

the Moteo Case (No. XIX.) Torotoro declared that, after putting him off many times, Sutton told him to come into town when the steamer arrived. He did so, but Sutton said, "This is not the vessel that has my money." "At last," Paul told us, "my thought ceased respecting that money. Sutton said, 'Won't you take sugar and flour for your money?—anything you desire out of the store you can have.' I then saw that Sutton's steamer was his store. I began to take goods." A trade may have been sometimes dexterously forced in this way, but the proof of it broke down in every case. In the Moteo Case, a written agreement was proved postponing payment of the balance of purchase money; nor does Torotoro seem to have been a customer who needed much solicitation for orders. There were not many cases in which natives had balances at their credit; most of the land transactions having been entered into for the purpose of liquidating debts. In the few instances in which money was coming to natives, I think they must have known that they could insist on payment in cash, and only took goods because they preferred doing so.

2. AS TO DEBTS FOR SPIRITS TAKEN AS PART OF THE CONSIDERATION.

Very many of the complaints were founded on the allegation that a part of the consideration had been received in spirituous liquors. Mr. Maning and I intimated very early, that we were not disposed to allow of this as a ground for setting aside transactions otherwise unexceptionable; leaving the Native Commissioners to express their own views on the subject. This resolution of ours was adopted as members of a Court of Conscience, expressly freed from the obligation of legal precedent. Whatever the law may say upon the matter it appeared to us, that it would be unconscientious on the part of a native who had received value in this shape to attempt to rip up the transaction. If it be wrong in the dealer to sell, it is, we argued, wrong in the native to buy—morally wrong; whether legally punishable or not. Native and dealer are thus clearly in fault together; though, it may be, not equally to blame; and it is against morality that one party should be rewarded, and the other punished, for an action in which both must concur. The State may be justified in enabling one party to an illegal bargain to repudiate it, after he has taken the full benefit of it. But such legislation is justifiable only as deterrent—as meant to prevent the case occurring. At all events, that the law allows repudiation cannot make repudiation honourable or right. On this ground we determined that the native vendor was, *in foro conscientiae*, debarred from raising this objection.

That a breach of the law should be remunerated by enabling one of the offenders to break a contract, is an anomaly with which it is to be hoped that the native people will not be allowed to make practical acquaintance, as it would tend doubly to weaken and confuse their still feeble sense of legal and moral obligation. It would make the matter worse that to the Maori would belong all the pleasure and profit, whilst on the Pakeha would fall the whole penalty of wrong-doing. No worse lesson could be given to people who have yet to learn that they must themselves bear the burden of their own follies and misdeeds, and not hope to shift it on to other shoulders. Besides, to pretend to enforce in this most objectionable way a law openly set at naught, not by individuals only, but by public authorities, would be monstrous. Upon this point I do not know that retro-active legislation is required. I rather think not; but if ever justifiable it is so here, in the common interest of vendors and purchasers.

We directed Mr. Witty to analyse some of the accounts, with a view to ascertain the different heads of expenditure, and the proportion spent on liquors. In the case of Te Waaka Kawatini's account with Mr. Maney, commencing 25th October, 1869, and closing 1st February, 1873, we found a total of £948, Dr. items, thus distributed:—

	£
Cash	105
Clothing	290
Sugar, tea, flour	109
Tobacco	16
Posts, wire, saddles	58
Wines, spirits, &c.	370
Total	£948

Where the wine and spirits equal thirty-nine per cent. of the whole.

In the case of Paora Torotoro's account with the same hotel-keeper and dealer, commencing February, 1869, and ending 2nd June, 1871, a total of £626 is thus divided:—

	£
Cash	169
Clothing	148
Sugar, tea, flour	57
Tobacco	12
Bricks	27
Wines, spirits, &c.	213
Total	£626

Where the wines, and spirits equal thirty-four per cent. of the whole.

These are probably amongst the worst specimens that could be found—these two natives not spending upon their lands anything like the sums disbursed by some of the more important and more intelligent chiefs. It must also be recollected that Maney was keeping a hotel during the greater part of the time covered by these accounts. The analysis of Paul Torotoro's account with Sutton (who is a general dealer in Napier) gives not quite nine per cent. expended on spirits. (See my Report on the Moteo Case, No. XIX.)