

EVIDENCE

TAKEN BEFORE A

SELECT COMMITTEE

ON THE PROVISIONS OF THE

NATIVE OFFENDERS BILL, 1856.

Ordered to be printed, 4th September 1860.

REPORT.

THE SELECT COMMITTEE of the House of Representatives, appointed 23rd July, 1856, to consider and report on the Native Offenders Bill, after carefully taking evidence of several persons, beg leave to report as follows:—

That, from the evidence which has been brought before them, it appears to this Committee that but very few cases have occurred in the history of this Colony in which (in consequence of the refusal of Tribes or their chiefs to surrender to the authorities Native Offenders against the law) any resort to such means as this Bill provides would have been needful to enable the Government to enforce the law.

That, nevertheless, a majority of the witnesses have recorded their opinion that in certain extreme and peculiar cases recourse to some such means might be expedient, both as regards the vindication of the law in those cases and the prevention of recurrence of similar offences in future.

That an extreme case of this nature has recently occurred, and now exists, in which it appears that certain Natives of the Manai district (Coromandel) have stolen European property. That the tribe refuse either to surrender the property or to give up the Offenders to be dealt with according to law.

That the Committee, therefore, consider that it may be expedient to arm the Governor, in this particular instance, with some such powers as are provided by this Bill (but in a modified form), so as to enable him, with the advice of his Executive Council, to test the proposed plan of proscribing districts in which Native Offenders are harboured, but limiting such power to the particular instance referred to.

HENRY SEWELL, *Chairman.*

*Committee Room, House of Representatives,
Tuesday, August 5, 1856.*

EXTRACTS FROM THE VOTES AND PROCEEDINGS OF THE HOUSE OF REPRESENTATIVES.

WEDNESDAY, JULY 23, 1856.

Native Offenders Bill:—Ordered, That the Native Offenders Bill be referred to a Select Committee to consider and report thereon, the Committee to consist of Mr. Daldy, Mr. Williamson, Mr. Henderson, Mr. Campbell, Mr. Brown, and Mr. Sewell (Colonial Treasurer).

FRIDAY, JULY 25, 1856.

Ordered that Mr. Beckham, Resident Magistrate, Mr. Commissioner McLean, Mr. Fenton, Native Secretary, Mr. C. O. Davis, and certain Natives, be requested to attend to give evidence before the Committee.

SATURDAY, JULY 26, 1856.

Mr. Commissioner McLean in attendance.

1. *The Chairman.*] Have you many opportunities of communication with the Natives?—The nature of my occupation places me in constant communication with the Natives.

2. How long have you been in your present situation?—I have been in that situation ten years, and have been in the Colony since 1840, and during the whole of that time have had opportunities of being acquainted with Native affairs.

3. Have you had opportunities of visiting the various parts of the Colony?—I have been in all parts of the Colony, and was resident at Taranaki during the Native disturbances in 1844 and 1845, also at Wellington during 1846 and 1847, travelling to and fro.

4. Have you made yourself acquainted with the Native Offenders Bill?—I have seen the Bill now before the House, and have made myself acquainted with its provisions, and I think a Bill of that kind very desirable.

5. You understand that the general grounds of the Bill are, under certain circumstances, to induce the resident traders and Missionaries between the Native and European population to co-operation?—I do.

6. Do you think it desirable that under any circumstances that object should be provided for by law?—I think so, under certain circumstances.

7. Under what circumstances?—I think that, in cases where the Natives have been guilty of any serious offence, it would be desirable that the district in which that particular tribe resided should not, until they had rendered reparation for such offence, reap the benefits of commercial intercourse with the Europeans.

8. Do you think it would have a good effect?—I think it would have a good effect, inasmuch as other Natives would see that some distinction was made between those who regarded English laws and those who set them entirely at defiance.

9. Would the Natives agree willingly to such an interference with their customs?—It is frequently suggested by some of the most influential chiefs, that when other Natives in that way have offended, they should not be allowed to have their usual supplies of tobacco, blankets, and other European supplies of commodities. A tribe laid under such a restriction for a short time would not regard such an act as a declaration of war; they would simply consider it a species of degradation brought on by their own conduct.

10. Would the neighbouring tribes object to seeing the Act carried out?—If the feelings of the neighbouring tribes were opposed to the act or crime committed, they would co-operate in seeing that restitution was obtained; if they were abettors of the act they would be of a like opinion.

11. Would that be likely to lead to acts of retaliation?—No; I think, if cautiously done, there would be no danger.

12. In what way would you enforce an Act of that kind?—I think the power to seize the vessels and property of the offending tribe would be a suitable mode of enforcing the law.

13. Would not the co-operation of friendly tribes be a strong means of enforcing the law and provisions of this Act?—It would, for a friendly chief has already acted upon the terms of the Bill, and has seized one of the vessels in which the powder was lately taken from the Kawau, and will not give up the vessel until some restitution is made for the theft.

14. Would that be likely to lead to retaliation?—No; the tribe are fully aware of what they have done, and know that they merit severe punishment; they feel that they are in the wrong. Perhaps it would be more in accordance with their military ideas that troops should be marched against them, than that they should be subject to the civil penalties, which are more degrading.

15. Then fear of civil penalties would be more likely to deter them than the principle of engaging with troops?—To fight with troops would gratify their pride. The tribe who have stolen the powder have already stated as much that they would be delighted to have troops sent down to demand the powder, but they do not wish retaliation in commercial relations. Such retaliation would be severely felt.

16. Are there any other cases in which Natives have co-operated?—Yes; a section of the tribe which stole the powder was settled at Waiheki. They cultivated their land there, and had canoes and other property. The tribe who owned Waiheki and was resident there, the moment they heard they had committed this theft, seized all that tribe's property and declined giving it up to these Natives until every cask of the stolen powder was returned to its owner.

17. Do you think that putting this restriction on the district to which the tribe belonged who stole the powder would lead to the restitution of it?—I do; there is no doubt of it; but I state that the restriction should be confined to that tribe and the very limited space they occupy.

18. Do you think any penalty should be placed on Europeans trading with Natives when discovered?—I consider the Bill useless without it.

19. Do you think any mischief likely to arise from the intercourse between Europeans and the disaffected native tribes?—I do. It leads the friendly tribes to consider there is no distinction between friendly and unfriendly tribes. That not sufficient notice is taken of acts of aggression; unless some notice is taken, they attribute it to weakness on the part of the English to punish offenders.

20. In such a District as Mania (Coromandel) would it be possible, do you think, to enforce this according to British Law?—I do not suppose it could; I think it very questionable.

21. Would it be possible to execute a Magistrate's Warrant, and bring the offender before the Court?—Not without the co-operation of the Chiefs of the District.

22. Has any attempt been made in the case of the Kawau powder robbery to execute the ordinary process of the law?—No attempt that I am aware of. It would prove ineffectual. Without some extending measure of this nature, such an offence would remain actually unpunished.

23. Would that be likely to lead the Natives to a sense of its impropriety?—Yes; other Natives would not be deterred from committing offences, and the offenders themselves would be emboldened. I think that spirit would be likely to be contagious to a very great extent. Repeated acts of that kind must result in hostility, that is of the attempted employment of Military Force against them.

24. That of course might involve bloodshed?—Yes; and an enormous expense not to be calculated upon.

25. If that Act was enforced would it be fair towards settlers in those districts where they lived, would they be in any danger?—It is impossible for me to say particularly, in some cases they might not be in danger. The Natives might consider it a matter to be settled between the troops and themselves.

26. Suppose that the outsettlers should take any part in the quarrel?—Then they might eventually become involved in it. During Heke's war the settlers were not molested by him though they carried on a vigorous war against the troops.

27. How if the settlers should take any part in the quarrel?—Then they must inevitably become involved in it.

28. Would they apply the law of retaliation in case of an actual war?—Tribes of high caste and standing with an intelligent Chief over them might not molest settlers in case of a war, but a war always brought in so many contributors of different tribes that there might be of the adherents of the fighting party some who would take revenge on the unprotected settlers.

29. What is your opinion of the proposed measure?—I look upon such a measure as is now proposed entirely as a prevention of such a resort to extremities. I believe that it is a Law which would not require to be enforced very often, one or two examples under it would be sufficient to prove to the Natives generally that the Europeans had the power of punishing offences and it would be quite in accordance with their own ideas.

30. Can you suggest any rule to apply to the case in which such a law should be enforced?—It should only be enforced in extreme cases such as that of the Kawau robbery of powder, or when any serious injury has been done to the life or property of Europeans. I would not apply it to cases of disturbances between tribes themselves, the less interference with their districts the better.

31. Is not the effect of the present war at Taranaki between the Natives to drive the friendly Natives within the European boundary immediately adjoining the scene of hostilities?—Yes; it is so.

32. Would not the accomplishment of the Bill be likely to compromise the Europeans?—Yes; I think so, the defeat of the friendly Natives who would be drawn within the European boundaries would be certain to implicate and endanger the Europeans.

33. Would not the provisions of this Bill, if applied to the scene of hostilities, with the assent and co-operation of the friendly Natives, till the other party of Natives was willing to come to a pacific solution of their differences, lead to a present and probably future cessation of hostilities?—It would not have that immediate effect.

34. If the friendly Natives came within the boundary land, could the provisions of this Bill be introduced in any form so as to lead to a termination of hostilities?—I think that a restriction on the supplies with which the Natives are supplied, as arms, ammunition, and spirits, would have a beneficial tendency.

35. Are they not prohibited by law now?—No; the Natives of the Chatham Islands, related to those residing at Waitara, who have lately received supplies of every kind from the Australian

markets, could furnish any quantity of arms and ammunition to their friends at the Waitara without causing any probable liability for doing so. The Waitara is purely Native; there is no Custom-house, and no means to prevent the introduction of such goods, except by the provisions of such a Bill.

35. Would not the carrying out that, involve placing the district in question under the provisions of the Bill from the present boundary of the Europeans, northward to the White Cliffs?—No; I should not apply it so far.

36. Would you apply it within narrow limits?—Yes; including the Waitara.

37. Have any measures of this kind been suggested by the Natives themselves?—They have themselves suggested that supplies to the Coromandel districts should be stopped until they had restored the powder.

38. What tribes have? state in particular;—The Ngatipoao, and Taraia's tribe, have recommended total supplies to the district should be stopped, till the powder is restored. I have lately had correspondence with out settlers and with Missionaries on the subject of this measure.

39. What is their feeling about this Bill?—There is a difference of opinion about it.

40. What is the opinion of the out settlers?—Some are in favour of such a measure, some are the reverse; I could not form an opinion as to the preponderance either way, the Missionaries with whom I have conversed are chiefly in favour of it.

41. How many people have you spoken to on the subject of the Bill?—I may mention Mr. Whiteley of the Tamaki, Mr. Buddle of Auckland, and Mr. Morgan of the Waipa: they have all of them had large experience of the Natives, they are in favour of such a measure. Mr. Morgan has written some suggestions to the Government, recommending a measure of that kind.

42. *Mr. Daldy.*]—Are the natives who have stolen the powder a particular tribe, and is their chief Oraki?—Yes; it is the tribe called Tawaeira, and the chief's name Tamawera.

43. Would it not be equally degrading if warrants were issued and rewards offered for their apprehension, according to usages of English law?—I think not; the warrants would not be regarded by them, they would resist them.

44. What would be the effect of rewards offered for their apprehension?—I would state that the Natives would look on that measure as preliminary to a warlike measure.

45. Do you think under these circumstances other Natives would apprehend them?—They might do so, but it would be at the risk of a serious outbreak between the Natives.

46. Should the Act be viewed with displeasure by the traders and residents among the Natives would they not prejudice the Natives against the law?—They might do so, but the Natives generally would look upon the law as one which their conduct warranted.

47. What would be the general moral effect of the law upon the Native mind throughout the Colony, supposing the opinions of the resident Europeans to be averse to it?—I think the good results from such a law would counterbalance all the influence which might be given to it by interested Europeans, inasmuch as the principal chiefs of the natives would not regard it in any way as an act of injustice, if the law was only used in extreme cases.

48. Could the Act be carried out without the co-operation of the settlers having influence with the Natives?—I think it could, it depends on what are meant by settlers: is it meant settlers resident in the locality—the mass of European settlers generally. I think if it were repugnant to the general sense of the settlers no law could be enforced.

49. Would it require the active co-operation of the Natives (friendly) in the district?—I think that the law would be much more effectually carried out by their co-operation.

50. Should the neighbouring tribes sympathise with the proscribed tribes, would it be possible to make the Law operative?—It would then be very difficult to make the Law operative,—in my opinion I should say impossible.

51. Would, in such a case, any mischief arise from the failure of such a law?—No; I am not aware of any mischief. It would simply become inoperative.

52. *Mr. Williamson.*] What would be the effect if the laws were attempted to be put in force and failed in such effect?—The effect certainly would not be favourable if any attempt were made to put it in force which failed.

53. *Mr. Daldy.*] Should there be a desire by Natives or traders to evade the law along the coast, could the Government carry it out, and would the evasion causing a failure not make the law contemptible?—I consider that the measure by which it is intended to carry out the law renders a failure almost impossible, if due discretion is used in dispensing the law, inasmuch as the goods of a person transgressing it are liable as well as his person. I think it would be difficult to evade the law, if the officers appointed to carry it out displayed sufficient vigilance.

54. Would it be possible to escape the law strictly without evading the blockade?—No, there would be some evasions.

55. Would those evasions be attended with difficulties or expense?—Not necessarily; the feeling that vessels visiting Coromandel were liable to seizure would be a sufficient restraint upon parties supplying a large quantity of goods to the producers belonging to those districts.

56. What in your opinion would be the effect of this Bill on the interests of the traders to whom the Natives were indebted?—My opinion is that the Bill would only be made applicable to quite a limited extent and in extreme cases,—that it would not very materially (except as regards the particular tribe proscribed) affect traders.

57. Would it have the effect of causing disaffection among the traders?—I could give no positive answer.

58. Would not the prohibition, if confined to British subjects, from trading with the Natives in particular districts, as Taranaki, be sufficiently efficacious?—It would to a great extent meet the law; but, in reference to Taranaki, the Natives of the Chatham Islands can with impunity bring supplies there.

59. *Mr. Williamson.*] Would the Natives get supplies from other places?—Yes, I think they would.

60. With regard to the Manai district (Coromandel), you say it would be practicable to proscribe that district; would it be practicable to confine the Offenders within that district?—No, it would not be practicable to confine them within that district.

61. How many miles is it (Manai) from Auckland?—About 42 miles.

62. Would it be possible for the proscribed Natives to visit Auckland and obtain supplies without being recognised and identified?—I think it would be difficult for them to visit Auckland if there was any vigilance on the part of the police.

63. If they wanted to obtain supplies could they do so without being detected?—They could, as I have stated, evade the strict letter of the law to some extent; my impression is that the adjoining tribes would assist in carrying out the law,—in fact I have related instances in which they have done so of their own accord.

64. You say the natives are in favour of some such law,—have they derived the idea from their own law of *Tapu*?—I cannot say how the idea originated; they spoke of it long before the Bill was proposed, immediately after the powder was stolen: they have done so repeatedly whenever any tribe has committed any offence.

65. Are they attached to commerce, and would stopping trade act as a punishment?—I think that it would have the effect of bringing them to reason quieter than any other order of punishment. Resort to war is rather agreeable to their own habits and ideas. This Bill would, I think, effect the same object as war, without its risk and expense.

66. From what you know of the Chiefs generally, are they disposed to maintain law?—In districts ceded to the English, they consider that they have so far incorporated themselves with Europeans that they feel a greater interest in carrying out and enforcing the law.

67. When offences of this kind are committed by young men of any tribe, is it followed by any sign of displeasure?—Yes, almost invariably,—the punishment was principally death, except in the case of disaffected tribes. When Chiefs are well affected towards Europeans, they would punish offenders.

68. Are they now in the habit of inflicting punishment, short of death?—I know several, I will relate one where a Native had stolen some goods from a European, and the Chief to whom he belonged demanded that he should pay a penalty of thirty pounds for the offence, failing his ability to do so that he should seize his horse, which was the only property he had.

69. In such a case, if a warrant was issued for the apprehension of the offender, would the Chief of his tribe be disposed to surrender him up to justice?—In cases where they were well disposed they would, not where they were disaffected.

70. How in the case where the Chief was favourable and the tribe disaffected?—They might then have great difficulty.

71. Supposing it necessary to proscribe such a district, would the Chief be liable to the penalties of the law?—He would, of course.

72. In such a case how would rewards operate?—Hitherto the system of rewards has been found inoperative; the Natives do not like, as it were, to sell one of themselves, like a parcel of goods or merchandize.

Mr. Commissioner McLean then withdrew.

Francis Dart Fenton, Esq. (Native Secretary), Charles Oliver Davis (as Native Interpreter), and the Native Chiefs—Whare Aitu, Taraia, Epiha Titawa, Te Kawau, Paora Tu Haere, Te Keene, Te Puru, Maki Hapu, Paraone Terangi (Kaipara), Te Wiremu Reweti Te Whenua, Hone Ropiha (John Hobbs), in attendance.

1. *The Chairman.*] *Mr. Davis*, have the kindness to ask the Chiefs—What law do you think should be made for such offences as the powder robbery?

Paora.] What law has been made?

2. *Chair.*] There is a law,—but how can we make it take effect?

Paora.] The white man must think about that.

3. *Chair.*] Would it be well to prevent trading with offending tribes?

Paora.] We don't quite know. The offending tribes come to town to buy blankets, tobacco. They would get supplies from other tribes from the town. Natives are so like each other that they could not be discerned buying. We (Ngatiwhatua) brought the Governor and white men here, and, therefore, we adhere to him and the white men.

4. *Chair.*] If these offenders brought their vessels to town, should they be seized?

Paora.] They should be captured.

5. *Chair.*] Would that be just?

All the Chiefs.] Yes, it is just.

Taraia.] We all agree; the offenders, however, would not come to town, they would be afraid.

6. *Chair.*] Would the fear of that punishment prevent offences of this nature (the powder case)?

Paora.] Yes.

All the Chiefs.] It is true.

Te Kawau.] Punish not the innocent, but the guilty.

Paora.] What would be done with the ships belonging to offending tribes, manned by innocent Natives?

Chair.] The vessels would be kept, the men would be let go free.

7. *Chairman.*] Would the Natives all agree?

All the Chiefs.] Yes, because their's is the wrong.

Paora.] If I see the guilty ship, I will seize it.

8. *Chair.*] If the District was outlawed, would the surrounding tribes assent until the powder was given up?

Paora.] Ngatiwhatua do not understand Ngatipara sentiments, they must speak for themselves.

Taraia.] I have no thought for the tobacco. Tell the white men to stop taking tobacco, &c., to them. It is the French (Wi Wi), English, and Americans, and all men who take tobacco, blankets, food, and trousers to Taweru; to prevent this, you must instruct the Europeans not to go there.

9. *Chair.*] Would it be just to prevent innocent Natives from going there?

Taraia.] Ka tika tera. Ekore au e hoki hoki,—i.e., but when the men of war anchor at Mauai, be careful of my canoes and my people.

Question was repeated; reply from all: It would be just.

Taraia.] If they tell us to get tobacco, &c., at town for them, we will not do it for them.

10. *Chair.*] Are there any tribes who would assist them?

Taraia.] Ngatimaru.

Mr. Davis explained that Ngatimaru were part of the offenders.

Taraia.] If any traders go there, I will seize their vessels and send them up to town.

11. *Chairman.*] Would the risk of losing their canoes frighten other tribes from assisting?

Taraia.] Who knows? if white men continue to go there, do not you agree for me seizing their ships and tobacco?

Chairman.] Not until you have heard from the Governor.

Taraia.] Ka tika tera: I was merely asking for information.

12. *Chairman.*] Has anyone explained to you the law proposed to be passed?

Paora.] No one has instructed us in the law.

13. *Mr. Henderson to Mr. Davis the interpreter.*] Are the Natives in the habit of transferring their canoes (or vessels)?

Davis.] No,—there are generally four or five owners.

14. *Mr. Campbell.*] Would it be possible, if friendly Natives assisted, for the outlawed Natives to bring their produce to town without being known?

Paora.] They would not come, the fear would prevent them.

Taraia.] I think Ngatiwhanunga and Ngatiwharua sympathise; it is the white men who buy and sell.

15. *Chairman.*] How do the tribes at Mauai (Coromandel) sell their goods and produce?

Taraia.] It is the white men, Europeans, who sell the goods to them and buy their produce.

16. *Chairman.*] If the Europeans who sell the goods to them were prevented from doing so, how then?

Taraia.] Ka tika; nui atu te tika: stop the white men; quite right,—if you do not, it is no good.

17. *Mr. Williamson.*] If any Natives steal property from Europeans, and the magistrate wishes to have the offenders given up, and the chief refuses to give them up, would it be just to deprive the chief and the whole tribe from trading with Europeans and holding intercourse with any other natives?

Paora.] It would not be just to punish the whole tribe for the fault of one. Punish the guilty: they should deliver him up; if they do not, they are wrong,—the whole tribe should then be punished.

Taraia.] It is just. If an European commits an offence, will they who protect him be punished?

Chairman.] Yes.

18. *Chairman.*] How many tribes are there represented here?

Mr. Davis.] Three, namely—the Ngatiwhatua, the Ngapuhi, and the Ngatitamatera.

19. *Chairman to Hone Ropiha of the Ngapuhi tribe.*] What do you think is the opinion of the Ngapuhi on this subject?

Ropiha.] There are divisions amongst them, and do not all agree. Waka would agree to this law,—i.e., Tamati Waka Nene.

20. *Chairman.*] Which would be most numerous among the Ngapuhi—those who support Waka or those who do not?

Ropiha.] I do not quite know, it is not thoroughly understood.

Te Keene.] We approve of the English law, except on one point. The Maories will be wrong. This is the only wrong:—if an European has done wrong, the Maories ask for him and do not get him.

Chairman.] We punish them ourselves.

Te Keene.] This is the only bad law.

21. *Chairman.*] Would the fear of the punishment be likely to prevent them from stealing from Europeans or from peaceable Natives?

Te Keene.] They would respect this regulation. In future they would not steal; but, if they had done wrong by stealing, they might murder to make it worse.

Taraia.] It is not known about this; but this is possible, that, as they had done a little wrong, they might do a great one to make it quiet.

22. *Chairman.*] Could this law be carried out?

Te Keene.] It could, all about here, but I do not know about distant tribes.

23. *Chairman.*] What do you mean about distant tribes?
Te Keene.] I mean we cannot speak for them,—they must speak by their own representatives.
24. *Chairman.*] Would it be considered just to prevent innocent Natives from visiting the district in which the offenders live;—would it be considered just to prevent their relations from visiting them?
Paora.] It would be just.
25. *Chairman.*] Can you suggest anything to prevent offences like the Kawau robbery?
Paora.] This law that has just been finished is the best law. Detain the goods, &c. It rests with you. Nothing better can be found out, unless blood is shed.
26. *Chairman.*] Is this better than blood-shedding?
All the Chiefs.] Yes, it is better.
Paora.] If the powder is restored, there is an end.
All the Chiefs.] There should be payment besides for the wrong committed.
Wiremu Reweti Te Whenua.] All the out settlers should be made to return to Auckland from the wicked districts.
- Taraia.*] Not from Waiho, for that is innocent and has done no wrong.
Paora.] This is an important subject, and the opinion of other tribes should be taken. The Native Chiefs then withdrew.

F. D. Fenton, Esq., in attendance.

1. What is the nature of your official connexion with the Government?—I am Native Secretary.
2. How long have you been so?—I have been so about three months,—and, previously to that, I was Resident Magistrate at Kaipara,—previously to that, I resided at Waikato.
3. How long have you been in New Zealand?—About seven years, and during the whole time amongst the Natives,—and, as Resident Magistrate in a Native district having had experience as to the administration among the Natives.
4. Have you made yourself acquainted with the Native Offenders Bill?—I have seen the Bill, and am acquainted with the provisions of it: the general object of that Bill is, in certain cases, to prevent trading and intercourse between the Natives and Europeans.
5. Do you consider it desirable that such a Bill should become law?—I think it desirable that such a Bill should become law for the public good, and that it would be likely to produce the desired effect.
6. Do you think it possible to carry out the provisions of this Bill at the Manai (Coromandel)?—I think in such a district as the Coromandel it would be perfectly practicable to carry such a law into effect with the means ordinarily at the Government disposal.
7. What amount of assistance would be necessary to carry out the law?—I think the least force would produce the effect of it; but, to do it completely, it might require a small armed cutter to anchor off the coast of the proscribed district, to prevent the access of coasting vessels by water.
8. Do you apprehend any great trouble in such a step?—I think it might be done without risk of collision; I have no apprehension that they would attack such a vessel.
9. Would there be any difficulty in seizing vessels offending?—I think there would be no difficulty in seizing the vessels of the offenders, if known. I do not think there would be the slightest chance of their escaping or trading: the risk of forfeiture would deter them from trading.
10. Would you apprehend any injury likely to result from the introduction of this measure?—I know of no injury likely to arise from such a law, except a trifling inconvenience to a few out settlers, and a temporary loss of coasting trade with the outlawed district.
11. Would not this produce a serious loss to the traders as well as to the Natives?—In my opinion, such a loss is no loss at all, for the Coromandel Natives; whilst the present state of things continues, there are no likelihoods of their resuming their industrious occupations. It is necessary to restore tranquillity for them to resume their habits of industry.
12. *Mr. Henderson.*] Were you in the Colony when Sir George Grey's blockade was proclaimed?—No, I was not; I never heard of the blockade,—am not aware that there was any.
13. *Mr. Daldy.*] Was the present Bill prepared under your advice and assistance?—It was. I beg leave to read a letter on the subject of a Bill from Mr. Morgan, recommending the introduction of a law of similar object to that proposed. With permission will read the letter.
Mr. Fenton read *Mr. Morgan's* letter.
14. Have you any suggestions to offer to the Committee as to the Bill?—Yes; as to clause 13, I think the seizing power too wide. The powers by which seizures should be made should be specified. In my opinion, the seizing power should be given "to any Officer or Officers of the Navy or Army on full pay, any Officer of Customs, any Justice of the Peace, Harbour-master, or Police constable, or any person specially authorised by writing under the Governor's hand."
15. Would you empower Chiefs of friendly Natives to seize?—In cases it might be desirable to do so, as in special cases under special authority. With respect to the origin of the Bill, I may mention that several Natives have called at different times at the Native Secretary's Office, and suggested that the supplies to the offending Natives at Manai should be stopped: they generally recommend that they should be put under forfeiture. I beg leave to suggest that, in the 5th subsection of the 2nd clause, in the 1st line, the word "or" should be "and."
16. Can you suggest any preliminary conditions, before putting the Bill in force, without destroying its effects?—I have thought it over; I cannot find any I would suggest. I take for granted that, in ordinary cases, the Governor would consult his Responsible Advisers; at the same time I think he ought not to be bound to do so, he might have members who might object to putting this law into

operation under any circumstances. I think their assent ought not to be a necessary condition of putting the law into force.

17. Then you would not have a Governor under Responsible Government?—With reference to that question, it has struck me that the very essence of Responsible Government is change of men, with change of policy, founded on change of public opinion—which is above all things what a Maori cannot understand. I think it were better to insure uniformity of action by leaving it to the Governor than by making it dependent on the Ministers of the day.

18. Then you would not have any change in any law with reference to the Natives?—Yes; I think the Maories require an unchanging system of policy.

19. *Mr Williamson.*] With respect to this measure, do you not think this is an attempt at change of policy with regard to the management of the Natives?—I do not think this is intending a new principle of punishment among them. It is a substitute for war. It is a change. There is more determination in it than under the former system. It is quite in accordance with the Maori's ideas of justice.

20. *Chairman.*] Suppose such a law to be enacted, with the conditions that it should not be put in force without the advice of the Executive Council?—I think it would be better left absolutely to the Governor,—but with such a clause I think it better than no such law.

21. *Mr Williamson.*] What circumstances would, in your opinion, justify the Governor in putting the law into force?—Such a case as the Powder case. It would be very unsafe to attempt to put it in force unless we were sure we could carry it out.

22. *Chairman.*] Would you find any difficulty in applying the powers of this Bill to Manai (Coromandel)?—With respect to Manai, I would have no hesitation in bringing it into operation there.

23. I understood you to say it would be perfectly easy to carry it into effect, and that by placing a cutter on the station,—how could you obtain access to the coast; would there be no mode of holding intercourse by land?—It would be very difficult,—the country is mountainous, roads bad; the surrounding tribes are friendly.

24. *Mr Daldy.*] Are the Maories—Nga Wongapoa natives—friendly?—I don't know; I made particular enquiries as to the communications between Manai to Mercury Bay and the East Coast: the road was described as being very difficult.

25. *Mr Williamson.*] Would there be any likelihood of their holding communication and obtaining supplies?—I think it would be impossible under any circumstances to hermetically seal up any place in New Zealand.

26. If a blockade were established, and the Natives could set it at defiance, what would be the moral effect which it would produce?—A failure after such an attempt would be most lamentable and detrimental to British authority.

27. *Mr Daldy.*] Do you not think that twenty Natives of that district could come with their canoes into the town of Auckland?—I think they could.

28. Do you think the operation of this law would be likely to produce such a result?—I think they would admit the justice of the law.

29. *Chairman.*] What is the effect of the powerlessness of our law on the Native mind?—They exhibit a feeling of contempt for it.

30. Do you think such a law as that proposed would tend to correct that Act, or promote it?—I think it would tend to correct it.

31. *Mr Daldy.*] Has that feeling been produced by the Arms and Spirits Law being inoperative?—I think the allowing these laws to remain on the Statute Book, and to be broken with constant impunity has tended to create the feelings spoken of; they had better be struck off altogether, rather than allow them to be broken.

32. Have the Government taken any positive steps (when offences have been committed) to consult with Chiefs as to giving up the offenders?—It has been usual for Government to obtain the recovery of Offenders by negotiation and diplomacy, not by putting the law in force. I consider any attempt at putting a warrant into execution—even in Auckland—as incurring a risk.

33. *Mr Williamson.*] Have these suggestions been generally successful or otherwise?—I remember cases in which they have been successful. I think they have been successful.

34. I refer to your own experience?—My own opinion is that—I hesitate to give a decided opinion on that point.

35. *Chairman.*] With respect to the gunpowder affair did the Chief approve of the robbery?—I cannot tell you; some say he does, some not. When I was at Coromandel, some Natives had sailed with sixteen casks of the powder to surrender it, and hearing that the chief came to the beach and danced, and was very indignant at the powder being taken away.

36. Then it is not likely you would secure his co-operation?—No.

37. *Mr Daldy.*] What would be the effect of issuing a warrant, coupled with a reward, for the apprehension of the principal in Native offences?—I think that it would generally fail.

38. *Chairman.*] Do you think if the Government succeeded in carrying out the provisions of the proposed law to their fullest extent, that the Natives would become exasperated, and would not hesitate under excitement to retaliate on out-settlers, &c.?—I think not,—they would judge themselves long before they came to that state.

39. *Mr Daldy.*] What is your opinion of the probable effect of the proposed law on the interests of traders and settlers?—I think their interests in a proclaimed district would be temporarily inconvenienced. My impression is that the Native traders, from communications with Native traders at Coromandel, and communications I have had, that they thought this Bill would ultimately benefit

them. They had this Bill before them; their opinion seemed unanimous that anything was better than the present state of things.

40. Is the state of the Natives generally becoming disorganized?—Not politically, but socially. I think there is a growing state of disorganization; Christianity is losing its hold upon them: it held them long, and was the means of doing them good. The old Chiefs are losing their influence; we have not supplied anything in their place.

41. *Mr. Williamson.*] In general terms, are complaints more frequent now from out-settlers than heretofore?—I cannot say; everybody who travels has complaints of the state of the Natives. It is worse than it has been.

42. There is a clause in the Bill to enable Officers of Customs, &c, to search vessels, and stop carts, and to remain on board vessels, or in charge of goods for that purpose, if offences under the operation of the proposed Act was to cause tribes great injury, &c., would they be revenged?—I think the probabilities are that the police would secure the offenders; the chances are that if they stayed in Auckland they would be captured.

Mr. Fenton then withdrew.

MONDAY, JULY 28TH, 1856.

Thomas Beckham, Esq., M.H.R., and Resident Magistrate of Auckland, examined

1. You are a Magistrate, I believe?—I am Resident Magistrate of Auckland.

2. How long have you been in New Zealand?—Upwards of 16 years in Auckland and Bay of Islands, acting as Police and Resident Magistrate.

3. During that time you have had great experience of Natives?—Yes, in the administration of justice amongst the Natives, considerable.

4. Were you in Kororareka when it was sacked and burnt by the Natives?—I was.

5. Will you state what strikes you as practical difficulties in enforcing the law in Native cases?—There are difficulties in executing warrants in the interior, but the Natives invariably attend to summonses.

6. Is that the only difficulty you have?—I am not aware of any other.

7. Is there any difficulty in dealing with Native Offenders when they come within the limits of settlements?—I find no difficulty; there is no more disposition on the part of Natives than Europeans to evade the law within the limits of the town; there are sometimes difficulties, they render the law partially inoperative in such cases.

8. Do you mean that you cannot enforce a warrant in the Province?—I should not hesitate to enforce the law within a short distance of town—the radius of settlements, say a few miles. I should never attempt to execute process unless I felt an absolute certainty that it could be enforced. I should not feel certain beyond the limits. I have ventured when necessary to have recourse to the Chiefs of the tribe to whom they belong to deliver up the Offenders. I may quote one instance:—a case of larceny took place at Mr. Sutton's house, 30 or 40 miles hence; the Government applied to the Chiefs and the Offenders were given up.

9. Are you aware of any case where offenders have been refused to be given up?—I cannot call to mind any unless in reference to the gunpowder, in which I believe the Chiefs have refused to give up the Offenders.

10. If the Chiefs refused to give up the Offenders, how would you proceed?—Then the point to be considered would be whether it would be prudent to employ sufficient force to enforce the law, or to allow the case to stand over till the parties could be apprehended, when within the limits of the settlements, without disturbing the peace of the country. The latter course is the one which I have adopted. I have known several cases in which parties have escaped and been subsequently captured and punished. I recollect one instance in which a warrant was issued to apprehend a Native. The Chief of his tribe, on ascertaining that fact, afterwards gave him up. That was about two years ago.

11. Do you think that allowing offences to remain unpunished for a length of time has any injurious effect on the Natives, and as teaching them to disregard the law?—I am scarcely prepared to say that it would do so. To attempt and fail would; but when you simply issue a warrant, and allow it to remain over for capturing the offending party, I am not prepared to say it would.

12. You are aware of the Kawau powder robbery; are you aware of any steps taken to punish the Offenders?—No warrant has been issued.

13. If, in such a case, an application for a warrant was made to apprehend the Offender, would you issue it and put it in force?—I should have issued the warrant, but allowed it to remain till there was an opportunity of capturing the Offenders within the limits of the town. I should not attempt to enforce them in other districts with the means at my disposal. I am not sure if my information be correct, that if there had been a steam vessel—say the *Wonga Wonga*, for example—with a sufficient armed force, and the Natives' vessels had been laying at Coromandel with the powder, they might have been captured without risk, and that would have had a very salutary effect on the Native mind.

14. Under what law would you have proceeded?—I think it might have been done under the "Arms Importation" and "Arms Ordinance."

15. Do you think it would have a salutary effect, if there were a power of seizing vessels with property of the Offenders generally?—I rather am inclined to think that would induce the Natives to retaliate by committing outrages on the neighbouring settlers.

16. Do you not think that feeling would apply generally in the case of seizing the powder?—I question whether the feeling would be the same in general.

17. Will you state the course you would have taken in that case?—I should have issued a warrant on the offending parties, and should have immediately reported the circumstance to the Government for its consideration; the Government would then have considered whether it was a case which justified using an armed force in putting the warrants into execution at the risk of provoking hostilities. I should have stated, I would not execute it with the means at my disposal; the executing a warrant in that district (Manaia) might lead to hostilities.

18. If the Government thought it not prudent to risk hostile collision for enforcing the warrant?—Then I should allow the warrant to lie over until the offending parties came into the settlement, when it could be executed without risk.

19. Now, in the case of a whole tribe implicated in a robbery, would you issue a warrant for the apprehension of all?—Certainly; if 20 Natives were concerned, I would issue 20 warrants; if the Chief himself were concerned, there might be greater difficulty.

20. How would you proceed?—I would recommend that the warrants should remain inoperative until the Offenders came within the limits of the settlements, when they could be apprehended with safety, unless the Government were prepared to accomplish it with a Military force.

21. Provided any such attempt at execution of the warrant was attempted and failed, what effect would it have?—I would not recommend any such extreme measure for fear of failure, which would bring the Government into contempt.

22. Has not the allowing offences to be committed without punishment tended to bring the law into contempt; is not that the effect on the Native mind now?—I am not prepared to go that length: the non-enforcement of the law would, no doubt, have a tendency to bring the law into contempt,—but I would not attempt to enforce the law without a certainty of success.

23. Can you suggest any alteration of the law as a remedy for the present state of things?—I am not prepared at this moment to offer any suggestion to meet that difficulty; we are in this position—we are the weaker party attempting to coerce the stronger. I think the existing laws are sufficient if carried into effect. I think the influence of the law will increase as Europeans become more numerous in Native districts.

24. *Mr. Daldy.*] When warrants are out against Native Offenders, do Natives generally assist in their apprehension?—As far as my experience has gone, I don't think Native police are at all instrumental in getting information against Offenders; in the case of Kuka, who committed burglary, the Natives were instrumental in getting him apprehended: and we might rely in many cases on assistance from them.

25. What is your opinion of offering rewards for the apprehension of Offenders?—I think rewards would be the means of causing them to give information; in such a case as the powder a reward would have that effect.

26. In your opinion, does crime increase or decrease among the Maories?—I have not observed any sensible increase or decrease of crime amongst the Natives.

27. What is your opinion of the practicability of carrying out this measure?—I think the introduction of the Native Offenders Bill would be injurious, because it could not be carried out, and that would have a tendency to bring the law into contempt.

28. Would it be practicable to put in force the seizing produce, canoes, and crews of vessels coming to town?—Nothing would be more simple; I have already seized two or three vessels for debt.

29. Suppose the case of vessels which conveyed the powder?—I do not think there would be any difficulty about that; I don't know that there would be anything objectionable in that.

30. *Mr. Williamson.*] The Resident Magistrate alone has power to issue Warrants: would it be safe to allow that power to be exercised by Justices of the Peace?—I do not think it would be prudent: the Kawau is within my jurisdiction as Resident Magistrate. No information has been lodged against the stealers of the powder at the Kawau. Ordinary warrants have been issued. I should not have hesitated to apprehend the Offenders within the precincts of the town.

31. Would you have put such Warrants in force?—I should have issued the Warrants, but suspended the execution, except within the limits of the town. I would apprehend any I could get hold of. I think that if the Natives felt that there was a risk of their vessels being forfeited, that would induce them to give up the Offenders and restore the property.

32. Might not a law to that effect be salutary?—I think such a law might be carried into effect without risk of failure; that seemed to me the only intermediate course I would recommend.

Mr. Beckham then withdrew.

Major Nugent in attendance.

1. What is your Military rank?—I am Major in the 58th Regiment.

2. How long have you resided in New Zealand?—I have been resident in New Zealand since July, 1845, except six months. During a portion of that time I was acting Native Secretary under Sir George Grey.

3. Have you made yourself acquainted with the Bill now under consideration?—I have seen the Bill brought into the General Assembly. In my opinion the Governor ought to be strengthened by some enactment of the kind.

4. Would you put the law in force under the present circumstances?—I can see no way of putting the law in force against Offenders who defy the law, and abscond, without sending a body of Troops after them.

5. Would that in your opinion cause any retaliation on the part of the Natives?—It might cause retaliation on the Outsettlers.

6. What is your own opinion of this Law?—This seems to be a middle course between the two extremes—Martial Law and the usual usage of the Civil Court; but I beg to state, I think it should never be put in force except after mature consideration, and as a last resource. I would also state, that as it is so very stringent a law, it would be desirable that it should be only for a term, suffering it to be repealed. It might be suffered to be repealed without fear. If it is dropped by natural circumstances, it might be resumed if found necessary.

7. What do you think of the effect of this measure on the Native mind?—I think the effect of the Law would be merely *in terrorem*. I do not think it would be ever carried into operation.

8. As far as seizing Offenders and Europeans, would the difficulty of obtaining evidence against them be very great?—I think the effect of such a law would operate on the Natives.

9. To what extent do you think it would operate?—I think the effect such as the “tapu.”

10. What do you think the effect of stopping their trade will have on the Natives?—Natives being deterred from carrying on trade, and themselves debarred from it, would be considered a great degradation. They would have to pay an increased cost for supplies from the greater risk.

11. What do you consider will be the ultimate effect of this measure?—I think the effect of the law, even if not actually carried into operation, would be to bring the Natives to their senses.

12. *Mr. Daldy.*] Should the Law be received with disfavour by the traders, what would be the effect produced on the Native mind?—They would certainly take care to make the worst of it. To a certain degree they might create an opposition of the Natives against the law, so as to bring the Government into contempt.

13. *Mr. Williamson.*] During the time you were Secretary, did any case arise which in your judgment, required the Government to have such a power?—I am not aware of such a case.

14. Or any circumstances since?—Except the Kawau case.

15. *Mr. Brown.*] Would you include Taranaki in the operation of this Law?—I would include Taranaki.

16. Is much trade carried on at Taranaki?—The Natives residing out there have very little trade.

17. *Mr. Williamson.*] If such a law as that proposed were put in force at Manai (Coromandel) would that bring the Natives to their allegiance?—It would be a warning to other Natives.

18. Do you think it practicable to put such a law in force?—It would cause them great inconvenience; you could not enforce a strick blockade.

19. Do you think it desirable to enforce such a law to the particular case of Manai?—No, I do not think so.

20. If it were known that such a power were in the hands of the Government, would it not deter Europeans from settling in the neighbourhood of Native districts?—I think they would still go there for purpose of trade. I think it might be rather beneficial than otherwise, in debarring people from screening such by settling in such localities.

21. To what extent would you confine the operation of this measure?—I think the law should be confined to Native districts, and not to settled localities where the Native title has been extinguished.

22. Would it not be equally degrading if a warrant were issued for apprehending the Natives?—It would be inoperative.

23. *Mr. Daldy.*] Do you consider the traders' influence beneficial or otherwise?—I think it beneficial, the carrying a right kind of civilization amongst the Natives.

24. Would this Bill destroy that influence?—I think not; they would perhaps consider it more a protection to them.

25. What is your opinion as to the moral influence of the Bill on the minds of the Natives towards the Chiefs' power?—I think the effect of the law on the Native mind would be to lower them.

26. *Mr. Henderson.*] Were you in the Colony when the Northern part of the Island was under Martial law?—I was.

27. Do you think that the Government succeeded in carrying out the blockade?—Not at first, not until the Men of War came: you require ships to enforce a blockade.

28. Was not the blockade evaded after the arrival of the Men of War?—Not, I think, to any great extent.

29. What effect would it produce on the Native mind, if the law was proclaimed and found impracticable to be carried out?—It would not be altogether inoperative; it would prevent them from going out to fish in their canoes. The canoes might rot in the bush, they would be afraid to launch them.

30. Are you not aware that they fish at night time?—Still they would not venture out: they are not so daring as Europeans.

31. *Mr. Williamson.*] Could they procure Europeans supplies by any other means than by the coast?—They could get them carried from a long way inland. It would increase the price of the articles.

32. *Chairman.*] Suppose a district in the interior disturbed,—could the law be enforced?—You could prevent them from driving their pigs down; prevent them from travelling, except by leave of the Government.

33. Would the Natives so prohibited from intercourse, deteriorate?—Yes; that is one of the objections to the law.

34. In the case of the Natives having other settlements would they not remove to them?—They would be afraid to remove to them.

35. Do you think it more prudent to allow the warrant to lie, or expedient to proclaiming Martial Law?—Certainly.

36. Do you not think the inconvenience which a tribe under bann would experience would deter other tribes from committing similar offences?—Certainly.

Major Nugent then withdrew.

TUESDAY, JULY 29TH, 1856.

Hastings Atkins, Esq., of Kaipara, in attendance, examined.

1. *Chairman.*] Where do you reside, Mr. Atkins?—At Kaipara; I have lived there 6 years; I have resided in New Zealand 17 years, before Governor Hobson arrived.

2. Have you resided much among the Natives, and are you acquainted with their ways?—During the greater part of my time I have resided in Native districts, and am well acquainted with the Native character.

3. Have you filled any official situation?—I have not; I am a merchant doing a large trade with the Natives; I am in the timber trade and general produce, perhaps the largest trader in the Colony.

4. Do you employ many Natives in your business?—I am a large employer of Natives.

5. What number do you employ?—The number generally employed by me varies from 400 to 600 men, according to seasons and circumstances; I have now about 450.

6. Have you seen the Native Offenders Bill?—I have; I understand the nature and object of that Bill to be under certain extreme circumstances to prevent trade and intercourse with the Natives being carried on between disturbed and disaffected districts and the Europeans, and that a Bill of that nature is the best course to be adopted to attain the proposed end; I think a Bill of that nature judiciously worked would be more likely to effect its end than any other course.

7. Do you not think the application of force necessary to carry out the Bill?—I would suggest, I think it preferable to the exhibition of force.

8. Do you think this measure would have the effect desired?—I think so; the Bill would act as a preventive of offences amongst the Natives.

9. Does anything occur to you as regards the provisions of the Bill upon which you would suggest alteration in any particular?—There is one clause which I think might be made more stringent and more clearly put: it is that which bears on the Natives of the proclaimed districts coming to the capital during the term the proclamation is in force. I think a penalty should be attached to any Native of the proscribed tribes coming to the capital during the existence of the proclamation, as the prohibition would act on them as one of the most serious punishments which could be inflicted. It does not appear to me sufficiently clearly stated in the Bill—at least it would not appear so to the New Zealanders; not being acquainted with our common law, they would not be aware what locality would be meant by it. I think it possible that might lead to serious and frightful resistance, but which could be prevented or overcome: but in a general way, I think it would operate most forcibly. I had better state my reasons. The proscribed Natives may find means of evading a blockade in sale of their produce,—but depriving them of being personally able to extend the trading by such sale would be a serious punishment: they would not only be deprived of a market for their produce, but also of the opportunity of spending the proceeds in purchasing supplies. A general feeling of disgrace would be engendered in their minds as being prohibited access to the principal town of the Colony. I perceive a power in the Bill enabling the property of Natives of an offending district to be seized. I think such a power very proper to carry out the objects of the Bill. I think the whole tribe should be made answerable and their property made amenable, as it would be impossible to distinguish the property of individuals. I think such a power would be in accordance with the views of Native justice, from my knowledge of their customs; the crime of one individual is sufficient to implicate the whole of the tribe, inasmuch as when one individual of a tribe commits a trespass on another the whole of the tribe belonging to the trespassing individual are held liable, according to the New Zealand customs. I think that would be the view taken by the Natives generally.

10. Do you think that the Natives of other tribes would assist in carrying such a law into execution?—I cannot say,—they might in some instances; it would generally depend in how they were affected towards the offending tribe: they would certainly not be prompted by any general sense of injustice to take part with the offending tribe. I look upon the great value of the proposed measure that the neighbouring tribes will not be induced to sympathise with the offenders.

11. As a settler engaged in Native trade, should you think a law of this nature would militate against your interests?—On the contrary, I think a law of this nature will ultimately prove very advantageous to the out-settlers and traders, inasmuch as the authority of Government having fallen into some degree of contempt among the New Zealanders, there is not sufficient dread of the executive powers of the law to deter them from committing outrages on private property, and that a stringent course of this sort has now become absolutely necessary to impress the New Zealanders with a wholesome respect of the law.

12. Supposing the law to be attempted to be put in force and fail of operation, do you think that would be attended with any injurious consequences?—I do; I think the influence of Government would be further lessened,—it would tend further to aggravate the contempt of the law which I have spoken of.

13. Do you think the possible failure of such law to be an objection to attempt it?—I do not; I do not anticipate its probable failure, if carried out with prudence and energy. I should further add

that there is not, in my opinion, any growing indisposition on the part of the Natives to submit themselves to the subtlety of the law, in case of disputes between the white residents and themselves; but I think, owing to the lax manner in which their offences have been treated, they do not expect that any strong measures will be really adopted by Government against them.

14. With regard to quarrels between themselves, they are not disposed to allow the interference of Government?—I do not think that would be any difficulty, arising from any spirit of disaffection to the law. I would make another suggestion to carry out the blockade with stringency. I would propose a system of canoe registration should be adopted. I think that would be practicable. As canoes arrive here, there should, I think be an Officer appointed to collect the names of the canoes and the owner—every canoe which brings produce to Auckland has a Native name—and that the Native should be required to allow the name of the same to be painted in a conspicuous position upon it, under the penalty of not allowing the canoe to return to trade here at a future time. The reason I give for the registration is—that, in the case of a proscribed tribe, unless their canoes are discriminated, they may evade a blockade by night, and continue to send their produce to market in the usual manner.

WEDNESDAY, JULY 30TH, 1856.

Mr. Atkins again in attendance.

17. Do you not consider that the Natives of a proscribed district might give other Natives their produce to bring to market?—It is probable that members of neighbouring tribes may attempt to evade the blockade by conveying the produce to market, but that such course would reach severely on the owners of the produce, inasmuch as they would have to pay the Natives so assisting, extravagantly for the service so rendered.

18. Can you recollect any circumstances similar to the powder robbery which call for the use of such a measure as the present Bill?—I do not remember any such case.

19. Have you known, in cases of Native outrages, that the offenders have been screened by the tribes or chiefs?—I have generally found that, when the principal men of the tribe found that justice was on the Europeans' side, they were disposed to make amends by compensation for the crime committed. I have found that when Natives break the regulations, or shew refractory tendency to the rules which I have instituted in trading with them, I have usually succeeded in bringing them to compliance to my wishes by refusing to trade with them, and excluding them from access to my store for the purpose of purchasing their supplies.

20. Have you refused to trade with Natives who have been indebted to you?—I have, considering that it would prove ultimately more advantageous to my interests to enforce my regulations even at the risk of losing the advance from the individual.

21. In such cases, have the Natives ultimately conformed to your regulations, and liquidated their debt?—I do not recollect any case in which they have not yielded.

22. Do you think other traders could carry out the same system?—If they choose to combine for the purpose, they could.

23. In your opinion, what were the motives which most determined the Native hostilities at the Heke war?—My opinion is that the hindrance which it caused to their industrial pursuits, as well as the privations which they endured from the want of necessary European clothing and other supplies, was the principal cause which induced them to give over hostilities. The source of information from which I have come to such a conclusion are derived from conversations which I have repeatedly held with Natives who fought on the disaffected side, and who unvaryingly persisted in asserting that it was not because they feel they were beaten by the British troops that they made peace, but for the reasons given above.

24. Did the blockade of the Bay of Islands tend to hasten the above result?—Yes; it was mainly produced by the blockade and subsequent difficulty of procuring supplies.

25. Was the object of the blockade to reduce the Natives to submission?—Yes, by harrassing them and cutting off their supplies.

Mr. Williamson.] Was the effect of the blockade merely to cause the Natives to cease hostilities, or did it reduce them to an acknowledgement of and a submission to the supremacy of the British laws?—The effect seems to have been to reduce them to submission in accordance with the terms then proposed by the Government; but I do not consider that the New Zealanders engaged in the war did at that time or have at any other period submitted themselves to the supremacy of the British laws.

27. How does it usually effect their industrial occupations, when the Natives are disputing with each other or with Europeans?—They usually become so unsettled as to neglect their agricultural pursuits, even to the extent of introducing great privation by want of food. I have known several instances where excitement of this description has continued for months, that Natives have so much neglected to plant their ordinary crops that they have been obliged to subsist on "fern root" for several months during the following season: such excitement is almost certain to interfere so far with their production as to leave them without any surplus to dispose of.

28. You have said that you think it objectionable to apply armed force, in enforcing the law against Offenders?—I mean the levying of war.

29. Do you think a blockade of any district (say Manaia) could be effected without the aid of an armed force?—I do not think it could be effectually carried out without an armed vessel.

30. Would the employment of such an armed vessel not tend to aggravate the proscribed tribe?—Any severe measures would, I think, do so.

31. Have Native outrages against Europeans been numerous in your district?—Not many.
32. So far as the Natives have been acquainted with British law, are they disposed to respect it or otherwise?—Decidedly so, they are so disposed, and to conform to it.
33. Are you aware whether any systematic means have hitherto been taken by the Government to make the Natives better acquainted with British law, and explain it to them?—I am not aware of any systematic or efficient means having been taken to obtain this end.
34. Do you think some more active means on the part of the Government in this way would tend to supersede the necessity for resorting to coercive measures?—I think that the present coercive measures are necessary; but, I think such active means might in future prevent the necessity of recourse to coercion, as owing to remissness of Government on this subject its authority, in the first instance, will require to be strongly exhibited.
35. Do you not consider that by any judicious system of subsidizing the principal Native chiefs, the necessity of introducing the Native Offenders Bill might be obviated?—I do not think that subsidizing the chiefs would have that effect, as the influence which a New Zealand chief possesses over the tribes is in a great measure one of public opinion arising from the confidence placed in them by the members of the tribe as administrators of their interest, which confidence would be entirely destroyed, consequently their power would be negatived when it became known that they were subsidized by the Government.

Mr. Atkins then withdrew.

Mr. Buddle in attendance, examined.

1. What position, Mr. Buddle, do you hold in connexion with the Missionaries in New Zealand?—I am the head of the Wesleyan Mission.
2. Where do you reside?—At Onehunga.
3. How long have you resided in this Colony?—I have been upwards of 16 years; during that time, have been in constant intercourse with the Natives, and have travelled a little among them, and resided at the Mission four or five years—that was in a purely Native district.
5. Were you ever in a disturbed district?—I have never been in any district during the time of disturbances. Since I have been here, I have been engaged in negotiating with Native tribes who were at war with each other to effect peace.
6. Have you seen the Native Offenders Bill?—I have; and, in my opinion, the effect of such a Bill on the minds of the Natives would be decidedly beneficial.
7. Will you give the Committee your reasons, if you please?—In the first place, it very much harmonizes with their own law of *Tapu*: that is the means they sometimes employ to bring each other to submission. I will state that a Native chief when offended will *Whaka Tapu* a whole district, so that no person of the offending tribe would ever dare to travel over it with safety. In the next place, the law would appeal to their feelings, very strong in the Native mind. I offer no opinion on the details of the Bill. I understand the scope and object of the Bill to be to proscribe a tribe or district so that intercourse and commerce shall be interrupted for the time being. I guard myself from giving any opinion on the details.
8. You will understand that the means proposed by the Bill of effecting that object would be the placing very large power in the hands of the Executive, and in particular in the hands of the magistrates and police,—are you of opinion that those powers can be so placed without risk?—That would altogether depend on the hands in which it may be placed. I should hesitate as to placing such power absolutely in the hands of magistrates.
9. You will observe that there are two distinct exercises of power provided for under the Bill—the one the declaring under what circumstances the law should be put in force. That would rest with the Governor. The business of the magistrate would be to see the law put in force where proclaimed. Would you see any reasonable objection to that?—None.
10. Do you think the time has arrived when it would be desirable to introduce such a law?—I should say the sooner the better. I think the facts which have lately occurred—I allude in particular to the case of the powder robbery, together with other similar cases—shew the necessity of some such coercion. There is a very strong feeling abroad that, though we have our own laws, we have not the power of enforcing obedience: that generates a contempt of the law, and a disregard of British authority.
11. *Chairman.*] Do you think the well-disposed Natives would assist in carrying out the law?—I think they would; but I would not recommend the subsidizing or paying any of the chiefs for the purpose of encouraging them to deliver up the offenders and enforcing British rule: the fact being known that a chief was pensioned with that object would lose his authority with his tribe. I do not apply that remark to the principle of pensioning chiefs as administrators of justice, or losing authority over their own tribe. I think the operation of such a law would have a more merciful aspect. I regard it as a mild alternative in comparison with the application of military force.
12. *Mr. Williamson.*] Would it be beneficial towards a proscribed tribe to inflict the penalties of this law, depriving them of intercourse with their friends and relatives generally, because of the offences of a few individuals of the tribe?—I should say just as merciful as it is upon our own countrymen who harbor offenders against the law, or in any other ways encourage them.
13. Would you put such a law in force against a whole tribe when the offenders were refused to be given up?—I would.
14. Do you think recourse should be had to this measure until all efforts had been tried in order to induce the chiefs to give up the offenders to justice?—I think this should be the last resource.

15. The effects of the Bill would be to prevent the tribe under proscription from having any intercourse with others; would not that have a detrimental effect upon the Natives of that district?—It certainly would have that effect, if you shut out any people from travelling for any length of time. It would have a detrimental effect: but I should consider that, a lesser evil than allowing them to break our law with impunity.

16. Do they usually entertain a respect for British law?—Yes, decidedly.

17. What has produced that effect?—The intercourse with Europeans, and generally the instructions they have received.

18. Does that respect for law obtain support in the interior, as well as in the settlements?—I believe it does, pretty generally. I should remark that they do not acknowledge the right of the Government to interfere in Native disputes. I apprehend the law would have its effects principally on trade, and interfere between the Native and European.

19. Do you think that the mild administration of the British law has led to that effect?—No doubt that has had its effect.

20. Do you think a change of policy toward the Natives of that kind would tend to recover that respect, or otherwise?—I do not think it would lessen it.

21. Do you think that Natives would recognise the right of Government to pen them up in districts until they submitted to the law?—I think they would recognise the right of the Government to establish other means, as they would recognise its right to establish other laws.

22. You say that it conforms to their habit of the *Tapu*,—does their regard for it (the *Tapu*) arise from any superstition or religious feeling?—Decidedly so; the practical effect of such a law would operate in the same way as the law of the *Tapu*, though our notions may differ from them. I believe they would call it a *Tapu*.

23. Do you think that such a *Tapu*, even if imperfectly carried out, would act and operate so as to induce them to conform to the laws?—That is my opinion.

24. Would there be any special danger likely to arise from a casual application of the law in an imprudent manner?—If it were made to affect the innocent, it might be injurious.

25. Does not that apply to the execution of laws in general?—Yes, it does.

26. Is it necessary to Native ideas of justice that a whole tribe should be rendered amenable for the offence of a single member of it?—It is; any member of the tribe offending would feel himself justified in taking revenge on any individual member of the offending tribe, either by taking property or life according to the offence: hence, when two tribes are at variance, every member of each tribe will keep out of the district of the other.

27. If this law were brought to bear as they might believe grievously, would it lead to retaliation on Europeans by them?—I should not myself think so; I think they would grant that the Government had perfect right to say you shall have no connexion with any people or settlements until you make restitution and submit to our laws.

28. Have you known any case in which such a measure would have been necessary to bring Natives to submission?—Yes, here in the case before you.

29. In adducing cases of offences committed by Natives, if Government had issued warrants to apprehend the offenders, do you know of any tribe or chiefs which would be likely to resist or shield the offenders?—I cannot refer to particular cases; my opinion is generally that they would not give up offenders on the serving of a magistrate's warrant, though they respect British law. That respect may not be strong enough to induce them to give up one of their friends, if they considered that they could screen him with impunity.

30. *Mr. Campbell.*] Do you think that there have been efficient means taken to make the Natives acquainted with our laws?—I do not know.

31. *Chairman.*] Are you of opinion that the *Maori Messenger* newspaper might be made more useful?—I think that publication might be made more useful—as for example, the Native Offenders Bill might be published in it to render the knowledge of such a Bill more general amongst the tribes.

32. Have the Native chiefs lost their influence?—I think it is gradually losing its power. I do not think it is very extensive, except in case of war. They have no regular system of administering the law. They use club law.

33. Are you aware that any means have been taken to make the Natives acquainted with British law, and explain it to them?—I am not aware of any except Judge Martin's Compendium of British Law, which was published in the Maori language.

34. Do you think some more active means on the part of the Government, in the way of instructing the Natives in British law, might supersede the necessity of resorting to coercive measures, such as the proposed Bill?—The diffusion of information amongst the Natives would undoubtedly be of great service, but I am not prepared to say that it would supersede entirely the necessity of such a measure as the one proposed.

Mr. Buddle then withdrew.

Mr. Henry Snowdon in attendance, examined.

1. *Chairman.*] How long have you been resident in the Colony?—I have been resident in the Colony about twenty-one years.

2. Where have you been residing?—At Whangaroa, a purely Native district.

3. What is your occupation?—I am a settler, carrying on sawing, raising stock and trading with the Natives.

4. Are you acquainted with the Native character and habits?—I have acquired a knowledge of the Native character and habits.

5. What do you think of the Native Offenders Bill?—I think the present operation of the law is sufficient to deter the Commission of offences by the Natives against the Europeans, and that there is sufficient respect for the law amongst the Natives to induce them to obey it. I have known this in frequent cases. I have known them to submit to a magistrate's summons, and submit to his decision. I have not known a single case in evasion of such summons, since the war at Kororareka, in which the Natives have refused to obey the ordinary process of the law. In my judgment, it would be unnecessary to have recourse to any more stringent law. I do not think they would be pleased at it; it would cause agitation. I do not think it would be desirable, such a measure as that proposed.

6. Have you heard of the Kawau robbery of powder?—I have heard of the Kawau powder stealing.

7. How would you proceed in such a case as that?—I would first apply to the chief, who, I think, would have no objection to deliver up the offender: they would do so in my neighbourhood. I am not acquainted with the Natives in this particular district.

8. If the chiefs refused to give them up, what then?—I should state there would be no necessity for hostile means to make them give them up—I mean the ordinary or armed force. I do not think that would lead to collision; it would induce the offender to be given up.

9. Would not that depend somewhat on the temper of the tribe?—I do not think that this particular tribe are such warriors as the Ngapuhi tribe.

10. If they were threatened with hostilities would that cause you to be apprehensive of collision?—I should not think so. I think that they would hand over the powder the moment they saw such hostile measures before them.

11. Do you think that the risk of having their vessels seized would influence them in giving up the powder?—I have no doubt it would.

12. *Mr. Henderson.*] You were residing at Wangarei, during the war with Heke,—did the blockade obtain any effect in obstructing supplies to the Natives?—It had none whatever.

13. *Chairman.*] What power was employed there?—There were two men-of-war, I think. Whilst the blockade was on, I sent out of Wangarei harbour about two hundred tons of kauri gum.

14. Did the Natives suffer much inconvenience or loss, owing to this blockade?—The Natives suffered a great loss, in consequence of the war; the distress they suffered rendered them pleased to return to a state of peace. The blockade had no effect.

15. Would it be difficult for the Coromandel district to be blockaded, so as to prevent intercourse between the tribes?—I should think great difficulty. It would be a most expensive affair.

16. Would it be possible for the Natives to obtain supplies?—I should think there would be no difficulty. I think their vessels ought to be seized,—they would then come to terms.

Mr. Slowen then withdrew.

FRIDAY, AUGUST 1ST, 1856.

Mr. Titus Angus White in attendance, examined.

1. *Chairman.*] Where do you reside Mr. White?—I am a resident in Auckland, and live in Nelson-street.

2. What are your occupations, with regard to the Natives?—I am Native Commercial Agent and Interpreter. I have resided in the Colony about 22 years, and during that time have been following commercial pursuits in the north part of the Island.

3. Where have you been chiefly following these pursuits?—Principally at Hokianga.

4. Are you intimately acquainted with the dispositions and customs of the Natives?—I am.

5. Is the law, as now administered, sufficient, in your opinion, for the preservation of order and good government of the Natives?—It is to a certain extent. The law is of itself sufficient, so far as I know,—but at times, from the want of persons entrusted with the administration of it not having a thorough knowledge of Native character, it fails of effect.

6. Do you think that the failure of the law has very much arisen from want of proper explanation of it to the Natives?—Whenever the law has been properly explained to them, they are ready to receive and respect it.

7. There is then an habitual respect for British law?—There is: indeed they are desirous of being under British rule generally; there are a few here and there who are otherwise disposed.

8. Do you apply that remark to the Natives generally, or to those in the vicinity of settlements?—Generally.

9. Is there a feeling amongst them of disrespect for the law, arising from the fact of the law not being carried out?—There is; it brings it into contempt more particularly where it is shewn the law is not put into execution. I will explain—particularly when they see favor shewn: that creates in their minds an unpleasant feeling.

10. Do you think British law can be carried out amongst the Natives?—Not to that extent as with Europeans.

11. What does that arise from?—Partly from the difference of Native custom, partly from local circumstances.

12. What is your experience as to the respect shewn to summonses from the law courts amongst the Natives?—They are generally treated with respect and attention.

13. You are aware of the Native Offenders Bill now before the House,—what is your opinion of it? The nature of the Bill is under certain extreme cases to enable the Governor to prohibit trade and intercourse with Natives of a disturbed district, to authorize the seizing of their vessels and property,

and coming to trade with the settlements, and to place both Natives and Europeans under penalties for carrying on trade.—I think such a law would be very objectionable. It would, in my opinion, cause them openly to rebel, not only in the particular tribe, but their friends, relations, and allies.

14. Is it not possible to establish a blockade on the Manaia capable of hindering, if not stopping, trade?—They have so many ways of obtaining things, not through Europeans directly, that it would be impossible to put a stop to trade, and that would bring the law into contempt.

15. Might it not have a partial effect of placing them under difficulty and risk, in carrying on their trade?—No, by reason of this: when they have any produce to trade, they do not bring it up in their own canoes or vessels, they generally send it by others.

16. You mean that they would evade the law by using other vessels to carry their produce?—Yes,—they would send it by other traders.

17. Would not preventing their using their own canoes have an effect?—No; in many cases of debt, they have evaded the law in the manner I have described.

18. Do you think that Natives and settlers, aware of the penalties of the law, would assist in carrying on such a contraband trade?—I think the Natives would,—the European settlers would not.

19. Are there not some of the tribes who do not sympathise with the offenders?—There are.

20. Do you know whether the tribe in the vicinity of the offenders at Coromandel sympathise with them?—They are friendly, but do not approve of their robbery of the powder at Kawanu.

21. Do you think they would assist in carrying on their trade?—I think they would, to a limited extent, or as an act of friendship and sympathy—not as sympathising with the offence, but with the person: from these circumstances, I think the law would become inoperative.

22. Would they be induced to assist them with a view to their own profit?—I think not.

23. Have you known of any offences, in your experience, committed by Natives which, in your opinion, would justify so stringent a measure as that proposed?—Yes,—I can remember one or two cases where they openly defied the constables and those sent to take them—they refused to give them up.

24. Do you think, in such a case, a measure of this kind would be justified?—I have not known any cases in which such a law could be justified; but I have known cases in which they have refused (chief and tribe) to give up offenders.

25. What course of proceedings would, in your opinion, be right and just in such a case?—If one of the interpreters or commissioners were sent to explain the law, and the necessity of putting it in force?—I think then it would have the effect.

26. Suppose that had been done and failed?—I do not remember such a case.

27. *Mr. Williamson.*] In the cases you have referred to, what steps were taken by the Government?—It was a similar case to the powder case. It stood over till the Natives came down and gave it up. In the first instance, constables were sent to them to execute warrants, to which they have a decided objection.

28. *Chairman.*] You distinguish between warrants and summonses?—Yes,—Warrants are in criminal cases.

29. Have you known any other cases in which they have refused to attend to a summons?—No; I have known them to resist warrants, but never refuse obedience to a summons.

30. What would you do in the criminal cases?—I would apply no other rule but that of forbearance; I would expostulate and reason with them: from my experience, I have found that the most effectual way of dealing with them.

31. Have you known any cases in which the case was brought before the Resident Magistrate and sentenced, where they have refused to obey the law?—I know of no such case.

32. What effect do you think such a law would have on the mind of the settlers?—I think it might be carried out with the settlers.

33. What would be the effect on the trade of settlers generally?—I think they might have a little misgivings whether the effect might not be injurious to their trade; I think it might be carried out to a great extent with European traders.

34. Is their (settlers') influence generally beneficial?—Not on the whole,—there are exceptions. *Mr. White* then withdrew.

The Committee then proceeded to the consideration of the Bill.

Mr. Williamson read a memorandum, which he submitted to the Committee.

Mr. Sewell moved, That the evidence and names of parties examined be reported to the House. A debate arising thereon, the further consideration thereof was postponed until the next sitting day.

The Committee then adjourned until to-morrow, Saturday, 2nd August.

SATURDAY AUGUST 2ND, 1856.

The *Chairman* moved, That this Committee do report the evidence to the House.

Mr. Williamson moved, as an amendment, That the following report be adopted and reported to the House, subject to be altered by the Committee, with the evidence taken thereon.—Carried.

Mr. Brown moved, That in the 4th paragraph of the report the words "in this particular instance" be omitted.

Question put that the words proposed to be omitted be so omitted.

*Ayes, 2.*Mr. Brown,
Mr. Sewell,*Noes, 3.*Mr. Williamson,
Mr. Daldy,
Mr. Henderson.

Question put that Mr. Williamson's Resolution be adopted and reported to the House, with the evidence.

*Ayes, 3.*Mr. Williamson,
Mr. Henderson,
Mr. Daldy.*Noes, 2.*Mr. Sewell,
Mr. Brown,

Carried.

Resolved that the Chairman do present the following Report to the House with the evidence.

REPORT.

That from the evidence which has been brought before them it appears to this Committee that but very few cases have occurred in the history of this Colony in which (in consequence of the refusal of Tribes or their Chiefs to surrender to the authorities Native Offenders against the law) any resort to such means as this Bill provides would have been needful to enable the Government to enforce the Law.

That nevertheless, a majority of the witnesses have recorded their opinion that in certain extreme and peculiar cases, recourse to some such means might be expedient, both as regards the vindication of the Law in those cases, and the prevention of recurrence of similar offences in future.

That an extreme case of this nature has recently occurred, and now exists, in which it appears that certain Natives of the Manaia district (Coromandel) have stolen European property, that the Tribe refuse either to surrender the property, or to give up the offenders to be dealt with according to law.

That the Committee therefore consider that it may be expedient to arm the Governor in this particular instance, with some such powers as are provided by this Bill (but in a modified form) so as to enable him with the advice of his Executive Council, to test the proposed plan of proscribing districts in which Native Offenders are harboured, but limiting such power to the particular instance referred to.

The Committee then adjourned *sine die*.

(Signed) HENRY SEWELL,
Chairman.

