

indemnity of the distillers, leaving its amount to be settled by a Committee. To this Chief Justice Pedder strongly objected. The Government was unwilling to entrust to a jury the claims of the distillers, as proposed by the Chief Justice; and, not wishing to delay the law, passed it without granting any security beyond admitting the equity of compensation. The laxity of the distillation laws had enabled the manufacturers to realize double profits by graduated duties, mostly paid under the lowest denomination. Their gains during the past could not be questioned; but Sir John Franklin was persuaded that it would be ridiculously profuse to pay an indemnity for the loss of profits rated by the success of an illicit trade. A resolution passed the Council, 'That any applicant having been proved, to the satisfaction of this Council, to have been in the habit of distilling contrary to law, has by such practice destroyed any claim he might have otherwise had to compensation.' To ascertain this fact, a 'Feigned Issue Bill' was brought into the Council. It simply referred the question of illegal distillation to the jury, without assessing their claims. The right of the distillers to compensation was, however, so indisputable, and the retrospective action of the Bill so liable to objection, that it was generally opposed, and, by the dissent of the lawyers, the Treasurer, with all the non-official members, rejected by the Council. The Attorney-General, Mr. Macdowell, impressed with its injustice, informed the Governor that he could not support the Bill: in this resolution he had been fortified by the strongly-expressed opinions of his colleague, Mr. H. Jones, the Solicitor-General, who denounced its principle as utterly iniquitous and unprecedented; but, on the resignation of Mr. Macdowell, Mr. Jones accepted his place, and voted for the Bill, defending his conduct by stating that he had expressed his former opinion in ignorance of its details. The public indignation was excited by this apparent perfidy, for which Mr. Jones atoned by a speedy resignation. The financial success of the suppression was mentioned by Sir John Franklin in exulting terms. The law is, however, regularly violated when grain is low. Private stills have supplied spirits more than usually deleterious, and the revenue has shown a decline. The rights of the distillers were recognized by the Home Government, and their unsettled claims, to the amount of £7,431, were paid in 1843. The duty of a member of the Government to support, at all events, the measures of his chief, was asserted by the Secretary of State. If his conscience would not permit his acquiescence, he was expected to resign. Thus, while his oath bound him to advise, as a legislator, according to his convictions, his interests as a public officer compelled him to submit to the impulses of another. From this condition the Chief Justice was excepted: a condition hard to an honorable man, and unfair to the colony. However plausible the reasons for distinguishing between an official duty and a conscientious belief, public morality abhors them, and Mr. Macdowell is entitled to the colonial remembrance, as one among few who have refused to support a measure because unjust."

We think the above will go very far to show the consideration which the two proprietaries of distilleries in this colony are entitled to, after so large an outlay of capital invested upon the good faith of the enactment passed by our Colonial Parliament.

No. 17.

The CHIEF INSPECTOR of DISTILLERIES to MR. CAWKWELL.

(No. 245.)

Customs Department (Distilleries Branch),

SIR,—

Wellington, 26th June, 1874.

I have been directed by the Hon. the Commissioner of Customs to acknowledge the receipt of your letters of the 16th April and 18th May last, having reference to the proposed increase of duty on New Zealand spirits, and reiterating your offer that the Government should take your plant and premises off your hands.

In reply, I am to state that the Government are not prepared to purchase the Crown Distillery, nor do they see any reason to alter the decision they have already communicated to you, which decision was arrived at after obtaining the opinion of the Attorney-General, a copy of which is attached. It is however not unlikely that the Government will propose the appointment of a Select Committee of the House of Representatives to consider the Bill it is intended to introduce, and the alleged rights of the existing Distillery Companies.

I have, &c.,

WILLIAM SEED,

W. J. Cawkwell, Esq., Licensed Distiller, Auckland.

Chief Inspector of Distilleries.

Enclosure in No. 17.

MEMORANDUM by the ATTORNEY-GENERAL.

10th July, 1874.

I THINK there is no good ground upon which it can be alleged that persons entering into a business, upon which there is no restriction or a modified restriction, can ask for compensation if restriction or greater restrictions are placed upon it. For the same reason, I think that distillers can have no claim for compensation if the duty is raised—even if raised to the same amount as on imported spirits.

No doubt, in this as in other cases, persons who have embarked in the trade have a kind of ground of complaint, but not such as can be recognized by those who have the control of the public moneys.

There was no doubt a sort of show of complaint on the part of corn-growers when the duty was taken off wheat in England: there is a ground of complaint, of the same unrecognizable character, when admission to professions, such as the law, is made more easy, or opened to persons who, according to a prior law, would not have been qualified. Take, for instance, the admission to act as agent under the Land Transfer Act.

In my opinion, it would not have been a case for compensation even if no warning had been given, but the facts disclosed show that a warning was given.

The Hon. the Prime Minister.

J. PRENDERGAST.