Maps Made by Temperance
The Legacy of ‘Local Option’ Controls on Alcohol in Melbourne

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When Melbourne’s two ‘dry zones’ had compulsory ballots for restaurant and café liquor licences removed in 2015, news accounts surmised that “a hangover from the anti-alcohol movement of the 1920s had finally been relegated to the history books”. Yet the dry zones are chapters in a longer, ongoing story. The 1920 poll that created these anachronistic alcohol-free pockets culminated half a century of campaigns in Australia and beyond for local alcohol controls, prohibitions and vetoes including ‘local option’. This paper looks specifically at temperance era local-level politics, and its legacies for cities like Melbourne today. The paper uses archival records and historical GIS techniques to show the workings and debates of Victoria’s early local option policies, and their corollaries statutory limits and dry zones – some of which survive residually today. Mapping the rise and spatial impacts of local policies on hotel numbers it shows the temperance movement of the late 19th century using nascent planning laws to legitimise local popular political power, and the control not only of alcohol but of land use and disorder more broadly. Drawing on the idea of genealogies of planning (Booth 2005) the paper argues local option history has legacies for, and parallels with, questions facing cities and planning today. As some temperance-era controls are being wound back, essentially identical policies are being reasserted.

Keywords — Melbourne; dry-zone; alcohol; planning laws

INTRODUCTION: HANGOVERS AND HISTORY BOOKS?

In 2015, The Age reported on the “End to dry polls for Melbourne cafes and restaurants” (May 13th 2015). Melbourne’s two ‘dry zones’ had compulsory local ballots removed for restaurant and café liquor licence applications. Although the basic system remained, with residents in the pockets still required to vote on applications for pub and club liquor licenses, the news report surmised that “a hangover from the anti-alcohol movement of the 1920s has finally been relegated to the history books”. But the dry zones might not be so neatly relegated – they can also be read as chapters in longer, ongoing stories, including of the control of alcohol and other ‘vice’ activities; and of tensions around the polict role of direct democracy.

Melbourne’s anachronistic alcohol-free pockets were first created by a 1920 state-wide ‘local option’ poll. This poll culminated over half a century of Temperance campaigns for local controls and vetoes on alcohol. Such localised politics of the temperance era are not well documented: tending to have been overshadowed by the notoriety of national prohibition and wowser (Australian shorthand for a grimly meddling non-drinker). Yet Volki (2009 p647) argues that in the US, while local option laws have tended to be remembered only as a minor part of broader prohibition politics, they also revealed:
...a more complex mixture of both popular and elite participants struggling with whether majority rule and popular political empowerment always embodied democracy or freedom, or potentially their opposites.

This paper revisits the escalation, demise, and legacies of local option laws in Victoria. After considering the context of the temperance movement and its push for local controls on alcohol in Australia and elsewhere, it then uses archival records and historical Geographic Information Systems (GIS) techniques to track the workings of Victoria’s local option provisions through the late 19th and early 20th centuries. Some of the surviving legacies of these controls, even after having been combined with zoning and being subjects of liberalisation, are then outlined. Drawing on the notion of genealogies of planning (Booth 2002, 2005) the paper argues that the history of local option has both legacies for, and parallels with, planning questions today. As some temperance-era controls like the dry zones are being wound back, essentially identical policies are being reasserted and the same issues re-encountered.

THE TEMPERANCE MOVEMENT AT THE LOCAL LEVEL

The ‘temperance movement’ refers to a suite of values, beliefs and policies framed in opposition to alcohol. Particularly during the later decades of the 19th century, the temperance movement swelled from a comparatively novel personal ethos that drinking spirits slightly less than always – being ‘temperate’ was a worthy idea, into a general opposition to alcohol, and into a social movement and political force.

Recognisably temperance ideas and groups originated in social movements of the United Kingdom in the 1830s, and were initially concerned with the moderated consumption of alcohol, particularly spirits. Temperance groups soon morphed into ‘Tee-Total’ (‘Total Abstinence’, teetotalism) principles formalised through Temperance and Total Abstinence societies. In Australia, for example, the New South Wales Temperance Society was established in 1835, and the Melbourne Total Abstinence Society in 1842. Temperance in Australia encompassed such groups as the Independent Order of Rechabites, Band of Hope, Sons of Temperance, Good Templars, Methodist Church, Women’s Christian Temperance Union, Salvation Army, Blue Ribbon Army, and the Quaker church – “just” as Dunstan (1968) sardonically observed, “to mention a few” (p56).

Accounts of the spread of temperance beliefs and policies in Australia can be found in Wowsers (Dunstan 1968); A Rum State (Lewis 1991); Beyond the Ladies Lounge (Wright 2014); parts of the edited volume The Outcasts of Melbourne (Davison et al 1985); and others. Dingle (1980) analyses the politics of prohibition in England. Nicholls (2006; 2011) documents the longer-term politics of alcohol in the United Kingdom. Merrett (1979) details the activities of liquor licensing authorities through the mid 20th century in Victoria. Valverde (1998), with a focus on Canada, discusses shifts over time in beliefs about alcohol, and accompanying regulatory regimes.

Temperance forces sought to build an alternative social order (supplied with coffee palaces, drinking fountains, free libraries and other temperance institutions); and to influence existing legislation in order to control or close hotels. The peak of regulatory influence of the temperance movement is commonly remembered as an almost monumentally misguided national policy – total prohibition in the United States through the 1919 Volstead Act. In Australia, the high (or low) water mark is understood to be the introduction of 6 o’clock hotel closing, which occurred in all Australian States during the First World War. Although intended as a temporary patriotic measure, the ‘six o’clock swell’ – the crush of heavy drinking by men in public bars between 5pm knock off and 6pm closing – was to define a utilitarian Australian drinking culture for decades afterwards.

Given the notoriety of national prohibition and swell, the temperance movement is not often remembered for its local politics. But place-based controls and property rights were used as key tools for alcohol control. Restrictive covenants on property titles, for example, limited alcohol sales by private contract and were sold as a feature of residential subdivisions. Locally defined prohibitions were also introduced by governments, for example in Victoria's goldfields; the irrigation towns of Mildura and Renmark; and in Canberra’s early years.

‘Local option’ policies were small-area prohibitions on alcohol sales, or direct local vetoes on liquor licenses. The local option principle was that local people – which usually meant ratepayers, which usually meant property owners – ought to have the democratic right to decide by popular vote whether and to what extent to have liquor outlets in their area. Forms of local prohibitions were instigated for example in the United States, Canada, United Kingdom, New Zealand, Denmark, Finland, Norway, and Sweden. They were known variously as Local Option, Local Veto, or Permissive Bills. Rowntree published regularly on temperance and social issues, documenting the use of such statutory controls (e.g. Rowntree & Sherwell 1899). While evangelical teetotters may have set to a total prohibition utopia in their sights, their emphasis on local option as a way to attain this was to coincide with ascendant 19th century values including classical liberalism, property rights, and municipalisation.

Typically, two-thirds or three-fifths majority vote was required to deny liquor licenses or to vote an area ‘dry’ by local option. The definition of ‘local’ varied but included subsets of electoral regions, licensing districts, and less commonly was a function of local government. Different models proposed differing roles for direct democratic input or government or judicial agencies. In some models, the majority opinion of voters was independent of any other authority, as in (quoted in Rowntre & Sherwell 1899):

“If any village, town, or city, or any district of a town or city, wished to be without a public-house, it should be able by a popular vote to give effect to this wish, independently of any previous decision of the licensing authority. The majority required to give effect of the veto should, however in no case be less than two-thirds of those voting.

In the United States, Local Option was sometimes referred to as Maine Law, based on the State of Maine (first dry in 1851). The culmination of counties, cities, and states voting ‘dry’ over subsequent decades underscored the push for US national prohibition. US national prohibition was repealed in 1933, but state and local level dry areas remained. Today 33 US states retain local option provisions for counties or localities to be dry by popular vote. Depending on source and definition, 200 to 500 counties or municipalities were dry by local law in the US in 2016 (Wikipedia 2016).

Proposed local option laws in Britain were to be local (devolved) and permissive of local variation – hence legislation named the Permissive Bill. The first Permissive Bill was proposed in 1864. It was defeated, and revisited on seven occasions before morphing into the 1895 Intoxicating Liquors Local Control Bill. Dingle (1980) relates the complex alignment of parties around local option at that time. The issue split the Liberal Party between proponents of local democratic rights and critics wary of the impacts on individual liberty (Nicholls 2006; Nicholson 1990), and the bill was never passed despite decades of lobbying. Local prohibitions on alcohol, local option is now legal in England and Wales (for example in Bourneville). Scotland introduced local option provisions via the Temperance (Scotland) Act 1913, a success attributed to the strong influence of temperance and the Scottish Liberal Party (Kellas 1965). Dry areas in Scotland came and went – by 1970 there were 16 prohibition districts remaining. The system was abolished in 1976.

New Zealand enacted local veto laws in 1893. A three-fifths majority of voters could reduce the numbers of licensed outlets, or ban outlets altogether. Voting areas were based on general electoral boundaries, and dry areas known as ‘Dry Electorates’. Between 1894 and 1908, 12 out of 76 electorates in New Zealand voted dry. Results of these polls are mapped at Teara (2016). In 1918 the compulsory local veto system was abolished, but existing dry areas continued with the option to vote for prohibition, continuance, or for “state purchase and control”. In 1945, amendments made the ‘dry’ boundaries fixed and no longer aligned with electoral boundaries. Some dry areas existed until relatively recently - for example Eden and Roskill in 1999. New Zealand retains liquor cooperatives and provisions for Local Alcohol Policies.

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saw a majority vote for prohibition. However, it was not implemented, as the province of Quebec voted strongly against it. Prince Edward Island maintained prohibition by referendum from 1901-1948; and Ontario from 1916-1927. Canada also had a federally ordered prohibition over 1918-1920 as a war measure. Canada now has a government monopoly system in all states except Alberta. Exceptions apply for wineries and breweries. Prohibition in Ontario was never really repealed, but gradually softened and modified (as detailed in Valverde 1998).

An Australian push for local option began from the late 1860s, consolidating around the Local Option Alliances following the Temperance Convention of 1880. New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania all had some form of local option by the early 20th century. Queensland introduced a local veto system in 1885, and Western Australia held a referendum on local option 1911. As detailed below, Victoria’s first clearly local option provisions came in 1870, escalated in 1876 and 1886, and culminated in a statewide poll in 1920.

Local option controls in Australia and Victoria thus came in the context of similar ideas across several countries in the late 19th century. The trend was partly facilitated by emergent ideals of municipal control: for example in Britain, Liberal leader William Vernon Harcourt likened liquor control to sanitation – in what Hunt (2010) characterises as municipal socialism or collectivism. Proponents emphasised the efficacy of policies tailored to local circumstances: how prohibition could be “adopted wherever the condition of a favourable local sentiment existed” (Dingle 1980 p17).

Local option did not create controls on alcohol - trade in alcoholic drinks had been regulated for several centuries in the English system (inherited in its colonies) through licensing systems overseen by magistrates. But the principle that local communities ought to have the right to directly determine by popular vote whether and how alcohol was allowed in their area was new and something that took root during the temperance era, including in the colony and later state of Victoria.

### Mapping Local Option In Victoria

This section is based on historical liquor legislation in Victoria (AUSTLII); combined with secondary accounts (e.g. Dunstan 1968; Wright 2014). It identifies specific aspects of local licensing legislation giving local areas the opportunity to limit license numbers, reduce licenses, or to veto new licenses by objection. The paper then uses archival records (including government gazettes; and digitised maps from the State Library of Victoria) and historical GIS techniques to show the spatial result of the 1920 state-wide local option poll in Victoria. Historical GIS provides ways of presenting and interpreting historical events with a spatial dimension (for example Gordon 2011). Orford et al (2002) argue that “mapping and spatially analysing historical data can often be crucial in understanding the patterns of present day social structures and the factors that have determined them” (p25). They also point to the practical challenges of recreating spatial records from qualitative records.

Since the establishment of the Colony (in the 1830s) and its split from New South Wales (1850s), Victoria always had a licensing system for alcohol sales, regulated through a series of liquor licensing acts. Under these earlier Acts (1851, 1853), licensing applications and renewals were heard at annual licensing meetings, with decisions made based on retrospective information (including objections) on licensee character and record. The first specific reference to being able to object to a new license based on prospective impacts seems to have been through the 1864 Wines, Beers and Spirits Sale Act. The Act contained provisions for the public to object to license applications if it was “in the immediate vicinity of” schools, places of worship (churches) or hospitals; or if the “the quiet of the place…will be disturbed”. Objections based on the “quiet of the place” would be heard if supported by a petition from the majority of neighbours (“occupiers of houses”).

The Wines Beer and Spirits Sale Statute 1864 Amendment Act 1870 added to this a provision for a municipal body to object “on behalf of the ratepayers”, to the granting of a liquor license where they felt there was already “a sufficient number”. On this or other valid grounds, if it appeared to the magistrates that a majority of ratepayers in the neighbourhood objected, then they were to refuse the license. The 1876 Licensing Act went further and froze all new licenses without a majority vote from electors in a municipality to increase numbers. The system defaulted to a limit on new liquor licenses in an area, with provision for areas to vote to increase numbers. Plebiscites under this Act were triennial, with three held – 1879, 1882, and 1885. The polls were referred to as “public house plebiscites”, “licensing ballots”, or “local option polls”. They were undertaken alongside local government elections, and limited to (male) ratepayers. Voters were also to indicate their preferred number of local licenses: a clause considered confusing. The Act for example referred to doubt caused by “the obscure verbal collocation of sections 22 and 23 of part 2 of the Licensing Act 1876” (The Age, August 13th 1879).

Local option in Victoria came in earnest through the Licensing Act 1885 (amended in 1886, 1887, 1888 and 1890). The Act introduced a legislative ‘statutory number’ – an acceptable ratio of hotels to the local population. This statutory limit added a measure through which hotel numbers could not be just limited, but bought down to standardised benchmarks (that would, notably, seem high today). The statutory limit was 4 hotels for the first 1,000 of population, and 1 hotel for each subsequent 500. Locals could petition for a poll to either decrease or increase hotels to this number.

Hundreds of voluntary polls were held in Victoria between 1886 and 1906 through this system. While overall hotel closures were considered small (217, a net of 57), there were significant closures in some areas (including North Melbourne and Geelong). Comparatively few areas successfully voted to increase hotel numbers to the statutory number. While the idea had been to “enable the voters in a licensing district to take the initiative with regard to the decrease or increase of licenses” (Licensing Court and Licence Reduction Board – Fifteenth Report, 1922-1925), the License Reduction Board was later critical of the effectiveness (which it measured in hotel closures). With the 1885 legislation also came exceptions for very large establishments (with 30 or more bedrooms): possibly an early step in the establishment of much larger hotels and more concentrated hotel industry structure.

Political compromises between the temperance movement and hotel industry saw the establishment of the License Reduction Board (LRB) in 1906. Proponents sought a stronger form of local option. There were growing stand-offs with the liquor industry, and internal divisions over details such as compensation (described in Merrett 1979). The 1906 legislation required a compulsory state-wide local option poll in 1920 and, in the interim, set up the LRB to operate 1906-1916. The brief of the LRB was to close ‘excess’ licenses above the statutory number, by voluntary and involuntary means. The LRB in also sought to increase the size and standards of hotels (Wright 2014). War saw the Board’s work extended until 1920, with additional powers. In total the License Reduction Board closed 1,371 hotels in Victoria over 1906-1920.

Under the 1906 and 1916 Acts, the first state-wide local option poll on liquor license numbers was held in 1920. Thus officially, the LRB’s bureaucratic powers were returned to the democratic local option system. The backdrop for the first Victorian state-wide poll, and the first with the option of ‘no license’ was however that thousands of hotels had already been closed by the LRB, which had established itself as an authority on licensing standards. License numbers had been capped to existing levels for several decades, and 6 o’clock closing had been in place for several years. Merrett (1979) notes the work of the LRB greatly reduced the preferred democratic aspects of local option. By trimming what were seen as the ‘worst aspects’ of liquor outlets, the LRB meant temperance proponents lost ground to more moderate regulation. Hotel lobbyists seemed to prefer this model of regulation over the vagaries of local votes. Altogether, the liquor licensing landscape in Victoria had greatly changed between the peak of campaigning for local option, and the time of the state-wide poll.

In 1920 there were 218 licensing districts in Victoria, based on electoral divisions. All enrolled voters (now including women) were allowed to vote on license numbers. The local option system required a 3/5th (60%) majority of district voters to return a ‘no licence’ (prohibition) result and thus close all hotels in a district. A simple majority (50%) voting either ‘reduction’ or ‘no license’ was required to reduce license numbers to 3/4ths of the existing number. Reductions were not confined to hotels and would include, for example, licensed grocers, although compensation was only paid to hotels. The results of the October 1920 poll were published in the Victorian Government Gazette (November 19th 1920). Each
saw a majority vote for prohibition. However, it was not implemented, as the province of Quebec voted strongly against it. Prince Edward Island maintained prohibition by referendum from 1901-1948; and Ontario from 1916-1927. Canada also had a federally ordered prohibition over 1918-1920 as a war measure. Canada now has a government monopoly system in an area, with provision for areas to vote to increase numbers. Plebiscites under this Act were triennial, with three held – 1879, 1882, and 1885. The polls were referred to as “public house plebiscites”, “licensing ballots”, or “local option polls”. They were undertaken alongside local government elections, and limited to (male) ratepayers. Voters were also to indicate their preferred number of local licenses: a clause considered confusing. The Act for example referred to doubt caused by “the obscure verbal collocation of sections 22 and 23 of part 2 of the Licensing Act 1876” (The Age, August 13th 1879).

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licensing district was listed with the following information: name, number on roll, continuance vote, reduction vote, no-license vote, informal, total votes polled, and returning officer’s name. The overall result was 278,707 for continuation; 212,234 no licence (40% of the total vote); and 36,025 reduction. Two districts returned a ‘no licence’ result – Boroondara and Nunawading, both in Melbourne’s east. These are the two dry zones remaining in residual form today. 71 districts voted in the majority for reduction. The remaining 143 districts voted for license continuances. The poll saw 107 hotel closures, across ‘no license’ and ‘reduction’ areas.

Similar challenges to historical GIS literature were true of this research as those described in the historical GIS literature. To map the results, I first entered the gazetted results into a spreadsheet then calculated the percentage votes. One basic issue was finding the locations of licensing districts. Licensing districts in 1920 were based on electoral districts modified from the late 19th century. To find these with no available definitive map, I combined several sources: a 1949 map of state electoral boundaries (SLV 1949); a written description of electoral districts when they were first announced in 1876 and when they were aligned to licensing districts in 1885; and licensing records which contained district names alongside hotel locations (PROV – VPRS 7723, 8159).

The 1920 poll’s 218 districts matched closely to sub-sections - wards - of the 1949 state electoral boundaries map. While I cross-referenced between the different sources, the process involved potential error given few if any spatial representations of historical licensing data exist. The next step was to digitise the 1949 electoral map in a GIS system by matching its features to recognisable points in aerial photography today – shown at Figure 1. I then created a GIS shape file showing the location (the centroid point only) of each district. The spreadsheet of poll results by district was then joined to the constructed map file.

Maps of the 1920 poll results are shown in Figures 2- 5 for the Melbourne metropolitan area, and for Victoria as a whole. The first set shows the percentage in the district that voted either for no license or for license reduction. The colour codes are by quartiles (four equal count groups). The lighter two colours indicate those districts that voted less than 39.7% (the lowest quartile) or 45.5% (the median) for no license or reduction. The darker two colours show districts that voted over 45.5% or 52.2% for no license or license reduction. The second set of maps shows the outcome of the polls – the two no license areas (over 60% dry); and areas voting for reduction (over 50% dry or reduction), or continuance.

The ‘continuance’ vote was generally stronger in the inner city of Melbourne; and the combined ‘no license’ and ‘reduction’ vote stronger in middle and outer suburbs. This included the east in particular; but also the north-west (Essendon) and north (Northcote). Some of the ‘wettest’ voting areas were Burke (city), and regional areas including Wodonga, Rutherglen, and Port Fairy. The map of regional Victoria shows no clear spatial pattern, varying from town to town. Explanations for spatial variations could include socio-economic status, religious differences, and hotel numbers. Newspapers at the time speculated on the role of different industries, and gender ratios (which varied widely at the time). Future research could explore the statistical validity of these overlapping explanations.

Focusing on the some of the policy mechanisms themselves, one pattern is that if the ‘dry’ test had been for a simple majority, rather than 60%, then 25 districts would have been dry - including Warragul, Malvern East, Maldon, Kew, Boort, and Lilydale. It is not surprising that the Victorian Alliance had called for local option as a simple majority. In Canada, for example, a 50% majority test had created hundreds of dry areas in addition to province-wide prohibitions.

The sizes of the districts also varied widely – from 400 to 25,000 voters. The district with the single largest number of dry votes – Brunswick - was also the largest district overall, and voted wet as a proportion. Brunswick had 25,240 enrolled voters, of whom 15,559 voted and, of these, 6,040 (39%) voted dry (‘no license’). Brunswick’s number of dry voters was followed by Boroondara, with 5,694 dry votes - 62% of voters and thus a dry result. Thus critical details of how boundaries are drawn, and how thresholds are defined, can have long repercussions. Figure 5 shows the License Reduction Board record page for the Boroondara licensing district – with all hotels crossed out by the notation, “closed by local option poll”.
licensing district was listed with the following information: name, number on roll, continuance vote, reduction vote, no-license vote, informal, total votes polled, and returning officer’s name. The overall result was 278,707 for continuation; 212,234 no licence (40% of the total vote); and 36,025 reduction. Two districts returned a ‘no licence’ result – Boroondara and Nunawading, both in Melbourne’s east. These are the two dry zones remaining in residual form today. 71 districts voted in the majority for reduction. The remaining 143 districts voted for license continuances. The poll saw 107 hotel closures, across ‘no license’ and ‘reduction’ areas.

Similar challenges to historical GIS literature were true of this research as those described in the historical GIS literature. To map the results, I first entered the gazetted results into a spreadsheet then calculated the percentage votes. One basic issue was finding the locations of licensing districts. Licensing districts in 1920 were based on electoral districts modified from the late 19th century. To find these with no available definitive map, I combined several sources: a 1949 map of state electoral boundaries (SLV 1949); a written description of electoral districts when they were first announced in 1876 and when they were aligned to licensing districts in 1885; and licensing records which contained district names alongside hotel locations (PROV - VPRS 7723, 8159).

The 1920 poll’s 218 districts matched closely to sub-sections - wards - of the 1949 state electoral boundaries map. While I cross-referenced between the different sources, the process involved potential error given few if any spatial representations of historical licensing data exist. The next step was to digitise the 1949 electoral map in a GIS system by matching its features to recognisable points in aerial photography today – shown at Figure 1. I then created a GIS shape file showing the location (the centroid point only) of each district. The spreadsheet of poll results by district was then joined to the constructed map file.

Maps of the 1920 poll results are shown in Figures 2- 5 for the Melbourne metropolitan area, and for Victoria as a whole. The first set shows the percentage in the district that voted either for no license or for license reduction. The colour codes are by quartiles (four equal count groups). The lighter two colours indicate those districts that voted less than 39.7% (the lowest quartile) or 45.5% (the median) for no license or reduction. The darker two colours show districts that voted over 45.5% or 52.2% for no license or license reduction. The second set of maps shows the outcome of the polls – the two no license areas (over 60% dry); and areas voting for reduction (over 50% dry or reduction), or continuance.

The ‘continuance’ vote was generally stronger in the inner city of Melbourne; and the combined ‘no license’ and ‘reduction’ vote stronger in middle and outer suburbs. This included the east in particular; but also the north-west (Essendon) and north (Northcote). Some of the ‘wettest’ voting areas were Burke (city), and regional areas including Wodonga, Rutherglen, and Port Fairy. The map of regional Victoria shows no clear spatial pattern, varying from town to town. Explanations for spatial variations could include socio-economic status, religious differences, and hotel numbers. Newspapers at the time speculated on the role of different industries, and gender ratios (which varied widely at the time). Future research could explore the statistical validity of these overlapping explanations.

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Figure 3: Percentage 'no license' vote – Victoria

Figure 4: Result of state-wide local option polls – 1920, Melbourne

Figure 5: Result of state-wide local option polls – 1920, Victoria

Figure 6: Boroondara licensing records marked “closed by local option poll” (PROV VPRS 7723)
Figure 3: Percentage 'no license' vote – Victoria

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Figure 6: Boroondara licensing records marked "closed by local option poll" (PROV VPRS 7723)
Legacies - “Many Smaller Prohibitions”

Valverde (1998) argued “liquor regulation strategies – with the exception of general prohibition – have been under-theorised even by those implementing them” (p146). Prohibition and dry zones can seem nearly of the past. Yet liquor licensing regimes in the 21st century continue to regulate alcohol through what Valverde termed “many smaller prohibitions”: layers of street-level and ‘common sense’ policies rarely subject to critical reflection (p148). Tracing the legacies of local option in Victoria leads to several such “smaller prohibitions”.

After 1920, two further state-wide local option polls were held, in 1930 and 1938. Legislation in these later polls differed significantly. Controversial changes in 1922 increased the size of licensing districts; moved poll dates back and further apart; reduced voter options (removing ‘reduction’); and shifted powers to LRB discretion. No further dry zones resulted.

Greater LRB powers accompanied the long period of the 6 o’clock ‘swill’, characterised by decades of general stasis in an industry of powerful but intricately regulated hotels – an irony of which was that regulation seemed to create worse amenity (Merrett 1979). Restoration of the original democratic process continued to be urged by Victoria’s Local Option Alliance, calling for the government to “restore to the Statute Book local option as a fair and democratic method of liquor control” (The Argus, 28th April 1944). Local option was, however, deleted from Victoria’s Licensing Act in 1946. While the revised Act nullified the two dry zones in theory, this was far from accepted. And when an application for a hotel in Box Hill was lodged in 1950, Local Option Alliance members were “roused”, saying at a public protest that:

The vote of the people put the hotels out in 1920...there should be another vote before they are allowed to come back. (The Age, March 13th 1950).

Protesters against that hotel successfully made use of new residential zoning regulations (“Move to oppose hotel at Box Hill”, The Age April 21st 1950). This was followed by petitions and protests against another proposed hotel in a former dry zone. Groups such as the Dry Area Defence League campaigned against the hotel, and for the reinstatement of dry areas. In 1953, petitions seeking to reinstate the local option polls signed by 5,000 residents were presented to Parliament as it debated liquor law changes (“Dry Area might get ‘repite’”, The Argus, December 3rd 1953). Politicians conceded that “elector’s polls” would be held on all licensing decision in the two dry areas created by the 1920 poll. Thus, under the 1953 licensing Act, Victoria’s two ‘no license’ areas from the 1920 poll attained their own special licensing provisions, specifically applied where “a local option poll had been taken in any electoral district as constituted on the twenty-first day of October one thousand nine hundred and twenty and a resolution that no licences be granted in that district had been carried” (1953 Licensing Amendment Act, s7.3).

Victoria’s two dry zones have voted on essentially all liquor license applications since 1953, having been fully dry between 1920 and 1946, and having fought off licenses by other means during the window 1946-1953. Under provisions for the dry area polls, included in all subsequent Victorian Licensing Acts, if the majority of electors in the defined neighbourhood voted against a proposed liquor license, then the court was bound to not grant the license, nor for 3 years afterwards. If electors supported an application, then the court was not bound to approve it. This was the legacy system that was modified (not by popular vote) in 2015.

Other legacies from local option and temperance are less direct. Temperance ideas are recognisable, for example, in controls on where alcohol can be sold, and in the rights of neighbouring households to object to this. After the 1920 poll, provisions for neighbourhood polls and petitions were retained in the general licensing system. Even outside dry zones, liquor licenses could be blocked if objections from a majority of residents (sometimes ratepayers or electors) could be shown. Provisions for petitions and vetoes continued until major reforms to liquor licensing in Victoria in 1987. The right to object to liquor licenses based on proximity to sensitive uses – schools, churches, quiet housing areas – emerged in 1864 legislation, and licensing law in Victoria through most of the 20th century continued to allow for locals (variously defined) to object to liquor licenses on specific grounds including proximity to a place of worship, or feared impacts on the quiet of the area. These provisions shifted, but stayed basically unchanged until the late 1980s.

Licensed premises in Victoria today are controlled by at least two sets of parallel regulation (Rowley 2017), each with provision for objections and protections on residential amenity. Controls protecting residential amenity have been institutionalised over the course of the 20th century across not only liquor legislation, but also in planning, civil law, property law, environmental law, police powers and local government by-laws. The late 19th and early 20th centuries saw nascent planning through covenants, nuisance and public health laws, and local by-laws. Liquor licensing came to overlap with zoning and planning: which in Australia has, as in the US, tended to put quiet residential amenity and the single detached dwelling at the pinnacle of uses to be protected (Hirt 2015). Local liquor controls can be situated within this genealogy of planning or tradition of law and governance legitimising culturally-grounded controls and separations on the use of space (Booth 2002, 2005; Hirt 2015).

For example, metropolitan zoning introduced to Melbourne in 1954 excluded hotels from most residential zones in Melbourne – they could continue, but not be granted new permission. Zoning also required off-street parking for new hotels: 1 space per 20 square feet of public bar; plus 1 for every 60 square feet of lounge or beer garden (MMBW 1959). The distribution of older hotels in Victoria today partly reflects the work of the LRB and local option polls, and also that similar hotels could not be built in later decades given their close proximity to residential areas and insufficient car parking (amongst other hurdle requirements).

Research into contemporary planning conflicts in Victoria and the contested role of community objection and appeals rights within them (Taylor 2013; 2015; Taylor et al 2016) highlights the role of liquor licensing history and its overlaps with planning. In the 2012 failed attempt of the residents of Tecoma, on Melbourne’s hilly fringes, to stop a proposed McDonald’s fast food restaurant, objectors used the statutory planning system to raise concerns about antisocial behaviour. The planning tribunal (VCAT, 2012) established, however, that antisocial behaviour was not a valid planning concern:

We are not persuaded that a McDonald’s restaurant is likely to lead to increased social problems in Tecoma. No alcohol is served in their premises. No gaming, music or entertainment occurs.

The planning idea at work in this delineation of ‘social problems’ seemed to rely on older ideas and regulations applicable to the moral ‘vices’ historically subject to outright bans or to licensing – gambling, prostitution, alcohol. Only around certain uses with these histories – including licensed venues, gaming venues and brothels – were social impacts explicitly considered within the Victorian planning system. And while the number of objections received had no direct legal weight, there was a strong expectation that it ought to. Further, the Tecoma ‘village’ was not sufficiently residential to be afforded protection from amenity impacts of fast food outlets. Had the McDonald’s served alcohol, or had the area been exclusively zoned residential, different thresholds would have applied. A search for historical reasons for this leads to, amongst other places, the local option polls.

Both liquor licensing and planning regulations have been subjects of liberalisation efforts in Victoria. Changes to liquor licensing came in 1965 and 1968 and most significantly in the 1987 Liquor Act, after the Nieuwenhuysen review: this ushered in Melbourne’s reputation for a proliferation of small bars and music venues, and sought to promote civilised drinking rather than protect “powerful trade interests” (Nieuwenhuysen 1988). Planning, too, was the subject of liberalisation – notably, relaxing zoning restrictions on higher density housing (Taylor 2013). While seeking to balance residential amenity with change, neither (neo)liberalisation project has been without pushback: and in the ensuing conflicts, much the same local politics are re-emerging as in the temperance era.
Legacies – "Many Smaller Prohibitions"

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Conclusions: Hair of the Dog?

The expression “hair of the dog” refers to the tempting belief that a hangover may be cured by further drinking. This paper has described so-called “hangovers” from the temperance era in Victoria: dry zones created by local option vote in 1920. The early 21st century is a useful time to reflect on temperance history given that at the same time some temperance-era controls are being scaled back, essentially identical controls are being put forward for what appear to be much the same reasons.

Recent planning debates over alcohol-related land uses – bottle shop densities, live music venues, and ‘lock out’ laws – as well as around such diffuse land uses as fast food outlets, apartments, brothels, and gaming machines (VCAT 2013b), have corollaries in the temperance era. Some rely on older institutionalised ideas about vice, social harm, and residential amenity; some (as in fast food) assert new ideas of social impacts and public health. Tribunal cases in Victoria – such as Hunt Club (VCAT 2013a); and the Agent of Change provisions introduced in response to disputes over music noise from licensed venues - demonstrate the complex ways in which liquor licensing and planning issues overlap. ‘Statutory numbers’ reappear as “cumulative impact” measures. Concerns about violence, too – a catalyst for much temperance activity – emerge again. Bottle shops and their links to domestic violence were central to the Hunt Club discussion. A Royal Commission on Family Violence made recommendation to consider domestic violence in planning decisions about alcohol (State of Victoria 2016).

Balancing local opinion and majority rules against other interests or rights also remains a pressing question. Key to the influence of local option was the premise local communities ought to be able to have direct say in what happened in their area. In Tecoma, locals asserted that the number of objections ought to prevent the restaurant being approved. They were unsuccessful in this claim - however in response, and to another case involving objections to an apartment tower, Victoria’s Recognising Objectors Bill was introduced in late 2015. The bill formalises popular opinion that the simple number of local objections should count, and that they did not previously was undemocratic (Taylor et al 2015).

The popular appeal of local direct democracy comes with a cautionary tale. In the temperance era, calls for local collective rights in alcohol policy deeply divided political parties – even at the same time as they formed unlikely but powerful alliances. The English equivalent of local option, the Permissive Bill, divided the Liberal Party between proponents of local democratic rights, and critics wary of the coercive impact of the majority on individual liberties (Nicholls 2006; Nicholson 1990; Dingle 1980). In the US, local veto was valorised as ultimate democracy and criticised as ultimate despotism - a “new and anti-American kind of majority” (Volk 2009). All institutionalised rights – the right to drink, to object, to peace and quiet - compete with other rights. Competing rights have substantial political and practical implications, and their deployment shapes “not only the nature of political conflict, but also the kinds of publics and even the kinds of cities that are created” (Staeheli and Mitchell 2008 p106 quoted in Attoh 2012 p673).

Temperance proponents were often propelled by moral or medicalised beliefs. They also used nascent planning laws – property rights, municipal corporations power, residential zoning – to legitimise the use of local popular political power, and to apply their rights as property owners to control alcohol. The relationships between (neo)liberalism, place, and alcohol, are not simple. Nicholls (2006) surmises that:

“[alcohol] has historically brought fissures and contradictions within liberal thought to the surface ... many of the complexities and divisions within liberalism can be illustrated through an analysis of liberal debates on alcohol.”

Similar complexities are seen in the continued popularity of zoning controls in the USA (Hirt 2015). Following historiised legal studies (as in Valverde 2005), this paper has assumed that the history of rights around local alcohol controls have had influence, and say something of the forces that created them. Star (1999) made a call for the “ecological effect of studying boring things” – foregrounding the embedded histories of apparently neutral order. Viewed this way, the hangovers of the dry zones and their creators (the wowsers), are not so easily relegated to history books: not only do we live in a system of urban separation and regulation devised, at least part, by them, but we grapple with much the local political dilemmas.

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