

1873.
NEW ZEALAND.

REPORT OF THE SELECT COMMITTEE ON THE TIMBER FLOATING BILL.

Report brought up 9th September, 1873, and ordered to be printed.

THE Committee are of opinion that the power possessed by lower holders on the banks of a creek, to obtain an injunction to prevent the floatage of timber by upper holders, is liable to be abused, to the injury of a most important industry. At the same time the Committee are of opinion that it would not be advisable in some creeks, adjacent to which settlement is progressing, to permit the driving of timber except under stringent regulations.

The Committee recommend that the Bill should contain provisions by which it may be decided from time to time by competent authority what creeks shall be used for driving timber, and by which prompt compensation may be paid in case injury is done to holders of land on the banks of creeks.

The Committee recommend that the Act should apply only to creeks within any Province which from time to time the Superintendent of that Province shall appoint, with a power of revoking such appointment.

That only persons licensed so to do should float timber under this Act, and that licensees should give security adequate to meet the claims of any persons whose property they may damage.

Wellington, 9th September, 1873.

JULIUS VOGEL,
Chairman.

MINUTES OF EVIDENCE.

THURSDAY, 2nd SEPTEMBER, 1873.

WILLIAM SWANSON, Esq., M.H.R., examined.

1. *The Chairman.*] You are a settler in the Province of Auckland, and have some experience in the matter to which this Bill refers? Yes. *Mr. Swanson.*

2. If we shut up this floating of timber down these creeks, would we not prevent forests from being utilized in many cases? I do not think you would. I do not see that there would be any difficulty in bringing the timber out by ordinary roads or by tramways. My experience in getting timber out is confined to my own creek, Henderson's Creek, and Canty's Creek. What the position may be in other places, I cannot tell, but I do not think it would be difficult to make arrangements with the owners of land generally. 2nd Sept., 1873.

3. Are there not forests where it would be difficult to take tramways, but where the timber could be easily got out by floating or driving it down the creeks? There may be.

4. You speak of your experience in certain creeks; would it have paid you as well to have made a tramway as to have floated out the logs? No; it would not have paid me as well. I had not the means to make a tramway when I began. All the land on the creek belonged to the Government, and it was quite impossible for me to do any damage. Soon after settlers came below me: I had to stop. It paid me better to float the timber down.

5. *Mr. Rolleston.*] In any circumstances, the timber must be rolled for some distance. Could it not as easily be put upon a tramway? I believe that I could have taken the timber out by tramways, and still had a balance left in my favour. The profit would not have been so large.

6. *The Chairman.*] Would you have had any profit at all? Yes; I would. I would have had to make a road four miles in length.

7. Are there not some forests twenty miles from where the logs have to be sawn? There may be; but I am not aware of it.

Mr. Swanson.

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8. What is the longest distance they drive timber down? I do not think anything like twenty miles. I have not seen any timber driven that distance. In many cases months may elapse before a fresh comes sufficient to bring down the logs. It sometimes may happen that a man may take a license, and cut down the nearest trees in the bush, and then roll them into the creek to be brought down by the first fresh. When the logs are driven down they may be left aground on land belonging to a different owner.

9. *Mr. Rolleston.*] Would it not be practicable to take the mills up to the forests, and bring the timber down cut? They are doing that in some cases; it is the best plan where practicable. This system of driving, however, was so cheap, and answered the purpose so well for the owner of the timber, that it was the plan generally adopted.

10. *The Chairman.*] What is the average size of these streams? The streams on which dams were erected were generally small streams, and the dam made to aid the natural rise of the water; and when these dams were filled the water was let go by opening the gate.

11. *Mr. Rolleston.*] As a rule, you think that tramways could be constructed so as to get out the timber? Yes; I am satisfied the timber could be got out by tramways. I believe that tramways would ultimately be far more profitable; they would certainly be more profitable to the country, and far more timber would be got out by their means.

12. *Mr. Gillies.*] Is not timber now cut in places where they could not take tramways to bring it out? I have never yet seen the place where a tramway could not be taken, if there was timber enough to make it worth while. I can easily understand that there may be little patches here and there which it would not be worth while to take a tramway to; but if there is plenty of timber, it will pay to get it out by a tramway, and infinitely more will be taken out.

13. *The Chairman.*] It has been suggested to alter the Bill so that no one should have a right to float timber without a license from the Superintendent; that the Superintendent should declare a creek subject to the provisions of the Act; that before licenses were issued regulations should be made; and that persons holding licenses should deposit security to cover any damage that might be done to existing holders; and finally, that an easy remedy should be given to persons having property on the stream. How do you think that would act? When a man commences cutting, he might not be able to do damage to the extent of sixpence. But farmers, wool scourers, tanners, and other businesses of that sort may be established, and his stakes would have to be increased with every one who came below him, and with everything they did. A farmer might come below him, and in a single night the whole of his soil might be washed away.

14. Are there not creeks which might be used for this purpose which are not available for agricultural purposes? There may be. Mr. Henderson bought his creek from head to foot, so as to prevent any claims from persons below where he cut his timber.

15. *Mr. Gillies.*] At those saw-mills of Captain Daldy at Waikawau, at Cabbage Bay, and at other creeks on the Coromandel Peninsula, there is very little flat land which could be used for agricultural purposes? I do not know much of those places. It seems to me that the fair way would be to treat these mill-owners precisely as any company would be treated, and let them give notice to the owners of property on the banks of the streams they wish to use. This is a matter I considered years ago, and we tried to get a measure passed so that for the future forests would be sold with these rights. The Provincial Solicitor, Mr. Wynn, was quite willing to go into the matter, but we found that much more would be lost than would be gained. The obstacle was not so much the mischief which would be done as the good which would be prevented, as all operations below would be paralyzed. Any deposit that would be put down would remain stationary, while all manner of improvements would be increasing. A large bush would fetch much more if sold with these rights; but the land below would fetch a great deal less. I think these mill-owners ought to be put in the same position as private companies, and if they want these rights in regard to particular creeks, let them come to the Assembly or to the Provincial Council and seek for them, after having given due notice to the parties whose rights are affected, and giving them the opportunity of opposing. I am perfectly satisfied that those residing on creeks where no harm could be done would not object, or would be very easily settled with.

16. *Mr. Kelly.*] A man might acquire an acre on a creek and prevent any person from taking timber down? If the Government give a man rights, then the company would have to buy him out under an arbitration as to value.

17. Suppose that no injury was done to him? Then he would have no claim for compensation. A man may have his house near one of these creeks, and there may be above a "jam" of logs, which will be a perpetual source of terror for months. A fresh may come at any time, night or day, and sweep away the house, or any crop he may have on the land, especially if it is cut; and there is no protection in this Bill. This Bill ought to have been circulated through the Provinces to give a chance to those interested in the banks of the creeks of petitioning against it.

18. *Mr. Rolleston.*] Would you say it was a question of capital, and that for a man of capital it would be a more economical and better way to get the timber out by a tramway? Yes; and it would certainly be better for the country, as much more would be got out. The timber would not then have to lie in the creeks for months, sometimes for years, rotting; it would be cut only when it was wanted, and in such lengths as were wanted; and much of the tops of the trees, which are now wasted, could be used. I am aware that timber has been and is now being got out by means of a tramway. Mr. Gibbons has a mill on one of the Education Reserves, and he is now making a tramway to bring the timber out by, and on this tramway there is a tunnel. By this a large quantity of timber will be made available. Mr. Gibbons is a man who thoroughly understands his business.

19. If the suggestions that have been made were embodied in the Act, do you think people would be able to avail themselves of them? A man might buy a piece of land on which the fern was growing, and where, so long as that was the case, but little damage could be done, but after he had ploughed it, the soil might be carried away altogether, or the crop, if one was on the ground and not secured. The deposit, which might have been ample when the man took out the license to cut the timber, would be quite insufficient, or would require to be continually changing with every day's work, and every pound of expenditure on the part of the owners of the creek below. When I went on to the creek

where I cut timber, £10 paid to the Government would have been sufficient for all the damage I could possibly have done, while £500 would not have been sufficient on the day I left. *Mr. Swanson.*

20. *Mr. Kelly.*] Are there not streams which have been used for twenty years for bringing down timber, where no injury has been done? In streams which have been used for that time, the floods are not likely to rise above the banks. The effect of the driving would be to widen the bed of the stream, so that the stream would not be so likely to get over the banks. But a bush must have been very sleepily worked not to have been worked out before that. There is generally very little trouble in dealing with the people living on the banks of these streams, unless where they are liable to great damage, or the land is flat or low. It is of importance to keep the logs in the stream, and the people are generally ready to aid in pushing the logs in the current, or in calling the men if a jam takes place, and to assist in breaking it up while the flood lasts—that is, always supposing there is a good understanding between the parties.

21. *Mr. O'Connor.*] The security that would be required, if security had to be lodged for possible damage, would be so great as almost to make it impossible for any party to avail himself of the Bill for the purpose of getting timber out? I say that legislation in this direction, without notice to the parties affected, is vicious and wrong. I think it wrong to deprive men of rights which they have got and paid for, without warning, and to confer rights on men which they have not got and have not paid for, without any equivalent either to the country or to the individuals liable to be injured. Any legislation of this sort ought to be prospective, and not retrospective, for if this Bill becomes law, and any damage is done, and the person affected fails to get compensation, he might come to the Assembly, and he would have a good claim on this House for any loss he has sustained through its action. It must be remembered that the owners of the mills are generally richer men than the farmers, and also that in many cases the men cutting the timber have no interest in the land, but are cutting on a license or lease, or sometimes by contract.

22. *Mr. Gillies.*] Is it not a fact that at many of those streams there are no settlers at all, except the mill-owner and those employed by him, and that there is very little flat land upon which settlement is likely to take place? I am not sufficiently acquainted with the country to say, but in those cases it would be easier for the bushmen to settle with the people below. If there were no settlers, there would be no trouble. I think mill-owners should be dealt with exactly as a gas company, and that they should be made to give notice if they seek to invade other people's rights. It must be remembered that a fresh might come at night, and that damage might be done which the parties could not prove at all. The Bill provides that no damages can be got unless they can be absolutely proved.

THURSDAY, 4TH SEPTEMBER.

Mr. JOHN SANGSTER MACFARLANE present, and examined.

23. *The Chairman.*] The Committee do not want to know as to any particular case, but as to the general applicability of this Bill? The Bill is framed to apply to every mill in the Province of Auckland, except those where the mill-owner owns all the land down to the sea. It is required for every mill except in those cases. In some cases timber comes thirty or forty miles from the forest.

24. The Committee has been informed by evidence before it, that many forests could be served by tramways, and that to bring the timber down the creeks is a wasteful way? In some cases tramways are used to bring the logs to the creeks, but the mills are at the bottom of the creeks where the ships have to be loaded. Tramways are not used to any extent, except at the Hauraki mill.

25. If you take the case of Whangapoua as an instance, is it not practicable to take a tramway down that creek to a place where the timber could be shipped? It would be utterly impossible. The timber is at least thirty miles from the mill, reckoning the circuit in which a train could be made. It grows up in gullies, and would have to come down a long flat, with mangrove swamps, and mud and shingle.

26. What is the distance which the timber is now floated down the creek? I should think now about twenty miles.

27. And you say it is not possible to get a tramway up? It is utterly impossible. Some of the mills might make a tramway for some distance, but it would be impossible to take them into the creeks where the timber grows, excepting at a cost exceeding value of timber.

28. *Mr. Rolleston.*] What is the elevation of the places where the timber is growing at Whangapoua? The elevation is becoming greater the further we go back. It is at a moderate elevation now, perhaps about 500 to 1000 feet is what I am told; but I do not know exactly, though I visited the creek.

29. *The Chairman.*] Why is it impossible to take a tramway up? There are large mangrove swamps, and the tramway would have to run round the heads of the bays. From the mouth of the creek round the bays would be about ten miles.

30. The Committee wish to know, not whether tramways could be made to the sites of particular mills, but whether it is not practicable, the saw-mills being placed amongst the timber, to bring the logs down by tramway? I have been thirty years in this trade, and I know no mill, with the exception of the Hauraki saw-mill, where tramways would be of any use. It would not pay to bring the timber out by a tramway at Whangapoua. There are £20,000 worth of timber in that creek, and it would not make a tramway. At the very next creek to Whangapoua, Opitonui, which is held by the Messrs. Harris, who oppose this bill, it would be impossible to use a tramway. It is the same at Roe's mill, at the Huia, and at Whitaker and Russell's immense mill at Shortland, Mercury Bay mills, Tairoa mill, Wangaroa mill, and all others, where the logs have to be brought, in some instances, fifty miles down the creek.

31. Mr. Swanson, who has been examined, said that he could not imagine any place where the timber was driven more than twenty miles? At Messrs. Whitaker and Russell's mill the logs are brought fifty miles.

Mr. Swanson.

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Mr. Macfarlane.

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Mr. Macfarlane.
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32. *Mr. Rolleston.*] What is the condition of a log that has travelled any great distance in the creek? A few of them will have the bark off.

33. What sort of sized creeks are these? Small creeks, which are dry part of the year. The logs are brought down by the freshes. At John Gibbons' mill, on the Thames, the timber is brought a distance of ten miles. At neither of these mills is it practicable to use a tramway. A survey was made at Gibbons' mill to ascertain if it was practicable, but the report was that it was not practicable on account of the expense, which would be enormous.

34. *The Chairman.*] It is alleged that driving the timber by natural freshes is liable to do damage where there are farmers settled on the banks of the streams? No such thing. In all my experience I have never had but one claim. When a claim was made upon Mr. Roe for £2,000 damages, I immediately went and made inquiries, and bought the land from the mortgagee, so that Mr. Roe could go on working his mill. So little did I think of it that I have never asked Mr. Roe for one shilling. The claim was for £2,000, said to be for injury to the banks.

35. *Mr. Kelly.*] What did you pay for the land? £300. It was mortgaged to the Bank of Australasia for £500. There were 800 acres of it.

36. *The Chairman.*] In those creeks which you have spoken of, where there are saw-mills, there are no farms which might be ruined? There are no such things as farms; still, I should like to see the clauses I have handed in put into the bill for providing compensation.

37. In your opinion, there are no creeks in the Province of Auckland where damage is likely to be done by the floating of timber? No, not £50 damage could be done.

38. Would there not be danger in some cases to persons living on the banks of such streams? Not at all; I never had a complaint until this case at Whangapoua. Roe's was the second complaint I ever heard. I never heard of any danger of any description.

39. *Mr. Kelly.*] Where the saw-mills are at present situated there are no small farms? There is no cultivation at all on any creek on which sawing timber is carried on that I know of.

40. *Mr. Rolleston.*] All these forests you speak of are of kauri? All except the forest used by the Hauraki saw-mill, which is of kahikatea.

41. *Mr. Kelly.*] How many men do you think are employed in the North Island in the timber trade. It is a very large trade, taking into the account the vessels employed? It is the trade of Auckland.

42. If such a Bill as this were not passed, would the trade be greatly injured? I tried last session to get such a Bill passed. This matter has cost me thousands of pounds already. If I could be stopped, it would be ruin to the forest and the mills.

43. *Mr. Rolleston.*] Would this Bill prevent pending proceedings in any way? No the Bill provides for payment for damages. It says that if any damage is done, it must be paid for.

44. It could not interfere with any action now before the Supreme Court? No, It has always been thought legal to use these creeks. Mr. Gillies maintained that it was legal to work these creeks without legislation so long as dams were not used. The Judge of the Supreme Court decided that it was not legal to use them without legislation.

45. *Mr. Kelly.*] Can you give the Committee any idea why Mr. Harris opposes this Bill? He simply opposes the Bill for this one creek. He has got some flat land at the bottom, and he opposes the Bill simply to shut up my forest. This Bill merely legalizes the floating of timber down the creeks, so that the forests may be worked.

46. *The Chairman.*] Would this Bill prevent Mr. Harris from recovering any damage he may have hitherto sustained? Not at all. He has applied for an injunction to prevent the logs coming down. This Bill would prevent him from getting an injunction, but still enables him to recover any damages.

47. Have you got any report of the remarks made by the Judge at the trial? I was at the trial myself. The Judge said it was a nice point. He said he hoped it would go to the Privy Council. He said he would rule that these rivers could not be used for floating timber without legislation. He said he hoped the matter would not rest there, but would be taken not only to the Court of Appeal, but to the Privy Council.

48. Did he indicate anything with respect to the legislation? He said nothing but legislation would do.

49. *Mr. Ormond.*] What damage is done to the timber by floating it down the creeks? There is no such thing as waste. If it cannot be taken down by floating it, thousands and hundreds of thousands of pounds worth of timber will be valueless.

50. *The Chairman.*] What percentage of loss is there on timber floated as compared with taking it down by a tramway? How much is lost by the logs going out to sea, being distributed over land, by damage on the way down, and by rotting? Logs are frequently left to rot. That cannot be helped. I have examined thousands of logs at the booms, and never saw any damage. On one occasion a number of logs went to sea at Whangapoua. Harris had an injunction against certain logs being touched, but they floated and went to sea. But at all the saw-mills there are booms which prevent the logs from going to sea. I do not think there is 1 per cent. of loss from floatage.

51. Do freshes not sometimes take the logs to sea? These booms are fastened by enormous chains, so as to prevent freshes from taking the logs to sea, and they do prevent it, unless in exceptional cases.

52. *Mr. Ormond.*] How do they prepare the logs before floating them to the mill? The bark is kept on. The bark and sap are worth very little. The logs are simply cross cut.

53. What proportion of waste do you think there is from timber remaining in the creeks—from the logs that rot? I can hardly say. It is bad management when there are many logs rotting in the creek. Sometimes a man will fell a tree, and find that it is a bad one, and that it would not pay to take it down.

54. *Mr. Rolleston.*] I have seen a great number of logs lying squared in the Hokianga River. Were these squared before they were brought down? Yes. These are squared for export. When these are felled, they are dragged out by bullocks. These trees are got close to the river. They have never been driven down. They are too valuable to be cut at a mill, but are exported to Australia and China.

55. *Mr. Kelly.*] You are aware that certain Natives have petitioned against this Bill? The Natives have been misinformed about the Bill. They do not know the nature of the Bill. *Mr. Macfarlane.*
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56. Have you had any conversation with Mr. Swanson about this Bill? Yes. Mr. Swanson has urged me to enter into partnership with Harris. That has been the burden of his song. He told me that he would not oppose the Bill. He said not to call upon him for evidence.

57. *The Chairman.*] Without going into the particulars of this case of yours, was there not some protest signed by the jury to be put in? The jury said that Craig had been robbed of his logs. That has not much reference to this case.

58. *Mr. McGlashan.*] Speaking of tramways, would not some of these logs be of such length and weight that a tramway could not carry them? A tramway could be used for kahikatea logs, but not for a kauri forest. We sent a surveyor to one forest nearest to the sea on account of certain parties in Melbourne, and he reported that a tramway would cost thousands of pounds.

The Chairman read a portion of Mr. Swanson's evidence with reference to the danger to the dwellers on the banks of streams when logs were driven down.

59. Is there no danger to the neighbouring land? I never heard of such a thing. I have been thirty years in the trade. I am the mortgagee of five different mills, and have £30,000 invested in mills. I never had a claim except those two I have mentioned. I take a part in the management of those mills, and export all the timber. I would wish the Bill to provide most ample security for damage. I say that evidence of Mr. Swanson's is utterly wrong. There are no farms or houses on any kauri creek I know.

60. *Mr. McGlashan.*] I understand you to say that unless this floating of timber is allowed, these forests will practically be shut up? They will not be of a quarter the value they otherwise would have been. These people who own the land on the creeks could get them at their own price.

61. *The Chairman.*] I understand you to say that Harris is the owner of the land below a forest in which you are interested; you say that if you have not the right to float timber down, your forest would be absolutely useless? Yes. Harris got half a chain across the river. The land he has got on one side of the river is not worth £5. My forest would be perfectly valueless if I had not the right to float timber. There are £20,000 worth of timber in the bush.

62. Have you any tramways up in the bush? It would be impossible to make tramways. A few light rails are put down to move the logs, but these cannot be called tramways. The rails are shifted about to get logs into the creeks.

The forest at Whangapoua was bought ten years or more ago, and the mill then built at a cost of over £6,000. Harris got the land or mud bank at the bottom of the creek lately; it was considered valueless till he bought it, and is worthless now excepting to use as an instrument of extortion.

THURSDAY, 4TH SEPTEMBER.

Mr. E. T. BRISSENDEN present and examined.

Mr. Brissenden.

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63. *The Chairman.*] You have some evidence to give the Committee with respect to the floatage of timber? I have had a great deal of experience in the matter, to some extent in the Province of Auckland. I have read this Bill, and in respect of making the creeks the highways for bringing down timber, I do not see any other way of utilizing the forests. From the frightful expense of making tramways, it would be impossible to utilize the timber. I have had experience in respect to tramways in California and other parts of the United States. In these places, the timber was sometimes got down by fluming, but usually the creeks are made use of. The tributary creeks were made use of as driving creeks. At the Tairua mill, which I visited in connection with a proposed purchase by some Melbourne people, there are 52,000 acres of forest running right through to Katikati. Of the large quantity of timber there, there is very little on the main stream. The timber is mostly near small streams, which for nine or ten months in the year are chains of insignificant water-holes, and a flood would have to be waited for. But on account of the rough nature of the country, tramways could not be used. Any tramway would have to be like a railway in point of strength and expense.

64. *Mr. McGlashan.*] What would be the expense of a tramway per mile through such a country? It would cost £7,000 per mile. You can only penetrate the country by following the bed of the water-courses.

65. Supposing the land fit for a tramway, can you give any idea of the expense it would be? Probably £2,000 a mile. Any tramway for such a purpose must be a good substantial railway. Of course wooden rails would be used, but it would be expensive, as it would have to be thoroughly substantial. In many places it could not possibly be done, because the fall is too great, and the waggons could not be got back again. I may say that I have no interest in this matter. I was only asked to look at the Tairua forest by people who were prepared to offer a large sum for it. I was asked as to a tramway and the watercourses; and I pointed out that, as to the latter, people might have land further down, and if logs got on their land they might have a claim for damages, and might stop the channel altogether.

66. Did those people you speak of refuse to go any further on account that? That was one very great obstacle.

67. *Mr. Kelly.*] How many miles is the end of the forest from the Tairua? I should say about thirty miles at the extreme.

68. Would it cost as much to construct a tramway as the timber was worth at the end? I do not believe you could get a tramway at all, as in many places you could not get the trucks back. There are a number of precipitous gullies.

69. *Mr. O'Connor.*] You state that the weight of the logs would be a great obstacle to the working of a cheap tramway. In all your evidence I understand you refer to one particular place? No; I have been at Kaipara, the Wairoa, and at most of the bushes in the North Island. In some places

Mr. Brissenden. there are short tramways, where there is a piece of bush on a table land, merely for transporting the logs to the head of the gully, and then the creek is used.

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70. You have only seen tramways used in flat country? Yes, only in flat country. I may instance the Hauraki saw-mill, where the timber is got from a kahikatea forest, covering 30,000 or 40,000 acres of swamp, and where tramways are used. The trees there are very close, and the tramways are used to get them down to the mud creeks. The water is all tidal.

71. Can you give us any idea of the loss by the process of floatage? I could only give a rough guess. The loss is sometimes heavy through floods. I have been informed that Captain Daldy lost two years' work by one flood. That was because of neglect in not having the booms in proper order. I may state that Captain Daldy recovered most of the logs, but the cost of so doing was as much as the logs were worth. I may say that I have not been practically working timber in New Zealand.

72. Are you aware whether these creeks have been used for bringing down anything but the trunks? I am not aware. They do not float down the upper parts of trees, because if they did they would stop the creeks. Before they use a creek at present they have to clear it of snags and obstructions.

73. In your evidence you have only referred to kauri forests? Yes; but there are occasionally hardwood trees.

74. Would these woods float? I think some of them could be floated.

75. **Mr. McGlashan.]** Would these branches and tops of trees be of any use? Not the slightest; it would not be the interest of any lumberer to do anything with them.

76. **The Chairman.]** Could they be utilized if there were a tramway? I do not see how they could.

THURSDAY, 4TH SEPTEMBER.

Mr. ARTHUR FOLLETT HALCOMBE examined.

Mr. Halcombe.

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77. I wish to give evidence as to the necessity of such a measure in this Province of Wellington, and to state that in my opinion it is of great importance that the use of the streams for the floatage of timber should be made legal, and I would instance the district in which I am particularly interested—namely, Manawatu. (Mr. Halcombe produced map.) This stream, the Oroua, runs through a large extent of country, and the whole of it on one side, and part of the other side, is bush land, the trees being chiefly totara. It is a narrow stream, and I believe there is no legal right to make use of it for floating timber. The stream is amply sufficient to float down railway sleepers from this point (indicated) to where they can be carried down the Manawatu. By floating them sleepers can be taken down at not more than half the price it would cost to take them to Foxton by tramway. I consider it a matter of great importance that this means of carriage should be available. These rivers being available, it is proposed to bring down large quantities of sleepers at once. The timber I speak of is on Colonel Feilding's block. Railway sleepers may also be floated down the River Pohangina. The timber will merely be floated down without diminishing the stream. The Oroua is only a chain wide. It is not a navigable river.

78. **The Chairman.]** If this Bill does not pass, the owners of the land on the stream may prevent you taking the timber down? Yes; they may. We should not be able to use it.

79. Are you willing to pay damage that may be caused through the floating down of the timber? Yes; but I do not think any damage whatever would be done. We should merely make use of the stream in its natural state.

80. Suppose at any time a fresh were to occur, and that then your timber should do damage? Possibly some damage might be done in a fresh to the projecting points of land.

81. **Mr. Kelly.]** Is that a valuable bush upon that block? It is either very light or very heavy. The heavy bush is totara and matai; the light bush is tawa. There is a large Native reserve on the river, twelve miles by two, a large proportion of which is covered with totara.

82. Can you float the matai? Some of the matai may float when it is dry, but it is doubtful.

83. **The Chairman.]** We have been told that by the floating of timber at periods of fresh, there is liable to be ruin and devastation along the banks. Is that your experience? I have not had much experience in the floating of timber. My experience goes to show that logs do no damage in floating except to themselves. Of course, I can easily understand that where no damage might be caused so long as the land on the river banks remained in its natural state, that damage might take place when the land was cleared. There are many streams in the Province of Wellington in the same position as these I have referred to, leading into the bush country, and which might be made use of for bringing down timber, and where the expense of making tramways would be enormous.

84. We have been informed that tramways could be used in almost all cases? No doubt tramways could be made, but to have the timber brought down by the creeks would be an enormous saving of capital.

85. **Mr. O'Connor.]** In this particular case, there is a tramway to the land, but by a roundabout road? There is not one at present, and probably it will be eighteen months or two years before it is ready, whereas it is proposed immediately to commence floating down these sleepers.

86. I understand you to say that it would be impossible, as the law stands, for you to float down timber? Not impossible, but we should be liable to be stopped at any moment. We should merely be doing it on sufferance.

FRIDAY, 5TH SEPTEMBER, 1873.

THOMAS HENDERSON, Esq., M.H.R., examined.

Mr. Henderson.

5th Sept., 1873.

87. **The Chairman.]** You have much knowledge of the timber trade, I believe? I have had a good deal of experience in bygone years.

88. It has been represented to the Committee, on one hand, that the power to drive timber in creeks is liable to be used so as to do immense injury to property. On the other hand, it has been

represented to the Committee, that until quite lately, it has always been supposed, in the Auckland Province, that people were free to use the creeks, being liable only for the absolute damage that might be done by driving, and that they could not be prevented by injunction from using the creeks. Further, it has been represented to the Committee, that if a holder upon the lower part of a creek can, as appears to be the case, by injunction, prevent holders on the upper part from using the creek for timber floating, an immense injury may be done to a very large and useful industry—that it may, in fact, be entirely paralyzed. Again, it has been represented to us, that no such result would follow from preventing floatage, because, in all important cases, tramways could be used with greater general advantage and less waste than is possible in driving. That is an outline of the conflicting evidence put before us; and the Committee will be glad if you will give your opinion upon the several points involved? I can speak as far as my own experience goes. There were three creeks leading to my forest. I had land on both sides of the creeks—bought it on purpose, in fact, so as not to be prevented from driving from my own forests. But I believe now, from all I know, that, if I had to begin the thing again, I would not drive timber by the creeks. For this reason—the only really valuable portions of my land are on the banks of the creeks—in small bottoms, and little patches on points. To allow timber to be driven now, in any other way than by natural freshes, involves the risk of the best land being carried away. At the time I speak of, when I used to drive, there were no cultivations at all near the streams, and what was done did not matter much to anybody. But I can see the effect of it now. The main creek is three times wider than it was, so that a vast quantity of land must be carried away, or have been carried away. Where driving is confined to natural freshes, there is less risk of damage than where dams are used. Because, when a dam is filled, and there is, perhaps, a large lot of timber which has been lying in the creek for months, and a fall of rain commences, to avail of such there is a great temptation to let everything go at once, and to take the chance whether or not a great deal of damage is done below.

89. Then are there no creeks upon which you would consider it desirable still to allow the driving of timber? It would be desirable in many cases, so long as the parties are agreed. On my creeks I could have stopped it possibly, but I did not do it. I didn't want to stand in the way of prosecuting an industry. I would stand in the way now, though, because I will not have the risk of injury to property.

90. Do you think it right that a lower holder on a creek should be able absolutely to prohibit the use of the stream by upper holders, if he chooses to do so? It has been a right hitherto. You might legislate for the future and make it conditional.

91. If an upper holder were willing to pay for any damage he might do by driving, would you allow any lower holder to say, "You shall not drive?" I don't think anybody would really stand in the way.

92. But that is the whole point. I wish to know whether you think there should be an absolute power, by an injunction, to stop driving, or whether you think it would be enough if persons so using a creek were compelled to pay for any damage done? The difficulty is, Who would pay for damage? The real owner of the timber by which it was done, or which was coming down when it was done, you might not be able to reach.

93. But we propose to allow creeks to be used only by licensed persons, and that they shall deposit ample security for the payment of damages. Would that meet the case? That would: or getting some responsible persons to enter into bonds.

94. That is proposed: that there shall be substantial bonds given. Those who use creeks must be licensed, and they would be answerable for the consequences of the acts of their servants? Yes. But, still, I must say that if I had to begin again, I would not drive timber. I think it is the least profitable way of doing the thing.

95. Would you say that that applied to all creeks? To all I have seen.

96. Mr. Macfarlane told us that he had, in one case, to send timber down thirty or forty miles. Would what you say apply there? Thirty or forty miles. I think that's a stretch. I don't know of any timber creek that length, where you would have to float timber that distance.

97. *Major Atkinson.*] How would you get timber down, if not by driving? By tramways.

98. *Mr. McGlashan.*] Could tramways be made available in all cases? I think so. Ours was as rough a bit of bush as there is in the country, probably. We had tramways.

99. To get the timber out of the bush? Yes; but there would be no great difficulty that I see, in extending the tramway to salt water.

100. What is the comparative value of the land destroyed, and of the timber taken off the land, say in the case of your mill? Well, I don't know that any land has been absolutely destroyed—except what has been carried away. As to value, that would entirely depend upon what is on the land. There may be £20,000 worth of property on the land, and there may not be £20 worth. There is this danger, that if logs weighing two or three tons, as I have seen them, are coming down stream, and there is a mill on the banks, things connected with the mill, or the mill itself, may be struck by the logs and carried away. We had a fresh in our own creek that swept away living trees, booms, dam, and very nearly the mill. On that occasion, some 500 or 600 logs were swept out to sea; and had it not been that a large tree got across the dam before it gave way, nothing could have stopped the mill being swept off. It's a very difficult question to deal with. On the one hand, it would be a great pity to stop such an industry by the liability to have driving prevented; but, on the other hand, I would never drive timber in creeks myself now. You see there are so many disadvantages that are only known by experience. In the first instance, you have to get timber ready in the creek for a fresh, or something to fill the dam; and there it may lay for months, or for years, just rotting. By cutting timber in the bush as you want it, and bringing it out by tramways, you get it to market fresh, and so much the more valuable. In our creek we cannot get any length of timber down; and when timber is long, it is worth perhaps twice as much as if it was short.

101. *Mr. O'Connor.*] I understand you to say that the loss on floatage of timber is very great, even on what is absolutely floated down? Yes.

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Mr. Henderson.
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102. And that a great quantity of what is put into creeks is swept to sea, and lost altogether? Occasionally.

103. And that what is safely floated down does a deal of damage on its passage? Yes.

104. *The Chairman.*] Even with booms? Even with booms; it carries booms and all away, often.

105. *Mr. O'Connor.*] Is there any truth in what has been stated that sometimes losses at sea have been supposed to have occurred from vessels striking against great trees that have been washed down out of floatage creeks? It may have occurred. These great logs striking against a boom, the boom goes, and anything within the boom must go, too.

106. What proportion of floated timber is lost? I have no idea. I know that we were once after a lot of timber for six months, and then we did not get it all.

107. But the loss is very great? Considerable. I think there is always great loss from its laying so long for artificial freshes. Besides, if timber is floated by natural freshes, there is not so much damage; but, of course, the inducement to build dams and use artificial freshes is to get a lot of timber down quickly.

108. *Major Atkinson.*] You think there is less damage done in driving with a dam? No, more; because there is such an immediate rush of water. A natural fresh drives the timber gradually.

109. *Mr. O'Connor.*] Is any timber left in forests when they are cleared by means of floatage? Oh, yes; all the heavy timber—totara, rimu, and rata, and many other woods remain. Of course, those kinds are carted out occasionally.

110. *Major Atkinson.*] Don't you drive totara? No.

111. Nor rimu? No.

112. *Mr. Ormond.*] Why? Because it sinks.

113. *Mr. O'Connor.*] You say, there is no getting long timber by floatage? No. I tried the experiment once, to get down 60-foot logs or lengths; but it caused a jam that took us eighteen months to get rid of. The longest we could send down with safety, was 24 feet.

114. Regarding the timber of the country as public property, by which method could it be utilized to the greatest extent—floatage or tramways? That would depend upon the features of the country. In some places, they might not be able to get tramways.

115. *Mr. Kelly.*] Have you seen any of the East Coast mills? No.

116. *Mr. O'Connor.*] Speaking of your own knowledge, which would be the most useful system, with the view of utilizing the greatest quantity of timber? I can only offer an opinion as to my own forests. But from what I have seen, I say that anywhere where it was practicable to construct a tramway I would not drive.

117. *Major Atkinson.*] Can you name some of the mills you have seen, and as to which you have formed your opinion? I only know my own.

118. *The Chairman.*] Is your knowledge confined to your own creek and mill? Principally. I have been to other mills; but I have not been much amongst other people's forests or bush.

119. It was given in evidence yesterday, that there are some saw-mills supplied with timber by using creeks, but to which the timber could not be brought by any other means, except at a cost that would make working impossible? That might be.

120. Can you say whether that is correct or not? I cannot.

Mr. Henderson was thanked by the Chairman; and he withdrew.

FRIDAY, 5TH SEPTEMBER, 1873.

Major JOHN WILSON in attendance.

Major Wilson.
5th Sept., 1873.

121. *The Chairman.*] You have some evidence to give to the Committee, I believe? I do not know whether it might be worth while to take down what I have to state. It is not evidence really connected with the Timber Floatage Bill. I simply wish to make a statement to this effect: Te Waharoa and Te Raihi (two Waikato Natives) came to me and told me that some Natives, including Karaitiana,* and some whites, had been telling them that the Government wished to take their rivers from them by this Bill. They explained to me what they meant by this. I told them that, as far as I knew, what was desired was simply to allow people who had timber or crops, or anything of the kind, inland, to bring the things to a market—that it was meant to make rivers highways, the same as roads, but that it was certainly not meant to take the rivers away from the Natives. That seemed to satisfy them, though they had been very dissatisfied before. I have no evidence to give respecting the Bill as a Bill. I have no knowledge of floatage or anything of the kind.

Major Wilson was thanked, and he withdrew.

J. MUNRO, Esq., M.H.R., to the CHAIRMAN of the TIMBER FLOATING BILL COMMITTEE.

SIR,—

Wellington, 8th September, 1873.

In answer to your question, "if I was aware that a lawsuit took place on the question now before the Committee," I beg leave to state that I am fully aware of it, and although residing at a distance from where the action took place, anxiously waited the result, not from any personal interest I had in either of the litigants, but the question was a dark and novel one to the general public, and with the decision of the learned Judge I was not disappointed.

* These whites communicated with Karaitiana and other Natives, and they, in turn, with Te Waharoa and Te Raihi.

2. In my humble opinion, it is not only "expedient," but absolutely necessary, to legislate on the subject for the Colony at large, as it is most probable cases of the same kind as that which has engaged public attention in the Province of Auckland, may occur from time to time, if not prevented by legislation.

3. The present Bill, even in the absence of any improvement, will have my support. I will, however, as suggested, point out, at the conclusion of this report to your honorable Committee, such amendments as in my opinion will make the Bill more practically useful towards the end aimed at, without damage to private interests.

4. In reference to my opinion of what I have seen of the evidence that has already been taken before your honorable Committee on the Timber Floating Bill, I need not refer much to any of it, except that of Mr. C. A. Harris, jun., which is now in print before me. In my opinion, Mr. Harris has been unfortunate in taking the laws of Nova Scotia and Canada to his aid, for these laws on the subject are in direct variance to the sentiments he shows forth in the first and second clauses of his printed evidence, and the whole tenor of his evidence throughout is contrary to the spirit and intent of the Canadian and Nova Scotian Acts.

The law of Nova Scotia, with which I am more practically acquainted than the Canadian, is not made to protect private property from the timber driver, although laws are added to respect it, for the evident purpose of both Acts is to protect that industry from the unreasonable and unscrupulous demands of owners of private property. The Nova Scotian Act is framed for two different purposes; first, that no mill-dams offer obstructions to taking logs down streams; that they must be provided with sluices having a clear passage for the timber; and although the private property should have been bought for one hundred and fifty years, the law is equally operative as if bought after the Act passed, Mr. C. A. Harris junior's theory to the contrary notwithstanding.

The second object of the Nova Scotian Act is to secure at all dams, at certain seasons of the year, a free passage for fish going up the streams to spawn. Mr. Harris, in saying that logs may at times be scattered over the flats, reminds one of Mark Twain's story of one farm slipping down on top of a neighbouring one: how the question of compensation was settled by the owners, I forget; perhaps we might get a precedent from it. If a man care for nothing else but self, and be altogether indifferent to another's loss, a shower of kauri logs would not be a thing to be dreaded, as the owner of the land could pay himself for the damage done to his flat fields.

I see no difference between timber-driving in New Zealand and in Nova Scotia, only that the logs here are larger; the floods of the latter rise as high as they do in this country, the waters have an equal rapidity and force in both, and the rivers of Nova Scotia along which timber was floated, ran along well-cultivated flats, there called "intervals," and very easily damaged; yet, although thousand on thousand tons of timber had been taken down, I never heard a complaint, or damages claimed. To show reasons from my own experience in that country why I should be anxious to see a law of this kind enacted in New Zealand, I submit the following circumstance:—A man in Nova Scotia (no matter who) contracted with a party to supply a large quantity of hard wood squared timber. The timber was cut on a small branch stream, about fifteen miles from the sea, and to be delivered in a boom convenient for shipment. When the workmen got the timber half-way down, it was stopped by a settler who owed some ill-will to the purchaser, for although the main river was legally open, this branch tributary was not. The merchant at once appealed to the session of the peace for the county, who declared the stream legally open for the passage of lumber. In the meantime the water had subsided for the season, and it was twelve months before the timber could be shipped and sent to market, besides the inconvenience and loss in not having it down in time for the ship intended, all caused by the revengeful disposition of one person, who, although he (dog-in-the-manger like) was gaining nothing himself, was causing great loss to all concerned.

No doubt incidents of the same kind will occur in New Zealand, unless prevented by legislation; and although I have no personal interest directly or indirectly, nor do I expect to have in the short space of time that may still be allotted me of life, yet I should much desire to see a law passed that would open all the rivers and streams of the country, and make convenient, without interruption, to every one engaged in that laborious and useful industry, the lumber trade, which is only yet in its infancy.

I would suggest that some alteration be made in the last clause of the Bill, which would simplify it, and allow it to be more conveniently put in operation, divested of the usual circumrotation from Governor to, perhaps, a careless or partial vice-regal Superintendent of a Province, the usual process reminding one forcibly "of what comes over a certain gentleman's back having to pass again under his belly." Let the administration of the Bill, as soon as it has received the Royal assent, be intrusted to the Petty Sessions or Road Boards of the districts, empowering them to open any stream or creek within their bounds, and award damages to the amount of real actual damage, without expenses (the chance of any claims, a figment), as the Bill already wisely provides. The hue and cry making against the passing of so reasonable and necessary a Bill as the one in question, I have no doubt your honorable Committee will understand, although I do not. However, in conclusion, I have only the wish that your honorable Committee will recommend the Timber Floating Bill to the House, and that it will soon become law in the land.

I am, &c.,

The Honorable Chairman of the Timber Floating Bill Committee.

JOHN MUNRO.

