H. C. OF A. 1931.

HIGHLANDS LTD. v. DEPUTY FEDERAL COMMISSIONER OF TAXES (S.A.).

I am of opinion that the judgment of the learned Judge was correct and the appeal should be dismissed with costs.

McTIERNAN J. I agree.

Appeal dismissed with costs.

Solicitors for the appellant, *Varley, Evan, Thomson & Buttrose.*

Solicitor for the respondent, *W. H. Sharwood*, Crown Solicitor for the Commonwealth.

H. D. W.

[HIGH COURT OF AUSTRALIA.]

ADDISON AND ANOTHER . . . . APPELLANTS;
PLAINTIFFS,

AND

CAIN AND ANOTHER . . . . . RESPONDENTS.
DEFENDANTS,

ON APPEAL FROM THE SUPREME COURT OF QUEENSLAND.

H. C. OF A. 1932.

SYDNEY, *May* 3.

MELBOURNE, *May* 30.

Rich, Starke, Dixon, Evatt and McTiernan JJ.

Licensing Law—Licensed victualler—Security or charge for payment of moneys—Consent of Licensing Court—Protection from unfair and unreasonable terms and conditions—"Lease, licence, goodwill, interest, or other property"—Mortgage of freehold by owner-licensee without consent—Validity—Liquor Acts 1912-1926 (*Q.*) (3 *Geo. V. No.* 29 –17 *Geo. V. No.* 3), *sec.* 69*.

In sec. 69 of the *Liquor Acts* 1912-1926 (Q.) the words "interest, or other property" include a freehold estate. The application of the section is not limited to securities or charges which contain stipulations relating to supplies of liquor or goods.

Decision of the Supreme Court of Queensland (*Webb* J.) reversed.

* The *Liquor Acts* 1912-1926 (Q.) provide, by sec. 69, as follows:—"(1) It shall not be lawful for any licensed victualler . . . to give, or for any person to take, any security or charge for the payment of moneys over the lease, licence, goodwill, interest, or other property of the licensee in or in connection with the licensed premises, without the consent of the Court. As a condition precedent to the giving of such consent, the Court may require to

APPEAL from the Supreme Court of Queensland.

The plaintiffs, George Frederick Addison and Herbert Stanley MacDonald, carrying on a business in partnership as architects, brought an action against Annie Teresa Cain, licensee of Lennon's Hotel, George Street, Brisbane, and the City Mutual Life Assurance Society Ltd., for a declaration that certain mortgages given by Mrs. Cain, and taken by the Society, in respect of the land on which the said hotel was erected were given and taken contrary to the provisions of sec. 69 of the *Liquor Acts* 1912-1926 (Q.), and were void and of no effect.

The statement of claim alleged in substance (*inter alia*) that, on 10th April 1929 and on 1st August 1930 respectively, Mrs. Cain, as owner thereof, gave to the City Mutual Life Assurance Society Ltd., and the Society took, two several securities or charges over freehold lands comprising the licensed premises known as Lennon's Hotel and over the licence held by Mrs. Cain under the *Liquor Acts* 1912-1926 in respect of the said licensed premises and over other interests of Mrs. Cain in or in connection with such licensed premises, the bills of mortgage containing such securities or charges being registered under the provisions of the *Real Property Acts* of 1861 and 1877 (Q.); that such securities or charges were given and taken without the consent of a Licensing Court constituted under the *Liquor Acts* 1912-1926, and were given and taken in contravention of sec. 69 of those Acts; and that the plaintiffs were the holders of a lien under the *Contractors' and Workmen's Lien Acts* 1906 to 1921 (Q.) over the lands above referred to, which said lien was registered subsequent to the bills of mortgage in question. The plaintiffs claimed a declaration that the bills of mortgage were, and

be satisfied that the terms and conditions of the security or charge or any collateral agreement between the same parties relating to the licensed premises —especially having regard to any stipulations therein for exclusive dealings in respect of supplies of liquor or goods—are fair and reasonable. But no such terms or conditions shall be deemed to be fair and reasonable unless it is stipulated that—(i.) The prices to be charged to the borrower for any such liquor shall be fair and reasonable; and (ii.) The borrower shall not be restricted in the purchase of any liquor to any particular brand, kind, class, or quality; and (iii.) The borrower shall, at any time, be at liberty to discharge the whole of his liability to the person or body corporate to whom he is bound. (2) This section shall be construed to extend to every covenant, agreement, condition, proviso, or stipulation operating as a security or charge for the payment of money contained in any instrument or agreement for lease of the licensed premises."

H. C. OF A. 1932. ADDISON v. CAIN.

each of them was, void and of no effect as a security or charge for the payment of the moneys therein expressed to be secured, and for an order that the defendants make and execute all instruments necessary to free the title to the lands above referred to from the said mortgages.

A formal appearance was entered on behalf of the defendant Mrs. Cain. The defendant Society appeared to defend the action. It was not disputed that the bills of mortgage above referred to had been given by Mrs. Cain in favour of the Society and that the consent of the Licensing Court thereto had not been obtained: the defence, in substance, was that, having regard to the provisions of sec. 69 of the *Liquor Acts* and to the fact that the freehold of the licensed premises was owned by Mrs. Cain, the consent of the Licensing Court to such bills of mortgage was unnecessary, and, therefore, they were valid and of good effect as securities or charges for the payment of the moneys secured thereby.

The case was heard by *Webb* J., before whom it was admitted that the defendant Mrs. Cain on 3rd October 1928 became, and continued to be at all material times, the holder of the licensed victualler's licence under the *Liquor Acts* 1912-1926 for the premises known as Lennon's Hotel, George Street, Brisbane; that on 20th May 1931 the Supreme Court of Queensland ordered and declared (*inter alia*) that the plaintiffs herein were, in respect of services performed by them, entitled against Mrs. Cain to a lien under the *Contractors' and Workmen's Lien Acts* 1906 to 1921, duly registered, for £302 6s. 4d. on the land on which the hotel was erected, the time of the lien being extended until 9th December 1931 by a further order of the Supreme Court, which was also duly registered.

The bills of mortgage in question contained the usual provisions for the preservation of the security and the repayment of the principal moneys and payment of interest thereon, the mortgagor, Mrs. Cain, covenanting (*inter alia*) that she would punctually comply with all statutes and regulations thereunder, and all orders of statutory or other authorities passed, made and given in respect of the mortgaged premises, and that she would keep the hotel open as a first-class hotel. The Society as mortgagee was empowered, on default under

the mortgages, to exercise the usual remedies of entry into possession, sale and ejectment; and the directors, managing director and general secretary of the Society together with the Society were irrevocably appointed to be jointly and severally the attorney or attorneys of the mortgagor to exercise, in addition to powers for certain specified purposes, " all other powers of an absolute owner," and " to give, sign, publish, execute, deliver, date and perfect any notice, deed, transfer, memorandum, or other document relating to the lease or licence of the said hotel premises."

Judgment was given for the defendants, *Webb* J. holding that by the application of the *ejusdem generis* rule freeholds were excluded from the operation of the provisions of sec. 69 of the *Liquor Acts* 1912-1926.

From this decision the plaintiffs now appealed to the High Court.

Prior to the hearing of the appeal the Registrar received a letter from Mrs. Cain intimating that she did not propose to take any part in the proceedings.

Flannery K.C. (with him *Wesche*), for the appellants. Although the word " freehold " does not appear in sec. 69 of the *Liquor Acts* 1912-1926, it is obvious that the Legislature intended the provisions of that section to apply to freeholds because a licensee-owner is exposed equally as much as a licensee-lessee to the evil which the Legislature sought to remedy. The words " lease, licence, goodwill " in sec. 69 do not constitute a category of chattel interests so as to give the words " interest, or other property," immediately following, a limitation confining them to chattel interests and chattel property. A licence is not a chattel interest (*Jack* v. *Smail* (1)), nor is goodwill in itself a chattel interest (*Halsbury's Laws of England*, vol. XXVII., pp. 590-593). The words " interest, or other property " should be given their widest meaning, and should not be construed as meaning something less that the preceding words. The case of *Westminster Corporation* v. *Armstrong* (2), referred to by the trial Judge, deals with a surplusage of words, which is not the position here; and it should, therefore, be applied with caution. The words should be given their natural meaning (*Commissioners for Special Purposes of*

(1) (1905) 2 C.L.R. 684.

(2) (1929) 2 K.B. 451, at p. 457.

H. C. OF A. 1932. ADDISON v. CAIN.

the Income Tax v. *Pemsel* (1); *Anderson* v. *Anderson* (2); *Curtis & Sons* v. *Mathews* (3)), despite the fact that they follow words of lesser import. The intention of the Legislature was to protect licensees from oppression by mortgagees whether such licensees be owners or lessees of the licensed premises, and the words of the section should be so interpreted as to give effect to such intention.

Teece K.C. (with him *Collins*), for the respondent Society. Sec. 69 is only intended to refer to securities or charges between licensees and suppliers of liquor so as to prevent the imposition by the latter of higher prices and harsh conditions generally. There is no reason why the Legislature should deem it necessary to protect the owner or lessee of a hotel against an ordinary mortgagee who has not any particular interest in the business. According to the marginal note the section refers to "tied houses." The language of the section shows that the Legislature directed its attention to leases and interests in the nature of leases. The definition in the Act of "owner" shows a distinction between a mortgagee of freehold and a mortgagee of a lease: the former is an owner without any need of being registered but the latter must be duly registered. The *ejusdem generis* rule should be applied. Where general words follow specific words the general words are not construed to include things of a higher order and nature; thus the words "interest or other property" being immediately preceded by the words "lease, licence, goodwill" cannot be construed as meaning and including "freehold," which is an estate higher than a leasehold (*Foscolo, Mango & Co.* v. *Stag Line Ltd.* (4)). Such a rule of construction is analogous to the rule applied in the *Archbishop of Canterbury's Case*; *Green* v. *Balser* (5), which was followed in *Gunnestad* v. *Price* (6). See also *Maxwell* on the *Interpretation of Statutes*, 7th ed., p. 292. Had the Legislature intended the provisions of sec. 69 to apply to "freehold" land, it would have expressly said so.

Cur. adv. vult.

(1) (1891) A.C. 531.
(2) (1895) 1 Q.B. 749, at p. 755.
(3) (1919) 1 K.B. 425, at p. 430.
(4) (1931) 2 K.B. 48.
(5) (1596) 2 Co. Rep. 46a; 76 E.R. 519.
(6) (1875) L.R. 10 Ex. 65.

The following written judgments were delivered :—

RICH J. I adopt the reasons in the judgment of my brother *Dixon*, and am of the opinion that the appeal should be allowed and the order of the Supreme Court discharged.

STARKE AND EVATT JJ. The *Liquor Act* 1912 of Queensland has provided, by sec. 69, that it shall not be lawful for any licensed victualler to give, or for any person to take, any security or charge for the payment of moneys over the lease, licence, goodwill, interest, or other property, of the licensee in, or in connection with, the licensed premises without the consent of the Licensing Court. The respondent Annie Teresa Cain is, and was at all times material, licensee of Lennon's Hotel, Brisbane, and owned the freehold of the land upon which the hotel stands. By two bills of mortgage, dated respectively 10th April 1929 and 1st August 1930, and registered under the *Real Property Acts*, she mortgaged to the respondent, the City Mutual Life Assurance Society Ltd., all her estate and interest in this freehold land, and in certain other leasehold land, to secure certain moneys owing to the Society and interest thereon. By these mortgages the respondent Cain gave the respondent Society the usual wide powers to protect its security and maintain the victualler's licence for the premises known as Lennon's Hotel. No consent to the mortgages was obtained from the Licensing Court.

By a judgment of the Supreme Court of Queensland of 20th May 1931 the appellants were adjudged entitled, as against the respondent Cain, to a lien under the *Contractors' and Workmen's Lien Act* 1906 to 1921 for certain moneys over the freehold lands upon which the hotel stood. An action was then brought by the appellants in the Supreme Court against the respondents for a declaration that the bills of mortgage already mentioned were void and of no effect as a security or charge for the payment of moneys therein expressed to be secured, but judgment was entered for the respondents. This is an appeal against that decision, and its result depends upon the proper interpretation of sec. 69 of the *Liquor Act*.

The grammatical and ordinary sense of words should be adhered to unless there is something reasonably plain upon the face of the document to be construed that requires them to be used in a sense

H. C. OF A. 1932.

ADDISON v. CAIN.

Starke J. Evatt J.

limited to things *ejusdem generis* with those which have already been specifically mentioned. The argument is that the words "interest, or other property of the licensee in or in connection with the licensed premises," in sec. 69 should be restricted to interests or property of the same kind as those described in the preceding words, and do not introduce interests or property of a higher and different character, such as freehold. The object of the section, however, does not suggest that restriction. Its aim is to protect licensed victuallers against unfair and unreasonable stipulations in securities that would restrict the freedom of the licensee and the conduct of business in the licensed premises. Such an aim, be it expedient or inexpedient economically, is as necessary in the case of a licensed victualler who is a freeholder as in the case of a licensed victualler who is a leaseholder. Moreover, the contention that the general words in sec. 69 "or other property of the licensee in or in connection with the licensed premises" should be cut down or overridden by the preceding words "implies a departure from the natural meaning of the words." The mere fact that general words follow specific words does not warrant such a departure; and there is nothing else in the present case to warrant it (*Anderson* v. *Anderson* (1); *Smelting Co. of Australia* v. *Commissioners of Inland Revenue* (2)).

Another argument presented by Mr. *Teece* deserves consideration. The section, he suggests, only applies to securities that contain a tie, such as stipulations restricting the licensee to a particular source for articles sold. No doubt the section covers such a case. But its scope is much wider: it gives the Court a general supervision over the terms and conditions of the security. Thus, it provides that "As a condition precedent to the giving of such consent, the Court may require to be satisfied that the terms and conditions of the security or charge or any collateral agreement between the same parties relating to the licensed premises—especially having regard to any stipulations therein for exclusive dealings in respect of supplies of liquor or goods—are fair and reasonable." It is impossible in the face of language such as this to limit the operation of the section in the manner suggested.

(1) (1895) 1 Q.B., at p. 755.

(2) (1897) 1 Q.B. 175, at p. 182.

The appeal should be allowed, and a declaration made that the bills of mortgage are contrary to the provisions of the *Liquor Act* 1912, and unlawful and invalid in so far as they give or purport to give security over the freehold land. The position of the leasehold land is not in issue, and therefore no declaration affecting it should be made.

DIXON J. The question is whether a mortgage of the fee simple of land in respect of which a victualler's licence has been granted is invalidated by sec. 69 of the Queensland *Liquor Act* 1912-1926 if the mortgage is given without the consent of the Licensing Court although the instrument contains no stipulations relating to supplies of liquor or goods.

The subject matter over which a licensed victualler may not, without consent, give a security is described by the section as " the lease, licence, goodwill, interest, or other property of the licensee in or in connection with the licensed premises."

The decision of *Webb* J. that these expressions do not include the fee simple rests upon the ground that the general words " interest, or other property " must receive a restricted meaning and should be confined to proprietary rights of the same order as lease, licence, and goodwill. The general purpose of the provision is evident upon its face. It is to confer upon the Licensing Court a superintendence over the giving of securities which may operate to fetter or control the licensee in the conduct of his business, particularly as to the source whence he obtains supplies of liquor or goods. No reason appears for excluding the fee simple from such a protection. Doubtless, the licensee is more commonly a lessee than a freeholder, and the usual tie between a licensed victualler and a brewer (unless the brewer is the owner of the licensed premises) is contained in or is connected with a security over the " lease, licence or goodwill." But the frequency of such a case provides a sufficient explanation of the place given in the section to that description of interest and to the fact that all other kinds of property are covered by general words. The fee simple possesses no relevant characteristics which place it for the purposes contemplated by the section in a different position from a lease. It confers (subject to leasehold interests) an

H. C. OF A. 1932.

ADDISON v. CAIN.

Dixon J.

immediate right to the use and possession of the premises. It differs in no respect from a lease, except in duration and indefeasibility. Future estates or interests giving no right to the use or possession of the land, perhaps, might be excluded by a construction *ejusdem generis*, but it is difficult to find any firm ground for so confining the words " other property " as to exclude a fee simple in possession. The order of the words which is said to be " descending " cannot justify such a restriction. The words simply proceed from the particular to the general. The first paragraph of the section forbids the creation of " any security or charge for the payment of moneys " over the licensed premises without consent. These words are " general and not express and precise " and it is said, therefore, that, in accordance with *Bacon's* rule, they should be " restrained unto the fitness of the matter or person." The fitness of the matter is sought in the remaining paragraphs of the section which deal with the discretion of the Licensing Court, and it is contended that they show that the provision relates only to securities containing stipulations or conditions which may or do affect the licensee in obtaining supplies of any kind he chooses from any source he thinks fit and at such prices as prevail, or are offered to him. The strength of this contention lies in the nature of the evil which the Legislature may be supposed to have intended to remedy, and in the inference to be drawn from the paragraph of the section which provides that the terms and conditions of the security shall not be deemed reasonable unless it is stipulated that the prices charged to the borrower are fair and he is not restricted to liquor of a particular brand and is at liberty to redeem the security. But several considerations prevent this paragraph from operating so as to confine the meaning of the words " any security or charge."

(1) First, in the paragraph immediately preceding it, which enables the Court to require to be satisfied that the terms and conditions are fair and reasonable, the following parenthesis is included: " especially having regard to any stipulations therein for exclusive dealings in respect of supplies of liquor or goods." The word " especially " makes it impossible to confine the class of security that is forbidden without consent to those containing stipulations for exclusive supplies of goods or liquor.

(2) Next, in describing the stipulation which the security must contain that the prices for liquor shall be fair and reasonable, the paragraph qualifies the word "liquor" with the word "such." This refers back to the only place in which the word "liquor" is previously used in the section, namely, the parenthesis beginning with the word "especially." Consequently the stipulation is required only when a stipulation for exclusive supply of liquor is included in the instrument. This is probably true of the stipulation also as to the restriction in brand. A more correct application of the rule of construction relied upon would be to confine the requirements in the third paragraph to securities containing stipulations for exclusive supply.

(3) Third, the wide sweep of the general language of the enactment appears to be for the purpose of giving the Court a power of veto in order to ensure that by no device could the lender impose upon the borrower the practical or legal necessity in the conduct of his business of conforming to the interests or desires of the lender or of some person or body favoured by the lender. This would be defeated if the jurisdiction of the Court over the instrument were made to depend upon the existence of stipulations of so definite a description. In truth, the whole controversy is disposed of by the application of the rule of construction expressed by *Bramwell* B. in *Fowell* v. *Tranter* (1): "The golden rule of construction is, that words are to be construed according to their natural meaning, unless such a construction would either render them senseless, or would be opposed to the general scope and intent of the instrument, or unless there be some very cogent reason of convenience in favour of a different interpretation." There is no certain reason for considering that the general scope and intent of the enactment is in opposition to the natural meaning of the words contained in the first paragraph of the section, and there is no cogent reason of convenience for restricting it.

The appeal should be allowed. The judgment of the Supreme Court should be discharged and a declaration should be made that the bills of mortgage are void.

(1) (1864) 3 H. & C. 458, at p. 461; 159 E.R. 610, at p. 611.

H. C. OF A. 1932. ADDISON v. CAIN. McTiernan J.

McTIERNAN J. Each of the bills of mortgage in this case is, in my opinion, upon the proper construction of sec. 69 of the *Liquor Act* 1912 of Queensland, a security or charge which it was not lawful for the respondent Mrs. Cain to give, or the respondent the City Mutual Life Assurance Society Ltd. to take, without the consent of the Licensing Court established under that Act. The section is in Part IV. of the Act, which is expressed to be concerned with the obligations, duties and liabilities of licensees. The expression "any licensed victualler" prima facie includes a licensed victualler who owns the freehold of the premises on which such person is licensed under the Act to sell liquor. It was submitted, however, that the words "lease, licence, goodwill, interest, or other property in or in connection with the licensed premises" do not include the freehold in such premises. The effect of that construction would be to read down the description "any licensed victualler" by excluding from it any person who is the owner of an estate of freehold in the premises on which such person is licensed to sell liquor. The Legislature having seen the need for the supervision by the Licensing Court of securities or charges given by licensed victuallers, there does not appear to be any reason why this supervision should not extend to a security or charge given by a person who owns the freehold in the premises on which he is licensed to sell liquor as well as to a security or charge given by a licensee over his lease in any such premises. It was contended on behalf of the respondent company that the words "other property" should be construed *ejusdem generis* with the words preceding them, that is, "lease, licence, goodwill" and "interest." If that rule of construction were applied in the manner suggested, the scope of the word "property" would be restricted so as not to include an estate in freehold in possession. In the result, the intention of Parliament to legislate with respect to "any licensed victualler" would not be fulfilled. Speaking of the *ejusdem generis* rule, Lord *Esher* M.R., in *Anderson* v. *Anderson* (1), quoted the following statement from *Parker* v. *Marchant* (2): "It is, however, incumbent on those who contend for the limited construction to show that a rational interpretation of the will

(1) (1895) 1 Q.B., at p. 753.
(2) (1842) 1 Y. & C.C.C. 290, at p. 300; 62 E.R. 893, at p. 898.

requires a departure from that which ordinarily and prima facie is the sense and meaning of the words"; and then proceeded to say: "Nothing can well be plainer than that to show that prima facie general words are to be taken in their larger sense, unless you can find that in the particular case the true construction of the instrument requires you to conclude that they are intended to be used in a sense limited to things *ejusdem generis* with those which have been specifically mentioned before." In *Craies* on *Statute Law*, 3rd ed., p. 164, the learned author says: "The *ejusdem generis* rule is one to be applied with caution and not pushed too far, as is the case in many decisions, which treat it as automatically applicable, and not as being, what it is, a mere presumption, in the absence of other indications of the intention of the Legislature." Furthermore, if it be assumed that the words "lease, licence, goodwill and interest" do constitute a genus, I do not think that the effect of giving the word "property" its ordinary meaning is to admit into the genus something, that is, an estate of freehold in possession, which does not belong to it. The words "lease, licence, goodwill and interest" do not, in my opinion, denote a category of things which are associated on the principle that they are in their nature different from or less than an estate in freehold in possession. If they do denote a genus, the Legislature must have constructed it on some other principle. The sequence of the words beginning with "lease" and ending with "other property" is not to be explained by the consideration that the Legislature was not concerned with a security given by a licensed victualler over his estate in freehold in the licensed premises. On the contrary, the words "other property" were, in my opinion, added to extend the section to a security given by any licensed victualler who was the owner of the freehold in the licensed premises.

Though the marginal note to the section is "Tied Houses," I do not think that the words which the Legislature has used permit of the restriction of the words "any security or charge" to a mortgage containing a provision requiring the licensed victualler to deal with the lender for supplies of liquor or goods. The words in parenthesis "especially having regard to any stipulations therein for exclusive dealings in respect of supplies of liquor or goods" lead to the

H. C. OF A. 1932.

ADDISON v. CAIN

McTiernan J.

conclusion that the words "the terms and conditions of the security or charge or any collateral agreement between the same parties relating to the licensed premises" do not relate solely to a mortgage containing a provision requiring the licensed victualler to deal exclusively with the lender for his supplies of liquor or goods. Moreover, I do not think that the words of the section are susceptible of the interpretation that the section is confined to mortgages which contain a provision requiring the mortgagee to deal, whether exclusively or not, with the mortgagor for supplies of liquor and goods. The section appears in a collocation of sections relating to the manner in which a licensed victualler must conduct the premises on which he is licensed to sell liquor. The intention of the Legislature in enacting sec. 69 appears to have been to secure that the terms and conditions of the security or charge relating to the licensed premises which may be given by a licensed victualler, should be supervised and approved by the Court, as the mortgagee may seek to impose upon the licensee obligations, duties and liabilities in addition to those imposed by Parliament which would be detrimental to the public interest or too onerous for the mortgagor to sustain. The mortgagee may not dictate how the licensed premises are to be conducted. Whether the section applies to a mortgage which does not contain any terms or conditions relating to the conduct of the licensed premises at all, is a question which does not arise in this case. In each bill of mortgage there is at least one term or condition relating to the licensed premises. The term is as follows: "That the mortgagor and every person in lawful occupation of Lennon's Hotel erected on the mortgaged premises shall keep the said hotel open as a first-class hotel." The obligations, duties and liabilities relating to the licensed premises imposed upon a licensed victualler by the Act would not necessarily result in the carrying on of this hotel as a first-class hotel. The convenience of the public, or the more profitable management of it by the licensee, may require that some other standard of service and accommodation should be adopted. Upon the true construction of sec. 69, the bills of mortgage in this case are, in my opinion, clearly of the kind in respect of which the Legislature intended that

the Licensing Court should stand between the mortgagor and the mortgagee and give its assent before they could become valid.

The appeal should be allowed.

Appeal allowed with costs. Order of the Supreme Court set aside and in lieu thereof declare that the bills of mortgage in the pleadings mentioned are, in so far as they give or purport to give security over the freehold in or in connection with the licensed premises, contrary to the provisions of the Liquor Act of 1912 *(Q.) and unlawful and invalid. Order that the defendant the City Mutual Life Assurance Society Ltd. do pay the plaintiffs' costs in this Court and in the Supreme Court. Cause remitted to the Supreme Court.*

Solicitors for the appellants, *O'Shea, O'Shea, Corser & Wadley*, Brisbane, by *Pigott, Stinson, Macgregor & Palmer.*

Solicitors for the respondents, *Tully & Wilson*, Brisbane, by *Barry, Norris & Wildes.*

J. B.