a different taste and can complement different types of food. It is like wine tasting; an educational process which is not all about young people getting as much beer into themselves as possible. There are different experiences available when one drinks beer sensibly and socialises in the proper manner. Statistics have shown that people who drink craft beer actually drink less because it is a whole experience, rather than just the consumption of alcohol for the sake of it. That has been shown by international and local studies. That is a good thing.

As to where we go from here, the Minister is generally very supportive and has said so himself. The Department also has been quite supportive. This Bill seeks to address anomalies and to provide some practical legislation to allow this industry to move forward.

On the amendments which have been put forward, I agree that wine should be brought in.

I have no issue with the time change at all, because it will allow people to clean up after their day. The issue of the suitability of premises is something of which many of the craft brewers I have visited - and I know a huge number of them at this stage - are aware. These people know that they are going to have to invest, but they will not invest in the clean-up and reorientation to meet with health and safety standards unless this legislation is passed in the first place. We are in a chicken-and-egg scenario. Some of these breweries are quite small but there is still the capacity to do tours. I have been in a number of such breweries which have had visitors. It basically involves ring-fencing a certain area. They still need to invest in that.

I do not particularly have an issue with the idea of licences put forward by the Minister. In fairness to the Minister and his Department they are obliged to work through earlier legislation and to try to make it fit here. I appreciate that. The proposed licence is restrictive in that it applies only to the produce that is sold on-site. We met the Department to ensure this would be a distinguished licence and the issue of the tour arose. I believe that a tour, in terms of on-sales and supporting the craft brewers in that area, is the way to go. I have gone through this idea with the craft brewers and their association. It creates a distinction in terms of the type of licence that will be in place for them.

We need to distinguish off-sales to a degree. I was educated about off-sales during this process. I believe one is allowed to sell 17 l. These craft brewers can sell kegs for parties and things like that. That is permitted at the moment. The issue, which I believe we will sort out through Report Stage, is to ensure that a craft brewer will also be able to sell off-licence to local people at smaller amounts than that. For example, if a person in Templemore is holding an event, he or she should be able to go to White Gypsy in Templemore, or if in Laois people can go to 12 Acres, and purchase a small amount of bottles or cans for that purpose. It would be very unusual and would not make sense if a craft brewer was not able to do that.

On the amendments - and I know the committee is under pressure in terms of timelines today - I am willing to work with the Minister and the Department, and indeed Deputy Wallace and others who have an interest in this. We can support the amendment that has been put forward by the Government with a view to making alterations on Report Stage based on Deputy Wallace's amendments, and based on dealing with the issue of small amounts of off-sales under such a licence, which is an anomaly which has to be dealt with.

Deputy Charles Flanagan: I am sure people are all mindful that we are dealing with a complex area of law, on which the legal texts date back to the 6th century. It is against that background that we are now expanding and developing further the sale and distribution of a product that has been a highly restricted substance in Irish law for centuries. I am not sure if it is ironic but we need to be mindful that, as we debate this matter in the bowels of our Parliament, there is a Public Health (Alcohol) Bill in the course of passage through the Houses and that changes which specifically govern the relationship between transport and intoxicating liquor have recently been introduced.

I am pleased that Deputy Wallace, when moving the amendments, declared a vested interest. That is the context in which he is proposing the amendments. If this committee were to regard the Bill as the great liberalisation of our licensing laws whereby, at the stroke of a pen, we would introduce in the region of a further 200 public houses - or perhaps many more - throughout the country, then I would be concerned. Having regard to the proliferation of microbreweries and the importance of breweries and distilleries to the industry, this figure is likely to increase. It was against this background that Deputy Kelly introduced the Bill, which would facilitate these breweries and distilleries in the supply of their products in small quantities to persons visiting

their premises or, as Deputy Wallace stated, beer tourists. I am supportive of this legislation, as is Government. It is important that we recognise the points that Deputy Kelly put forward. I would be very concerned if, as Deputy Wallace said, we were legislating for the larger breweries and were not helping microbreweries. It is important that we acknowledge the importance of the industry. Some of the breweries I have visited are very much on the micro in scale, they are small and it was never intended that they become international breweries or distilleries of huge size. I want to assist them along the lines that Deputy Kelly has suggested. In doing so, however, I want to recognise that we are dealing with something which these Houses have always regarded as a restricted sales product. That is the balance we need to achieve.

Deputy Jack Chambers raised the issue of a fee. That is the standard Revenue fee for governing the sale and supply of intoxicating liquor. I do not intend to introduce a new scale of fees or have exemptions for people in some parts of the country. The Deputy highlighted an important issue when he spoke about the tours or guided tours and what they entail. That will be a challenge, as Deputy Wallace observed, in areas of restricted size and space. We will probably need to establish what exactly we are talking about. Perhaps between now and Report Stage we could work on defining the guided tour. I have visited many of these establishments and it would seem that an office operative, a worker or a guide would take people around the premises in order that they might have the opportunity to see the vats in operation, witness the brewing process and then return to the lobby where they might be entitled to sample the product if they wish. They could then be in a position whereby they could take away a memory of their visit in the form of a small supply. That is restricted under law to an amount that someone mentioned as being quite restrictive, but it is actually 18 l. Reasonably good parties have been held with 18 l of beer. I do not think this law is unduly restrictive nor do I accept that the Government's amendments are unduly restrictive. I want to support the legislation in a way that supports the industry but not in such a way that has no regard for health and safety or for the restricted nature of what is being produced on these premises. We must do this in a way that has regard to the existing law. That is why the status of the applicant for the licence and the premises are based along existing legal requirements. I believe that is both important and appropriate.

Deputy Wallace spoke of the manner in which an applicant might show that he or she is of fit character. That is enshrined in law in the manner in which a publican or retailer applies for his or her licence on an annual basis. A public notice is placed in the newspaper and it is open to any member of the public who may have an objection to have it aired in open court annually. Similarly, the granting of this certificate will be based on that level of local consultation which, in effect, is an entitlement on the part of any member of the public to raise an objection or otherwise on an annual basis and whereby the court will, on the hearing of evidence from An Garda Síochána or from any interested party, judge the character, misconduct, unfitness or otherwise of the individual and also the suitability or otherwise of the premises. It is very important that we give due and appropriate consideration to the suitability of a premises for persons coming onto that premises in the context of health and safety and environmental health regulations and legislation. This cannot be seen as stand-alone legislation. Rather, it should be seen by way of reference to a whole body of legislation across various Departments dealing with public entry onto premises or the manner in which these tours can be structured. Despite what Deputy Wallace said, space is essential.

I contend that amendment No. 2 in the name of Deputy Wallace is not required in light of the definition of relevant licence contained in the proposed new section 1(10). Makers of wine are already covered in paragraph (d) of the definition.

Amendment No. 3 proposes to permit the granting of licences to nominees of the holders of manufacturing licences. I am not in favour of the amendment because it would change the responsibility and, in effect, sever the responsibility for compliance with conditions attaching to the retail licence from the holder of the manufacturing licence, which I am not sure is wise at this stage. It would also mean that although the applicant for the licence would have to be tax compliant, there would be no necessity for the nominee to be so, which is an important aspect of holding an intoxicating liquor licence having regard to the fact that one of the requirements on an annual basis for a licence to be granted or renewed is that the holder be tax compliant. This is not the only legislation whereby such a certificate is required in order to obtain a licence to trade. I cannot, therefore, accept amendment No. 3.

Amendment No. 4 seeks to extend the trading hour by a further hour, until 7 p.m. I must remind members that during the Second Stage debate, to which there were many contributions, there was support for Deputy Kelly's proposal that the trading hours be from 10 a.m. to 6 p.m. I have listened to what members have said on the issue and am disinclined to extend that any further. That was more or less what was agreed on Second Stage. I again make the point in the context of dealing with other amendments, in particular those of Deputy Wallace, that if we are to depart from the initial intent and import of the Bill as brought forward by Deputy Kelly, then we may be changing the law to a greater extent than was understood by many of our colleagues who spoke on Second Stage and agreed to allow the legislation progress to Committee Stage. I am not sure if they intended there to be a change to the substance of the legislation and I say that with particular reference to the trading hours, which are important. Deputy Wallace and those who might be exercised by a closing time of 6 p.m. have raised the issue of the 30 minutes drinking-up time traditional to other aspects of intoxicating liquor legislation. However, I am unsure if that is appropriate to a tasting endeavour rather than a more consumption-oriented experience after the guided tour. I am minded to retain the 6 p.m. closing time, having regard to the usual latitude.

Amendment No. 5 seeks a fundamental change to the purpose and entire scope of the Bill. Deputy Wallace seeks to dispense with the Bill's focus on visitors who have participated in a tour of the premises. I made reference to it earlier and am conscious of the point made by Deputy Jack Chambers in this regard but it is important that we retain the visitor experience. Deputy Wallace referred to bus tours of beer tourists and breweries must be concerned about the suitability of the premises. However, if such visitors are to have a rounded experience, in addition to sampling the produce they must be able to go behind the scenes and look at the nuts and bolts of the operation, which I understand is the basis of beer tourism in the United Kingdom as specifically referred to by Deputy Wallace. I cannot accept changes to the legislation that would create a completely new type of licensed premises or depart radically from the sensible and reasonable suggestion of Deputy Kelly at the outset of the legislation. I acknowledge Deputy Kelly's experience in this area and his expertise having regard to the close relationship he has with persons directly involved in the sector. That is not to in any way denigrate or take away from the experience of Deputy Wallace in that regard. I cannot accept any amendment to completely change the legislation and introduce a new type of licensed premises operating on the basis of restricted hours.

Deputy Clare Daly: Has the Minister ever been in a brewery?

Chairman: Deputy Wallace should draw a breath. The Minister was sailing close to the wind a moment ago but it is now Deputy Wallace's opportunity to speak.

Deputy Mick Wallace: There are times at which I worry about the Minister. He is missing

the spirit of the Bill, and I do not say that of any of the other Deputies who have contributed.

Chairman: No pun intended.

Deputy Mick Wallace: I was referring to the spirit of the Bill. The Minister gave the impression that I have put forward these amendments because I have a vested interest, which is untrue.

Deputy Charles Flanagan: Okay. I accept that.

Deputy Mick Wallace: That was an inaccurate statement. I declared I have a vested interest because that is what I should do.

Deputy Charles Flanagan: I accept that.

Deputy Mick Wallace: Given that my son is currently building his brewery and is aware that legislation of this nature is coming in, he will not have any problem with running tours because he is ensuring there will be sufficient space to so do.

Deputy Ó Laoghaire discussed brewery premises. I am not saying that the premises should not be fit for purpose but, rather, I fully agree with Deputy Ó Laoghaire in that regard. My amendments do not challenge the fact that premises must be fit for purpose.

The Minister discussed health and safety and I fully agree that there must be health and safety measures in such premises. That is all the more reason why it might not be a good idea to allow a tour through some very small breweries where it can be a bit mad in terms of how the plant is organised. It would be challenging from a health and safety point of view to allow tours of such premises.

The Minister stated that alcohol has always been a restricted product in Ireland. He probably does not need me to tell him that the time at which the most alcohol was sold in the United States was during prohibition. He is correct that we have an odd and restrictive approach to alcohol in Ireland but we have more problems with alcohol than any country in Europe where the laws are far more flexible. We need to take an educated approach to the consumption of alcohol and part of the Bill brought forward by Deputy Kelly would constitute an improvement in how we relate to alcohol. The Bill would definitely bring about an improvement in how we relate to alcohol because in 2015, the last year for which there are official figures, alcohol abuse in Ireland cost the State €3.6 billion. I do not understand why the Government is not more proactive in dealing with this problem. Why do we still allow alcohol to be advertised through sport? If we really care about addressing the alcohol problem, why does the State not replace the €36 million a year that sporting organisations currently get from the alcohol industry? That lack of action is beyond my understanding because using sport to promote the consumption of alcohol is the best way to get young people involved in alcohol consumption. However, the Government is not tackling it because of lobbying and vested interests.

Deputy Chambers discussed how to monitor and provide oversight for tours, which is a huge challenge. I would like the legislation to be stronger in that regard. The Bill is not restrictive but it could be more practical. Deputy O'Callaghan made the point that craft breweries are encouraging people to be more interested in the taste of alcohol. In terms of tourism, one can complete a tour in most breweries in Ireland in a matter of minutes, and sometimes only one minute. The tasting of the craft beer is a significant element of the tourism offering. Deputy Kelly made the point, and he is absolutely correct, that one cannot drink a craft beer in the

same way as one drinks chemical beers in the pub. It would not be possible. A person would struggle-----

Deputy Alan Kelly: Deputy Wallace is right.

Deputy Mick Wallace: We will not get into the volume of drink a person can consume, but I can tell anybody that he or she would not be able to drink half the volume of what that person could consume normally if he or she were drinking a craft beer. It is a different product. As it is made in a natural fashion, it is better for one's health.

The tasting of craft beer will take time and will be a larger part of the tourism offering but I welcome Deputy Brophy's support for the extended closing time of 7 p.m. I think the vast majority of craft breweries would be happy to shorten the opening hours and open from 12 noon until 7 p.m. instead of 10 a.m. until 6 p.m. That would be an hour less, but the hour between 6 p.m. and 7 p.m. would be of significant benefit. I would be very surprised if the craft breweries were not more comfortable with opening hours from 12 noon until 7 p.m.

I am from the countryside in Wexford and I go to the pubs in rural areas and there is nobody, or one could count the number on one hand, in a pub at 7 p.m. People do not drink beer in country pubs in Ireland in a serious way at 6 p.m. or 7 p.m. Most of the pubs do not get busy until after 9 p.m. I do not think that extending the opening hour to 7 p.m. will make the craft breweries more like a pub. The offering is not remotely like a pub. The craft breweries can only sell their own product, a pub can sell 100 different products and more. A craft brewery has not a prayer of getting anywhere near what a pub is like.

Chairman: I must interrupt Deputy Wallace but I will bring him back in. For the information of members, we must conclude the sitting of the select committee in three minutes time. I will not be able to proceed with the decision making process because voting will exceed the time available. I suggest that on the conclusion of Deputy Wallace's contribution, we adjourn and resume, as we are scheduled, in select committee tomorrow afternoon at 2 p.m. to address the Judicial Appointments Commission Bill. I propose that we commence tomorrow afternoon's business by concluding the decisions on the Intoxicating Liquor (Breweries and Distilleries) Bill 2016. I see no other way to do it. The witnesses for the Joint Committee on Justice and Equality are waiting to come before us.

Deputy Mick Wallace: I agree 100% with Deputy Kelly on off-sales. If a premises is too small to conduct a tour because it is not safe to do so for health and safety reasons, I do not think that brewery should be allowed to sell beer to consume on the premises. However, I think - and Deputy Kelly raised this point - we should allow every unit to make off-sales to local people, regardless of whether they can conduct a tour. I have no problem in agreeing to the principle of a tour for breweries that can facilitate the tour and allowing the clients to taste the craft beer in the on-site tap room. In other words, tasting can only take place when one does a tour. It is irrational not to allow the off-sale of quantities of craft beer to local people. It is not practical. Such a provision will have to be incorporated into the Bill.

Chairman: I thank Deputy Kelly and the Minister, Deputy Flanagan and his officials for attending here today. I am left with no other option but to proceed as I have suggested.

Progress reported; Committee to sit again.

The select committee adjourned at 10.15 a.m. until 2 p.m. on Thursday, 15 February 2018.