

1874.
NEW ZEALAND.

DUTY ON SPIRITS DISTILLED IN NEW ZEALAND,
(PAPERS RELATING TO).

Presented to both Houses of the General Assembly by command of His Excellency.

- I.—Correspondence with the proprietors of the Crown Distillery in Auckland relative to the duty on New Zealand spirits, in continuation of correspondence on the same subject, printed on the 27th September, 1871, in pursuance of an Order of the House of Representatives, dated 20th July, 1870.
- II.—Correspondence with the proprietors of the New Zealand Distillery in Dunedin on the same subject.
- III.—Return showing the kind and quantity of materials used in the manufacture of New Zealand distilled spirit, the quantity of spirits made, and the quantity upon which duty has been paid, during each of the years ended 31st December, 1869, 1870, 1871, 1872, 1873, and during the quarter ended 31st March, 1874.

PART I.

No. 1.

Mr. CAWKWELL to the Hon. the COMMISSIONER of CUSTOMS.

SIR,—

Vulcan Lane, Auckland, 3rd July, 1871.

On the 4th March last I paid to the Collector of Customs at this port the sum of £33 3s. 7d., for the estimated difference between what was produced from a certain quantity of wash and what the Government estimated ought to have been produced; and at the same time I lodged a protest with the Collector, to which I have received no reply. I have, therefore, now to again request that the above amount may be returned to me, as the difference arose through no fraud, fault, or want of attention on my part, but (as I am now convinced) through the inefficiency and incompetency of the persons whom I paid liberally, but who professed to thoroughly understand what they really knew nothing about. Thus it will always be with a new undertaking; and as it was really my loss that so little was produced from the material, if the Government really wish to foster this industry, it is scarcely generous to take advantage of an occasion of this kind to deprive me of this sum of money. If all the pains and penalties laid down in the Distillation Act were rigidly enforced, no distiller could possibly exist, for he would be the most horribly hunted and distressed creature on the face of creation. My distillery has hitherto proved a heavy loss to me, which, with Government claims, will soon close up my establishment.

The Hon. the Commissioner of Customs.

I have, &c.,
W. J. CAWKWELL.

No. 2.

The CHIEF INSPECTOR of DISTILLERIES to the COLLECTOR of CUSTOMS, Auckland.

(No. 144.)

Customs Department (Distilleries Branch),

SIR,—

Wellington, 22nd July, 1871.

With reference to your letter No. 150, of the 5th. July, forwarding a letter from Mr. W. J. Cawkwell, dated the 3rd instant, urging his claim to a refund of £33 3s. 7d., amount of duty charged on a deficiency at his distillery, I have the honor to request that you will inform Mr. Cawkwell that his claim has been laid before the Hon. the Commissioner of Customs, who directs me to state that the rules for charging duty are laid down in section 61 of "The Distillation Act, 1868," and that the officers of the Department have no alternative but to follow those rules, which long experience has shown to be necessary for the due protection of the revenue.

1—A. 7.

As, however, the Hon. the Commissioner has no doubt that the deficiency in the production of spirit on the occasion referred to was caused through the imperfectness of the distillery arrangements at that time, and the want of skill in the distiller, and is assured that no loss to the revenue accrued in consequence, he will, in this instance, permit the refund applied for; but Mr. Cawkwell must understand that this remission is only made in consideration of the above-named circumstances, and that in future no remission of duty through loss by carelessness or incapacity of his employés or otherwise will be allowed.

With regard to Mr. Cawkwell's allusion to the severity of the provisions of the Distillation Act, he should be reminded that those provisions were made by the Legislature; that they are in the main similar to those in force in the United Kingdom and in Australia; and that the officers have no alternative but to be guided by the laws; and that his own experience must have shown him that there has been no disposition on their part to enforce the law so rigidly as to cause him any unnecessary inconvenience.

I have, &c.,

WILLIAM SEED,

Chief Inspector of Distilleries.

The Collector of Customs, Auckland.

No. 3.

Mr. CAWKWELL to the Hon. the COMMISSIONER of CUSTOMS.

SIR,—

Vulcan Lane, Auckland, 3rd July, 1871.

On reference to the 63rd clause of "The Distillation Act, 1868," it appears that it is provided that no operations shall be carried on during the hours of from 10 o'clock in the night until 6 o'clock in the morning during the time of taking the monthly stock account; but as the stock is taken in about half an hour, it appears an unnecessary delay and waste of time that matters should be compelled to remain at a standstill for nearly eight hours without any apparent cause, or without serving any purpose whatever. I have therefore to request that permission may be given to the Crown Distillery to commence working immediately that the officers declare that they are satisfied, and have completed the stock-taking.

I have, &c.,

W. J. CAWKWELL.

The Hon. the Commissioner of Customs, Wellington.

No. 4.

The CHIEF INSPECTOR of DISTILLERIES to Mr. CAWKWELL.

(No. 142.)

Custom's Department (Distilleries Branch),

SIR,—

21st July, 1871.

I have the honor to request you to inform Mr. Cawkwell that his letter of the 3rd of July, requesting for the Crown Distillery a modification of the regulations under the 63rd section of "The Distillation Act, 1868," has been laid before the Hon. the Commissioner of Customs, who has given his sanction for distilling being resumed at midnight on the last day of each month, if the officers have by that time satisfactorily taken stock.

I have, &c.,

WILLIAM SEED,

Chief Inspector of Distilleries.

The Collector, H.M. Customs, Auckland

No. 5.

Mr. CAWKWELL to the Hon. the COMMISSIONER of CUSTOMS.

SIR,—

Vulcan Lane, Auckland, 5th July, 1871.

On the 14th January I applied by letter to the Collector of Customs at this port for permission to manufacture molasses into rum without paying the home consumption duty, which is chargeable on molasses at 1d. per lb., but I was informed that the duty must be paid in full on the molasses, and then again on the spirit produced therefrom. I must again request you to consider the matter over, or to be kind enough to represent it in the proper quarter, as I have already imported molasses (now lying in bond), relying upon the information obtained here that no duty will be charged; and as the Government are anxious to obtain freight for the Honolulu steamers, and this being almost the only article which they can bring, and of which we should consume large quantities, I think that it will be seen that a remission of the duty will encourage a trade with that place, and may be fairly done, as a double duty could never possibly have been intended. I should remark that my distillery has almost, if not entirely, suppressed illicit distillation in this place, from the low price of our spirits, as we have given the public the benefit of the Government allowance in the duty; thus the revenue has gained largely by us, and been spared much anxiety and trouble.

I have, &c.,

W. J. CAWKWELL.

The Hon. the Commissioner of Customs, Wellington.

No. 6.

The CHIEF INSPECTOR of DISTILLERIES to Mr. CAWKWELL.

(No. 141.)

SIR,—

21st July, 1871.

I have the honor, by direction of the Hon. the Commissioner of Customs, to acknowledge the receipt of your letter of the 5th instant, in which you request that your application to be allowed to

use molasses duty free, for the production of spirits in your distillery, may be reconsidered, and to inform you, in reply, that so long as the excise duty on spirits distilled in the Colony remains at a less rate than that imposed on imported spirits, the Government are not disposed to take any steps that would lead to the admission of molasses, for distilling purposes, free of duty.

I am to add that the Commissioner is of opinion that what mainly caused the excise duty to be fixed at its present low rate was the belief that spirits would be made from grain grown in the Colony, and that if facilities were now afforded of distilling spirits from molasses, or other imported articles, duty free, the intention of the Legislature on this head would be frustrated.

I have, &c.,

W. J. Cawkwell, Esq., Crown Distillery, Auckland.

WILLIAM SEED,

Chief Inspector of Distilleries.

No. 7.

Mr. CAWKWELL to the CHIEF INSPECTOR OF DISTILLERIES.

SIR,—

Vulcan Lane, Auckland, 31st July, 1871.

I have the honor to acknowledge your favour of the 21st instant, and beg to thank you for the information therein contained.

I have, &c.,

W. J. CAWKWELL,

Per R. B.

Wm. Seed, Esq., Chief Inspector of Distilleries, Wellington.

No. 8.

Mr. CAWKWELL to the Hon. the COMMISSIONER of CUSTOMS.

SIR,—

Auckland, 18th April, 1873.

As it is proposed to make some additions to and improvements in our distillery plant and premises, involving considerable outlay, we deem it prudent before doing so to bring the subject under your notice, with a view to elicit from the Government the course they purpose pursuing in reference to the duties on New Zealand manufactured spirits. For the last two years we have been kept in a state of suspense by the proposals made to increase the duties, and this has acted prejudicially, by creating a feeling of distrust and uncertainty, not only as to the amount of profit to be made in the business, but whether, if the proposed increase were made, it would be possible to carry on the business with any profit at all.

In order to properly appreciate the claims the New Zealand distillers have upon the Government, it is necessary to consider the legislation by which the distilleries have been called into existence by the Legislature; and we propose, therefore, to shortly state the provisions of the several laws that have from time to time been passed on the subject of distillation. The first law passed was an Ordinance of the Legislative Council of New Zealand, Session V. (1841), the object of which was "to prohibit the distillation of spirits in the Colony of New Zealand." This Ordinance was repealed by an Ordinance, Session III., No. 13 (1844), but which was not to come into operation till it should receive the Royal confirmation. This Ordinance followed as of course the abolition of customs duties, and the substitution of a property rate, effected by Ordinance, Session IV., No. 2 (1845); but as the customs duties were re-imposed in 1845, and the Distillation Repeal Ordinance was not confirmed, it never came into operation. In this Ordinance, however, express provision was made that no compensation should be allowed if the Ordinance should be repealed. The consequence of this legislation was that distillation in the Colony of New Zealand remained prohibited by the Ordinance of 1841 till 1865, when the General Assembly passed an Act "to allow the distillation of spirits in New Zealand." By this Act the Governor was authorized, until the end of the next Session of the General Assembly, to make regulations for licensing persons to carry on distillation. No such regulations were, we believe, made—at all events, no distillery was established under this Act. In the following Session of the General Assembly (1866), an Act was passed to allow distillation, and a fixed duty imposed of 8s. a gallon. In the Session of 1867 an amendment of this Act was made, but not affecting the duty. The inducement, however, of a fixed duty of 8s. a gallon thus held out for the establishment of distilleries was found to be insufficient, and in order to create this industry, the General Assembly, in 1868, passed a more liberal measure, making full provision for regulating distillation, and imposing a sliding scale for the duties to be paid of "one-half of that charged for the time being upon spirits imported into the colony." This Act did not contain any provision similar to the Act of 1845, providing that no compensation should be paid if the Act should be repealed. The adoption of a sliding scale fixing a duty comparative with the duty on imported spirits, the absence of all provision negating compensation if the Legislature should change its mind, and the general conduct of the Legislature in dealing with the subject of distillation since 1865, created a belief that the law as passed in 1868 was intended to be permanent. So far at least as we are concerned, had we not been satisfied on this point, we should never have embarked in the business, and a provision such as that contained in the Act of 1845 in reference to compensation would have been a warning that would most unquestionably have deterred us from ever seriously considering the subject. We hardly think if the Executive Government and Legislature had given due consideration and weight to the tendency and effect of the legislation, thus briefly noticed, that the proposals which have been made to increase the duties would have been brought forward.

The decrease in the revenue of the colony by the consumption of spirits, on which only one-half the duty is levied as on imported spirits, is no doubt a matter for the serious consideration of the

Government. And it may be that the inducement held out for the establishment of distilleries in the colony was a mistake; that in fact, the advantages do not compensate for the loss of revenue. If so, however, it was a mistake of the General Assembly; and in fairness and honesty any loss arising therefrom should not now be shifted from the Colony to those who, in reliance on the good faith of the Legislature, have spent their time and money in acting in accordance with its wishes, as expressed by its legislation. In considering, however, this part of the subject, we venture to suggest two matters that should not be overlooked. (1.) That illicit distillation has been greatly checked by the substitution of a duty-paid article for one that pays no duty, and therefore that the loss of revenue, in fact, appears greater than it really is; and (2.) That all the rum, of which we sell more than any other liquor, already pays a duty equal to 8s. a gallon, taking into consideration the duty paid on the raw material from which it is produced.

One fact may be accepted as beyond doubt—that an increase of duty, such as has been proposed, would as effectually stop distillation as a direct prohibition. It could not be carried on to be remunerative. We are quite aware that of this many will be incredulous, and will argue that a differential duty of 6s. must be more than sufficient to give a reasonable profit. We distinctly state that it is not so, and are fully prepared to prove it. In order that no question may remain as to the truth of this statement, which should be placed beyond doubt, we invite the Government to appoint some confidential person to investigate the matter, and we pledge ourselves to lay before him all the facts, furnish him with all information, and unreservedly give him free access to all our books. We will simply state here that the principal causes are—(1.) That the prices which we are able to obtain for our products is much less than the English article of the same description commands in the New Zealand market; and if our prices were the same, we should not sell a gallon. (2.) That notwithstanding the lower price at which we are obliged to sell, the consumption is still so limited that even a greater profit per gallon than is sufficient in Europe to render the business of distillers very profitable would be insufficient to pay us even interest on capital employed. (3.) That the cost of production here is much in excess of the cost in Europe.

We appeal to the Executive Government and the Legislature to do us simple justice. If the exigencies of the State require that the Legislature should retrace its steps, by all means let it do so. We are willing to shut up our distillery at once, and we shall require nothing exorbitant for so doing. Rather than be kept in a continued state of suspense and apprehension by threatened alterations of the Customs duties, we are willing to ask nothing for what may be called goodwill, but to accept simple compensation for the time, trouble, and money expended in the establishment of our business.

At all events we do hope that one of two courses will be taken—either to leave us alone, under the present law, to make our business a success if we can, or to abolish distillation in the colony, either by the renewal of the prohibition, or, by what would be equally effective, an increase in the duty on colonial spirits; under the latter alternative, taking off our hands our premises and plant at a fair price in order to shut it up.

In a direct pecuniary point of view the colony would probably gain by the abolition of colonial distillation, and the indirect advantages arising from it may not be equal to the direct loss.

Had we for a moment doubted that the law of 1868 would be permanent, we should never have embarked ourselves in our present undertaking. From the course taken by the Legislature in abolishing a fixed duty, and establishing a sliding scale as compared with the duties on imported spirits, no other inference could be drawn than that the arrangement was intended to be permanent; and we never for a moment contemplated that, before our business could be fairly established and made profitable, our property would be virtually confiscated by an alteration of the law. Under the most favourable circumstances our expectations will not be realized, and if the addition which has been proposed were made to the duty, our undertaking would end in a ruinous loss.

If our position is not damaged by additional legislation we have no ground of complaint; we took the risk, and have no one to blame whatever may be the result. But we do most respectfully submit that it would be a flagrant breach of good faith, and a course fraught with injustice, now that we can neither stop nor turn back without a ruinous loss, so to alter our position by fresh legislation, that we could not carry on our business, as we were led to expect, by the sanction of a deliberate and well-considered Act of the General Assembly.

We are now in this unfortunate position: In order successfully to continue our business, additions and alterations involving expenditure are necessary to be made to our plant, and these we are afraid to make in consequence of the unexpected alteration of their views on the part of the Government of the colony.

We have also had it in contemplation to add the business of sugar refiners to our present business of distillers. Each of these, materially assisting the other, are commonly and advantageously combined in one establishment. Our premises are ample, and quite suitable for the purpose, and were acquired with that view; but we are deterred from even seriously considering the matter from the uncertainties that have been made to hang over our position by the proposal to alter the present law affecting these industries.

We again most respectfully urge the Government and Legislature to let us prosecute our business to the best advantage, assured against alterations of the law, which would be ruinous; or to take our distillation plant and premises off our hands, as we have already suggested. We have been so wearied and perplexed with doubt and anxiety as to the future, that we should now prefer the latter course; and as we could be fairly dealt with, and a direct pecuniary advantage at the same time gained by the colony, we most respectfully submit that this course should be adopted.

We now beg to refer you to a correspondence on this subject that took place in 1870, and is printed in the Appendix to the Journals of the House of Representatives, G. No. 47, 1871.

I have, &c.,

The Hon. the Commissioner of Customs,
Wellington.

W. J. CAWKWELL,
(for the Crown Distillery Company).

No. 9.

The CHIEF INSPECTOR of DISTILLERIES to Mr. CAWKWELL.

Customs Department (Distilleries Branch),

SIR,—

Wellington, 6th May, 1873.

I have the honor, by direction of the Hon. the Commissioner of Customs, to acknowledge the receipt of your letter of the 18th ultimo, in which you express a wish to elicit the intentions of the Government with respect to the duty to be imposed on New Zealand manufactured spirit before going to further outlay at your distillery, and to inform you that your letter will be duly laid before the Cabinet for consideration.

I have, &c.,

J. HACKWORTH,

(for the Chief Inspector of Distilleries).

W. J. Cawkwell, Esq., Crown Distillery, Auckland.

No. 10.

The CHIEF INSPECTOR of DISTILLERIES to Mr. CAWKWELL.

Customs Department (Distilleries Branch),

SIR,—

Wellington, 31st July, 1873.

With reference to the letter addressed to you from this Department on the 6th May last, I have now the honor, by direction of the Commissioner of Customs, to inform you that the Government have had under their consideration your communication of the 18th of April last, in which you state that you propose to make some alterations and improvements in your distillery plant and premises, and before doing so, you desire to elicit from the Government an intimation of the course they intend to pursue with regard to the duties on New Zealand distilled spirits; and after referring to the decrease that is taking place in the revenue through the present rate of excise duty (which decrease you admit is a matter for the serious consideration of the Government), you urge that distillation cannot be carried on profitably if the duty should be increased; and you appeal to the Government and the Legislature to let you prosecute your business to the best advantage, with an assurance against alterations of the present law, or to abolish distillation in the colony, and take your premises and plant off your hands at a fair price in order to shut it up.

In reply, I am to state that the Government cannot undertake to recommend to the Legislature that either of the courses you propose should be adopted, as they are advised that there is no 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 restrictions are placed upon it; and that, for this reason, distillers can have no claim to compensation if the duty is raised even to the same amount as on imported spirits.

I am to add that, having regard to the warning that was given to you when you first applied for a license under the Distillation Act, that an alteration in the spirit duties might be expected, and to the announcement to the same effect that was promulgated by the Colonial Treasurer when he made his Financial Statement in 1871, it is not at all probable that those proposals, if submitted to Parliament, would meet with any favourable consideration.

I have, &c.,

WILLIAM SEED,

Chief Inspector of Distilleries.

W. J. Cawkwell, Esq., Auckland.

No. 11.

Mr. CAWKWELL to the CHIEF INSPECTOR of DISTILLERIES.

SIR,—

Auckland, 8th August, 1873.

I have the honor to acknowledge the receipt of your letter dated the 31st of July, in reference to distillation. Before closing the correspondence, I am desirous of making two remarks on the contents of your letter.

(1.) You inform me that the Government are advised that there is no ground upon which it can be alleged that persons entering into a business upon which there is no restriction, or modified restriction, can ask for compensation if restrictions are placed upon it. The precise meaning intended to be conveyed by this is not quite intelligible to me, and it hardly appears applicable to the matter under discussion; but if you mean that advantages are to be held out by an Act of Parliament to induce people to embark in an industry that the Legislature desires to see established, and that, having done so, it is considered consistent with good faith, policy, and precedent so to alter the law as to entail a serious loss on them, or even possibly effect their ruin, then I must respectfully record my dissent from any such doctrine.

(2.) As regards the warning mentioned in the last paragraph of your letter, I beg to refer you to the correspondence that has already taken place between us on the subject, and especially to your letter of the 10th of June, 1870.*

I have, &c.,

W. J. CAWKWELL.

Wm. Seed, Esq., Chief Inspector of Distilleries, Wellington.

No. 12.

The CHIEF INSPECTOR of DISTILLERIES to Mr. CAWKWELL.

Customs Department (Distilleries Branch),

SIR,—

Wellington, 22nd August, 1873.

I have received, and laid before the Hon. the Commissioner of Customs, your letter of the 8th inst., and have been directed by him to state that what was intended to be conveyed in my letter of the 30th ult. was, that if Parliament, with the information that it now possesses, finds that it made a mistake in fixing the excise duty on spirits at too low a rate, there is nothing to prevent it from remedying that mistake whenever it considers that course to be necessary in the interests of the country; and that whenever the duty is raised, no claim from the distillers for compensation could be recognized.

I am to take this opportunity to point out to you that when the Government, in the Session of 1868, submitted the Distilleries Bill to the Legislature, the duty on New Zealand distilled spirits was proposed to be 8s. per gallon; that in the course of the discussion on the Bill an amendment was proposed, and hastily carried against the Government, that the duty should be at the rate of half the import duty for the time being. The Government felt at the time that if distilleries were established with the duty at this rate, there would soon be a serious falling off in the revenue, and it accordingly took the earliest opportunity of intimating to you, when you applied for a distiller's license, that the present rate of duty could not be looked upon as likely to be maintained. I am to add that somewhat similar representations to those you have made have been received from the Dunedin Distillery Company, in reply to which they have been informed that the Government may find it necessary at an early date to propose to Parliament an increase of the duty on New Zealand distilled spirits, but that it had been decided not to propose any increase this Session.

I have, &c.,

WILLIAM SEED,

W. J. Cawkwell, Esq., Auckland.

Chief Inspector of Distilleries.

No. 13.

Mr. CAWKWELL to the CHIEF INSPECTOR of DISTILLERIES.

SIR,—

Auckland, 2nd September, 1873.

I have the honor to acknowledge the receipt of your letter of the 22nd of August, explaining what did not appear to me to be quite intelligible in your letter of the 31st of July.

The Commissioner of Customs, you also inform me, holds the opinion that if Parliament makes a mistake by which a loss of revenue is incurred, there is nothing to prevent that mistake from being remedied whenever that course is considered necessary in the interests of the country. That Parliament has the power it would be absurd for me to attempt to deny, but I cannot admit that it is either reasonable or just that Parliament should remedy its own mistakes in a manner to cause serious loss to individuals, or, possibly, even effect their ruin. I respectfully submit that mistakes should be remedied at the expense of those who make them.

I am much obliged for the information you give (which is quite new to me) of what passed in Parliament when the Distillation Act was under consideration. I cannot, however, see how this can affect the matter in question, for it can hardly be contended that the proposals made by the Government, but rejected by the Legislature, can be treated as modifying the provisions of an Act of Parliament; or that the interests of those to whom the Act applies can be prejudicially affected by the fact that the members of the Government and the Legislature differed in their views as to what some of the provisions of the Act should be.

I beg to thank you for the information that it has been decided not to propose this Session any increase of the duty on New Zealand distilled spirits.

I have, &c.,

Wm. Seed, Esq., Chief Inspector of Distilleries, Wellington.

W. J. CAWKWELL.

No. 14.

The CHIEF INSPECTOR of DISTILLERIES to Mr. CAWKWELL.

Customs Department (Distilleries Branch),

SIR,—

Wellington, 30th March, 1874.

Adverting to the subject of your letter of the 18th April last, and the subsequent correspondence thereon, I have now the honor, by the direction of the Hon. the Commissioner of Customs, to inform you that the Government have again had the matter of settling the duty hereafter to be charged on New Zealand spirit under their consideration, and propose to bring in a Bill to raise the duty:—

1s. per gallon on the 1st July, 1875.

1s. " " 1877.

1s. " " 1879.

I have, &c.,

W. J. Cawkwell, Esq.,

H. S. McKellar,

Crown Distillery, Auckland.

(for the Chief Inspector of Distilleries).

No. 15.

Mr. CAWKWELL to the CHIEF INSPECTOR of DISTILLERIES.

SIR,—

Vulcan Lane, Auckland, 16th April, 1874.

We have the honor to acknowledge the receipt of your letter of the 30th of March, in which you inform us that the Government have again had the matter of settling the duty hereafter to be

charged on New Zealand spirits under their consideration, and propose to bring in a Bill to raise the duty :—

1s. per gallon on the 1st July, 1875.
1s. " " 1877.
1s. " " 1879.

As we stated in our letter on the 18th of April, 1873, we were satisfied that the Act of 1868, fixing a rate of duty on colonial spirits varying in proportion to the duty on imported spirits, was intended to meet the contingency of alterations being made, and to settle once for all the relative duties to be paid by the two classes of spirits. We respectfully submit that to speak of the proposal now made by the Government as settling the duty hereafter to be charged on New Zealand spirits is deceptive. If the arrangement of 1868 was not a settlement, much less can an alteration in 1874 be viewed in that light. To make that alteration would, we believe and declare, be a breach of good faith, and, so far from being itself a settlement, would form a ready precedent for further alterations.

We have nothing to add to our former letter beyond a declaration that another year's experience has fully satisfied us that we were right in our statements and views, and that in order to get rid of a business rendered by the Government worrying and vexatious, we are now more than ever desirous that the alternative suggested in our letter of the 18th April, 1873, of taking our plant and premises off our hands on reasonable terms, should be adopted.

The Chief Inspector of Distilleries, Wellington.

I have, &c.,
W. J. CAWKWELL.

No. 16.

Mr. CAWKWELL to the Hon. the COMMISSIONER of CUSTOMS.

SIR,—

Vulcan Lane, Auckland, 18th May, 1874.

In the correspondence that has taken place in reference to the proposed increase of duty on colonial spirits, I have expressed myself as being willing to give up the business of a distiller on reasonable terms. As I am now prepared to offer definite terms, which will effect this object without subjecting the proprietors of the Crown Distillery to a pecuniary loss, and which will at the same time prove advantageous to the colonial revenue, I do hope that the Government will favourably consider my proposal, and enable me to retire from a business which has proved, through the action of the Government, harrassing and vexatious.

The proprietors of the Auckland Distillery are willing to give up distillation, and sell their plant to the Government, disposing of their stock of spirits, subject to a duty of 12s. a gallon, for a sum of money not exceeding the estimated loss the revenue will sustain during the next two years by the continuance of their operations. For the purpose of fixing the amount, they are willing to assume that their sale of spirits will amount to 20,000 gallons per annum during the next two years (a considerable under-estimate, as, during the last four months, they have sold 8,430 gallons, and their business is increasing), and they are willing to accept the sum which will be lost to the Government, notwithstanding the proposed increase of duty, by the sale of that quantity of colonial spirits, namely, eleven thousand pounds (£11,000). Thus, without any loss during the first two years, the revenue (making no allowance for increased consumption) will gain thirteen thousand pounds (£13,000) during the following three years. I say nothing of any gain after that, because no New Zealand distillery can possibly live subject to a duty of 9s. a gallon on colonial spirits.

It may be said that it would be useless for the Government to make terms with one distillery if the other now in operation should continue and others could commence. My answer is, that the distillers at Dunedin are willing to come to terms for shutting up their establishment, and in such case the duty on colonial and imported spirits could be equalized; and if they did not come to terms, the increase in duty proposed by the Government, if imposed, would certainly shut them up, and effectually deter others from entering on the business.

The Hon. the Commissioner of Customs, Wellington.

I have, &c.,
W. J. CAWKWELL.

P.S.—As a similar question seems to have arisen in Tasmania some years ago, I send you an extract on the subject from "West's History of Tasmania," Vol. I., page 219.

(Extract from the "New Zealand Herald," Tuesday, May 19, 1874.)

REFERRING to the notice lately taken of the action of the New Zealand Government towards our local distilleries, we extract from "West's History of Tasmania" that which appears to be a similar case, and where, after much evasion and defrauding the revenue had occurred, and the two distilleries in existence were young and insignificant, the Government of Tasmania considered it their duty to make ample reparation for the injury they inflicted by an alteration of the law, when for many years large profits had been made :—

"The claims of the Churches on the Treasury (1838) soon threatened the Government with serious difficulties. It was resolved to increase the revenue by prohibiting colonial distillation. This trade had often been interrupted by the Ordinances of the Governors, but when the Crown ceased to purchase wheat at a high fixed price, it was deemed unfair to the farmer to restrict the local market for his produce. Duties were imposed, but they discriminated between sugar and cereals, and between colonial and imported grain. This distinction offered ample opportunity for evasion. The distillers employed these various articles at their own pleasure, and paid the lowest duty. Colonial spirits were sold as foreign, and the permits of the Police Office covered the transit of quantities greater than they specified. From £5,000 to £7,000 were annually lost. The Bill introduced to extinguish the trade was resisted by Mr. W. E. Lawrence and other leaders of the country party. They objected both to the suppression of a lawful trade and the injury inflicted on those who had embarked their capital. The Government proposed to include in the Bill a provision for the

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.

PART II.

No. 1.

Messrs. C. R. HOWDEN and Co. to the Hon. the COMMISSIONER of CUSTOMS.

GENTLEMEN,—

Dunedin, 16th November, 1868.

In terms of the Distillation Act lately passed, we beg to apply for liberty to erect the necessary premises and machinery capable of turning out 100,000 gallons of spirit yearly. We will send the necessary specifications required by the Act as soon as they can be procured. We make this application at the suggestion of the Collector of Customs here.

The Hon. the Commissioner of Customs, Wellington.

We have, &c.,

C. R. HOWDEN AND Co.

No. 2.

Mr. SEED to Messrs. C. R. HOWDEN and Co.

Office of the Commissioner of Customs,

GENTLEMEN,—

Wellington, 14th November, 1868.

I have been directed by the Hon. the Commissioner of Customs to acknowledge the receipt of your letter of the 16th instant, in which you apply for liberty to erect the necessary premises and machinery for carrying on a licensed distillery, and in reply to inform you that your application will be considered as soon as the plan of the premises, as required by section 4 of "The Distillation Act, 1868," has been received. I am further directed to state that in the event of your undertaking the business of distilling, and a reduction being hereafter made in the present import duty on spirits, you must not reckon on such a reduction of the excise duty as the Act quoted above now allows.

I have, &c.,

Messrs. C. R. Howden and Co., Dunedin.

WILLIAM SEED.

No. 3.

Mr. R. M. ROBERTSON to the CHIEF INSPECTOR of DISTILLERIES.

SIR,—

Dunedin, 27th November, 1872.

We have the honor to submit for your perusal plans and memorandum by Mr. McGregor, engineer, for alterations which we contemplate proceeding with immediately we receive your sanction. The alterations consist of the substitution of a new wash still, to contain about 1,750 gallons, for the old one, which is to be converted into a low wine still, in addition to the one now in use. The water-still at present on the premises is to be removed altogether. To effect these alterations, we will require to remove a portion of the brick wall of the still-room and re-erect it twelve feet back. We will require also to construct a new worm tank. To make room for these alterations, the present cooperage and bottle-washings buildings will have to be removed back a distance of forty to fifty feet and re-erected. These alterations are all shown on the accompanying plan.

The position of the present receivers, chargers, spirits of wine still, and safes in the still-room, will also require to be altered, a supplementary plan of which will be forwarded for your information and approval, when the new wash-still is placed in the most convenient position in the new building to be added.

These expensive and unwelcome alterations have been forced upon us by the infirmity of the present wash-still, which was originally constructed of too thin material, and is now constantly entailing loss and trouble through leakage.

We have the honor to request that you may be pleased to grant us the necessary permission to make these alterations as early as convenient to you, so that we may proceed with the preliminary works at once, and thus save time when we commence the important alterations, which we contemplate doing at the beginning of the new year.

We have, &c.,

The Chief Inspector of Distilleries, Wellington.

R. M. ROBERTSON, Director,
The New Zealand Distillery Company.

No. 4.

The ACTING SECRETARY of CUSTOMS to the COLLECTOR of CUSTOMS, Dunedin.

Telegram to Collector, Dunedin, 2nd December, 1872.

Re New Zealand Distillery.—Preliminary works mentioned in your letter of the 27th November may be proceeded with under Mr. Glasgow's supervision.

J. HACKWORTH,
pro Secretary.

No. 5.

The COLLECTOR of CUSTOMS, Dunedin, to the CHIEF INSPECTOR of DISTILLERIES.

Dunedin, 3rd January, 1873.

Re letter sixteen, distillers wish to commence taking down rectifying still and removing pipes and vessels next wall.

THOMAS HILL.

No. 6.

The CHIEF INSPECTOR of DISTILLERIES to the COLLECTOR of CUSTOMS, Dunedin.

Wellington, 3rd January, 1873.

IN reply to telegram respecting alterations in distillery, I am directed to state that there is no objection to work being commenced; but you are to inform Distillery Company that any expenditure of capital in extending works will not be available as a plea against addition to duty, should the Government think fit to propose any addition for sanction of Parliament.

Collector of Customs, Dunedin.

W. SEED.

No. 7.

The COLLECTOR of CUSTOMS, Dunedin, to the CHIEF INSPECTOR of DISTILLERIES.

Dunedin, 28th January, 1873.

IN addition to alterations now going on, New Zealand Distillery wish to enlarge the tun-room to erect one fermenting back 3,000 gallons. There not being room for two, they request permission to pump half that back of wash and half low wines of same, as low wines' receiver hold only low wines of 1,500 gallons wash.

THOMAS HILL.

No. 8.

The CHIEF INSPECTOR of DISTILLERIES to the COLLECTOR of CUSTOMS, Dunedin.

Wellington, 28th January, 1873.

Inform Distillery Company no objection to tun-room enlargement, as proposed, on the understanding conveyed to you in my telegram of 3rd January.

WILLIAM SEED.

No. 9.

The CHIEF INSPECTOR of DISTILLERIES to MANAGING DIRECTOR of NEW ZEALAND DISTILLERY COMPANY.

(No. 295.)

Customs Department (Distilleries Branch),

SIR,—

Wellington, 31st July, 1873.

I have the honor, by direction of the Commissioner of Customs, to forward herewith, for your information, a copy of a letter this day addressed to Mr. W. J. Cawkwell, licensed distiller, Auckland, in reply to a communication received from him, in which he expressed a desire to elicit from the Government an intimation of the course they intend to pursue with regard to the rate of duty on New Zealand distilled spirits.

I have, &c.,

WILLIAM SEED,

Chief Inspector of Distilleries.

The Managing Director of the New Zealand Distillery Company, Dunedin.

[For copy of letter referred to, see Mr. Cawkwell's correspondence, No. 10, page 5.]

No. 10.

The DIRECTORS of the NEW ZEALAND DISTILLERY COMPANY to the CHIEF INSPECTOR of DISTILLERIES.

SIR,—

New Zealand Distillery Company, Dunedin, 5th August, 1873.

We have the honor to acknowledge the receipt of your letter of the 31st ultimo, enclosing copy of a letter addressed by you to Mr. W. J. Cawkwell, of Auckland, distiller.

We beg most respectfully to remark, with regard to the last-mentioned letter, that no such warning as that stated in the last paragraph to have been given to Mr. Cawkwell on applying for his license, was given to us on our making a similar application.

It was indeed notified to us that in the event of the then import duty on spirits being reduced, we were not to reckon on the reduction of the excise duty allowed by the Act being reduced in the same proportion; but we understood this to mean, as indeed the words of your letter to us of the 24th November, 1868, convey, that in the event of the import duty on spirits being reduced, the same proportion of duty between imported spirits and New Zealand distilled spirits might not be maintained, but that, so long as the duty on imported spirits remained unaltered, or if it was increased, the same rate of reduction as allowed by the Act would be continued. We trust, therefore, that the Government may see fit to allow the matter to remain on this understanding, as any alteration in the duty for a considerable time to come would inevitably ruin a business in which we have invested over £55,000 sterling.

We have, &c.,

C. R. HOWDEN,
R. M. ROBERTSON, } Directors.

W. Seed, Esq., Chief Inspector of Distilleries,
Wellington.

No. 11.

The CHIEF INSPECTOR of DISTILLERIES to the MANAGING DIRECTOR of the NEW ZEALAND DISTILLERY COMPANY.

SIR,— Customs Department (Distilleries Branch), 18th August, 1873.

I have the honor to acknowledge the receipt of your letter of the 5th instant, in which, after remarking on the subject of a communication that was addressed to you from this department on the 31st ultimo, regarding the excise rate of duty on New Zealand distilled spirits, you say that you trust the Government may see fit to allow the rate of duty to remain as at present, as any alteration of duty for a considerable time to come would inevitably ruin a business in which you state you have invested over £55,000.

In reply, I have been directed by the Hon. the Commissioner of Customs to state that after the warnings that have been conveyed to you on various occasions, it is unnecessary for him now to reiterate those warnings or to further discuss the subject. He desires you to understand that the Government may, at an early date, find it to be necessary to propose to Parliament an increase of duty, and that no pledge can therefore be given on the subject, further than that the Government have decided not to propose any increase this Session.

I have, &c.,

WILLIAM SEED,

Chief Inspector of Distilleries.

The Managing Director of the New Zealand
Distillery Company, Dunedin.

No. 12.

Mr. R. M. ROBERTSON to the Hon. W. H. REYNOLDS.

SIR,— Dunedin, 26th January, 1874.

We have the honor to submit the following particulars in connection with our business, to which we solicit the favourable consideration of yourself and the Government.

The subject of an alteration in the duty on colonial manufactured spirits having been repeatedly brought forward in the House of Representatives without eliciting any definite information on the part of the Government as to its intentions in the matter, has been very prejudicial to the credit and stability of our business. We are therefore most anxious, if such alteration is contemplated, that we may be advised at as early a date as possible what proposals the Government intend to bring before the House on the subject, as the settlement of the question on some permanent basis is of the most vital importance to this Company.

The large amount (nearly £60,000) we have expended, and the great difficulties and prejudices we have had to contend with in endeavouring to establish the business, as well as the very inadequate return we have as yet had for such outlay and trouble, may not be unknown to yourself and other members of the Government, at whose hands we would therefore crave as favourable a consideration of our present and future position as may seem to them fair and reasonable under all the circumstances of the case.

The carrying on a business requiring such a great and increasing outlay of capital is, we find, too heavy for a few private individuals to undertake successfully, and we have therefore been desirous of forming it into a larger company; but in attempting this we have found an insuperable obstacle in the insecurity of the protection under which we at present exist, and any immediate alteration of which would be at once disastrous to the concern; the high price of barley last year, for a considerable portion of which we paid as high as 8s. per bushel, and of which we used over 60,000 bushels, having left us no return whatever for our year's operations.

May we, therefore, respectfully solicit that you will bring the subject under the consideration of Government, and favour us with a reply.

We have, &c.,

R. M. ROBERTSON, Director,

The New Zealand Distillery Company.

The Hon. W. H. Reynolds,
Commissioner of Customs, Wellington.

No. 13.

Mr. R. M. ROBERTSON to the Hon. W. H. REYNOLDS.

DEAR SIR,— New Zealand Distillery, Dunedin, 16th March, 1874.

Will you kindly drop me a line or telegram, to say if we may expect an answer to our official communication to you of the 26th January; which, as you may remember, was sent by your permission.

I have, &c.,

The Hon. W. H. Reynolds, Wellington.

R. M. ROBERTSON.

No. 14.

The ACTING CHIEF INSPECTOR of DISTILLERIES to Mr. R. M. ROBERTSON.

(No. 226.)

SIR,— Customs Department (Distilleries Branch), 20th March, 1874.

I have the honor to acknowledge the receipt of your letter of the 26th of January last, and much regret that, through a misunderstanding, it should have remained so long unacknowledged, I am

now instructed by the Hon. the Commissioner of Customs to inform you that the question therein referred to is one of policy which the Government have not yet been able to take into consideration in all its bearings.

I have, &c.,

R. M. Robertson, Esq.,
Director of the New Zealand Distillery Company, Dunedin.

H. S. McKellar,
(for the Chief Inspector of Distilleries).

No. 15.

The ACTING CHIEF INSPECTOR of DISTILLERIES to Mr. R. M. ROBERTSON.

(No. 230.)

Customs Department (Distilleries Branch),

SIR,—

Wellington, 30th March, 1874.

Adverting to my letter of the 20th instant, in reply to yours of the 26th January last, I have now the honor, by direction of the Hon. the Commissioner of Customs, to inform you, with reference thereto, that the Government propose to bring in a Bill to raise the duty on New Zealand spirit—

1s. per gallon on the 1st of July, 1875.

1s. per gallon on the 1st of July, 1877.

1s. per gallon on the 1st of July, 1879.

I have, &c.,

R. M. Robertson, Esq.,
New Zealand Distillery, Dunedin.

H. S. McKellar,
(for the Chief Inspector of Distilleries).

No. 16.

The DIRECTORS of the NEW ZEALAND DISTILLERY COMPANY to the CHIEF INSPECTOR of DISTILLERIES.

SIR,—

New Zealand Distillery Company, Dunedin, 28th May, 1874.

We duly received your communication of 30th March ultimo, informing us that it was the intention of the Government to propose an increase in the duty on colonially manufactured spirits, viz., 1s. per gallon on 1st July, 1875; 1s. per gallon on 1st July, 1877; and 1s. per gallon on 1st July, 1879. In reply, we beg respectfully to state that any such increase in the duty would be completely destructive to the business of distillation in this Colony.

We had the honor to address the Hon. the Commissioner of Customs on the subject under dates 16th* and 26th January last, to which we refer.

These communications were made prior to our yearly balance, which unfortunately fully bears out what we then stated.

We intend, with the sanction of the Government, to interview them on the subject previous to the meeting of the Assembly, when we will lay before them such facts as may probably alter their views of the question, and we will feel obliged if you will, at as early a date as possible, inform us if the Government have any objection to the interview desired.

We have, &c.,

The Chief Inspector of Distilleries, Wellington.

C. R. HOWDEN,
R. M. ROBERTSON, } Directors,
The New Zealand Distillery Company.

No. 17.

Mr. SEED to Messrs. HOWDEN and ROBERTSON, Dunedin.

(No. 244.)

Customs Department (Distilleries Branch),

GENTLEMEN,—

Wellington, 25th June, 1874.

I have laid your letter of the 28th ultimo before the Hon. the Commissioner of Customs, and in reply I am directed to inform you that he will be very glad, either personally or by letter, to receive any communication from you on the subject of the proposed increase in the rate of duty on New Zealand spirits, which communications he will lay before the Government. I am further to state that it is 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 distilling companies.

I have, &c.,

Messrs. Howden and Robertson, Directors,
New Zealand Distillery Company, Dunedin.

WILLIAM SEED,
Chief Inspector of Distilleries.

* The letter of the 16th January, 1874, was a private one, and is therefore not printed.

PART III.

RETURN showing the Kind and Quantity of the Materials used in the Manufacture of New Zealand Distilled Spirits, the Quantity of Spirits made, and the Quantity upon which Duty has been paid during each of the Years ended 31st December, 1869, 1870, 1871, 1872, 1873, and during the Quarter ended 31st March, 1874.

Year ending 31st December,	Quantities of the several Materials used in making								Spirits made.	Spirits paid Duty upon.
	Malt.	Barley.	Oats.	Wheat.	Rye.	Molasses.	Sugar.	Beer.		
	Bushels.	Bushels.	Bushels.	Bushels.	Bushels.	Lbs.	Lbs.	Gallons.	Proof Gals.	Gals. for Duty.
1869	3,948	52	...	62	...	...	...	...	6,814·0	500·0
1870	18,361	1,479	368	406	1,024	...	...	...	46,233·8	12,845·0
1871	21,935	14,100	1,269	...	585	29,736	...	2,888	68,075·1	35,923·0
1872	26,360	1,004	...	...	1,265	246,269	...	8,233	78,175·7	51,602·0
1873	21,636	2,153	830	4,363	3,114	8,210	19,524	4,079	67,059·4	69,165·2
Totals to end of 1873	92,240	18,788	2,467	4,831	5,988	284,215	19,524	15,200	266,358·0	170,035·2
Totals, March Quar- ter, 1874 ...	8,922	405	...	477	848	55,150	...	...	28,102·1	14,333·0
Totals to the end of March, 1874 ...	101,162	19,193	2,467	5,308	6,836	339,365	19,524	15,200	294,460·1	184,368·2

Note.—There are two distilleries in operation: the first commenced in Dunedin, in October, 1869; the second in Auckland, in December, 1870. Operations at the former were suspended during the months of January, February, March, and most of April, 1873, and at the latter during January, February, and March, and part of December, 1872, also during January, February, and part of March, 1873.

By Authority: GEORGE DIDSBUXY, Government Printer, Wellington.—1874.

Price 9d.]

