

SESSION II.
1912.
NEW ZEALAND.

LANDS COMMITTEE

(REPORT OF) ON PETITION No. 115, SESSION II, A. R. WALLIS AND OTHERS; TOGETHER WITH
MINUTES OF EVIDENCE AND APPENDIX.

(MR. E. NEWMAN, CHAIRMAN.)

Report brought up on the 31st October, and ordered to be printed.

ORDERS OF REFERENCE.

Extracts from the Journals of the House of Representatives.

WEDNESDAY, THE 3RD DAY OF JULY, 1912.

Ordered, "That Standing Order No. 219 be suspended, and that a Committee be appointed, consisting of eleven members, to whom shall stand referred after the first reading all Bills affecting or in any way relating to the lands of the Crown, or educational or other public reserves; the Committee to have power to make such amendments therein as they think proper, and to report generally when necessary upon the principles and provisions of the Bill; the Committee to have power to call for persons, papers, and records; three to be a quorum: the Committee to consist of Mr. Anderson, Hon. Mr. Buddo, Mr. Forbes, Mr. Guthrie, Mr. Lang, Mr. E. Newman, Mr. Nosworthy, Mr. T. W. Rhodes, Mr. R. W. Smith, Mr. Witty, and the mover."—(Hon. Mr. T. MACKENZIE.)

TUESDAY, THE 13TH DAY OF AUGUST, 1912.

Ordered, "That the names of Mr. Coates, Mr. MacDonald, Mr. Robertson, Mr. Statham, and the mover be added to the Lands Committee, and that the name of Mr. Lang be omitted."—(Hon. Mr. MASSEY.)

REPORT.

REPORT on the petition (No. 115) of A. R. WALLIS and Others, of Southland, praying for an inquiry into certain sawmill-areas in Southland, and that the law be amended to allow for an appeal to the Supreme Court as to the validity of the titles thereto.

I am directed to report that, in the opinion of the Committee, this petition should be referred to the Government with a recommendation that the prayer of the petitioners be granted.

31st October, 1912.

EDWARD NEWMAN, Chairman.

PETITION.

To the Honourable the Speaker and to the Honourable the Members of the House of Representatives in Parliament assembled: Greeting.

THE humble petition of the undersigned sawmillers and settlers in the District of Southland sheweth—

1. That a petition, dated the 1st October, 1910, addressed to the Honourable the Speaker and to the Honourable the members of the House of Representatives in Parliament assembled, was duly presented to your honourable House and was reported upon by the Lands Committee on or about the 29th day of November, 1910.

2. That the said petition was signed by some eighty-three sawmillers and settlers of the District of Southland, including amongst them your present petitioners.

3. That a number of your petitioners attended at Wellington and gave evidence before the Lands Committee on the matter in question.

4. That your petitioners gathered, from newspaper reports which appeared at the time, that the Lands Committee had recommended the prayer of their petition to the Government for favourable consideration, and also recommended that a full inquiry be instituted into the legality or otherwise of the sawmilling licenses situated in the District of Southland.

5. That your petitioners have received no official answer to their petition, nor have they heard of any inquiry having been held into the matters arising out of their petition.

6. That by the New Zealand State Forests Act, 1885, it was provided that the State Forests of New Zealand should be under the control and management of the Commissioner of State Forests, who should have power to grant licenses to cut timber in any State forest; every such license to be subject to the regulations made by the Governor in Council under the authority of the Act and for the time being in force regulating the cutting of such timber.

7. That regulations have been made from time to time governing the said licenses, and in particular regulations were made by the Governor in Council in 1886 and 1900. Under the regulations of 1886 numerous sawmill licenses were granted, and extensive forest-areas have been locked up and unused ever since.

8. The said regulations provide, *inter alia*, as follows regarding sawmill licenses:—

“The area of a sawmill license shall not exceed 200 acres, but the holder may claim to have three additional areas adjoining the first reserved for his exclusive use for a period not exceeding two years for each 100 acres from the date of appropriation.”

9. That your petitioners claim, and are advised by counsel, that the effect of the said regulations quoted above is:—

(a.) That with regard to the duration of the original license, the very nature of the subject-matter of such a license negatives the idea of perpetual continuance, and that therefore, although there is nothing in the regulations of 1886 fixing the period of continuance, it must be limited to such a time as would be reasonably necessary to enable the licensee to obtain the full benefit of the right in respect of which the license was granted. The regulations of 1886 show that according to the nature of the grant in this case four years would be a reasonable time for the original area of 200 acres, because two years is the time limited for each additional area of 100 acres.

(b.) That as regards the reserves, the period of continuance is fixed at two years for each 100 acres from the date of appropriation.

(c.) That no person should hold more than one license and set of reserves at one time.

10. That the sawmill licenses granted under the regulations of 1886 comprised, with the reserves attached thereto, several thousands of acres (certainly more than 15,000); and nearly the whole of this extensive area, and the most accessible and valuable part of it, was originally granted, or has since been transferred, to one Horatio A. Massey, of Invercargill.

11. That the majority of the licenses referred to above were granted, and the reserves attached thereto appropriated, prior to the 3rd March, 1890, that being the date upon which the regulations of the 1st September, 1886, were repealed by Order in Council; and some of them were granted after the regulations were repealed.

12. That of the lands thus held by H. A. Massey, at least 5,000 acres have not so far been worked by him, but have been retained by him as virgin forest, and owing to this fact the sawmilling industry in Southland has been retarded, and settlement in bush areas prevented.

13. That at the time the said licenses were granted and the said reserves set apart, much of the land embraced within them was remote and comparatively useless, but the progress of the Dominion has altered the condition of things, and the expenditure of public money has not alone greatly enhanced their timber-value, but has likewise rendered what was difficult of access readily available, since railways and roads, then unmade, either run in close proximity to or actually intersect these original holdings, thus enabling the present holder to obtain the benefit of the unearned increment in timber-values created by public enterprise and expenditure.

14. A further result of this action of the Commissioner has been that a kind of monopoly or trust in sawmilling has been created in favour of Mr. H. A. Massey, and this is accentuated by the fact that he now holds all the areas most easily accessible and most valuable under royalties provided for by the regulations of 1886, whereas all his competitors in sawmilling are restricted to working the more distant areas under the higher royalties of subsequent regulations.

15. That, further, your petitioners have been advised by counsel that the licenses of the said H. A. Massey to the areas and reserves have long since expired, and, acting under legal advice, they have made repeated applications for sawmill licenses and other privileges in and over the said areas and reserves. That all of the said applications have been either refused or declined consideration on the ground that "the areas and reserves are already held by Mr. Massey under a good title."

16. That your petitioners have recently moved the Supreme Court in Dunedin to review the decision of the Commissioner of State Forests in this respect; but the Court decided it had no jurisdiction in the matter, on the ground that the discretion of the Commissioner was absolute.

17. That the State Forests Act, 1885, does not enable your petitioners to appeal against the decision of the Commissioner of State Forests given by virtue of the powers reposed in him by the said Act.

18. That your petitioners verily believe the interpretation placed on the State Forests Regulations, 1886, by counsel consulted by them is the correct interpretation, and that being so, consider they are placed under serious disability by being denied the common right of British subjects to have legal questions decided by the authorized Courts of the Dominion.

19. That under the regulations of 1900 certain further areas and reserves, to wit, areas in Spar Bush Forest, have been granted to H. A. Massey, and your petitioners claim there can be no question that these titles have expired by effluxion of time, but the Commissioner of State Forests has ruled that H. A. Massey still holds the same under a good title, and against his decision no appeal is allowed.

20. That in addition to the regulations made by the Governor in Council under the authority of the State Forests Act, 1885, regulations were made under the authority of the Land Act, 1892, in 1900 and 1905, and under the authority of the Land Act, 1908, in 1909. Under these regulations numerous licenses have been granted, and although the Land Act, 1892, and the Land Act, 1908, distinctly limit the area to be held at 800 acres, several such areas, and even larger areas, have been granted at one time to the same person or firm, thus perpetuating the monopoly created under the regulations of 1886 to the disadvantage of a majority of persons engaged in the sawmilling trade in the District of Southland.

21. That your petitioners pray your honourable House will be pleased—

(a.) To order a searching inquiry into the allegations contained in this their petition.

(b.) To amend the Act to enable an appeal to the Supreme Court upon the question of the interpretation of the State Forest Regulations of 1886 and subsequent regulations made under the authority of the State Forests Act, 1885; and the validity of the titles of H. A. Massey held thereunder.

(c.) To amend the State Forests Act, 1908, so as to provide for an appeal to the Supreme Court in all future cases where any person may consider himself aggrieved by any decision given under the authority of the Act.

And your petitioners, as in duty bound, will ever pray.

A. R. WALLIS, Sawmiller, Grove Bush, Southland, and 24 others.

Dunedin, 1st August, 1912.

MINUTES OF EVIDENCE.

WEDNESDAY, 25TH SEPTEMBER, 1912.

Mr. Anderson : As some of the members of the Committee will remember, in 1910, the subject of this petition was gone into very fully, but the prayer of the petition at that time was that the petitioners should have the right to appear in the Supreme Court and there test the legality of the licenses held by Mr. Massey. The Department referred the matter to the Solicitor-General after considerable inquiries by departmental officers, and Mr. Kensington was advised that the matter could not be taken to the Supreme Court, and of course the petitioners were not satisfied. The petitioners considered that these licenses did not give a good title, and that any good title that might have existed originally had been forfeited by the effluxion of time. They are advised by five of the leading lawyers of this country that this contention is correct, and they come here again to ask this Committee and the House to so amend the law that they may be enabled to take the case into the Supreme Court. In addition to that the settlers in the Seaward Bush district, and the district generally, asked that reserves should be set apart from the virgin bush for the use of the settlers. At the present time the settlers there have no right to cut posts and stakes and other things in the bush areas, and consider that they should be allowed to do so after paying the proper royalty. After the petitioners brought their original petition relaxations were made, but they do not go far enough and the settlers cannot get the timber they require. Mr. Wallis, who understands the position very well, will make a statement and is prepared to answer questions, and Mr. Niederer will also give evidence.

MR. DALZIELL, Solicitor, made a statement and was examined. (No. 1.)

Mr. Dalziell : I represent Mr. Massey, who merely desires to say this: that the question of title to his licenses has been before several Committees. Last year it came before the Lands Committee and certain recommendations were made. On those recommendations Mr. Massey was requested by the Lands Department to agree to a modification of his leases. He did that, and entered into a formal agreement with the Crown, so that, so far as he is concerned, he will naturally wish to rely upon that agreement with the Crown. If it is desired to go behind that agreement, then I should like to ask that he have an opportunity of giving evidence. Having entered into the agreement pursuant to the recommendation of the Committee, he naturally does not quite understand that he should be asked to defend what the Crown has in fact given to him.

1. *Mr. Witty.]* What was the nature of the agreement—is the area reduced?—No, but the term of lease is. My client is advised that the Solicitor-General concurs that these titles are good, but he assented to a termination of his licenses.

2. *Mr. Statham.]* Does that agreement conflict in any way with the existing regulations?—No. The licenses were not issued under the existing regulations, but under old regulations, and it is merely cutting down what was given to him.

3. When these licenses were issued were not some of them issued under regulations that had expired?—The whole thing has been threshed out and many decisions were given by Mr. Cooper and Mr. Chapman before they went on the Bench. A very intricate question was involved, and the Department came to an agreement.

4. Was this agreement in the sense of a compromise?—Yes.

5. There was no opportunity given of having the matter threshed out in the Supreme Court?—No. On the advice of the Crown Law Office the Department apparently thought there was too much risk.

6. *Hon. Mr. Buddo.]* Is the agreement signed?—Yes.

7. *Mr. Anderson.]* Is this agreement made under any regulation at all?—The leases were granted under license, so any modification would be pursuant to any regulation.

8. Did not the Solicitor-General say that the bush would have to be cut out within a reasonable time?—Yes, and they fixed upon eighteen years as a reasonable time.

9. The Solicitor-General's opinion was based on the regulations of 1886?—Yes.

10. And he held that under these regulations a reasonable time must be read into the regulations?—Yes.

11. Mr. Massey, or his predecessor in title, had held these areas since 1888?—Yes.

12. And the opinion of the Solicitor-General was given last year—1911?—Yes.

13. So that Mr. Massey had held these areas for twenty-three years?—Yes, about that.

14. And the Department thought that a reasonable time would be a further eighteen years?—Yes.

15. That would be altogether forty-one years?—You must remember this: that all the leading counsel who had advised Mr. Massey told him that he could not be forced to cut the bush out in any particular time. It was a disputed question.

16. All the petitioners against Mr. Massey have always asked that the matter should be taken into the Supreme Court?—Yes, no doubt; but that was a matter of administration. The Department did not agree with it.

17. I suppose you know that the petitioners have always been willing to pay the costs of that action?—I was not aware of that.

18. *Mr. Statham.]* Mr. Massey could not rely on his title, and wanted to patch it up?—No, Mr. Massey had counsel who advised him that he need not hurry, that there was no limit to the time. The

Solicitor-General advised that reasonable time should be allowed, and the fixing of eighteen years was a compromise between them. The Department thought that a fair period would be twenty years, and Mr. Massey cut it down to eighteen. That was the compromise agreed upon.

19. *The Chairman.*] Was this agreement made without any question as to the validity of his holding?—The Solicitor-General, I understand, advised the Department that the titles were absolutely valid. I understand that the Department was acting throughout under the advice of the Solicitor-General.

Mr. Anderson (to Mr. Wallis) : Were the petitioners always willing to pay the costs of the Supreme Court action to test the validity of these titles?

Mr. Wallis : Certainly.

ALEXANDER ROBERT WALLIS examined. (No. 2.)

1. *The Chairman.*] What is your occupation?—Sawmiller and timber-merchant, of Dunedin.

2. Will you tell us what you know about this matter?—In order that I may put the matter concisely I have committed my statement to paper, and with the Chairman's permission I will read it. We complain that sawmillers in Southland, with plants lying idle, are unable to obtain suitable areas—in fact, to obtain areas at all—without going into the backblocks miles beyond present workings; also that settlers for years past have been persistently denied the right to enter State forests and reserves to obtain timber for fencing and firewood, on the pretence that the lands are held by sawmillers under sawmill license. The forests of New Zealand are governed by the State Forests Act, 1885, the Land Acts, 1892 and 1908, and the regulations made thereunder. The State Forests Act, 1885, by its preamble indicates that the object of the Act is to set apart areas of forest land as State forests, to subject the same to skilled management and proper control, to prevent waste of timber, and to provide timber for future industrial purposes. Section 9 of the Act empowers the Commissioner to grant licenses to cut timber in any State forest, and section 10 to grant way-leaves or tramways, all of which licenses and privileges are to be subject to regulations for the time being in force. Section 15 empowers the Governor in Council to make, alter, and repeal regulations among other things “for prescribing the mode and form of application for licenses or grants of privileges in State forests, and the terms and conditions of such licenses and grants.” Regulations dated the 1st September, 1886, were made in accordance with the powers given, and were published in the *Government Gazette* of the 2nd September, 1886, at page 1051. The said regulations provide, under the subheading “Sawmill Licenses,” as follows: “The area of a sawmill license shall not exceed 200 acres, but the holder may claim to have three additional areas adjoining the first reserved for his exclusive use for a period not exceeding two years for each 100 acres from the date of appropriation.” Now, we contend that clause means that the utmost area which can be held under a sawmill license is 200 acres, and further that the utmost area over which any one sawmiller can obtain a right is 800 acres. No time is specified for the duration of the original area license; the term, therefore, must be such reasonable time as the Commissioner may determine, and, as four years are deemed sufficient to cut out a reserve of 200 acres, a similar term for the original area, with the addition of time to erect a sawmill, should be sufficient for the original area. I may remark, in connection with the original areas at Gorge Road and elsewhere, that no reserves have been applied for. The reserves were marked off on the office plan by the officers of the Department without any formal application having been made by the holders of the original areas. It will be observed on reference to section 33 of the regulations that authority is given to the licensee to erect a sawmill; hence it is obvious that the working, not the locking-up, of original areas was contemplated. Section 31 provides for the payment of royalty at the rates specified in the classified scale, Schedule II of the regulations. Royalty, in our opinion, is the price of the privilege to cut timber on a licensed area for the term fixed by the regulations. Such is our interpretation of the regulations. Let us now examine how the regulations have been administered. The provision limiting one man's holding to 800 acres, which we deem to have existed under the regulations of 1886, appears to have been disregarded altogether, and a system of grab instituted instead. The Department seems to have overlooked the fact that it was dealing with the public estate, in which every citizen's share is equal, and to have substituted the creation of monopolist holdings. This grab-all system was availed of principally by two sawmilling concerns. These two companies were allowed to apply for block upon block in the forests of Southland, and to such an extent that practically the whole of the available bush within reach of then existing railways, and much that was distant from the railway system, but within reach of projected railways, was grabbed and locked up. The holders were neither required to erect mills nor in fact to do anything upon their areas. They were permitted, I may say encouraged, to sit tight and do nothing. The areas, in part, have been gradually worked, but evidently without regard for the limitation of 200 acres fixed by the regulations. In due time one of the companies became involved and was duly devoured by the other, and so the whole of the remaining areas of this immense estate fell into one party. This grab started soon after the regulations of 1886 came into force, and was continued until all the best available bush of Southland was appropriated. So far was this the case that whole bushes in some instances were applied for, and in others all of the available bush from the north to the south boundaries of a forest was taken up. Sufficient bush was secured to keep eight to ten big mills working for approximately a quarter of a century, and still enough remains to keep three or four mills working for twenty-five years more. In the year 1901 I wrote to the Minister of Lands in the matter of these locked-up areas, and received a reply from the Under-Secretary when he wrote regarding the duration of licenses issued under the regulations of 1886 as follows: “In your letter, among other things, you say that the regulations of 1886 provide that ‘the privileges granted shall be good for sixteen years.’ In reply I have to say that you are correct in

supposing that the privileges extend over sixteen years—that is to say, two years for each 100 acres held under the license and reserved for that purpose.” When sixteen years had fully run off others and myself applied for the unoccupied and unused portions of the areas in question. In the meantime, however, some legerdemain appears to have been worked, the opinion of the Under-Secretary was disregarded, and we were informed that our applications were declined by direction of the Commissioner on the ground that the areas applied for were held by one Horatio A. Massey under good titles. We were dissatisfied, but recognized we had no redress. The Minister had determined to refuse our applications and to continue Massey in possession. We decided to take legal advice, and consulted leading solicitors at Invercargill, Dunedin, and Timaru, all of whom upheld our contentions, and the interpretation placed by us upon the regulations. But there was no remedy, except by petition to Parliament. We decided on this course. We petitioned Parliament two years ago, but have had no official answer to our prayer. We contend that the word “may” in sections 9 and 10 of the State Forests Act, 1885, does not convey absolute discretion to the Commissioner to do as he may deem fit in all cases; but means the Commissioner is empowered to grant licenses. The Commissioner, we contend, is as much the servant of Parliament for the purposes of the administration of the State Forests Act as Parliament is the trustee of the people—empowered to make laws for the management and utilization of the public estate, including State forests. We admit the Commissioner has power to say, “I will not grant licenses within any particular State forest or within any defined area of a State forest,” but say he has no power to discriminate between persons who are applicants for privileges in State forests. The exercise of autocratic power, we claim, is foreign to British ideals, and any Act of Parliament that places autocratic power in the hands of a single individual, as the State Forests Act appears to do, is, in our opinion, a menace to the people and an infringement of the rights and liberties of the subject. We ask you to give us the right of appeal to the Courts under the State Forests Act, and so deliver us from absolutism and autocratic rule. The foregoing conveys, as concisely as I can put it, our interpretation of the State Forests Regulations, dated the 1st September, 1886, together with our comments upon their administration. We are aware that others express an entirely different view. They claim that the regulations are ambiguous, and justify the application for, and locking-up of, forest areas to any extent. If we admit their views, then there is no reason why one man should not have applied for, locked up, and monopolized the whole of the forests of Southland in perpetuity. We say that if ambiguity did exist, then it should have been the aim of the Government and the duty of the Department to construe the regulations in the public interest. We say that the Department should have endeavoured to discover what was passing in the minds of the framers of the Act and the regulations. It is unthinkable they should have approached Parliament with the subtle intent of obtaining authority to monopolize the forests of New Zealand in few hands, or that the regulations were framed deliberately with that object in view. It seems to us more generous to think that the framers had in view the public good, and aimed at the limitation of areas and the economical use of our forests, by providing that no man shall hold more than 800 acres. Let us see where this doctrine of perpetuity has led us. A sawmill area, No. 198, with reserves, was granted to W. Guthrie and Co. in 1889. The original area was cut out and abandoned in October, 1896, and a portion (250 acres) of the reserves at a later date. Massey obtained a transfer of the remainder of the reserves (350 acres) when he acquired Guthrie’s interest by purchase from the liquidator. Some years later (about 1903), the timber having been meanwhile mostly, if not completely, cut out on the remaining 350 acres of reserves an application was made by settlers of the locality for the land to be opened for settlement. Massey, it appears, was approached, but refused to surrender without consideration, claiming an indefeasible title under the State Forests Regulations of 1886. Ultimately a bargain was struck, and Massey was granted three areas of virgin bush, together about 550 acres, in exchange for his cut-out area of 350 acres. The title to these areas was given under the State Forests Regulations of 1886 regardless of the fact that these regulations had been repealed by Order in Council dated the 3rd March, 1890. And, what is even more strange, the State forests were controlled by those regulations, regardless of their repeal, until the regulations of the 15th January, 1900, were issued. We admit defeat at Gorge Road through the autocratic exercise of power by the Commissioner. I was still without an area from which to obtain timber. I searched the plans in the Land Office at Invercargill, and discovered an area in Spar Bush (No. 467) had lapsed through effluxion of time. This area had been granted to Massey, under the regulations of the 15th January, 1900, on the 10th May, 1904. The license was for three years from date thereof, and expired 9th May, 1907. The license, which I have inspected, has the time-limit written on it, as provided by Schedule II of the regulations. Section 40 of the regulations provides that a mill must be erected within six months of the date of the license. No mill was erected within that period, and the license was void. But it was absolutely void after three years through effluxion of time, no mill having been erected nor any work done. I applied for this area and reserve on the 3rd January, 1908, under the regulations of the 18th July, 1905. My application was refused, Massey was allowed to remain in possession, and an extension of time (six months) granted him to commence work. I say there was no legislative authority to grant this extension of time. But I was up against the Commissioner, who exercised his powers again wrongfully to reject me and favour Massey. I was defeated, but not dismayed. I made further search and discovered that the whole of Grove Bush had been applied for and granted under the State Forests Regulations of 1886, and was transferred to Massey after he acquired the Guthrie Estate from the Official Liquidator. This land was not in a State forest—it was Crown land. I was on a fresh wicket. The Land Act provides for a public hearing of applications, and for an appeal to the Courts if a person is dissatisfied with any ruling of the Land Board. I applied to the Board for licenses over these areas, and appeared at the Board in support, accompanied by counsel. The whole circumstances of the case were made public. The Board referred the case to the Crown Solicitor, who reported that Massey had no title. The Board met and declared the titles void, and entered into possession. They

refused to grant any portion of the land to me. The first resolution of the Board in regard to these areas was one to regrant the whole to Massey, but it was lost on going to a division. A resolution was then submitted to grant half of the area (800 acres) to Massey and the balance to the public by ballot, and to refund Massey what he had paid with interest added. There was no provision for me, though I was the first applicant and had incurred considerable expense to bring about the position. However, I moved in the matter, and was granted ultimately 400 acres of the remaining 800 acres. The balance was offered to the public by ballot. Before the licenses were granted the whole area, 1,600 acres, was revalued for royalty. It had been previously surveyed into blocks of 200 acres each and valued by Mr. Authorized Surveyor T. S. Miller, a competent and trusted officer. The revaluation was made by Ranger Collins, whose valuations are interesting. His valuation of three of the areas granted to Massey were decreased in quantity of timber by 116,780 ft. and in value by £33 12s. 11d., while his valuation of two areas adjoining granted to H. Cox by ballot, with one granted to me by resolution of the Board—three altogether—increased the quantity of timber by 976,760 ft., and the value by £347 18s. 4d. Yet these areas had been valued previously by a highly competent officer. Regarding timber on Crown lands: The Land Act, 1908, Part X, section 311, provides for the issue of provisional licenses, for a term not exceeding three years, to occupy any rural land not exceeding 200 acres for the purpose of cutting, felling, or removing timber or bark, and also for the conversion of the license at any time during its currency into a lease having a term not exceeding twenty-one years. Section 312 provides that on the application of any sawmill-proprietor or other person any block or blocks of timber land not exceeding in the whole 600 acres of which licenses of sections not exceeding 200 acres each may be granted. Thus it seems quite clear Parliament intended the area of timbered Crown land which any one person should be entitled to obtain is 800 acres. Yet in the face of this provision regulations were issued on the 31st March, 1909, providing for the issue of licenses over areas up to 1,500 acres, while in actual practice areas much exceeding that limit have been granted. On the 3rd February, 1910, an advertisement was published in an Invercargill paper calling for applications for a block of 1,978 acres, and this was granted in one lot to one applicant. It is true the plan shows an area of 200 acres, and across the balance is written "Reserved for 588, 1,300 acres"; but the marginal colouring embraces the whole of the balance of land that was advertised, and this contains by survey 1,778 acres, and this balance absorbed all the available Crown land in the district. We claim these regulations are *ultra vires*, and desire also to point out they are unjust. We contend that every man in this Dominion is equal in regard to his right to participate in the distribution of the public estate. But the regulations in question discriminate between persons by providing in section 32 for the size of areas as follows: "Where the nominal horse-power of a mill does not exceed 8 horse-power, 300 acres; where it is 9 or 10 h.p., 400 acres; where it is 11 or 12 h.p., 500 acres; where it is 13 or 14 h.p., 600 acres; where it is 15 or 16 h.p., 800 acres; where it is 17 or 18 h.p., 900 acres; where it is 19 or 20 h.p., 1,000 acres; where it is 21 or 22 h.p., 1,200 acres; where it is between 22 and 30 h.p., 1,300 acres; from 30 h.p. upwards, 1,500 acres." Right under these regulations seems to be measured by the length of a man's purse. We thought we dwelt in a democratic country, but it appears we do not.

3. *Mr. Anderson.*] You have been connected with forestry for a considerable time?—Yes.
4. You have studied it specially?—I did in my early days.
5. You were Secretary for Forestry and Agriculture in Victoria?—I was.
6. And therefore know a good deal about it?—Yes, a little.
7. In Victoria do they allow areas of land to be appropriated in this way?—Certainly not, neither for forestry nor occupation. The amount for occupation was 320 acres in my time, but I believe it has been extended since. In 1869 the limitation was 350 acres—that is to say, no one man could acquire more than 350 acres from the Crown.
8. Does that apply to forests as well?—Yes.
9. You found it impossible to obtain bush in Southland?—Yes, quite impossible. I had to search and make inquiries to find out what could be acquired legally.
10. You were successful in the case you brought where the forest was under the jurisdiction of the Land Board?—Yes; we had no necessity to go to the Court. It was admitted that the title of these licensed areas under the regulations of 1886 was not good.
11. When you had an opportunity of going before the Court you satisfied it that the titles under these regulations were not good?—We had no occasion to go to the Court. The Department admitted that they were not good, and what we are asking for is that we may be allowed to go to the Court.
12. The regulations of 1886 have been amended, and now it is impossible for a man to hold bush in the way it could be done under those regulations?—No. They allow you to take up half-a-dozen areas still if you like.
13. Will you explain how that is done?—Any man can walk into the Land Office, if the land is available, and put in an application for a sawmill area in a State forest or on Crown land; and he can walk in next day and block another application alongside that, and it will be granted to him.
14. Is there no restriction as to area?—The restriction is 800 acres. My contention is that under the Act and the regulations any man can hold up to 800 acres; but the Department says that a man can hold as many areas of 800 acres as he likes.
15. You consider that no man until he has cut out that area should be allowed to hold any more?—That is so. He should apply for more when he has cut that out, otherwise he can block every one else.
16. The amount of bush a man can hold now is regulated by the horse-power of his mill?—Yes.
17. And the bigger the capitalist the more horse-power he can put in?—Yes, and the greater the area he gets. That is what we object to.
18. In your opinion the regulations of 1886 and 1909 are in the interests of the capitalist as against the small man?—Most undoubtedly they are.

19. Does the Land Board deal with State-forest land or only with Crown lands?—Only Crown lands.

20. And the Commissioner of Crown Lands deals with forest land?—Yes, referring everything to the Minister. He has no power himself.

21. Have you confidence in the personnel of the Land Board of Invercargill?—Decidedly not.

22. Do you think they would discriminate if the opportunity occurred between two applicants?—I have reason to think so. It is a very difficult question to answer. It is simply a matter of opinion, and I am inclined to think they would.

23. *Mr. Statham.*] I understand all you ask for is to be allowed to bring a case before the Supreme Court?—Yes, to give us the right to appeal if we consider that a wrong decision has been given under the regulations—the same as we have under the Land Act. We do not ask any more. We are prepared to go to the Court to argue and thresh out these regulations, and see what the Supreme Court has to say on the matter.

24. *Mr. Coates.*] What area has Mr. Massey accumulated—the total area?—I do not know what he has left, but at one time he held over 20,000 acres. I think he has about 8,000 acres to work, but I am not quite sure about it.

25. This land he holds under conditions of the State Forests Act?—Yes.

26. What area, roughly, is held by Mr. Massey and the others over the amount originally intended?—I could not really tell you. I only took one particular case. I have a plan here that would show it to you.

27. *The Chairman.*] You see this list [agreement made between the Conservator of State Forests and Mr. Massey shown to witness]: do you recognize these areas as being held by Mr. Massey?—Yes, those are part, but not all of them. They are all held in one district.

28. *Hon. Mr. Buddo.*] You are a timber-merchant?—Yes.

29. Are you unable to obtain sufficient timber in the sawmilling-areas to keep your mill going?—I have one mill I can keep going. I am not working for myself any more.

30. Are you aware of any sawmillers who are not able to secure sufficient areas of sawmilling land in Southland?—Yes, men and mills are idle because they cannot get milling-areas.

31. Has there been any disputed case wherein Mr. Massey and other applicants have been on equal terms and Mr. Massey's tender has been accepted?—I myself quoted a case where an area of his had lapsed through effluxion of time, and I put in an application for it, which was slung out, and the area was given to Mr. Massey.

32. Notwithstanding that he had sufficient?—Notwithstanding the fact that he had more than sufficient.

33. What is the principal part of your complaint?—That Mr. Massey holds a large area illegally; that he holds that area under royalties much more favourably than the areas we hold, and hence he is better able to compete in the market than we are. The areas which he holds are held under the 1886 regulations, and we contend they are void.

34. *Mr. Anderson.*] What you have always asked is that you may be allowed to take your complaint into the Supreme Court?—Yes.

35. You and your friends have consulted a number of solicitors in one part of the country and another, and they have advised you that your contention is right?—That is so.

36. One of them is Mr. Solomon, of Dunedin?—One is Mr. Solomon, and the others are Mr. Kinnerney, Timaru; Mr. Woodhouse, Mr. Downie Stewart, and Mr. Macalister before he was Crown Solicitor.

37. And these solicitors fortified your contention that the period for which Mr. Massey held these areas and to cut them out had expired?—Yes.

NICHOLAS ALEXANDER NIEDERER examined. (No. 3.)

1. *The Chairman.*] What are you?—Farmer and sawmiller at Gorge Road. I was a sawmill foreman and sawyer for many years, and took up a piece of land at Gorge Road, and have lived there ever since. It was bush and swamp, and on some of the land there was good timber. I cut a number of acres which I cleared, burned, and put into grass. Having been a sawmiller for years previously I started a sawmill, and cut the bush and sold the timber. There was a piece of bush belonging to a neighbouring farmer, consisting of white-pine, which I intended to buy, but Mr. Massey hearing of it bought this bush from the man, but could never cut it because it was out of his reach. When I complained he said, "Never mind, Niederer, I will sell it to you"; but when I wanted to buy it he would not sell it to me. I met Mr. Wallis some time afterwards and he spoke to me about the regulations. He suggested to me that he and I and another sawmiller named Robinson should go to Dunedin and see a lawyer about this matter, and we did so, and saw Mr. Solomon, who said that the regulations wanted to be thoroughly thought out. He then came to the conclusion that Mr. Massey had no title and had forfeited his licenses a long time ago. Mr. Massey took up the bush in 1888. Mr. Solomon said, "I advise you to go to another lawyer," and we went to Timaru and saw Mr. Kinnerney. I understand you have everything they said in typewriting. Having a sawmilling plant idle I had hopes of getting some of that bush. When I was here last year Mr. Duncan advised me to take what I could get. Mr. Massey has about 6,000 acres of bush in my neighbourhood, and of course I cannot get any. I made two applications to the Land Board for one sawmill area—that is all I want—but I got back a reply that Mr. Massey had a good title, and that was the end of it. When we went to Dunedin we thought that we would get a mandamus, and the attempt cost us about £100 or £150. The judgment was to the effect that the Court had no jurisdiction over a Minister of the Crown, and could do nothing. We were advised that the only remedy we had was to petition Parliament to see what it would do. Mr. Wallis has explained the position with regard to these Crown forests. I am repre-

senting here a number of settlers in the Seaward Bush, Edendale, and Mataura Island districts. They are wanting bush for stakes, posts, and firewood, but there is not a tree for miles around which does not belong to Mr. Massey, and no one has a right to meddle with that bush. After we went to Dunedin he gave two settlers leave to go in and take some of those stumps, but no standing timber was to be touched. That is no good to the settlers. There are three petitions from over a hundred settlers in reference to this matter. Mr. McNab had charge of one, and Mr. Anderson had charge of another. The settlers should have the right to get timber for posts and firewood, but the bush there might just as well be in Timbuctoo as where it is, as they can only see it at a distance. We say that if the bush is granted to settlers for agricultural purposes the Crown would get more out of it in the way of stakes and posts. A sawmiller cannot make use of this wood, and the Crown would get far more royalty from the farmers. The settlers have petitioned Parliament three times for part of this bush that Mr. Massey holds, for agricultural purposes. I came up here to represent myself as a sawmiller with Mr. Wallis, and also represent the farmers.

2. *Mr. Statham.*] I understood you to say you have a sawmilling plant lying idle?—Yes.

3. Do you know of others who are in a similar plight?—Yes, there is a neighbour of mine named Robinson. He had to take his plant away for miles because it was lying idle. He had no farm like I had. There are a number of plants lying idle in Southland at the present time.

4. You say the settlers cannot cut a piece of wood for fencing?—That is so.

5. Where do they get the posts from?—They have to buy elsewhere, or wherever they can get them.

6. Do you think, if this country were opened up for sawmilling purposes, it would make any difference in the price of timber?—The price of timber is a fluctuating quantity—no man can say what the price of it will be.

7. If you and other sawmillers were allowed to work your mills, would that make any difference to the price of timber?—Yes, I should think so—I know it would. There is an association of sawmillers in Invercargill which regulates the price. I was induced to join that association, and when I went there I found they were all big millers like Guthrie, Massey, the Southland Timber Company, Moore and Sons, and so on, who had good areas. I also found that most of the sawmillers were not members of the association.

8. *The Chairman.*] You say that if the sawmillers were allowed to work these areas it would affect the price of timber?—Yes, it would necessarily lower it.

9. *Mr. T. W. Rhodes.*] Do you know the total area that Mr. Massey holds?—It must be 5,000 or 6,000 acres in my neighbourhood alone.

10. *Mr. Anderson.*] You have no feeling against Mr. Massey, but you think he is wrong in his action?—Yes.

11. And you wish to have this matter decided in the Supreme Court?—Yes.

12. How far is Seaward Downs from the bush?—It is adjoining it.

13. How far is it from the centre of the district?—The centre of the district from the bush is four miles.

14. Where do the settlers have to cart their stakes from now?—They have to get them from Edendale and from Invercargill.

15. Can the settlers in Seaward Downs obtain posts from that bush by paying a royalty to the State Forests Department in Invercargill?—Mr. McCall told me he sent a man to cut posts, but when the man went to cut them they were so far back that he could not get them.

16. The settlers now want reservations set apart in that bush for their own purposes?—They do.

17. And the only way they can get them, so far as they know, is by having Mr. Massey's titles tested in the Supreme Court?—That is the only remedy we see at present.

18. You have seen the opinion given by the Crown Solicitor on the question?—I have.

19. And you are still of opinion that the titles that Mr. Massey holds have expired?—Yes. We could not possibly expect the Crown Solicitor's opinion to be superior to those of Mr. Solomon and Mr. Kinnerney. He is not the Judge.

20. *The Chairman.*] Do you contend that Mr. Massey acquired those lands illegally?—I do not know. We are of opinion that he holds them illegally.

21. If he has acquired them legally, how does he hold them illegally?—By the effluxion of time—the time has expired.

22. I heard you say that there were three former petitions: can you give us the dates?—One was presented by Mr. McNab about two years ago, or more; one in 1907, and another in 1910. I think one was by Mr. Hugh McCall.

23. Have you seen a copy of the Solicitor-General's opinion with regard to these leases?—Yes.

24. What exception do you take to that finding?—I take exception because, although I am not a legal man, I cannot discriminate between the legal opinion of one man and that of another of high standing; but if we have the opinion of Mr. Solomon and Mr. Kinnerney we certainly would not expect another opinion to override it.

J. H. HOSKING, K.C., called and examined. (No. 4.)

1. *The Chairman.*] Mr. Hosking, will you give evidence on this petition?—Mr. Chairman, I am one of the attorneys for Mr. Massey, who is at present in England. He left before he was aware that these proceedings were contemplated, or probably he would have been in attendance here himself. I might remind the Committee that Mr. Massey's timber rights have already been the subject of proceedings. In the first place, there were proceedings before the Land Board at Invercargill some three or four years ago with respect to the titles generally, and as the result of those proceedings some

1,550 acres were taken away. That area was an area held under different titles from those which are the subject of the present inquiry. They had been issued under the State Forests Regulations, whereas the areas were subject to the Land Regulations, so that the titles went by the board without any question. Then there were proceedings in the Supreme Court in which it was sought to attack the decision which had been given by the Commissioner for State Forests in refusing to allow Mr. Massey's titles to be questioned. In 1910 there were proceedings upon a petition to Parliament before a parliamentary Committee. Now, the chief actor in all these proceedings is Mr. Wallis, whose name appears at the head of the petition. While referring to the petition I might draw the attention of the Committee to the fact that while Mr. Wallis's name heads the list of signatures there are some twenty-odd others, all of whom are described in the petition as farmers; five belong to one family, by the name of McCall, and three to another by the name of Morton. The two others who are described there as sawmillers are careful to add that they are settlers also; that is because each of these two gentlemen has a small mill upon land which he farms and works. Mr. C. H. Robinson, of Waimahaka, is described as a sawmiller and settler, and has a very small mill which he has used for cutting down bush on his own farm. That has been closed for a couple of years. That is a significant fact when placed beside the allegations which would lead the Committee to infer that there is a scarcity of bush for milling. One of the petitioners has a bush which might be cut—Mr. C. H. Robinson, Waimahaka—if he cares to cut it. Now, following upon the parliamentary proceedings of 1910 an arrangement was come to with the Government. I might say, as introductory to the proceedings before the Committee on that occasion, that some years before, when questions were raised as to Mr. Massey's right to hold these areas, and before he paid his money for the bush—that was, for the reserves—he took the opinion of counsel in various parts of New Zealand independently as to the construction to be placed upon the regulations under which the licenses were issued. These licenses, I might point out, were not applied for by Mr. Massey. They were originally taken by Mr. Walter Guthrie, and, I think, Sir Robert Stout, as the representatives of the New Zealand Pine Company, and it was when the New Zealand Pine Company went into liquidation that Mr. Massey became possessed of these areas. It was material to him to know, of course, whether the position of the titles was sound or not, and he took the opinion independently of Mr. Frederick Chapman, who was his solicitor, Mr. Martin Chapman, of Wellington, Mr. T. Cooper, and myself. Mr. Frederick Chapman and Mr. Cooper, as you know, are now on the Bench. Copies of these opinions were submitted to the Government for the purpose of an inquiry before a Committee two years ago, and a reference to them will show that counsel were unhesitatingly of opinion that the regulations under which the original licenses were issued entitled the licensee to hold the areas until he had cut out the bush. The fact that that was the position of those licenses would be evident, I think, to any layman when he considers the terms in which the subsequent regulations are couched. It was found that the original regulations imposed no limit of time, so these subsequent regulations provided that all bush-areas were to be cut out within a reasonable time. That is effected by the regulations that the mills shall be kept going in a reasonable manner, it being assumed that this would suffice to prevent delay in cutting out the bush. That will be found to be the character of the regulations which were made subsequently to 1886. Now, these opinions were placed at the disposal of the Committee upon the previous inquiry, and they referred the question to the Solicitor-General for his opinion, and the Solicitor-General gave it as his opinion, without any hesitation, I think—from the terms of it I may say it was an absolute opinion—that the bush-areas which were held by Mr. Massey under the regulations of 1886 were held by him subject only to being cut out in a reasonable time—that is, no limit was marked out by a space of so-many years. Well, I do not recall the exact terms of the finding of the parliamentary Committee on the previous occasion, but according to the petition it is said that the matter was referred to the Government, and that the Lands Committee had recommended the prayer of the petition to the Government for consideration, and also recommended that a full inquiry be instituted into the legality or otherwise of the sawmilling licenses situated in the District of Southland. Then the petitioners say they received no answer to their petition or heard of an inquiry being held into the matters arising out of the petition. I think it may be fairly well assumed that they were made aware that an inquiry was held into the legality of the licenses, and of the opinion given by the Solicitor-General that they were valid. The Government thought some steps should be taken to give a time-limit to these licenses, and approached Mr. Massey to know if he was prepared to impose upon himself a limit of time in which the bush should be cut out, and ultimately Mr. Massey agreed to eighteen years, one of which has already gone. Thereupon an agreement was made on the 12th February, 1912, by which Mr. Massey agreed as follows: "I hereby agree with His Majesty the King to cut and remove the sawmilling timber on the sawmill-areas enumerated in the schedule hereto, held by me under the State Forests Regulations of 1886, within a period of eighteen years from date hereof. I also undertake to abandon each year those areas worked out by me, and at the expiration of eighteen years from this date I will surrender absolutely such of the areas as shall not have already been abandoned. Schedule: Sawmill areas Nos. 187, 187A, 187B, part of 187C, 188, 188A, 188B, 188C, 189A, 189B, 191, 191A, 191B, 191C, 233, 233A, 233B, 234, 234A, 234B, 234C, 444, 444A, 444B.—Witness to signature—A. McGAVOCK, Chief Clerk Lands, Invercargill.—H. A. Massey.—Recommended—G. H. M. McClure, Conservator of State Forests. On behalf of His Majesty the King I agree to the above.—J. G. WARD, Commissioner of State Forests." Now, after that agreement had been come to, at the instance of the Government with a view to satisfying the petition, Mr. Massey thought that he was no longer to be harassed by the proceedings to which he had been subjected in the past, and I respectfully put it to the Committee, on behalf of Mr. Massey, that the Committee should approach this petition from the standpoint of a contract entered into as between the Government and Mr. Massey. After the question of title had been referred to the responsible officers of the Crown, and an agreement come to for the purpose of defining the disputed rights, surely we have a right to ask that these rights should no longer be questioned. If this Committee makes

any recommendation—or a recommendation which does not allow Mr. Wallis to become a proprietor of these lands, instead of Mr. Massey—we might expect another inquiry next year. Is there to be no end to litigation? Are we, in face of the agreement, to come here year after year and to be again subjected to an inquiry as to whether these titles are in order or not? You have the opinions to which I have referred, and I do not think I am putting it too strongly when I say that those opinions are absolute in their form, and do not say the matter is doubtful. In the petition I note that some counsel is quoted as being of a different opinion. No name is given, and the only counsel's opinion that I have heard of, or that Mr. Massey has heard of, is one that it might be doubtful, and is a question to be decided by the Court. I emphasize again the very definite opinions that have been given, not only by Mr. Massey's advisers, but also by the Solicitor-General. Upon these we come to the agreement to cut out in eighteen years. I would just like to state briefly what Mr. Massey's holdings have been. He purchased the assets of the Pine Company when it went into liquidation. That company had an area of 16,220 acres. Mr. Massey shortly after his purchase abandoned 8,130 acres, and that left him 8,090 acres. As the result of the proceedings before the Land Board he had 1,550 acres taken from him, for which he had paid.

2. *Mr. Anderson.*] Not under the State Forests Regulations?—No. He had paid for these areas some years before, but the money was ultimately restored without any interest, so that the Government really had the benefit of the money he had paid for a number of years, without recompense. Taking away 1,550 acres, there were 6,540 left. Then we have cut out 3,481 acres, so that we still hold, not cut out, of what we acquired from the Pine Company, 3,059 acres. Mr. Massey also holds areas which he took up himself. 1,600 acres was what he took up, so that we hold altogether 5,081 acres. Now, at the present rate of cutting we anticipate that the whole of that area will be cut out within twelve years. We would be glad to cut it out in half that time if we could sell the timber, but the position with regard to the timber in Southland is that the market for it extends no further north than South Canterbury. The whole area of demand for it is from the Bluff to South Canterbury. Above that the West Coast timber comes in and competes. I think Mr. Richardson knows that that may be taken as substantially correct.

Mr. Richardson: Yes.

Witness: At all events the position is that the market for the Southland timber is not large enough for the timber to be cut out more rapidly than it is being cut out at present. One would assume, possibly, that Mr. Massey is the only sawmiller there, but there are seventy-two mills in Otago and Southland, of which four are in Otago, and Mr. Massey owns six out of the seventy-two. Owing to the working-out of the areas in one quarter he has erected a mill—after the last parliamentary proceedings took place, after his title was rearranged, and when he thought he was secure in doing so—he erected a new mill of large capacity—larger than any he previously held, but which I do not think even now can be worked to its full capacity, owing to the absence of demand for the timber. So that putting the matter generally it can be seen that although this 5,000 acres is held by Mr. Massey that fact does not restrict the supply of timber to the market, because it cannot be sold even if it were cut. He would be only too glad to find a market to absorb the timber speedily. Then, under the regulations the timber had to be paid for in cash—twelve years was the time—and the money was paid and has now been paid for twelve years. We have been out of our money for twelve years in respect of the whole of this area. That is unquestioned. We put our position strongly upon the right which one naturally looks upon as undoubted—namely, a Crown title where the consideration for it has been paid, where it has been the subject of a parliamentary inquiry, and where it has afterwards been the subject of an arrangement come to in good faith with the Government. We put it as a right to have a title so held protected from constant attack, and Mr. Massey respectfully suggests that the Committee ought to relieve him from further harassment, and give it as its opinion that a *bona fide* arrangement having been come to by the Government to shorten the period within which Mr. Massey was to cut out the timber that arrangement ought not to be disturbed.

3. *Mr. Nosworthy.*] With reference to this 1,600 acres which Mr. Massey holds, does the 6,540 acres of which you say 3,481 acres are cut out leave 3,059 acres?—Yes.

4. He holds 1,600 acres outside that—I am speaking of the first 1,600 acres?—Yes; worked down to 3,059—1,600 out of that.

5. What is that 1,600 acres?—It is held under license from the Crown.

6. You say with reference to this petition it seems to you to be an effort on behalf of Wallis to acquire what Mr. Massey has got?—He has been the protagonist in all these proceedings.

7. If the Government strip Mr. Massey of his property, is it likely that they would let the lands to Mr. Wallis?—Mr. Wallis would probably be the first applicant.

8. If one man is holding too much it is not likely they are going to give too much to another man?—There is such a thing as one man holding a large area, though not in one name.

9. Has not this petition come about through a feeling in Southland that successive Governments have been favourably disposed to Mr. Massey in granting areas of forest land: is not that the whole feeling?—I should say not. Successive Governments could hardly be charged with giving Mr. Massey special consideration, because these areas were not acquired by Mr. Massey in the first instance. They were acquired by Mr. Walter Guthrie when he and Sir Robert Stout were partners in the Pine Company, and it was when that Pine Company went into liquidation that Mr. Massey acquired those areas.

10. The Pine Company originally acquired them from the Government?—Yes. And if, as I say, in regard to the suggestion, one man would naturally get a certain area, and if one man has others associated with him no doubt applications would be made in individual names.

11. You say there are seventy-two sawmills in Southland?—Yes.

12. And out of those seventy-two sawmills seven are held by Mr. Massey?—Six.

13. What is the total acreage of the bush area held: what balance is there after taking Mr. Massey's six mills?—I cannot say. I believe Mr. Richardson can supply that information.

14. *Mr. R. W. Smith.*] How long ago is it since Mr. Massey acquired those 1,600 acres?—In 1898. He abandoned 8,000-odd acres in 1899.

15. Was it offered for public competition at that time?—I think the Pine Company's areas were sold by the Bank of New Zealand when it went into liquidation. They had a great difficulty in disposing of it.

16. How long is it since he acquired the 1,600 acres in addition to the 3,059 he holds now?—They have been taken up at various times by Mr. Massey himself since 1898. They would generally consist of an area where one had a mill and tramway laid down and so-many acres worked out. It would be more convenient to get an area in the neighbourhood of the mill and tramway than to go elsewhere. It is not so costly taking up an adjoining area.

17. They were taken from the Crown, were they?—Yes.

18. I understood you to say that the whole of the royalties have been paid and that the last payment was made twelve years ago for twelve years?—The payments were in this way: before you could work 100 acres you had to pay for it. Under the regulation there was a limit of time within which all payments were to be made. In Mr. Massey's case it was twelve years. Before the twelve years elapsed he had paid for the whole.

19. In that case before he cut the bush out he had to pay for it in twelve years?—Yes, that was the reading of the regulations. He got two years for each 100 acres in the block.

20. Recently Mr Massey had erected a large mill, and he could not cut up to the full capacity on account of no market for it?—Yes. That mill was completed only two or three months ago. We started cutting this month. It was put up when it was ascertained that our titles were arranged—after that.

21. *Mr. Anderson.*] There are two titles in this: there is one under the Crown and the other?—Yes, the areas purchased from the Pine Company.

22. You said Mr. Robinson was at Waimahaka?—Yes.

23. You said also that he had a mill and plenty of bush left?—In Kapuka, he has got bush there.

24. Would you be surprised to know he has none—that he has cut it all out?—Yes.

25. You stated that the Committee might infer that Mr. Wallis desired to get possession of the bush that Mr. Massey has?—Yes, we certainly inferred that.

26. Do you not know that he does not desire anything of the sort?—I would be surprised to know he is promoting it on public grounds.

27. But he has always asked for judicial inquiry?—Yes.

28. And asked it of the Supreme Court?—No. I did not know that until I saw this petition.

29. The petition of two years ago—that was the object—and he did get that judicial inquiry, and that was the reason he wanted to get it into the Court—to test the titles in the Court. You stated in the petition that certain legal gentlemen had given a different opinion?—I said that counsel had done so. I do not know whether it is one or more.

30. I think counsel is meant in the plural sense—that may mean singular or plural?—Yes.

31. Well, the petition shows he was advised by four or five lawyers that the titles had lapsed, and that was why he took the matter up?—I think that Mr. Wallis was the initiator of the proceedings before the Land Board three or four years ago. I did not know that he was armed with opinions then.

32. In this opinion of the Solicitor-General he says, in paragraph 9, "The regulations impose no limit of time on the cutting-out of the timber. The result is that the licensee has a reasonable time within which to do so. If he is guilty of unreasonable delay in cutting out, the license may be cancelled on due notice being given to him. This condition, though not expressed, must, in my opinion, be read into the regulations and licenses. During the course of the argument in the case of *Wallis v. Commissioner*, Mr. Justice Williams expresses this as his view. This applies both to the original area and to the reservations. The limit of two years for 100 acres applies only to the taking-up of the reserve and not to the cutting-out of the timber after the reserve has been taken up. This requirement of reasonable time is of a very vague and unsatisfactory nature, and if Massey's licenses are held valid or are allowed to remain on foot it may be well for the Department to consider the advisability of coming to some definite agreement with him as to limit of time within which the various areas must be utilised." You know of that?—Yes.

33. That is really on account of the new agreement being made?—The Government suggested that we should define a reasonable time. Now, a reasonable time in connection with the cutting-out would depend upon a variety of considerations which it would be impossible to forecast beforehand. One of the considerations would be, is there a market for the timber if it is cut? That is to say, it would depend upon whether a man could sell the timber if it were cut. So you would have to go into the question of what was a reasonable time under those circumstances. Taking the present output, the market, and so on, the chances are you might not have cut it out in eighteen years, though we hope to cut it out in twelve.

34. From 1886 to 1889—from then to the present time you think it is a reasonable time to hold all these areas?—I think so. There has been no complaint that the timber has been wanted.

35. Do you know that Mr. Massey has applied for and got other areas during that time?—I am not able to speak definitely about that. I have not been Mr. Massey's solicitor in this matter until very recently. I happen to be his attorney now.

36. Do you know Mr. Massey has got a grievance with the farmers in his district—to take their bush and that there is no limit of time in which he can cut it out?—No.

37. Do you think that the holding of 5,000 acres by one company in a small province like Southland is a fair thing?—I do. All you get in substitution is a number of small mills that do not pay, whereas where you work on a large scale you can put out timber more effectively and probably at lower rates.

38. *Mr. Nosworthy.*] You told us just now that the reason why they had not pushed things on was owing to the demand for the timber. Are you aware that most of the timber coming into Canterbury comes from Southland?—I have always understood that we did not get further than South Canterbury. Timaru would be about our limit.

39. I think the bulk of timber used in Ashburton comes from Southland?—I do not know that; Mr. Richardson will be able to answer that.

40. And the fact of erecting a new and up-to-date sawmill looks as if you had the trade for the timber you turn out?—The new and up-to-date sawmill consists of the wreckage of other mills.

41. It is really a consolidated sawmill?—Yes. It depends upon the area of bush within immediate command what size mill you put up.

42. *Mr. Anderson.*] How many acres in the Seaward Bush belong to Mr. Massey?—That I cannot give you.

43. Is it there an up-to-date mill is being erected?—I do not know the names of the bushes. Mr. Richardson could answer these questions more definitely than I can. I only know it from what I am told.

44. Is it a fact that there is a doubt as to the time in which the areas should be cut out and that it only referred to the original area? In the original regulations you could take 200 acres and then you would have a reserve of not less than 600 and you had to cut out 100 acres of this 600 acres every year and no time limit as to any?—No.

45. Time-limit—the 100 acres every year—is that a subsequent regulation? I will read the regulation: “Generally the area of a sawmill license shall not exceed 200 acres, but the holder may apply to have three additional areas of not more than 200 acres each adjoining the first reserved for his exclusive use: Provided that the reservation of any or all of such additional areas shall be at the discretion of the Commissioner of State Forests, and provided also that such holder shall not be allowed to fell timber on any reserved area until he has complied with the terms of payment and has otherwise complied with the terms of these regulations”?—When we paid for the timber it became ours.

46. It says, “in the Solicitor-General’s opinion”: was that meant that the whole thing would go on for ever?—No, not for ever. There must be a reasonable time, which a judicial tribunal would have to decide.

47. Has a judicial tribunal ever decided?—No, but a judicial tribunal often does decide similar questions. For instance, a contract specifies what shall be done, but mentions no time within which it shall be done. A Court would have to decide what that time was in the event of a dispute.

48. It has never come before a Court?—No.

49. *Mr. Forbes.*] “Reasonable time”—has the reasonable time been defined now between the Crown and Mr. Massey?—Yes. If we have not cut out in that time we lose it all without compensation.

50. In your opinion that is defining a reasonable time?—Yes.

51. *Mr. Coates.*] That is done for that purpose?—Yes.

52. *The Chairman.*] Was that opinion given after an appeal had been made to a Committee of the House?—Yes, the Government referred it to the Solicitor-General. The Committee’s recommendation was that they should have an inquiry into the legality of the whole six. They referred the matter to the Solicitor-General. His opinion was so definite that they said the best thing to do was to shorten the whole time.

53. What was the date of that agreement?—The 12th February, 1912. I think there was some correspondence and negotiations before which related to this agreement of 1912.

54. *Mr. R. W. Smith.*] This is the result?—Yes. There were two points: one was for Mr. Massey to have fresh licenses issued to him.

55. What would have been the position then?—Then he would have to work under the regulations to keep his sawmills going in regard to the different areas.

56. That was optional, whether he took it under that?—Mr. Massey thought it was better to keep his licenses which were good, and define the time.

TUESDAY, 15TH OCTOBER, 1912.

C. J. R. RICHARDSON examined. (No. 5.)

1. *The Chairman.*] What are you?—I am manager for the New Zealand Pine Company.

2. Have you a knowledge of this matter?—Yes.

3. Are you prepared to answer any questions the Committee desire to ask you?—Yes.

4. *Mr. R. W. Smith.*] I understood that you would be able to tell us shortly the areas of milling bush in that locality held by others?—Well, you see, Mr. Massey’s bush is situated in various localities: some of it in the Longwood Forest; some of it in the Spar Bush; some of it in Grove Bush, and the rest of it in the continuation of Seaward Bush. Seaward Bush is usually confined to the district between Invercargill and Kapuka. Massey’s bush can be termed a continuation of Seaward Bush.

5. Can you give us an idea of the largest area held by any one else down that district?—I think the Southland Sawmilling Company—speaking generally—I think they hold a larger area of Government bush than we have, although they may hold it under different names. I think the sawmilling company and Mr. Guthrie, who is a partner in the sawmilling company, are the holders.

6. *Mr. Anderson.*] Has this sawmilling company got mills on each area or are they reserves?—They have one mill at Tuatapere, and are erecting a second there, and they are working one a mile or two away, at Te Waewae. Then they have another mill down at the Tokonui Forest. I think the four mills are all they possess.

7. How much is there of the Gorge Road Bush belonging to Mr. Massey?—I think Mr. Massey holds practically all that is left.

8. Does he hold some freehold?—Yes.

9. How much bush is in that freehold?—I am afraid I cannot tell you the exact quantity of freehold. I think he holds about 600 acres.

10. That is in addition to the 5,000 acres?—Yes.

11. Where is that in the neighbourhood of?—Bush Siding and Gorge Road.

12. Has a new mill been put up in the district?—Yes, at Bush Siding.

13. How much does he hold in the Longwood Forest and elsewhere than at Gorge Road?—1,732 acres.

14. That is included in the 5,000 acres?—Yes.

15. Do the present regulations enable large areas to be absorbed like that?—I do not think there is any regulation in the State Forests Act with regard to the quantity that a man may hold.

16. Is it difficult to obtain bush in Southland now?—No, I think not; in Wallace you can obtain bush. During the last three years at Tuatapere the Southland Sawmilling Company took up 521 acres. The Land Department in Invercargill are unwilling to give statistics. William Guthrie has taken up 200 acres licensed area and 1,300 acres reserve, and Hamilton and Co. 684 acres; that makes 2,700 acres altogether that have been taken up during the last three years in the neighbourhood of Tuatapere.

17. Is that near a railway?—Some of it is within from one to two miles of Tuatapere; other parts within four miles.

18. Is there much bush in Southland near a railway other than the place you speak of?—There is a considerable quantity on the western slopes of the Longwood. All that country is bush, and when the contemplated railway from Tuatapere to the Orawia is down, this bush will be tapped and no doubt worked—some thousands of acres.

19. Is that held?—The Merivale Estate just takes in the fringe of the bush; behind that is the State forest.

20. Do you object to the settlers taking stakes out of the bush at Seaward Downs?—No; some two years ago Mr. Massey expressly granted permission to take fencing-timber.

21. Does he allow them to chop trees for that?—Yes, to take it for fencing-timber.

22. You are quite sure of that?—I have heard complaints that they are doing more than that—that they are cutting and sending it away to market.

23. They are doing that?—So I have been told.

24. You will not vouch for that?—No, I do not know for certain.

25. What check is there on it?—The Government rangers are supposed to be looking after it.

26. Do you not know that the farmers in Seaward Downs complained that they are not allowed to take stakes out of that bush?—I know for certain that Mr. Massey gave written authorization to the Commissioner of Crown Lands to permit the settlers to take fencing-timber out of his bush.

27. And allow them to cut trees for that purpose?—I believe that they were enabled to cut trees for that purpose.

28. If they said that that was not a fact, would you deny it?—I should prefer to see the document. It is a written document given by Mr. Massey to the Commissioner of Crown Lands at Invercargill.

29. *Mr. Forbes.* Can they buy stakes and posts for their fencing apart from your sources of supply?—Yes; there is a large area in Seaward Bush where there are a number of small totara-trees that would not pay the sawmillers to cut, and a number of people make a living in that way—in fact we buy from these suppliers ourselves, perhaps some three or four truck-loads a month.

30. What have the settlers to pay for totara fencing-posts?—We can buy at about £2 a hundred—that is 4 by 3—£2 per hundred stakes.

31. And the posts?—Well, strainers 7 in. in diameter and about 7 ft. long we pay 3s. each for.

32. That seems to be a high price for an area bush post—3s?—I do not know. There is a lot of work in cutting them and sledging them out to the sidings. It seems a high price.

33. *Mr. Guthrie.* Does the company you are connected with make a business of selling posts?—Yes, we buy them from these men who obtain licenses from the Government to split the posts. We buy them from them very often.

34. And yet you allow the settlers to go inside the bush and cut their own posts?—Yes.

35. There is no denying that fact?—Oh no, we allow them to do so. Where these settlers are cutting these posts it may be three or four miles away from the railway, and it is much more convenient to split the posts themselves and sledge to their homesteads than buy them, rail them to a siding, and then cart them four or five miles home from the siding.

36. You only allow the settlers to go into the cut-out bush?—No, we allow them to go into the virgin bush. These cut-out areas have reverted to the Crown and the Crown issues the usual licenses.

37. You have nothing to do with it?—No.

38. If they have an absolute right to go into the virgin bush it seems strange that they purchase from you?—We do not supply local farmers. Where this supply of posts is sent to is very often South Canterbury and Otago.

39. I am alluding to local supplies?—Gore is about the nearest district we supply, and we send the split stakes to farmers about Winton, Waipaki, and Clinton.

40. You asserted that the local settlers have unrestricted rights to go and cut in the virgin bush—that is, you have documents to this effect. Have these settlers the right to go into the virgin bush and cut the bush without restriction? You do not mark trees?—No; we do not mark them. I think they have the right to fell trees.

41. Is it not a fact that they have only the right to cut the tops?—No.

42. If it were stated such is the case would you say it is not a fact?—Yes. The Commissioner of Crown Lands in Invercargill asked Mr. Massey if he would permit these settlers to cut the stakes.

43. *The Chairman.*] Can you give us the date of that inquiry?—I think it was about two years ago, but I will not be absolutely sure.

44. What was the reply: did Mr. Massey send the reply in writing to the Commissioner saying he was perfectly willing to allow the settlers to go into the bush and take this fencing-timber away?—Yes.

45. Did he grant the right to fell trees or were they only restricted to taking the fallen timber?—I do not know.

46. *Mr. Nosworthy.*] You are manager for Mr. Massey?—Yes.

47. Is it not a fact that a good deal of your timber comes as far north as Ashburton and Waimate North?—A good deal goes to Ashburton.

48. The bulk is drawn from Southland?—I think a good deal comes from the West Coast. Temuka, I know, draws a lot from the West Coast.

49. As well as stakes and posts?—Yes.

50. Strainers?—Yes.

51. *Mr. Anderson.*] With regard to the bush at Gorge Road, do you know how much timber is owned by private people in the vicinity of Gorge Bush which Mr. Massey holds the rights of?—There are a number of farmers the bush on whose properties we have bought, but I could not tell you how many.

52. Is he cutting the bush on those farmers' properties?—Not just at present. He was doing so.

53. Within how long?—He was cutting six months ago.

54. On private people's land?—Yes.

55. You do not know how many there are there?—No, there are several of the settlers down there from whom we have bought bush.

56. In addition to the 5,000 acres of his own?—Yes.

57. Do you know of any settlers near Gorge Road retarded in their operations owing to Mr. Massey not cutting the bush purchased from them?—No.

58. *Mr. Nosworthy.*] What proportion of the Southland timber output comes from Mr. Massey's mill?—We are cutting about 7,000,000 ft. a year.

59. What is the total output from Southland?—In the Official Year-book of 1911 it gives the number of sawmills in Southland as sixty-two, and it says that the production was 48,000,000 superficial feet, and that was nine mills more than the previous year.

60. And out of that last year yours was about 7,000,000 ft.?—Yes.

61. *Mr. Anderson.*] Mr. Massey has six mills?—Five, and one has just been erected.

62. And there are sixty-two mills?—So the Official Year-book says—sixty-two mills in Southland; and then the last award of the Arbitration Court, dated February of this year, names eleven mills that are working in the Catlin's and Waipawa district. Those, of course, would not be included by the Commissioner of Crown Lands in the Southland number, so that makes seventy-three mills altogether concerned in this award of the Arbitration Court of Southland and Otago.

63. Do you think forty-three years is a reasonable time for a sawmiller to have to cut out his areas?—That is a very difficult question to answer. I think the sawmiller is justified in taking whatever the Government will grant him.

64. Do you think it reasonable to make an agreement to cut out settlers' bush and not state any time in the agreement?—I do not know of a single instance where no time has been specified.

65. You do not know of it in the Gorge Road?—I do not know whether it is definitely stated what is the time in the Gorge Road. I think it is about ten years.

66. From when?—From the time the agreement was drawn up. Sometimes it is specified as ten years, sometimes as fifteen. Very often the arrangement is made for the right to cut out in ten years by putting so-much down and after that a certain rent per acre for every acre uncut.

67. Is not the term in the agreement ten years from the time the mills commence to cut?—I do not know of any such instance. I think in every case the term starts from the time the agreement is drawn up.

68. *The Chairman.*] Will you produce those agreements to the Committee?—Certainly.

The Committee decided to telegraph to Invercargill and get the agreements above mentioned.

Mr. Dalziel submitted that the Under-Secretary for Lands, shortly after the last Committee's recommendation to the Government, immediately took steps to obtain the information necessary to enable the Solicitor-General to arrive at a conclusion as to the validity of the title. The Solicitor-General's opinion was given in May, 1911. Shortly after that negotiations took place between Mr. Massey and the Government with a view to determining this question of the reasonable time within which the timber should be cut out. Those negotiations resulted in an agreement being entered into in February, 1912. The full decision of the Committee sets out plainly the course of those negotiations. There is one further point I want to mention: Mr. Anderson asked the witness if it were not a fact that certain farmers had not been permitted to cultivate their land on account of the timber not being cut out.

Witness: No, not after the timber was cut out.

Mr. Dalziel: After the agreements had been entered into between Mr. Massey and the farmers?

Witness: No.

Mr. Dalziel: All I want to know in fairness to Mr. Massey is that a fairly specific instance should be given so that Mr. Richardson might contradict it.

Witness: I have contradicted it.

Mr. Anderson : I am not going to give names, because it might injure the settlers. I do not mind giving the information to the Committee.

Mr. R. W. Smith raised the question of whether the decision of the Committee on the matter should be hung up in order to get the agreements from Invercargill.

The Committee decided to get Mr. Hosking to forward the agreements and also Mr. Massey's letter to the Commissioner of Crown Lands.

This concluded the evidence.

APPENDIX.

Department of Lands and Survey, Wellington, 22nd October, 1912.

SIR,—

Massey's Sawmill Areas.

Referring to your request to be supplied with a copy of a letter in connection with this matter, I now forward a certified copy of same for your information as requested.

I have, &c.,

The Clerk, Lands Committee, Wellington.

JOHN STRAUCHON, Under-Secretary.

DEAR SIR,—

Invercargill, 15th August, 1910.

In reply to your letter of this date, I have no objection whatever to settlers procuring firewood, posts, rails, &c., from off my bush reserves, and I never have had, but I must ask you to protect the sawmilling timber thereon.

It has not been my policy to lock up bush—indeed, the very opposite. I have six mills running, and I am endeavouring to work all I have as quickly as possible, but I cannot work it unless I can sell it, and my efforts in that direction are increasingly retarded by the competition of the new saw-mills that are erected on new lands thrown open.

I am, &c.,

H. A. MASSEY.

The Commissioner of Crown Lands, Invercargill.

I hereby certify that this is a true copy of the original letter which is filed in my office, and that it is correct in all particulars.—G. H. M. McCLURE, Commissioner of Crown Lands, 16/10/12.

Approximate Cost of Paper.—Preparation, not given; printing (1,200 copies), £10 12s. 6d.

By Authority : JOHN MACKAY, Government Printer, Wellington.—1912.

[Price 6d.]