

137. These voting-powers meant in practice that licenses would not be extended. The limitation so created, coupled with an expanding population, gave an increased value to the licenses. As between those who held licenses and those who did not, the holders had, in practice, the benefit of a monopoly, though there was competition among the holders of licenses themselves.

138. In 1881 the trade was carried on by brewers and wholesale merchants on the one hand, and by hotelkeepers on the other. Houses were "tied" by a formal tie which bound the hotelkeeper to take his beer or wines and spirits from the brewer or wholesale merchant without the option of going elsewhere. The purpose of this tie, from the point of view of the brewer or wholesale merchant, was to secure a steady outlet for his liquors and to reduce wasteful competition. These facts may all be gathered from the report of the Licensing Committee of the Legislative Council of 1902 (1902, L.C. 2).

139. In 1895 legislation was enacted against the tie. Section 35 of the Alcoholic Liquors Sale Control Act Amendment Act of that year provided that no agreement whereby any person was bound to purchase alcoholic liquors from any other person to the exclusion of any other persons should, if entered into after the passing of the Act (on 31st October, 1895) have any force or validity whatever, and that every bond, bill of exchange, or promissory note given for the purpose of securing performance of such agreement should be void. This legislation was avoided by altering the form of the "tie" agreement. The licensed premises were leased at a high rent, but, if the tenant purchased his beer, and sometimes his wines and spirits and other supplies from the owner or from the person nominated by the owner, he could pay a substantially lower rent. In the case of *Captain Cook Brewery, Ltd. v. Ryan*, 19 N.Z.L.R. 595, decided in April, 1901, Sir Robert Stout, C.J., made this comment upon this provision (p. 603):—

The tenant is not bound, in fact, to purchase beer from his landlord, though, no doubt, this so-called concession will force him to do so. The terms used in the Act do not seem to me to cover this, what I may term "conveyancing device," and if it does not, the Court is helpless. . . . I am therefore compelled, though I may think the spirit of the statute has been ingeniously evaded, to hold that the letter has not been violated. It is for Parliament, not the Court, to make the statute effective if it is desirable to prevent hotelkeepers being even indirectly compelled to prefer one brewer or spirit merchant to another in the purchase of their supplies.

140. This decision was followed by the introduction into the Legislative Council by the Honourable John Rigg, M.L.C., of the Tied Houses Bill, 1902. Its objects were:—

(1) To make it unlawful for any brewer to be the owner of any licensed premises after the 1st January, 1904;

(2) To make it unlawful for any brewer or wine and spirit merchant to advance money to any licensed person;

(3) To provide that, after the expiration of the term of any existing loan or, if no term were fixed, after the 1st January, 1904, all instruments purporting to secure payment should be deemed null and void; and

(4) To provide that the registration of every such instrument should be cancelled.

141. If this Bill had become law, brewers and wholesale merchants would have had to call up and obtain repayment of all advances at call by the 1st January, 1904. This drastic situation naturally brought immediate opposition from the brewers and the wine and spirit merchants, and they gave evidence before the Licensing Committee of 1902.

142. The reasons for the increase in the value of licenses, notwithstanding the local option polls, were pointedly expressed by the Honourable Charles Louison, the manager of the Crown Brewery Co., Ltd., Christchurch, as follows (1902, L.C. 2, p. 104, Nos. 105 and 106):—

105. Can you explain how it is that since licenses have been restricted by the action of the Prohibitionists hotel property has risen in the market?—The reason is quite plain and apparent: certain reductions have been made in the number of licenses; the population is increasing all the time, and there is a larger percentage of population to each public house than there formerly was.

106. And the more the population increases the higher the value becomes?—Yes. I went into a calculation some time ago and found out what the last public house would be worth if reduction were carried every three years. I think it would have paid the national debt of England, or the Colony's debt at any rate.