

than raw logs. These are, of course, the very reasons why we should have retained a much greater direct control of our own forests, or at least laid down ground rules to guarantee stability of supply and thus encourage the investment flow necessary to maintain our domestic processing industry at the cutting edge of technology.

Some forest owners argue that if sawmillers or any other timber processors wished to maintain a guaranteed supply of timber they should have bought directly into forest ownership when the State forests came on the market.

That simplistic argument of convenience ignores two important considerations.

The first relates to the question of financial muscle that I mentioned earlier. Even when independent mill operators were prepared to purchase forest and combined their resources to make a reasonable bid, they were invariably shut out by the corporates.

The second is a matter of commercial priorities. Many processors quite properly regard themselves as manufacturers and

not foresters. They see the plough-back of capital into their processing business as much more important than trying to participate in tree-growing ventures. They have also been conditioned to some extent by earlier experience when adequacy of log supply was not a significant problem. Now they often have to draw their needs from a combination of the new corporate owners and private woodlots. Most of the former own directly competing processing plants and have an understandable commercial reluctance to supply their opposition. In fact, if a number of the new owners weren't locked into contracts existing at the time of purchase, the processing industry would today be in even greater difficulty. Of course, these contracts won't last long and my experience is that, with one exception, there is a marked reluctance on the part of the corporates to consider contracts in the future, even if they were to be on a two-year basis with regular price reviews. That would appear to be a minimum if the milling industry is to be given a reasonable sense of stability.

One other factor that is distorting the local saw-log market is the tariff structure erected by our major trading partners. Logs suffer no duty barrier while processed timber attracts a range of tariffs according to the nature of the product. The New Zealand processor is often further disadvantaged by the fact that some overseas companies operating in New Zealand appear to be able to use their commercial connections within the purchasing country to gain a tariff and thus a price advantage.

In summary, the dramatic change in forest ownership – associated with a volatile international market – has significantly undermined the confidence of the milling industry. This in turn is costing both job opportunities and a chance to maximise export earnings. If the forest owners won't agree on a strategic plan that genuinely looks to the future, the Government should adopt the role of referee. Failure to act will cost the country a great deal.

**Rt Hon. Sir Wallace Rowling**

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## Health and Safety – the profession's next challenge

The last two years have seen the passage of two very significant pieces of legislation affecting the forest industry:

- the Resource Management Act, effective October 1991,
- Health and Safety in Employment Act, effective April 1993.

Both Acts carry the principle of transferring significant responsibility to forest owners and contractors for care of employees and resources within their operations. There was considerable interest and some concern within the industry leading up to the implementation of the RMA. However, the industry is fundamentally friendly to soil, water and the public, and is one of the few sustaining and enhancing land-uses.

Not so with the HSEA. The industry's safety record is one of its few real weaknesses, a point of vulnerability which the new Act could expose. In fact, it has been suggested that logging work is a target of the Act.

The Occupational Safety and Health Service and various employer associations have produced a range of information and run seminars on the Act. It is hoped that by now all who work in our industry are fam-

iliar with the Act and its requirements. The intention of this article is to highlight the considerable legal liability that forest owners or managers and their staff face under the Act.

The Act sets incredibly high standards of duty, most of which are embodied in the obligation to take "all practicable steps" to avoid harm to not only employees but also the public, visitors and customers in the place of work. "All practicable steps" is a key phrase used throughout the Act and is defined in a Wellington Regional Employers Association booklet on the Act as:

"All steps that it is reasonably practicable to take to achieve any result in any circumstances, having regard to the nature and severity of the harm that may be suffered, the current state of knowledge regarding the nature and likelihood of occurrence of that harm, and the state of knowledge and cost of the means available to achieve the results.

"In practice this means that where there is a high risk of severe harm occurring, then it would be expected that the situation would be remedied, even at high cost,

whereas a similar high expenditure to remedy a low risk, low hazard situation could be considered unreasonable."

Given the relatively high risk of serious harm in many of our operations, such as tree felling and landing work, it would seem that high cost or lack of knowledge of say mechanised harvesting alternatives will not be a very effective defence to prosecution under the Act. The Act may provide additional incentive to the growing development of mechanisation of labour-intensive and hazardous work, where terrain and or changes in methods allow.

The Act crystallises the responsibilities of forest owners or manager in respect of their contractors' employees. Since the wholesale move to contractor operations in the mid 1980s companies have been coy in the extent of responsibilities to employees of their independent contractors; anxious to demonstrate independence to such interested parties as the IRD. In some cases the previous steady progress in training and awareness through the late 1970s, early 1980s, was compromised by this hands-off approach. The new Act clearly establishes the obligations of persons who control the place of work for the

health and safety of all within it, including contractors, subcontractors, their employees and, as mentioned before, public, visitors and customers.

The inclusion of public and visitors within the scope of the Act raises the thorny question of responsibility and control of weekend firewood gatherers and even recreational users of forests. It will not be sufficient to place written requirements upon such forest users covering the use of protective equipment and safe working procedures, training etc. The requirements will need to be supervised and enforced. This may be an area where the Act is found to be too broadly cast and forest owners may be forced to curtail such incidental and recreational uses of their forests under the present wording.

Managers will also be daunted by the requirement to put in place effective methods for systematically identifying existing and new hazards in the workplace. Where to start in a typical logging operation! Identification of any significant hazards must be followed by hierarchical order of control of these hazards: where practicable, elimination, else isolation else minimisation and protection and monitoring. The Act places emphasis on process and methods in this regard, so a formalised, documented programme for health and safety, such as International Safety Rating System so effectively implemented by the New Zealand Forestry Corporation in the late 1980s, may provide a logical approach.

Penalties for breaches of the Act are severe:

- A fine of up to \$100,000 and or imprisonment of up to one year where a person knowing of the likelihood of death or serious harm arising from action, takes that action, contrary to a provision of the Act.
- A fine of up to \$50,000 where a person fails to comply with provisions of the Act or Regulations made under the Act and the failure caused serious harm or death.

Given the levels of personal liability faced by staff is it feasible for a forest owner, manager or contractor to consider insurance cover for themselves and employees? Current opinion is that such cover is simply not available.

At worst the Act can be seen as placing quite alarmingly high levels of duty and liability on management and staff with responsibility for places of work within our forests and mills. At best the Act may be a spur to action to improve our unsatisfactory record of health and safety within the industry.

**John Galbraith**

## Forests Amendment Act (1993) – (An Act of Vandalism)

The Forests Amendment Act should give us reason for some pleasure to know that this country's long history of non-sustainable exploitation of its indigenous forest resource is over and has been replaced by a "sustainable" management regime. However, the Act is more remarkable for its negative rather than its positive achievements.

### Reduction in Forest Value

Because it controls the uses that timber from the indigenous forests can be used for, it closes off management of many forest areas mainly in the hands of farmers. The local example in Otago/Southland is the Kamahi forest of the Catlins. There was no market for kamahi other than firewood and woodchips. The value of the forest to the owners is now nil. Indeed, it is a liability because they still have to pay rates and there is an ongoing requirement for possum control. Consequently farmers are now clearing the land for pasture rather than maintaining the forests or managing them. Many feel this is a regrettable last resort, but it remains the only option left open for them.

### Crown Compensation

The Forest Heritage Trust is attempting to buy areas of ecological and visual significance but it has its work cut out because it cannot really be expected to pay more than the market value for the land. This is

obviously a lot less than it was when the market for woodchip was available. Some of the immediate problems of land clearing may fade after the "hot heads" have made their political statement and cooled off but the longer-term problem remains. Forests considered priceless by the public have been rendered worthless to their owners. The public then expects to be able to pick and choose what they will buy on a market that they have created.

### An "Unsustainable" Result

The same problem has occurred for the owners of beech forest. Their ability to even attempt to manage their forests has been severely compromised by the removal of the market for the 80% of the crop which is unsuitable for sawmilling or veneer milling. They are faced with either creaming or high grading their forest under the guise of sustainable management, or clearing the land completely.

### A Dangerous Precedent?

Meanwhile the rest of the forest industry has sat and cheered from the sidelines because it is to their present advantage to do so. This could be a bad mistake because it is only a small step of the imagination to see the same pressures for "sustainable" management brought to bear on the plantation estate. The same can be said of the export controls: the controls have no place in sustainable management; they are merely political statements to buy electoral support from the most vocal of the environmental groups. The same sort of controls can be readily implemented for the plantation log export trade for very similar reasons.

The Institute of Forestry should push to see that the export controls are removed to create a more realistic market for the produce from indigenous forests and thus a market for the forests themselves. They should also be pushing to ensure that the Government now puts more research resources into the improvement of the uses of indigenous timbers that have not been traditionally used for high value end uses. If the value of the forests can be increased to the owners, then there is a greater chance of the forests being retained rather than felled and burnt, which is the only future for much of the resource.

**Harold Heath**  
Forest Industry Consultant



NZ Beech (Mountain and Black) surrounding Lake Janet, Ashley Forest.