

## THE ROYAL COMMISSION OF INQUIRY

The Royal Commission on the Police Force of Victoria started taking evidence on Wednesday, 23<sup>rd</sup> March 1881. The commissioners included:

The Hon. Francis Longmore, M.L.A. a long time critic of the police force since the days of Harry Powers escapades, and particularly that of Captain Standish, as chairman. The Honorable J. H. Graves, Esq., M.L.A., William. Anderson, Esq., M.L.A., George Randall Fincham, Esq., M.L.A., James Gibb, Esq., M.L.A., G. W. Hall, Esq., M.L.A., and E. J. Dixon, Esq., J.P.

The inclusion of the Hon. George Wilson Hall, M.L.A. was a particular interesting member of the board. He was not only the editor of his own Mansfield newspaper and owner of the Benalla Standard, but a staunch Kelly sympathizer, who had only just been elected to the Victorian parliament. With Hall, and Longmore in the chair, the police force was in for a torrid time. Sadleir later wrote: *'Mr. Longmore was eminently honest and conscientious, but he went relentlessly for scalps.'*

Not everyone was happy with the appointments to the board, the following article appearing in the *Ovens & Murray Advertiser*, Saturday, March 19, 1881:

**THE POLICE BOARD.**—*"John Peerybingle" has the following:—That Police Board that has been appointed is a curiosity in its way. The selection is unique. The chairman, for a start, is Francis Longmore, who declared last week that our judges and juries were unfair. Then there is Graves, the man who lays the charge against the police. He is to be judge, jury, witness, and prosecutor. George Collins Levy, a very estimable gentleman for trotting ladies round the Exhibition, but I shouldn't think he would be up to much as judge of police duties. E. J. Dixon, a disappointed Radical, who was not selected for Parliament last year, finds a place at the board. George Fincham, another Radical, has to sit in judgment on the bobbies. In fact, taking the board all through, it is a regular sham, and the public look upon the whole enquiry as a gigantic farce.*

The Commission did not finish their examinations until the 20<sup>th</sup> September, hearing evidence from sixty-six witnesses, who were in total asked 18374 questions. (*It should be noted that this figure is 500 more than the total numbering suggests, due to an error in the numbering system which occurred on page 281.*)

## ROYAL COMMISSION ON THE POLICE FORCE OF VICTORIA

1881

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# POLICE COMMISSION.

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## MINUTES OF EVIDENCE

TAKEN BEFORE

ROYAL COMMISSION ON THE POLICE FORCE OF VICTORIA,

TOGETHER WITH

APPENDICES.

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PRESENTED TO BOTH HOUSES OF PARLIAMENT BY HIS EXCELLENCY'S COMMAND.

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## MINUTES OF EVIDENCE

TAKEN BEFORE ROYAL COMMISSION ON THE POLICE FORCE OF

VICTORIA,

WEDNESDAY, 23rd MARCH 1881.

*Present:*

Hon. F. LONGMORE, M.L.A., in the Chair;

J. H. Graves, Esq., M.L.A.,  
G. R. Fincham, Esq., M.L.A.,  
G. W. Hall, Esq., M.L.A.,

W. Anderson, Esq., M.L.A.,  
James Gibb, Esq., M.L.A.,  
E J. Dixon, Esq., J.P.

Captain F. C. Standish sworn and examined.

*The Witness.*—I think it would shorten proceedings if I read an exhaustive statement, and was afterwards examined on that.

*The Chairman.*—The Commission specially adjourned from its last sitting in order to proceed to-day, and it will be necessary to go on with your examination now.

*The Witness.*—I am perfectly prepared to give any evidence I may be required, at once.

1. *By the Commission.*—How long have you been in charge of the force?—I was appointed Chief Commissioner of Police on the 1st September 1858.

2. Coming directly to the business that this Commission was appointed for, have you formed any idea in your own mind of what led up to the Kelly outrages?—For several years before the Kelly outbreak there is no doubt that the North-Eastern district was a receptacle for horse stealers and cattle stealers, and that they gave the police force a great deal of trouble. No outrages were committed in those days, but a wholesale system of cattle duffing was carried on extensively. This appears to have culminated in the disturbance at Greta, when Constable Fitzpatrick went out to serve a warrant on Dan Kelly for horse stealing. He arrived there, found Dan Kelly, and, in my opinion, foolishly allowed him to stay and have his dinner. In the meantime Ned Kelly, Williamson, commonly called “Bricky,” and his brother-in-law Skillion arrived, with two or three others of their confederates and friends. A disturbance immediately took place between these men and Constable Fitzpatrick, which resulted in Ned Kelly firing at him, and shooting him through the wrist.

3. Shooting Constable Fitzpatrick?—Yes, shooting him through the wrist. Fitzpatrick fainted, and lay there in a semi-comatose state for some time while they cut the ball out of his wrist; it had been under the skin, and they allowed him to go. He rode off, and labored under the idea that he was pursued by two of the outlaws, which I have ascertained was not the case. Some months after this occurred, I had a conversation, a long conversation, with Williamson, in Pentridge, and he entirely corroborated every word of Fitzpatrick’s evidence and he gave me some considerable information, and volunteered to assist me in every kind of way. After this outrage had been committed, steps were taken by Superintendent Sadleir to apprehend the Kellys—the two Kellys and the two others, who were then not known by name, and those efforts having proved fruitless for a good many months, it was ultimately determined, with my approval, to start two search parties, well armed, in pursuit of the Kellys. One started from Mansfield, under the charge of Sergeant Kennedy, and the other from Wangaratta, under the charge of Sergeant Steele or some other sub-officer of the police.

4. Was it possibly Senior-Constable Strachan?—I think it was.

5. Was Williamson in prison at the time he gave you that information?—He was in Pentridge, with a sentence of six years for that offence.

6. For being present at the shooting?—Yes; I think it was a very severe punishment myself. A reward of £100 was also offered for the apprehension of the Kellys. Late on the night of Sunday the 27th October, I received a telegram from Mansfield, announcing to me that Constables Scanlan and Lonigan had been shot dead, near Mansfield, by bushrangers. After communicating with the Chief Secretary early the next morning, I took early steps to send up reinforcements and special arms. We had a few Spencer repeating rifles in store, and Mr. Berry asked me not to stint me any expenditure in arming the police properly. I may state that the regulation weapon of the mounted police has only been a revolver for years. I saw a considerable number of the men off by the 4.30 train the following day. I ordered Superintendent Nicolson up to take charge of the special service men in the North-Eastern district.

7 Was that the first time he was sent there?—He was inspecting superintendent, and had to visit the

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country districts from time to time. I gave him authority to take any steps he thought proper, and to incur any expenditure he thought necessary.

8. What date was that?—Immediately after I received the news. I also obtained authority from the Chief Secretary to purchase a number of breech-loading double-barrelled guns, to be sent up to the district as soon as possible.

9. Then you consider that the original cause of this difficulty was the lawlessness of the district?—I do.

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10. In cattle stealing and horse stealing?—Yes.

11. And that the Kellys had been engaged in that for a length of time?—For years. Before proceeding further, I wish to point out to the Commission the very great difficulties which beset the police in various directions. The Kellys, as is well known, had an enormous number of sympathizers in the district, and after their outrages there is not the slightest doubt that a great many respectable men were in dread of their lives, and were intimidated by a fear of the consequences from giving any information whatsoever to the police. Not only their lives and those of their families were in danger, but their cattle, and sheep, and horses, and property were liable to be stolen or destroyed; in addition to which there is not the slightest doubt that there was an enormous number of tradesmen in the district who were so benefited by the large increase of the police, and by the consequent expenditure, that they were only too glad that this unpleasant business was protracted for so many months. I may also state that a great many of the local papers never lost an opportunity of attacking the police in the most unjustifiable manner and on every possible occasion; and remarks of that kind, as I think any sensible man must be aware, were not only calculated to do the police a great deal of harm, but to prevent their receiving material assistance from anybody. On the 6th November 1878 I proceeded to Benalla to confer with Mr. Nicolson. I arrived there about eight o'clock, had supper with Mr. Nicolson at one of the hotels at Benalla and, whilst we were talking over matters afterwards, we received an urgent despatch from Superintendent Sadleir, who was up at Beechworth, saying that they had received information from a person in Beechworth that the Kellys had been at Sebastopol, and believed they were there now. I immediately ordered a special train, and proceeded, with Mr. Nicolson, nine mounted constables, and one black tracker, to Beechworth, which we reached soon after three o'clock in the morning. We started at four o'clock a.m. with these men and an additional body of men from Beechworth from the railway station, and made at once to the house of the Sherritt family, where it was stated the outlaws had been. We arrived there very early in the morning, scattered our men all round, keeping them in the bush, and sent a party of seven or eight men, under Mr. Nicolson, to search the house. Soon after we had searched the house we heard a shot fired. It was subsequently ascertained that it was a gun that went off by accident. We all rushed to the place, and found no traces of the outlaws there. We then rode on to Mrs. Byrne's house at Sebastopol, the mother of Joe Byrne, and Mr. Nicolson and I interviewed her; but I need not say we got nothing out of her.

12. She gave no information?—None whatever.

13. Did you form the opinion at that time that the information might have been incorrect that Mr. Sadleir got?—I believe the information was correct, but we were a day or two after the fair; so after conferring with Mr. Sadleir and Mr. Nicolson, we decided it was no use carrying on matters further, and we returned to Beechworth.

14. As there have been reports made in which the officers have to some extent given different versions of the matter, and in some instances have contradicted one another, I am going to ask you now if you had perfect confidence in the officers who had charge of the district?—You mean Mr. Sadleir?

15. Superintendents Sadleir, Nicolson, and Hare?—I had at the time perfect confidence in Mr. Nicolson, although I have not now. I found very good occasion to doubt him before I left the police force.

16. What tended to shake your confidence in him as an officer of police?—I have ample proof here of his procrastination and inefficiency.

17. Could you give the Commission some idea of that proof?—I have the papers here, but I think it would be better to continue my recital.

18. You desire to continue your narrative for the present, till the Kellys were taken?—Yes, I think it would be better.

19. Very well?—About a fortnight before the Euroa bank was stuck up, in December 1878, I received information from Mr. Nicolson that a bank would be probable stuck up in the North-Eastern district.

20. A bank?—Yes. I at once issued instructions to Mr. Hare, who had several stations on the line of railway, to warn him to take the necessary steps to protect the banks in his part of the district. Inspector Green also received similar information from a prisoner in Pentridge. No provision was made whatever to protect the banks at Euroa and Violet Town.

21. Whose district was that?—Under Mr. Nicolson, the North-Eastern district; and as both those

townships were close to the Strathbogie ranges, it was almost sure that one of those would be selected as the bank to be stuck up. On the 10th December, shortly after I returned from a public dinner at the Town Hall, I received information that the Euroa bank had been stuck up.

22. What is the date on which you warned them to protect the banks?—Immediately after I had received the information, a week or ten days before the bank was stuck up.

23. That warning was simply conveyed to Superintendent Hare and Inspector Green, believing that Superintendent Nicolson, having given the information, would take the necessary steps himself?—Yes, it was his duty to do so. At 11 p.m. on the night of the 10th, I received information that the Euroa bank had been stuck up. I rushed down to the telegraph office, and was there most of the night telegraphing.

24. At what hour?—A little before 12 o'clock; and I was at the office on and off nearly the whole of the night telegraphing. Communication was interrupted with Benalla, and I had to telegraph through Deniliquin and Albury; and having heard that Mr. Nicolson had gone to Albury, I sent a telegraph to him there, which, I believe, was the first intimation he had of it. The ensuing day I had to remain in town to see the manager of the National Bank, and to arrange other matters in connection with the pursuit of the Kellys. I started the following morning, the 12th, by the 6.10 a.m. train, and arrived at Euroa about 10 o'clock.

25. You started by the first train?—Yes, the early train. I there saw Mr. Nicolson, found him very much knocked up in appearance, and his eyes bad, and so I instructed him to return to Melbourne to take temporary charge of the Police Department, my office, in my absence, informing him that I should remain at Benalla some time. He was very much knocked up physically; he had had very hard work; that was on the 12th December.

26. That is two days after the robbery?—The robbery was on the evening of the 10th, and I came by the early train on the 12th. Mr. Hare came up, by my instructions, by the evening train; I proceeded to Benalla by the evening train, and the next day had a long conference with Mr. Wyatt the police magistrate. Mr. Wyatt informed me that he was returning from Seymour, or some town on the line of railway,

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the night the bank was stuck up, and that as the train approached Faithfull's Creek, near Euroa, they pulled up and saw the telegraph lines on both sides of the railway had been smashed up a couple of hundred yards.

27. They stopped the train to see that?—Yes; and Mr. Wyatt informed me that he got out and picked out a bundle of broken telegraph wires, and took them up with him. On arriving at the Benalla railway station Mr. Wyatt met Mr. Nicolson and Mr. Sadleir.

28. Was that on the evening of the 10th?—Yes, on the evening of the bank robbery. Mr. Nicolson and Mr. Sadleir were then starting on some strange evidence; they had heard from a friend of the outlaws that the outlaws were going to cross the Murray, and Mr. Wyatt at once informed Mr. Nicolson of what he had seen of the smashing up of the telegraph line, and told him that there was no doubt that the outlaws must have been about there.

29. Where?—At Faithfull's Creek, or Euroa, or somewhere in that vicinity. Mr. Nicolson pooh-poohed this information.

30. Are you giving this as your information, or what he told you?—What he told me; and I hope the Board will examine him. Mr. Wyatt informed me he pooh-poohed this information, and not only started away himself, but took Mr. Sadleir with him. On their arrival at Albury, Mr. Nicolson received information which, I believe, was my telegram—but I am not quite certain on that—that the Euroa bank had been robbed.

31. Will you fix the dates?—That is on the 12th.

32. You said the bank was robbed on the 10th?—Yes.

33. You have given evidence that you were at a dinner party that night?—Yes.

34. And after that you received a message to say the bank was robbed, and you went up on the 12th?—Yes.

35. You are now giving evidence that Mr. Nicolson received a telegram at Albury—I ask you to fix the date; did you telegraph that night or on the 12th?—I was in the telegraph office all that night.

36. Was it on that occasion you telegraphed to Mr. Nicolson?—Yes, it was on that night, the night of the 10th, I telegraphed to Mr. Nicolson, and the information was also sent to Benalla by this roundabout way, because of the break in the wires, and a party of men immediately started.

37. Sent by you?—Yes; and I arrived there some time during the night.

38. Whom was that party in charge of?—There was no officer there. I think Senior-Constable Johnson was in charge. They arrived there some time during the night, and they received a telegram from Mr. Nicolson, telling them not to leave Euroa until he got there.

39. That would be on the 11th?—Yes, the morning Mr. Nicolson reached Euroa, on the morning of Tuesday; and after some hours delay he started off with a party of police, and returned the next day without any result.

40. You were not there yourself?—This statement can be confirmed by Mr. Wyatt, Mr. Sadleir, and Constable Johnson.

41. Between the Saturday night that Mr. Wyatt gave you the information and the time of your seeing Mr. Nicolson, this information was supplied by some one else?—By Mr. Wyatt. I am given to understand that, though Mr. Nicolson was aware that it was intended to stick up the bank, he never gave information to the local bankers that such a thing was meditated. It seems to me that it would have been very advisable if Mr. Nicolson, when in charge, had instructed the telegraph masters to give notice where the lines were

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intercepted, whereby a splendid chance of capturing the outlaws at Faithfull's Creek was lost.

42. Would he know himself at this time where the interruption had taken place?—That I cannot tell you. I proceeded to Benalla on the evening of the 12th, and remained in charge of the operations there for a period of upwards of six months. The Government then decided to send parties of the paid artillery to the various townships of any importance in the North-Eastern district, where there was any apprehension of the outlaws sticking up a bank.

43. Was that on your recommendation?—No, it was against my recommendation. After I had taken charge and direction of affairs in the North-Eastern district I at once sent search parties in the various portions of the district where there were some grounds for believing that the outlaws might be lying, and where we received information of the possibility of their being found. I never heard a rumor of the outlaws being likely to be at any place without at once taking steps to send out police either to find them or to ascertain the truth of those reports. I need not say I was most ably seconded by Mr. Hare, who not only never spared himself in any kind of way, but was most indefatigable in the pursuit of the outlaws. Not only was he most active and energetic, but he was so popular with the men under him that they would have done anything in the world for him. In fact, he treated the men under him like friends, not like dogs—you can easily understand.

44. May I draw your attention to this? Was there another officer of equal standing in the police at Benalla at the time?—Mr. Sadleir.

45. Was Mr. Sadleir of equal rank in the service with Mr. Hare?—They are both superintendents.

46. Was Mr. Sadleir stationed at Benalla?—Yes, permanently.

47. Was his conduct different from Mr. Nicolson's?—I have made no reflection on him; but he was in charge of the district. He was not in charge of the special operations; that I had to deal with. In addition to these search parties, which were not sent out on what is called a bootless errand, Mr. Hare and a certain body of very efficient men formed a camp in the ranges, near Sebastopol, not very far from Mrs. Byrne's house, and where they remained hidden without the slightest information being furnished of the outlaws or their friends. During the night they came down and camped in a sequestered place, close to Mrs. Byrne's house, and by the route it was quite certain the outlaws would have taken had they come there. I went there one evening myself to see Mr. Hare and confer with him, and spent the night watching with the rest of the party. There is another very great disadvantage under which we labored, viz., that the moves of the police in Benalla, Wangaratta, Mansfield, and Beechworth were closely watched by the numerous friends and sympathizers of the outlaws—at Benalla especially; and I may state that if I had determined, without consulting anybody, in the middle of any night to come down to the barracks by myself and to start a party of police, which I could have done in half an hour, I firmly believe that before the men had left the barracks some of those spies would have been galloping off to the outlaws. I must say the

officers and men, whilst I was there, were most zealous and most active, and they went through no end of hardships without a murmur or a complaint; and whatever the outside public may say, I can fearlessly assert that, as a body of men, those who were serving under me there were everything that could be desired. Some days before the 10th of February 1879 I received intimation that it was probable that the outlaws would go and stick up a bank in New South Wales, probably Albury. I gave immediate information of this to the New South Wales police as well as to the Inspector-General, and I took every step in my power to enable the police on the borders of the Murray to give every assistance to the New South Wales police. About this time it was mooted by the press generally, and I believe by some of the Ministers, that it would be very desirable to have black trackers down from Queensland. I confess I was opposed to it, being convinced that, though in a large uninhabited district, where there is a scant population and little or no traffic, the services of the black trackers, which are chiefly utilized in pursuing and dispersing the native blacks, are of use, it would be very little use in a district where there is a large traffic on all the roads, and where the movements of the outlaws were known to be wonderfully rapid. It is a well-known fact that they often used to ride 50, 60, and 70 miles between night and morning; and knowing, as they did, every corner and nook of the district, and having their numerous sympathizers, who would very soon obliterate their tracks, I thought, as I said before, the black trackers would be little or no use, which certainly was proved. However, I had to communicate to the Queensland police, and the result was that Mr. O'Connor and six black trackers, and a senior constable of the Queensland police, were sent by steamer to Sydney, and from Sydney to Albury, where I met them on the 6th of March. I remained the following day at Albury with Mr. O'Connor, and we proceeded to Benalla on the 8th of March. Though we had no information, still we thought it necessary to obtain some indication of the way in which they could work in our district; so on Tuesday the 11th March a party started for the ranges—the black trackers under Mr. O'Connor, and several mounted constables under Superintendent Sadleir. Mr. O'Connor was anxious that only a couple of men should go with him; but as we had no knowledge of their skill in tracking, and knowing that, under the peculiar circumstances of the rapidity of the outlaws' movements, the trackers would not be of much use, I would not consent to him going out alone, but sent Mr. Sadleir with him. No doubt trackers can be utilized in following the traces of men on foot, but for this kind of work they are really perfectly useless, because their movements are so slow. I see in the printed documents

which were sent to me a letter from Mr. O'Connor. I can merely say it is full of misrepresentations, and I have not the slightest intention of taking notice of it.

48. Was it the latter of the 7th September 1880 or the one of the 12th August 1880 you refer to?—It was the 7th September letter I refer to.

49. That, you say, is full of misstatements?—Full of misrepresentations.

50. And not worthy of notice?—Yes. I should only remark that Mr. O'Connor states that, during the whole sixteen months he was here, he was treated by me with the greatest discourtesy. To that I give the lie direct. For several months when he first came—for three or four months we lived together, and we were always on the best of terms; but when I found out things about him, which I do not wish to state before the Commission, I ceased my intimacy, with him. In fact, if I were to state things that I can prove by direct evidence, it would show you how utterly unreliable a man he is.

51. He was in the service of the Victorian police at that time?—Yes.

52. Was he a part of the police force of Victoria?—He was sworn in when he arrived. With reference to a part of that letter which refers to the expedition to the Warby ranges I must refer you to Mr. Hare's evidence, as he can give more satisfactory evidence on that point. About the end of June, after having been upwards of six months at Benalla, finding that all the business in my office was being frightfully muddled, and that things were going wrong both in Melbourne and the country districts, I obtained the authority of the Chief Secretary for my return to Melbourne.

53. In June 1879?—Yes.

54. Was that Mr. Ramsay?—No, Mr. Berry, Chief Secretary at the time; and Mr. Nicolson, being next in seniority, I had to send him up, though I confess I had but little faith in his energy.

55. Was that immediately after your return?—Yes, immediately after my return; and I instructed Mr. Hare to resume charge of his district, which also required a deal of supervision.

56. What date was that?—On the 26th of June.

57. Did you send Mr. Nicolson up?—I sent him up immediately. Shortly after my return I had several interviews with the Chief Secretary, who was not unnaturally dissatisfied at the continuous heavy expenditure of the police in pursuit of the Kellys. I may here state that the great bulk of the expenditure was caused by the new travelling allowances for the police, which were amended and approved by the Government. I should think considerably more than half the expenditure was travelling allowances to members of the police force away from their district, and it must be borne in mind that many of them were married men separated from their wives and families. Mr. Berry instructed me to do all I could to reduce the expenditure. I conferred with Mr. Nicolson, and made reductions wherever I possibly could; and with the view of making a large permanent reduction in the expenditure, I permanently transferred to the North-Eastern district all the members of the police force who had been sent there. Of course this was only a temporary force, but it was absolutely necessary to cut down the expenditure. From time to time I used to meet Mr. Nicolson at Benalla and used to write to him, but both on paper and verbally he was always most absurdly reticent. During the eleven months he was there he hardly ever sent out a search party except just before he was recalled. I left the direction of affairs in his hands, save and except when I was acting under the instructions of the Minister. Mr. Nicolson, it seems, employed a great many agents, some of whom were, to my knowledge, in the habit of communicating with and meeting the outlaws. Mr. Nicolson frequently received reliable information as to the whereabouts of the outlaws, but he took no steps whatever to act on the information, which I believe would clearly, in more than one instance, have led to the capture of the outlaws. Mr. Nicolson used to say to me on every possible occasion, "I have the outlaws surrounded by my spies, and have my hands upon them. It is not a chase of months or weeks, but of days and hours." That was his favorite utterance to me on every possible occasion, and from information which I have received from time to time, I believe there is no doubt whatever that nearly the whole time Mr. Nicolson was in charge the outlaws were hanging about Greta and Glenrowan.

58. How far is that from Benalla?—They are about five miles apart.

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59. As you stated that during the whole time that the outlaws were in the neighbourhood of Greta and Glenrowan, you had better say how far those are from Benalla?—Glenrowan is about twenty-five miles by rail, I think. Oh! No, it is a little more than half way to Wangaratta.

60. What is the distance?—I cannot say exactly.

61. How far is Greta?—Greta is about ten miles, I think, from Benalla; and Glenrowan, I think, is about fourteen or fifteen miles. Whilst Mr. Nicolson was at Benalla, the following little incident occurred. — was riding through the bush.

62. Who was he?—He is a connection of the Kellys. He was riding through the bush, ten or twelve miles from Benalla, and he saw the four outlaws on horseback together with Tom Lloyd.

63. Who is Tom Lloyd?—Tom Lloyd is a cousin of the Kellys. He did not go near them, but rode straight home to his own place as hard as he could go. When he got home, and went inside his house about dusk, he saw Tom Lloyd go and look at his horse in the paddock, and then take his place at the sliprails. He looked out several times during the night and saw Lloyd still there. Next day — caught his horse, and while riding along the road, near Wangaratta, he met Mr. Sadleir, who was eight miles from Oxley, or somewhere in that direction.

64. What was the day?—I have not got the date, but Mr. Sadleir and Mr. Hare will be able to give it.

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— told Mr. Sadleir what he had seen on the previous day, and described the spot to him. Mr. Sadleir rode in as fast as he could to Wangaratta, and telegraphed to Mr. Nicolson that he had some important information, and to get everything ready for an early start, and he (Mr. Sadleir) would be at Benalla by the last train. On his arriving at Benalla he gave all the information to Mr. Nicolson. It was arranged that the black trackers and a party of men were to start away at one o'clock the next morning. Mr. Nicolson, Mr. Sadleir, and Mr. O'Connor were to accompany the party. Mr. Nicolson telegraphed to me to come up to Benalla by the early train next morning. At one o'clock in the morning the men were all ready, with their horses saddled. Senior-Constable Irwin was in charge of the men. Mr. Nicolson turned up, and gave orders for the saddles to be taken off the horses, and for the men to go back to their quarters. Shortly after this Mr. Sadleir arrived at the barrack yard, and found all the saddles off the horses, and, upon asking the reason of this, was told that Mr. Nicolson had given the orders. Mr. Sadleir then went to the office, and found Mr. Nicolson and Mr. O'Connor there. He asked him if any further news had been obtained to cause the change of plans. Mr. Nicolson replied, "No; but I have been thinking about the matter all night, and have decided not to disturb the outlaws just now." A telegram was sent to me at that hour not to come up to Benalla. There is no doubt that though Mr. Sadleir did not know of the exact spot, he could easily have obtained information from —.

65. Have you no general idea of the date at which this occurred?—I have not; but I have a perfect recollection of it, but I cannot fix the date. Mr. Hare will be able to fix it.

66. And the official records will show it?—Yes.

67. Was it in the early part or the latter part of the search?—It was the early part of last year, 1880. I have ample proof of still further acts of gross neglect on the part of Mr. Nicolson. About the 25th of May last —, one of the — family, was at Mrs. Byrne's house, and, just before she left, Joe Byrne and Dan Kelly came to the house, and subsequently Ned Kelly and Steve Hart, and sat down to tea. — walked home a distance of about three miles.

68. While they were having tea?—No, after having had tea there. She informed her mother, Mrs. —, who went into Beechworth next morning and told Detective Ward what her daughter had seen, and no notice was taken of it at all.

69. That would be on the 26th?—Yes, the morning of the 26th, about a week before Mr. Nicolson was removed from Benalla.

70. Can you fix the dates?—Much of this information did not come under my cognizance at the time. The witnesses can prove the dates. The persons referred to can prove the dates.

71. You gave evidence of what occurred on the 25th and 26th of March, before the outlaws were captured, and you see Mr. Nicolson was in charge on the 25th of May, but Mr. Hare succeeded him early in June, therefore it is most important that you should fix the dates, because you see Mr. Hare succeeded him a couple of days after?—About a week before Mr. Nicolson was removed from Benalla, Mrs. — got up early to look for cows, and when passing an unoccupied house, about six or seven miles from Beechworth, she saw Joe Byrne getting on his horse. She said, "What are you doing here, Joe?" and his reply was, "Looking for Hare, to shoot him." She had some further conversation with him, and he rode away, and Mrs. — made her way into Beechworth and informed Detective Ward, who telegraphed the fact to Benalla. The result was that that night Mr. Nicolson, Mr. Sadleir, and Mr. O'Connor went to Beechworth without the trackers, saw Mrs. —, who stated what she had seen, and decided it was no use going after him, and they returned to Benalla next day. Towards the end of April 1880, I had some conversation with the then Chief Secretary, Mr. Ramsay, on the Kelly business. He asked me my opinion how things were going on. I said I thought that nothing was being done now, and that, beyond employing unreliable spies, I did not see what good Mr. Nicolson would ever effect. Mr. Ramsay told me he intended to consult his colleagues on the subject, and a few days afterwards sent for me and informed me that the Cabinet had unanimously decided that Mr. Nicolson should be removed from his position, and that Mr. Hare should be sent in his place, as they were of opinion that Mr. Hare was the most able and efficient man for that duty. I was requested to communicate the decision of the Government to Mr. Nicolson.

72. What position did Mr. Nicolson occupy at that time?—He was in charge. I sent him after I returned to my duties.

73. Was he next in charge to yourself in the force?—Yes.

74. You said he was removed by the opinion of the Cabinet; the question asked you is this, what position did Mr. Nicolson occupy in the police force?—He was Inspecting Superintendent of Police with the honorary title of Assistant Commissioner. It was a title conferred on him by request of Mr. John Thomas Smith, without my being consulted.

75. You gave in evidence that, in conversation with Mr. Ramsay, he said he would lay it before his Cabinet, and that they unanimously arranged to remove Mr. Nicolson from his position?—From charge of the district.

day, and I told him, and asked him if he would accede to it. Mr. Ramsay said he did not see any necessity for seeing him, but if Mr. Nicolson wished it he would see him, but he would only see him in my presence. I communicated this to Mr. Nicolson, and he came down, and we had fixed a certain hour next day—I think 10.30 a.m.—to see Mr. Ramsay, and I told him of this. I also told him that Mr. Ramsay only wanted to see him in my presence. I went to my office, as I always did, at nine o'clock, and had occasion a few minutes afterwards to go and see Mr. Odgers, the Under Secretary, when I saw Mr. Nicolson trying to force his way into the Chief Secretary's office. I am not certain whether Mr. Ramsay was in or not. We went and saw Mr. Ramsay in the course of the morning, and Mr. Nicolson spoke for about three-quarters of an hour the most incoherent nonsense I ever heard in my life. Mr. Ramsay decided that he was not to remain there; but, at Mr. Nicolson's request, and with my concurrence, he was allowed to remain there another month. Mr. Nicolson came down to my office afterwards, when I asked him, "When are you going back?" He said, "I am going back by the next train—the afternoon train." He not only did not do that, but he remained in Melbourne, and went to Sir James McCulloch to ask him to go and see Mr. Ramsay, and intercede on his behalf. Sir James McCulloch went there, but after a few moments' conversation with Mr. Ramsay he withdrew his request. Shortly afterwards Mr. Nicolson forced his way into Mr. Ramsay's private business office, and, as Mr. Ramsay told me, spoke of me in a very nasty way, and abused me, whereupon Mr. Ramsay said, "Mr. Nicolson, supposing you were head of a department, and one of your subordinate officers came to me and abused you behind your back, what would you think?" That day a telegram marked "Very urgent" was sent to Mr. Nicolson; it was addressed to the detective office.

77. How long was this after the 26th of June?—This was early in May. The following day a telegram marked "urgent" was addressed to Mr. Nicolson at the detective office. I thought he had returned, so it was brought to me. I opened it, and I found by that he could not possibly have returned, so on chance I went down to the railway station to see if he was going off by the afternoon train that day. I waited there for a few minutes, and just as the train was starting it tumbled Mr. Nicolson. I only had time to hand him the telegram and to give him a bit of my mind. In fact I may say that on that occasion, and subsequently when he was relieved, he behaved to me in a most discourteous, insolent, and ungentlemanly manner; and if I had not been a man who is gifted with not a very bad temper, I should not only have given him a bit of my mind but I would have suspended him from duty; but I had no animosity against anybody in the department. Though I had a great contempt for the man, I had no ill-feeling against him. On Sunday the 27th of June 1880 I left my residence about a quarter past two. A few minutes after I had left a telegram arrived from Mr. Hare. I did not return to my abode till half-past four, when I found this telegram. It was announcing the murder of Sherritt by some of the outlaws. Mr. Hare requested me to communicate with Mr. O'Connor, who had come down to Melbourne on his way back to Queensland with the trackers, and to request him and urge upon him the propriety of assisting the department by returning at once to Beechworth. On the receipt of this telegram I at once sent a letter out to Mr. O'Connor, who, I heard, was staying at Essendon; sent him it by a hansom, and immediately wrote a letter to Mr. Ramsay to inform him of this. In my letter I said I had written to Mr. O'Connor; that I was not certain whether he would consent to go or not, but that if he did I should either send them up by the early morning train or by a special train if necessary. Shortly after Mr. Ramsay received this letter. In the meantime I had been down at the telegraph office to communicate with Mr. Hare, and I returned to the club and I found Mr. Ramsay just arrived, and I talked the matter over with him; and I had not seen Mr. O'Connor, and was not certain whether he would go back; but he took me up to Mr. Gillies' place, which was near Mr. Ramsay's, and got for me an order for a special train. I returned to the club with this in my pocket, and just about this time Mr. O'Connor turned up. I told him, and asked him if he was willing to go up; said it was a matter of great urgency; and he, in a rather haw-haw way, said he did not see any objection, and said he would go; and I asked when he would be ready to go, and he said he would go this evening. I told him I had an order for a special train and I would get it at once. He asked me to get the train to meet him at Essendon, as his black trackers were at the late John Thomas Smith's place. I went down to the station and ordered the special train, and he left about half-past nine or ten; I do not know the time exactly. About twenty minutes to six the following morning, Monday the 28th of June, I was asleep in bed when I was knocked up. A telegram was handed to me, saying that Superintendent Hare and his party would join Mr. O'Connor at Benalla. Had encountered the outlaws at Glenrowan; that Superintendent Hare in the early part of the encounter had been shot through the wrist by the first shot. It was too late. I could not have possibly caught the early train, so I communicated at once with Mr. Ramsay, and got an order for a special train to take me up about nine o'clock. An hour before I was going to start I got a telegram announcing that Ned Kelly had been taken alive. A few minutes afterwards I went down to the railway station, and there I heard that Joe Byrne had been shot dead. I started by special train, and got to Benalla about two o'clock. There was an encumbrance on the line, and the special train could not go on. I went to the hotel at Benalla to see Superintendent Hare. I sat with him a short time, and then went back to the railway station, and was detained there till four o'clock. Just before the train left a telegram came down to say that the whole thing was over; the house had been burned, and the charred remains of Steve Hart and Dan Kelly had been found in the house. I went on the special train, and when I got there everything was over. I instructed Mr. Sadleir not to hand over the charred remains of the outlaws. It is just possible he may have misunderstood me, but I certainly did say that to him; but it seems that possibly there was a misapprehension. He allowed the friends of the outlaws to take away those two charred stumps, as you may call them. I saw Ned Kelly lying severely wounded, and the body of Byrne. I ordered Ned Kelly to be brought down to

Benalla at once, where he was put in the lock-up and attended to. Byrne's body was also brought down, and photographed there the next morning without my knowledge. An inquest was held on Byrne and I instructed him to be buried straight off in the Benalla cemetery. After inviting medical opinion, I found it was perfectly safe and advisable to send Ned Kelly down to Melbourne. Having ascertained that

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there was no risk in having Ned Kelly sent down to the Melbourne gaol, I ordered him to be taken down in a special carriage by the afternoon train, I think it was. I stayed at Benalla that day, and had an interview with Mr. Curnow, the schoolmaster, to whom certainly we are indebted for saving the lives of all the police, and for putting us on the track of the Kellys. I returned to Melbourne the following day.

Captain F. C.  
Standish,  
*continued,*  
23rd March 1881.

78. Is that all?—That concludes my evidence. Of course, I am ready to answer any questions that may be put to me.

79. *By the Chairman.*—I intend to ask you a few questions upon your report of the 15th March 1880; and after that I will ask Inspector Nicolson and Mr. O'Connor whether they have anything to say, or any questions to ask you. In your report of the 5th of July, you say—"It is asserted and implied that the long-continued efforts of the police force to trace and capture the outlaws have been characterised by supineness and apathy; that the police have been, in many cases, influenced by a desire to avoid rather than meet the offenders, while in connection with the recent outbreak, which led to the destruction of the gang, it is asserted that I have been guilty of most culpable procrastination; that the police officers have shown a want of generalship, and the conduct of the members of the force has been, according to some, characterised by an inconceivable disregard of human life, and, according to others, by an absence of that courage and dash which every good constable should possess. I have long felt the injustice of these reflections, and I think the time has now arrived when I can properly ask to have it ascertained whether they are deserved or not." Now I think that, in the evidence that you have now given before the Commission, you have asserted that there was both supineness and apathy on the part of Mr. Nicolson?—Certainly.

80. You must have been aware of that at the time you wrote this—this is the 5th of July 1880, after the Kellys were caught?—Yes.

81. What was the period at which you lost confidence in Mr. Nicolson?—During his last stay in Benalla. He remained there eleven months; and, as I have stated in the evidence, he kept saying he had his hand upon those outlaws.

82. That was before 1880?—Yes, that was the early part of last year.

83. During his last stay at Benalla you lost confidence in him?—He was doing nothing.

84. We want to know the time you began to lose confidence in him?—I cannot say the particular date; but if a man stays eleven months without ever doing anything, and always saying he is going to catch them immediately—has his eye upon them—I cannot believe him.

85. That was before June 1879, where you spoke of his being most insolent to you, and but for your good temper you would have thought of suspending him?—That was in June 1880.

86. We have it in your evidence here that, on the 11th December, Mr. Nicolson went down and returned on the 12th; and you are given to understand that Mr. Nicolson did not warn the bankers that an effort was to be made to stick up a bank?—That is so.

87. You say he did not warn the railway telegraph people, and so a splendid chance was lost to capture the Kellys?—Yes.

88. Had you confidence in him then. Can you fix about the time. Were these the things that were leading up to the want of confidence in him?—Well it rather shook my faith in him. I may say this letter of 5th July was written after that. I wanted an investigation into the matter, but that the Honourable Mr. Service, who was then Prime Minister, in the election at Maldon made a speech strongly reflecting on me, and the remarks were most unfair and uncalled for.

89. Have you got that speech?—I do not know for what purpose he turned round, and, pointing to his colleague (Mr. Ramsay), said the fact is it was Mr. Ramsay that caught the Kellys. I think it was a most unjustifiable proceeding on the part of Mr. Service, and most uncalled for.

90. On the 5th July 1880 had you confidence in Mr. Nicolson?—I did not refer to Mr. Nicolson in the letter at all.

91. Had you lost confidence in Mr. Nicolson on that date?—I had, and long before.

92. How long?—Three or four months before.

93. What is the date of that?—Fifteenth of March 1880.

94. I refer to all these things you made reference to—first, supineness and apathy; and, secondly, that they desired rather to avoid than meet the Kellys. "That I have been guilty of most culpable procrastination; that the police officers have shown a want of generalship." In what way do you desire to qualify that, or can you qualify it?—You know the police are constantly attacked in newspapers. Not that it ever affected me in the least, and, being a public servant, it never affects me.

95. You say, there, "I have been charged with being guilty of most culpable procrastination"?—That is Mr. Service's statement.

96. "That the police officers have shown a want of generalship." Do you believe "that the police officers have shown a want of generalship," all or any, and, if so, particularise the ones, if you do say they showed a want of generalship. Do you believe they did or not?—None of those who were actively engaged in the pursuit of the Kellys did.

97. Do you say Superintendent Hare showed generalship, and it would be a false charge saying he showed a want of generalship?—It would be. We could not have had a better officer.

98. Do you say Mr. Sadleir showed want of generalship, you being Chief Commissioner of Police at that time?—He never was at the head of affairs.

99. You do not say he showed want of generalship?—No.

100. Do you think Mr. Nicolson showed want of generalship?—I do.

101. What were you in the service until you left it?—I was Chief Commissioner of Police.

102. What was Mr. Nicolson?—Inspecting Superintendent of Police with the honorary title of "Assistant Commissioner."

103. Is that honorary title of "Assistant Commissioner" recognised either by the police law or the regulations?—There is no such title in the regulations.

104. What, by the regulations, are the duties of an inspecting superintendent, which Mr. Nicolson was?—His duties are, by my instruction as head of the department, to visit the districts, and to visit all stations, and to make a special report on them, and otherwise to be employed on such duties as the head of the department might direct him to perform.

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Captain F. C.  
Standish,  
*continued,*  
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105. I understand you to say that he was to act, under your instructions, certain duties. Are these his duties:—"It is the duty of the inspecting superintendent to proceed from time to time, in accordance with such instructions as he may receive from the Chief Commissioner, to the several districts, for the purpose of minutely inspecting the force, and reporting on the state in which he finds it, or for the purpose of investigating and reporting on any charge of misconduct against the police, or any other matter which the Chief Commissioner of Police may wish to have enquired into"?—Those are his duties.

106. Who is the next officer after Mr. Nicolson?—Superintendent Winch is the senior superintendent, who is in charge of the City police.

107. Who is the next officer?—Mr. Chomley.

108. The next?—I cannot remember all.

109. Is it not Mr. Hare?—No.

110. Is it Mr. Chambers?—I really cannot tell you. He is one of the five first.

111. The Commission wish to know how the districts are situated. Now in whose district is Melbourne and the suburbs?—Mr. Winch's, the superintendent of the City police.

112. And outside the city of Melbourne whose district comes in?—Many of the suburbs are in the metropolitan police.

113. From North Melbourne, in that district called the North-Eastern, what superintendent is in charge of the portion between the Melbourne district north-easterly towards the North-Eastern district?—That is what is called the Bourke district. Mr. Hare is in charge.

114. Then Mr. Hare joins onto the Benalla district?—Yes, and the North-Eastern district.

115. Who is the officer in charge of the North-Eastern district?—Mr. Sadleir.

116. Was he there at the time of the murders?—Yes.

117. Is he there now?—Yes.

118. Who are his inspectors?—Sub-Inspector Baber at Benalla, Sub-Inspector Pewtress at Mansfield.

119. Taking the North-Eastern line, and commencing at Melbourne, what station does Mr. Hare's district stop at?—Avenel.

120. What is the next station?—Euroa.

121. Is that the station the bank was robbed at. Do you mean us to understand that the banks along the line were notified up to the boundary of Mr. Hare's district?—I was informed that some of the banks in the North-Eastern district were likely to be stuck up.

122. I understand you to say that the banks in the district in which Mr. Nicolson was were not so informed. Is that correct?—I believe they were not.

123. And then at Avenel Mr. Hare's district terminates?—Yes.

124. And Mr. Sadleir's commences?—Yes.

125. Mr. Nicolson took charge of Mr. Sadleir's district, under your instructions, after the murders?—He had charge of the Kelly pursuit party.

126. In that district?—In that district.

127. Those are the two districts in which all these matters occurred?—Yes.

128. Did anything in connection with the Kellys that you have told the Board of in your evidence occur out of the North-Eastern district—were Euroa, Mansfield, Greta, and Glenrowan in the North-Eastern district?—Yes.

129. Would Wodonga be in it?—Yes.

130. Did you mean to say in your evidence that Mr. Nicolson went to Albury or Wodonga?—Albury.

131. That is out of the colony?—Yes.

132. In the sub-districts where the inspectors are you mentioned Mr. Pewtress, where does his district go to?—From the Broken River north to Wood's Point south.

133. Where is Mr. Baber's district?—He has no sub-district, he is stationed at Benalla.

134. Was there an officer at Beechworth at the time?—Mr. Brook Smith.

135. And all those outrages have been committed in the North-Eastern district—the murder of Sherritt, the Glenrowan affair, the murders at Wombat, and the robbery at the Bank, have all occurred in the North-Eastern district?—Yes.

136. What was the strength of the district at the time of the murders, the number of the men?—I really cannot tell.

137. How many men was it increased by?—Well I think about a hundred or a little over; a hundred and twenty men at one time.

138. Do you know the distance from the Wombat where the murders were committed, known as Stringybark Creek, to the place where the murderers were brought to justice, burnt, and shot?—Glenrowan—I can put my finger on the map, but cannot tell the distance.

139. Is it under 30 miles?—I should think about 30 miles.

140. How far is it from Greta, the residence of the Kellys, to the bank at Euroa?—I can spot them on the map, but I have not noticed the distance exactly.

141. On the report you made certain recommendations. "I have therefore the honor to request that an enquiry may be instituted by the Government," and before that you say "the conduct of the members of the force has been, according to some, characterised by an inconceivable disregard of human life, and according to others, by an absence of that courage and dash which every good constable should possess." Now is it your opinion there is the least want of courage or dash in the constables or sergeants of police?—I do not think so.

142. Do you believe there was supineness or apathy in these men as a body or in individual cases of constables shirking their duty, or in bringing the murderers to justice?—I believe all the police employed in the North-Eastern district were most anxious to catch the outlaws and would have endangered their lives to catch them.

143. That is your evidence as the head of the department, and after being six months with them?—Yes, I do not say that in the force every man is a hero; there may be some perhaps who have not much courage, but as a body I cannot speak too highly of the men under me for the six months I was at Benalla.

144. You were in constant daily communication with the sergeants, constables, and men at Benalla?—I was.

145. Did you ever see the slightest reluctance at any time or period of the day or night to go out at once to perform their duty?—No, on the contrary, a laudable anxiety.

146. According to that, you approve of the conduct of those police who allowed the men to escape after the shooting of Sherritt, was that courageous conduct?—My firm belief is that if they had left the house every one would have been shot dead.

147. You ask that "the enquiry may be full and impartial, and open to receive the evidence of all persons, whether members of the force or not, who may have information on the subject to communicate"—of course, that the country expect—but you say "that the proceedings should not be open to the press, for though the full details of what the police have been doing should be known to the Government, it would be obviously contrary to public policy that they should be published for general information." I suppose you are aware that all the members on this Board are more or less identified with the public, Members of Parliament, or otherwise; that they receive no remuneration; that they have been severely criticised on this Board; and do you think it would be fair to them that the press should not be present?—My only objection to the press being present has been entirely laid aside by the remark made by the Chairman on the first meeting of the Board, which was to the effect that those portions of the evidence which may bring certain men into positions of annoyance and danger may not be reported by the press.

148. Your number two recommendation you consider unnecessary now, provided what the Chairman said is carried out?—Certainly; I have not the remotest objection to it; the only thing is, I hope the Commission will be good enough to exercise a certain amount of discretion to prevent the names of people being admitted into these proceedings to whom the consequences may be serious, or even fatal.

149. Then you wind up your report with this remark—"They report of the gentlemen making the enquiry should, I think, be all that should find its way into the hands of the public." Now, provided that the names of the parties who would suffer in their persons or their property by giving information or evidence here are protected by the discretion of the Chairman, do you consider it at all desirable that the public should not have the fullest information upon it?—I think not. Might I be allowed to suggest that some names I mentioned to-day should not appear upon the records.

*The Witness* mentioned the names of several people named in his evidence which he wished to be left blank.

Captain F. C.  
Standish,  
*continued,*  
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*The Chairman* requested the shorthand writer to comply with Captain Standish's request.

150. Did you approve of the burning of Mrs. Jones's hotel, while the outlaws were there?—I was not there.

151. From what you have since, do you approve of it?—There is one matter to be considered, whether the outlaws were burnt alive.

152. I mean, taking the evidence as we have it, from what we suppose, whether they were dead or alive, would that action meet with your approval?—If I had been in charge of the operations, I should not have had the house burnt down.

153. Who was in charge at that time?—Mr. Sadleir.

154. I suppose, after all, there is a certain amount of latitude allowed to men of the force who are in danger?—Yes.

155. What was the nature of those instructions communicated to the police officers in the North-Eastern District regarding their actions, should they receive any intelligence of the outlaws. Were there any special instructions?—Every member of the police force was, if he heard any information, to communicate at once with the officer in charge of the district; but if there were good grounds for believing they were in a certain place, and he could get a few men to go with him, he could go at once; but that in urgent cases——

156. They had liberty to take action at once?—Yes, if they had a sufficient body of men to warrant their going out, but if one man heard the outlaws were a few miles off, of course he could not go himself.

157. I ask the question, because it was stated they were limited by certain regulations, and complaints have been made about red-tapeism, that they had good information, but that they could not act upon it without first communicating with the Police Department, and great delay, in consequence, ensued?—If the officer at Mansfield had information, it was his duty to telegraph it at once to the head of the district, and if he had sufficient men, to proceed at once. If he has only one man he could not go out himself.

158. What number would you consider it prudent for any man to start with?—Four men.

159. Then any petty officer in charge of any three men would be justified, as soon as he had telegraphed the news to his superior officer, in starting at once in pursuit?—Yes.

160. Was there any instance of such a thing, where men receiving such information, did not proceed?—I cannot bear in mind any case of that kind.

161. No similar case occurring at Mansfield?—No; because you know there were no end of reports and rumors flying about, a great many false reports circulated, and if we had sent the police after every shadowy report of that kind, we should have worn the whole of them out to no purpose.

162. I mean from the officer in charge?—If the officer in charge, or the senior sub-officer in charge saw his way to catch the outlaws, it was his duty to do so.

163. Mr. Hare in his official report says, "I also told them that at each of these towns I would have a full party of men stationed, so that, if any information was received about the Kellys, they would be in a position to go in pursuit at once; and all I wished them to do was to communicate by telegraph with me previous to their starting off, so that I might know in which direction they had gone." The question is this, if Mr. Hare gave that instruction in June when he resumed the command, is it within your knowledge that that was not the rule prior to his assuming command. It has been stated in the public press and elsewhere that there was a regulation in force, presumably through you as the permanent and responsible head of the department that, if the Kellys were heard of by the police, under no circumstances were they to go after them unless they had communicated with the head of the department; and the question I ask is, as Mr. Hare in his official report gives certain instructions, therefore it looks like a different instruction from those previously acted on, was it or not?—I do not know what regulations Mr. Nicolson may have issued when in charge of the Kelly operations; I can say I never issued any.

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164. If there were regulations of that sort, they were not in accordance with your instructions as the responsible head of the department?—Certainly not.

165. At the time you took charge of the Benalla district you stated you organized search parties?—We had search parties.

166. How many did those search parties generally consist of?—No fixed number, it differed.

167. From six to——?—Nine or ten.

168. In the event of those search parties being sent out, if they obtained what they believed to be reliable information, were they allowed to proceed without waiting for any orders or instructions from you?—Certainly.

169. Those parties were not instructed to go a certain distance, and then if they had obtained no information to return at certain fixed periods?—No, they had instructions to act according to the best of their judgement generally.

170. Was there no limitation as to the time they were to return?—When they were to return?

171. Were they under the charge of officers?—Some were, and some under sub-officers.

172. There was always some recognised head to each party?—Yes.
173. In asking about the districts, I neglected one station, I recollect now—was there not an officer at Kilmore, the nearest station to Euroa, in the Bourke district?—Yes, Mr. Baber was stationed there.
174. *The Chairman (to Mr. Nicolson).*—Do you desire to ask any questions?—I do.
- The Witness.*—Am I to submit to be cross-examined by anyone who is called here?
- The Chairman (to Mr. Nicolson).*—Any question you ask now must arise out of the evidence just given.
175. *By Mr. Nicolson.*—Of course you know the difference between what is evidence, and what are mere statements?—I know what is the difference between what is speaking the truth and telling a lie.
- 175a. That is not my question; you are aware of the difference between the two——
176. *By the Commission.*—The question asked is, do you know the difference between direct evidence and hearsay evidence?—Everything I have stated is not exactly from my own knowledge, but I know it is true.
177. You stated about Mr. Wyatt?—Mr. Wyatt told me it.
178. *By Mr. Nicolson.*—Is not a great portion of your evidence mere hearsay, and not what came within your own knowledge?—I know it is true.
179. That is not an answer to my question?—I have no other answer.
- 179a. Is there not a considerable portion of the statements you have given just now hearsay?—Some of it, but I know it to be true.
180. You were asked about the cause of the lawlessness at Beechworth, and you spoke of the wholesale system of cattle-stealing there; are you not aware that there are other causes of lawlessness in the North-Eastern District?—That was the principal crime of the district.
181. Are you aware whether there was any other reason for the Kelly gang taking the field?—I believe these outrages would never have happened if it had not been for the shooting of Constable Fitzpatrick, and the consequent anger and indignation of the Kellys at their mother having received that severe sentence, and at their associates having received the sentence of six years.
182. Were you aware before this man Fitzpatrick was sent there that he was a man of bad character?—I was not; he was strongly recommended to me by Mr. C. A. Smyth.
183. Had you not occasion to remove him from Schnapper Point up to the North-Eastern District?—No; the incidents that came to my knowledge afterwards occurred at Schnapper Point, but I never had information of them till after he was sent to Benalla.
184. Are you not aware that for some years, a considerable number of years back, the Beechworth district has been unfortunate through various circumstances, in the officers stationed there, officers dying, and through frequent changes of officers, peculiarly so?—I do not know what you are talking about.
185. Are you not aware that for some years, a considerable number of years back, the Beechworth district has been unfortunate in the officers stationed there, officers dying, and through frequent changes of officers, peculiarly so?—There were one or two; Mr. Barkley, in charge, died. What has that to do with this case?
186. *By the Commission.*—Was it more so than any other district?—I am not aware of it. At one time it was necessary to remove one or two men from a certain part of the district, but there was not a general removal of all hands.
187. *By Mr. Nicolson.*—Were there not officers removed from time to time?—So they are in any district; state whom you refer to.
188. I refer to a series of officers?—Then speak out; none of your mysterious hints about officers.
189. Are you not aware—I have a delicacy in mentioning the officers, because many of them are dead, but I will furnish a list of them—you know Whom I refer to?—I do not know, that is utterly untrue. I do not know whom you refer to; mention the name, then I will admit it. Why not speak out like a man, instead of hemming and hawing and hesitating?
190. Who was the superintendent of the district previous to Mr. Sadleir?—Mr. Barkley, of the Beechworth district. You know all these things. Why cannot you mention them yourself?
191. I am examining you. I cannot?—You are talking nonsense.
192. Who was there before Mr. Barkley?—I cannot remember.
193. Was there not a Mr. Wilson?—He was there after. I do not believe it was immediately before Mr. Barkley.
194. Was there not a Mr. Purcell there?—He was, but not in charge of the district.
195. *By the Commission.*—Was he superintendent?—No.
196. *By Mr. Nicolson.*—Was there not one superintendent there for twelve months—I mean Mr. Chomley?—He was there.
197. Do you remember my making an inspection of that district in 1878?—I remember you made an inspection of the district some time before this happened, but I must say I did not attach much importance to any of your reports. They were all merely twaddle.
198. Do you remember my reporting Greta station to you?—Yes.

199. What did I recommend?—I cannot remember. I have not seen the papers.
200. Do you remember my reporting the men and recommending their removal?—No.
201. Did I recommend Thorn's removal?—Yes.
202. Do you remember the establishment of the Glenmore station?—Yes.
203. Do you remember the proposal to abolish Glenmore?—It was of very little use that station.
204. I am not asking that. Do you not recollect it being recommended to break it up?—Yes.
205. Do you remember my protesting against it?—No.
206. Do you remember Mr. Montfort protesting against it?—No.
207. The station was broken up?—The station was broken up.
208. Was I communicated with or consulted with about the breaking of it up?—I cannot remember.
209. Are you aware that at the time I went up to inspect that district the Glenmore station was abolished?—I cannot tell.
210. Do you remember my reporting to you the occasion of that visit that there was a system of horse and cattle stealing carried on uninterruptedly in that district by men from the Greta district?—I was perfectly well aware of that before your report.
211. Why was no step taken to put a stop to it?—I decline to answer that.
212. Did I not recommend that the arrangement should be made through the Inspector-General and with the police of New South Wales for the police of one district to communicate with the other, establishing a system of communication?—I do not remember your ever doing it.
- 212a. It was done——
- By the Chairman.*—In writing?
- Mr. Nicolson.*—In writing.
213. *By Mr. Nicolson.*—Do you remember the arrest and conviction of the Baumgartens?—Yes.
214. Were you made aware who it was that brought the horses to Baumgarten on which they were committed—that they were reported to the police?—I was made aware of that.
215. Who was it?—I decline to answer.
216. Why?—Because I won't.
217. *By the Commission.*—You decline answering that question. Of course the Commission thoroughly understand the grounds on which that would be reasonably objected to in your mind. Do you think it would be injurious to the safety of that person of his family by your giving that information?—I decline to answer the question unless ordered by the Commission. Allow me to observe that I have been asked a lot of questions which have nothing to do with the object of the Commission. I do not know whether it is intended on the part of Mr. Nicolson to annoy me or worry me.
- The Chairman* instructed Mr. Nicolson to confine himself to cross-examining the witness on evidence having relation to himself, Mr. Nicolson.
218. *By Mr. Nicolson.*—Did you consult me in the abolition of the Glenmore station?—I would be guided by the opinion of the officers of the district rather than the inspecting superintendent.
219. You say that, about a fortnight before the Euroa bank was stuck up, you received information from me that the bank was to be stuck up?—I did.
220. In what form did you receive such information from me about the bank being about to be stuck up?—I cannot recollect; it may have been a letter, or it may have been a telegram.
221. When I was sent up to the North-Eastern District the officer there was Mr. Sadleir?—Yes.
222. You are aware that Mr. Sadleir was convalescent, after severe rheumatic fever?—He was all right when I was there.
223. And that he was unable to go out of camp—to go out with search parties?—I was not aware of that.
224. Are you not aware that I had no officer at my disposal there excepting Mr. Sadleir?—There was only you and Mr. Sadleir there, the officer in charge of Mansfield.
225. If Mr. Sadleir was recovering from fever, and was only convalescent, was he fit to go out on duty?—Two months after he was in capital health.
226. That was two months after. Are you not aware that I had to go out on search parties myself?—I know I went out a great deal.
227. Had I any leaders to take charge of parties of men in that district to go out on search when I went up on the 28th October 1878?—You had several sub-officers in the district—Sergeant Steele, and that kind of men.
228. *By the Commission.*—Was not there Mr. Brook Smith at Beechworth; was there not Mr. Pewtress at Mansfield?—Yes.
229. And the superintendent of the district, Mr. Sadleir, at Beechworth?—Yes.
230. *By Mr. Nicolson.*—I spoke of the men to go out as leaders. What is the quality of a leader to go out; is he not only a man in a proper state of health, fit to take charge of men, but a person particularly with a knowledge of the district?—Yes.
- 230a. Who, when I went up there, were fit in that way?—There were lots of men who knew the country.
231. Were they senior-constables or non-commissioned officers who also knew the country?—I do not know what you are driving at.
232. Who were fit when I went up there?—Sergeant Steele.

233. Who else?—There were other good men.  
 234. There was Senior-Constable James?—Yes, he was a good man.  
 235. *By the Commission.*—Was Strachan fit?—He was a blathering fellow.  
 236. Was Senior-Constable Kelly?—He was a good man in some ways.  
 237. Was Whelan, of Benalla?—He was foot, not mounted. He was a most excellent sub-officer.  
 238. Was there a man in Beechworth fit to take charge?—Mr. Brook Smith was in charge.  
 239. *By Mr. Nicolson.*—Was there not an entire absence of men fit to be leaders?—We sent up a lot of men immediately after the outrage. There were a number of very excellent men sent up immediately after the murder of Scanlan.  
 240. You say I was out a great deal on search parties?—Yes.  
 241. Did not that necessitate Mr. Sadleir staying at home?—I suppose so.

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Captain F. C.  
 Standish,  
*continued,*  
 23rd March 1881.

242. Was not the result of that that I was compelled to go out instead of remaining at home at head-quarters, managing the business. Did it not cause me to leave the office, so that I went out and left another officer to carry on the business and correspondence?—The correspondence of the office was carried on by the officer in charge.  
 243. With whom had you correspondence?—I had correspondence with you.  
 244. Was it not mostly with Mr. Sadleir?—I do not think so.  
 245. If the circumstances of the case compelled me to go out into the bush, and go into the Kelly country, and so on, whose duty was it then to carry on the correspondence?—The officer in charge.  
 246. Would you expect that I would do both at once at the same time?—Of course if you were in the bush you cannot be in the office.  
 247. You made the remark here, you never omitted to take steps to do everything. When you were up there Mr. Hare was very indefatigable, and so on, and popular with the men, whom he treated like friends, not like dogs. What officer did you refer to that treated them like dogs?—I merely stated that Mr. Hare treated the men like friends, not like dogs.  
 248. *By the Commission.*—The clear inference left on my mind was that, if Superintendent Hare had not treated the men like dogs, some other officer had?—I did not say so.  
 249. The clear inference from the statement and your manner was that someone else did—  
 250. *By Mr. Nicolson.*—When you came up to Euroa, on hearing of the robbery there, on the 11th, you stated you found me ill, and sent me to town?—Yes.  
 251. Are you sure it was not the day after?—I could not say whether it was that day or the day after.  
 252. You stated that you despatched a party away out to the Strathbogie ranges on that occasion?—I never made such a statement.  
 253. You stated you despatched a party from Euroa in pursuit in the ranges when questioned just now in your evidence?—I never made such a statement.  
 254. Did I come down to town, or was I sent down?—You were relieved by me.  
 255. To get medical attendance?—As I was going to stay up permanently at the time.  
 256. Did you, at any of your visits previous to the Euroa sticking up, make remarks about my remissness?—I never made any statement about you. The first two months you were there, you were very active rushing about the country, morning and night—in fact, rushing about too much I thought.  
 257. You say you came down to town, and you found things in a mess in your office?—Yes, very muddy.  
 258. Did you ever express anything of that kind to me?—I did not see the use of it.  
 259. You did not?—No.  
 260. Can you give any instance of what you mean by “things being muddled” in the office?—All the matters which are generally disposed of in five minutes you used to keep over five days.  
 261. Did you find that?—Yes.  
 262. Did you find any files in your office, left behind there, that were not kept behind for a purpose?—I cannot recollect that.  
 263. Was it on all occasions when you came to town—you came several times?—Three times I came.  
 264. On those occasions did you find anything wrong in the office?—I did not do any business in the office.  
 265. Did you not find everything in order in the office?—I never did any business in the office.  
 266. When you returned?—There were a great many things held over.  
 267. Were they not files held over for you as the head of the department, as I, as your locum tenens, did not feel justified in dealing with them myself?—I always heard that you were most procrastinating, and delayed matters most frightfully when you had charge of the office—that is your nature, to be a procrastinator.  
 268. You say, when I succeeded you in July, I employed spies and agents?—Yes, you told me yourself.

269. You said I must have known they were sympathizers with the Kellys. What class of people do you suppose you could obtain the information from people who knew anything about the Kellys excepting that class?—Exactly; but you must not allow yourself to be made a fool of.

270. How was I?—I heard that some of the men whom you employed used to take your money and laugh at you behind your back and tell the Kellys.

271. You were told that?—Yes, by three or four people.

272. Is it fair to make a statement of that kind without evidence. Do you remember the first visit you made to Benalla after I took charge?—Yes.

273. Do you remember an agent, whom I obtained, coming and meeting me with you privately?—Yes.

274. Do you recollect that man receiving a considerable sum of money, from £25 to £30?—From whom?

275. Do you recollect his receiving money?—No, not from me.

276. Do you recollect his receiving some, said to be for the purchase of a horse—do you remember giving that man an order to any telegraph master, on a slip of paper, in writing, to all telegraph masters—“Permit the bearer to send any messages to me, F.C.S.”—Yes.

277. Do you remember giving a sum of money on that occasion?—No.

278. Did you give the money or I?—I had no money with me.

279. Did the man not receive a sum of money from you that night?—Not to my knowledge. I do not remember giving the money.

280. You did?—It is possible I may have; I do not remember it. I am not at all guided by your statements.

281. Do you recollect that that document you gave in that order to the telegraph office was, instead of writing to the telegraph masters, to allow him to send any information to Mr. Nicolson, that you told him to send it to you in Melbourne?—Do not get excited; I have some recollection of giving an order to send telegrams.

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282. To send the information to you in Melbourne?—I do not recollect that.

283. You speak from hearsay?—I speak of many things I heard from your own mouth.

284. You received a report on the subject where information was given by —, that he had seen a man on horseback, and so on?—You telegraphed me to come up, and telegraphed me not to come up.

285. Did I not send a report to you?—I do not remember. The report will be in your office.

286. *By the Commission.*—As a matter of fact, evidence was given by the party named, and the result of that was that it was decided by the police to take action on that evidence, and when the horses were saddled when Mr. Sadleir came back, and without his being consulted, he found the pursuit was abandoned?—Yes.

287. Was there a subsequent explanation, of why that took place, to you?—I do not remember. I remember his telegraphing me not to come up. Mr. Nicolson can produce the papers.

288. You do not know that there was?—I do not remember.

289. *By Mr. Nicolson.*—I can put a different complexion on that when I make my statement. As to insubordination at the railway station, do you recollect sending me a note requesting me to come down to town, that you wished a conversation with me about various matters?—Yes.

290. To come down on Thursday?—Yes.

291. I had to come down on Friday night, so as to come to your office on Saturday morning?—Yes.

292. When I came to your office on Saturday, what did you say?—Which interview?

293. The first interview, did you first say, “Mr. Nicolson, I have to say the Government have decided to relieve you, and to send up some one in your stead on Monday morning”?—Yes, I think I wrote to you on the subject.

294. Where was the conversation you wrote me we were to have together?—In my office.

295. Was that the first thing you addressed me?—If my memory serves me, I think I wrote you.

296. You wrote me, but not telling me I was to be superseded?—[*The witness looked for the letter.*] I thought I had written to him to tell him he was superseded, but it seems I wrote him to come down. This is the letter—“26th April 1880. Confidential. My dear Nicolson, I should be glad to see you down here on Thursday to have a chat with you. Please come down by the evening train, and come to my office the following day as early as convenient. I had a long interview with — this morning. He is of opinion that the outlaws are at present between the 11-mile and the scene of the murders on the Wombat ranges. I did not gain much intelligence. He spoke very frankly to me on various matters.”

297. Had we any conversation about that on that occasion?—Not on that occasion you came down. Our whole conversation was about your removal.

298. *By the Commission.*—It was in consequence of that letter Mr. Nicolson came to town. Was the occasion you told him they had decided to remove him?—I think it was.

Captain F. C.  
Standish,  
*continued,*  
23rd March 1881.

Cross-examined by *Mr. O'Connor*.

299. Do not you remember saying to Mr. Sadleir that although he was superintendent he was to be under me for that party?—Certainly not.

300. Do you remember some time about May 1879 receiving a letter informing you that four persons answering the description of the Kellys were in a hut near Benalla?—I remember receiving certain information about the outlaws from a certain source.

301. I will bring it to your recollection—you were dining at Mr. O'Leary's?—I remember receiving that letter.

302. *By the Commission (to Mr. O'Connor)*.—Is that what you refer to in your printed letter?—There were two occurrences—[*examining the paper*]?—Yes, that is.

303. *By Mr. O'Connor (to the witness)*.—When you retired from Mr. O'Leary's you then went to the hotel, did you not?—Yes.

304. To interview Mr. Hare?—Yes.

305. When I joined you some two hours afterwards, and asked you what the contents of the letter were, did you tell me?—No.

306. To whom did you communicate the contents of that letter?—It is no business of yours.

307. The Commission are asking you—it is for their information?—Mr. Chairman, do you wish me to answer that.

308. What were the contents of that letter—I want to show that that letter should have been communicated to me?—(*The witness made an impatient gesture*).

309. You may sniff, but that will not alter it at all?—I have not the slightest objection to answer the question to the Chairman of the Commission. I communicated to Mr. Hare.

310. You consider the information contained in that letter was very important?—The information was discussed by Mr. Hare and myself, and we determined to adopt a certain course.

311. That is not my question—did you consider it important?—I did.

312. That is what you ought to have answered first?—Will you conduct yourself like a gentleman?

*The Chairman* interposed, and requested both Captain Standish and Mr. O'Connor to restrain their feelings.

*The Witness*.—He is so insolent in his manner.

313. *By Mr. O'Connor*.—Why did you not inform me, or order myself and the boys to pick up the tracks?—Because if we had had you and your numerous baggage, horses, and trackers, we should have been known some hours before we got there.

314. How many men accompanied Mr. Hare in that party?—Seven or eight.

315. *By the Commission*.—You took immediate action in the matter?—Yes.

316. *By Mr. O'Connor*.—Why were we sent for and our services not made use of?—They were sent for against my recommendation.

317. Do you ever remember saying to me that you would endeavor to get the Kellys without my valuable assistance?—I never said any such thing.

318. From the outset you were jealous of my trackers finding the outlaws?—That is absolutely untrue.

319. What was the result of Mr. Hare's visit to this hut?—You had better ask Mr. Hare.

320. Is your memory so bad?—He went with a party of men and ransacked the hut.

Captain F. C.  
Standish,  
*continued*,  
23rd March 1881.

321. Did Mr. Hare meet a man coming from the hut?

*The Chairman (to Mr. O'Connor)*.—You had better for the present confine your questions to any personal matters you wish dealt with at this sitting. The witness stated he had heard things about you he would not like to mention.

*Mr. O'Connor*.—He made some reflections about my private character, but I do not care a fig about it from a man of his private character, but I should like him to state what he alluded to.

322. *The Chairman*.—Captain Standish referred to your letter in which you said you had been treated in an ungentlemanly, ungenerous, and discourteous manner by him throughout the whole sixteen months you were under his command, and he said he gave that the lie direct, and further that he found out things that made him keep out of your company; do you desire to say anything about that?—Captain Standish's knowledge of my private character is very limited, and all I can say is that if he has so low an estimate of my character I care very little about it, considering the character of the man who judges. He said I was not a fit and proper person; I say that of him.

323. *By Mr. O'Connor (to the witness)*.—Did you allude to my private character?—No; I said things came to my knowledge that shook my faith in you.

*Mr. O'Connor*.—Let him say it.

324. *By the Commission (to the witness)*.—I think, in fair play to Mr. O'Connor, you ought now to

state what you refer to?—You (Mr. O'Connor) told several people that you were engaged to be married to a certain lady, and I remember asking what day, and you said on the anniversary of your birthday, the 10th of February, and I found that you were married all the time.

*Mr. O'Connor.*—I give that the lie direct. I say that is a falsehood, and I am ready to prove it. On one occasion when I dined with Captain Standish, he said, "I noticed you were making love to a certain young lady;" and I said, "That is nonsense, it is only fun;" and I thought nothing more about it until I received a letter congratulating me. I immediately wrote back and said there was not a word of truth in it.

*The Witness.*—I was driven to say this, and Mr. O'Connor was married a few days after he came to Benalla.

*Mr. O'Connor.*—But everything was quite correct.

*Captain Standish.*—May I ask for all that to be withdrawn. I request, as a particular favor, you allow the whole of that to be expunged from the evidence.

*Mr. O'Connor.*—I am sorry for my loss of temper, and will be glad if this matter be not reported.

*The Chairman* observed that as the earlier statements of Captain Standish's had already been printed in the *Herald* newspaper he did not see how the latter remarks could be withdrawn.

*The witness withdrew.*

*Adjourned till Eleven o'clock to-morrow.*

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THURSDAY, 24<sup>TH</sup> MARCH 1881.

*Present:*

Hon. F. LONGMORE, M.L.A., in the Chair;

G. R. Fincham, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.,

W. Anderson, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.,

E. J. Dixon, Esq., J.P.,

J. H. Graves, Esq., M.L.A.,

Charles Hope Nicolson sworn and examined.

C. H. Nicolson,  
*continued,*  
24th March 1881.

325. You are desirous of just making a statement now?—Yes.

326. To be cross-examined upon hereafter?—I am just ready for both statement and cross-examination.

327. What is the position you occupy?—Acting Chief Commissioner of Police.

328. Since when?—About the month of July 1880.

329. What was your position in the police prior to that?—Assistant Commissioner of Police, and Inspecting Superintendent; when I was appointed the former it was stated that that was the more appropriate appellation for the duties I was performing—I mean the Assistant Commissioner of Police, to which my grade was changed, as it better expressed my duties.

330. How long?—I was appointed Assistant Commissioner a very few months before that.

331. About that time?—A few months prior.

332. I think it will be better for you to take the course that Captain Standish took yesterday, and just explain your proceedings in connection with the Kelly outlaws?—Yes. On the 28th of October 1878, Monday, I received instructions from Captain Standish to proceed at once to Benalla as some news had arrived of the murder of a constable, Constable Scanlan, and some other serious catastrophe had taken place. I arrived at Benalla that evening. I found that evening the town of Benalla, and even people along the railway line, in a state of great excitement. When I reached the station Mr. Sadleir, the superintendent of the district, was away on duty in the north of the district towards Shepparton, I believe. Next morning Mr. Sadleir, in the course of the forenoon, arrived on horseback.

333. Will you fix dates?—That was the 29th. Mr. Sadleir had very little news of the matter at that time. He rested for an hour and proceeded on horseback to Mansfield, the scene of the outrage. On the 29th some police had been sent up, but the police were a very small number there.

334. About how many?—Throughout the district there were not about 50 or 60 mounted men, exclusive of 40 or 50 foot constables.

335. For the whole district?—Yes, at that time, but more men had been sent up, and along with me some foot police were sent up and a few mounted men.

336. How many?—I am not aware how many. They were not sent to Benalla, or with my knowledge. They went in the train with me and went on, having received their routes to other parts of the district. In the course of the next day, and very soon afterwards, reinforcements arrived. It was the time Sergeant

C. H. Nicolson,  
*continued,*  
24th March 1881,

Kennedy's body had not been found, and Mr. Sadleir returned to Benalla after despatching the search party from Mansfield which found his body.

337. How long was that after he went up?—About the 30th. There were also two other parties at first when I arrived, which were unaccounted for, about which there was considerable anxiety—those two parties of police that went out at the same time that the other was out.

338. They went out at the same time as Kennedy went out?—Yes, and there was considerable anxiety about them. When Mr. Sadleir went up to Mansfield there was another officer there, Mr. Pewtress. It is the custom, I may say, and the duty of an officer in charge of the district, to proceed to the spot as soon as possible, when any very serious crime occurs.

339. What was Mr. Pewtress?—A sub-inspector. Those two parties that I allude to, I cannot give the days, but they turned up in a day or two, one of them coming into Benalla. I formed a search party, and sent out parties on the 29th—parties of men that I could muster together to look those men up—to search for them.

340. In charge of whom?—One party in charge of Senior-Constable James, and the other party I cannot say in whose command—I do not recollect.

341. How many in each party?—Not above four or five in each party at that time.

342. Those started from where?—From Benalla. On the 30th instant by the last train I went to Wangaratta to see the state of things there. I then went on alone down to Myrtleford, through that country. On the 29th—I must go back again to that date—I had by correspondence, not being on the spot, organized, with Sub-Inspector Smith and Sergeant Steele, and despatched two search parties from Wangaratta. All those parties came in in a few days.

343. How long after—within a week?—Yes, within a week, they having scoured the Kelly country away behind on the south of the North-eastern and Beechworth road one way and another. Before coming in they had got news of those other two missing parties having turned up, and further particulars of the murders—the two parties that went from Wangaratta and the two parties from Benalla. At this time it was not known who the two murderers were beyond the two Kellys. It was not known who the third and fourth murderers were. Do you wish me to go on from day to day?

344. Just as shortly as you can put it?—I quite understand. The next incident of any importance that occurred was the rumor, about the 1st November, of a man having been stuck up by the gang on the Murray flats near the Baumgarten's place. On hearing that, I and Mr. Sadleir consulted together, and I had a great deal of experience in police matters of this sort, particularly through having had charge of the detective force for fourteen years; we were hearing wild rumors every day, but there was something in this that struck me as correct. We thought there was something in it. I despatched a party that same night to Wodonga, with orders to make their way to this spot, find out this man, and to enquire into it.

345. Who had charge of that party?—Detective Kennedy, now Sub-Inspector Kennedy. The following day I was very anxious, Mr. Sadleir and I did not hear from them. Hearing nothing from this party and no further news from Wodonga, I took the train to Wodonga myself and met the party. They reported to me they had seen the man, found him out. He was a farmer down there, and they were very doubtful about the truth of his statement. He had been drinking, and his statements were wild and doubtful.

346. What was the name of the man?—Margery.

347. Are you quite sure it was at Baumgarten's that the sticking-up was?—It was by the river side, about a mile or two from the Baumgartens'. I was not satisfied, and I went myself with the party back the next day, went back to the spot to see the man Margery who said he was stuck up. I found the man was not then raving or anything of that kind. He evidently had been drinking, but it appeared to me to drown his fright, and when I saw him he was clean and cool and able to give a coherent account, and from the account he gave to me I had no doubt he had seen the outlaws. We ran down the river calling at huts and examining many places till I came to Baumgarten's. I went to Mrs. Baumgarten's house, the wife of a man convicted of horse-stealing—a man who was connected with the Kelly lot. I learned that on the previous day the outlaws had come out from the lagoons, off the island right under her house, about one o'clock, camped till sunset about 200 yards off. I found that they had camped there and had disappeared at sunset.

348. Did you find their camp?—Yes, found their camp.

349. What date was that?—I will tell you exactly—[examining a pocket-book]—2nd November, Saturday.

350. You say it was on the 2nd November you saw the man?—Yes, and it was on the same day I saw this. I had with me one good blackfellow—a Darling black-tracker—who traced them up within a quarter of a mile of Barnawartha. By that time—the time we reached there—it was dark, and the tracker could proceed no further, but the tracks were leading away to the right.

351. Towards where?—Towards Indigo Creek. I found that they had passed through Wangaratta and Everton on the Sunday, the third of November.

352. Had you good proof then that you were on the track of the Kellys?—Yes, up to reaching the common.

353. You are satisfied they were the Kellys?—Decidedly.

354. That was their camp you came across?—Decidedly, and their horses—from the description of both Margery and Mrs. William Baumgarten they were decidedly the horses and the dress of the men, and the arms that had been taken from the police. There was no doubt about that whatever. They passed between Wangaratta and Everton, upon the 3rd, on their return. Between the interval before the return, and before I heard of this, I spent some time down there fruitlessly searching, to the punts and other places to see if and

get traces of them crossing the river by Baumgarten's, and I found they could not cross the river, and it was evident their intention was to cross the river, but the river had risen very high—the greatest flood that had taken place for a very long time—and they were baffled and could not cross. I do not think since the river has been so high, but you will observe that it appears I lost the trace of them when it got dark on the 2nd; they passed through Wangaratta and Everton the following night, the 3rd.

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C. H. Nicolson,  
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355. How far distant is that?—I should say 60 or 70 miles. They had just ridden straight back without a halt. They had rested in the lagoon, and rested their horses there, and ridden straight back without a halt.

356. Then did you ascertain they had passed through Everton?—Yes, they called at certain places, and were recognized. I need not repeat to you the next event.

357. Anything of no importance you can pass over?—I had also the country about there, Rats Castle, and all the ranges, thoroughly searched by the party under Sergeant Harker of Wodonga.

358. Did you lose all trace of them?—Yes; after I heard they had passed through Everton on the night of the 3rd.

359. From that point did you lose all trace of them after they passed through Wangaratta?—Yes.

360. For how long?—The next trace of them was sometime afterwards. Captain Standish came up 6th November.

361. The black-trackers were not then engaged?—No; we had a few black-trackers picked up here and there, and that man I had then with me was a really skilled black. At that time we could get little or no assistance from the inhabitants, and the people were all through the country in such a state of terror. Civility was shown us in every town in the district, but no information given. The people seemed to be more afraid of the gang than confident in the police. The next time that I heard of them was on the occasion, about the 7th of November, when Captain Standish happened accidentally to be up in Benalla with me. He came up to talk over matters with me, and we went up to Beechworth that night as related by him. I may state that on my arrival there—we arrived at dark—and when daylight broke I found a very large number of police collected together, upwards of fifty mounted men, that had joined us, and we had a great cavalcade.

362. Was that the time the force was increased?—In the interval reinforcements had been sent. Did I mention that on the morning when we were proceeding to that place the police poured in a great cavalcade?

363. Search parties returning?—No; they had been gathered there specially.

364. By your orders?—No.

365. Was it gathering by accident?—No; orders that had been issued. I took up a few police and a black-tracker myself, but I found this large number of police about Beechworth and the place we were going to. They were sent into the district. I merely mean to show that this collection of men was improper, and calculated to defeat the object we had in view.

366. Who was responsible for that?—I cannot say by whom they were collected. It was not by me. It interfered with my arrangements. As we went along we had to cross some very rough country, great ranges of granite, and the rumbling noise that the party made was simply just like thunder, and the people heard us a mile off.

367. Under whose orders were those men at this particular time—under you or Inspector Sadleir?—No. I know nothing about the particulars of this occasion. Mr. Sadleir met Captain Standish and myself. They left together talking, and Mr. Sadleir telling him all as we went along. We gathered all the police, till there were upwards of fifty. I could not tell what Mr. Sadleir was talking about. All those arrangements were made before I arrived.

368. You were not responsible, and disapproved of it?—Yes; and I was perfectly ignorant of it.

369. Under whose orders were they?—Of course, when Captain Standish came, he was in command, he being the Chief Commissioner of Police, otherwise I would have been, otherwise Mr. Sadleir.

370. Were those men gathered at this particular point by the order of Captain Standish or any officer you know of?—I do not think they were gathered by Captain Standish.

371. Was it merely by accident—what was the occasion of meeting?—That some important information had reached the police at Beechworth about the Kellys, and something likely to come of it.

372. This was not at the time of the sympathisers being arrested?—No, it was on the 7th of November.

373. Nothing came of that gathering of the police?—Well, I will go on to mention about that. Very shortly we came in sight (after we got on some low ground) of what I was told was the Sherritt's hut.

374. "On 6th November 1878 I proceeded to Benalla to confer with Mr. Nicolson, arriving there about eight p.m. While we were talking we received an urgent despatch from Mr. Sadleir, then at Beechworth, that the Kellys had been at Sebastopol." That was given by Captain Standish. Is that what you refer to?—Yes; I have been reflected upon and attacked about this matter, and I wish to speak about it.

375. How near were you to Sebastopol when this meeting of police took place?—We were all gathered within three miles of Beechworth.

376. You do not know by whose orders?—No, I cannot say. I must say about Captain Standish that he had nothing to do with those orders. If anyone had to do with those orders, it would be Superintendent

Sadleir. Captain Standish came up and was a stranger in the matter, until he was informed by Mr. Sadleir.

377. You were the responsible officer?—And I was perfectly ignorant of the matter.

378. You were in charge of the district?—Yes, but Captain Standish came up into the district.

379. You had that district under your special command for the Kelly business?—Yes.

380. I think a misapprehension has arisen: the district was locally under the charge of Mr. Sadleir, and you were superior officer when you arrived to take charge of this particular business, and when Captain Standish came, he took charge of those fifty men?—He did not come to take control on that particular occasion.

381. Did they come without orders?—I cannot say.

382. Under whose directions did those fifty men appear?—When they made their appearance at daylight I saw them, and they fell in under Captain Standish; but I did not know who summoned them.

383. Cannot you tell, from information since, as to under whose directions those men came on; surely some officer ordered them?—Well, Mr. Sadleir did, I believe, give orders in some instances; but I do not believe he did in all cases.

384. Who did in other cases?—I cannot say; the men sometimes came voluntarily.

385. Was Captain Standish at the head of those men?—No.

386. Were the body of men under anybody as they came in?—They came trooping in.

387. You admit you were the responsible officer there—that you arrived at this spot with Captain Standish, and you do not attach any blame to him since he was not aware of this being done?—Yes.

388. You arrived there and met the fifty men, and you found this condition of things you disapprove of; did you remonstrate with the officer under you for this mistake?—Not at that time and at once; Captain Standish and Mr. Sadleir were very much engaged talking; I could not hear what they were saying; I could not hear what they said, there was such a confounded noise. I saw the men riding together, and I devoted myself to knocking the men into some order. I went to the various sub-officers and asked, “Where are your men?” and I said, “Keep them together;” and that is how I occupied myself.

389. You desire us to understand that you were interfered with and men brought there without your knowledge who should not have been?—No, I merely mention that as an instance. I am coming to something more important. I have been attacked about this, and I was going on to tell what I saw. We then came to a hut, called Sherritt’s, and, as related by Captain Standish, the hut was empty. I would not mention such a thing as I am going to mention, except that insinuations have been made that I had almost avoided meeting with the Kellys—it was insinuated yesterday. I knew nothing about what was going. I was riding by myself with two or three men near me, when Mr. Sadleir came up and said to me, “Now, Mr. Nicolson, this is the house of the Sherritts;” you will do this and you will do that, and the outlaws are said to be here. This hut was backed by a large paddock. I turned to Mr. Sadleir and said, “You send some men into that paddock, and see the men do not escape by the back;” and I said to two or three men about me, “You” (mentioning their names) “come along with me;” and I galloped with those men to the hut at full speed. I found the cavalcade was so noisy—we were expecting to get these men asleep—and I called to the men to come with me, and I galloped to the front.

390. You singled out a few others to go with you?—Yes.

391. Where did this information come from?—Mr. Sadleir got some——

392. You knew nothing about the object of your ride that morning until just when you came in sight of the hut?—No, excepting that the Kellys were about; but I was told nothing about where we were going to or were likely to find them.

393. You did not know where you were going, and what was the object of the ride that morning, until you were told that was Sherritt’s hut?—Yes.

394. Were you then acting under the control or under the orders of Captain Standish or Mr. Sadleir? Captain Standish says as follows:—“At 4 a.m. we started from Beechworth, and made at once to the house of the Sherritt family, where, it was said, the outlaws had been. Arrived there very early in the morning, scattered our men around in the bush, and sent a party of seven or eight men, under Mr. Nicolson, to search the house.” Were you under his control, or were you not?—I received no instructions from Captain Standish.

395. Did he send you with eight men to search Sherritt’s house?—No.

396. Then he is incorrect?—That may be his impression, but it is not the case.

397. Who was in charge—you stated just now that Captain Standish did not take charge, but came to consult, and you went out, and he was consulting during the ride. Who was in charge—you, Mr. Sadleir, or Captain Standish, on that morning—there must have been one of you?—I never thought of taking charge. I left the matter with Captain Standish and Mr. Sadleir.

398. I want to clear this up. I understood you had no information of what was being done that morning until you received information from Mr. Sadleir—was Mr. Sadleir in charge up to that point?—Yes. I did not interfere with him, as this was his information that we were out upon.

399. Were you amenable to any instructions that would be issued by Mr. Sadleir?—No; he was my

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junior officer; but I would never think, on an occasion of that kind, of disputing. I was thinking only of what ought to be done. I never gave any thought about etiquette or rank. I did what I thought was best under the circumstances when he came and spoke to me.

400. When he came up and consulted you in that manner, would it not have been your duty to have taken charge of the party and directed the men, or failing that, to have given him charge?—I did.

401. You gave him instructions to take command—I understood you to state you considered the noise to be detrimental to the object you had in view, you consequently rushed with a few men to search the hut?—I turned to Mr. Sadleir, and I said, “You look to the back of the hut with some men, and put some men in that field, and see to the outlaws not escaping there.”

402. You looked upon Mr. Sadleir as the commander at that time?—Well, I gave him his orders then when he came to say, “Mr. Nicolson, you look to this and that.” I said to him, “You look after the back and I will look after the front.”

403. There was no misunderstanding at this time; you mutually agreed as to the course to be taken. There was no dissension between the officers?—None whatever. I went into the hut. We had to turn a short turn to the left to make for the hut. I rode down the entrance passage, about that breadth—[*spreading his arms*]*—*which I did full speed, threw my legs off my horse, and burst in the door, one of the men—Constable Bracken—attempted to pass in front of me. It has been my custom—a well-known custom in the police force—that no one should go before me on any occasion of this kind. I pushed this man aside and his gun went off. I went suddenly from room to room. I have been accustomed to that sort of duty. I rushed into the next bedroom, whipped off the clothes, and ran to the next room and did the same, and so all through, and I found the whole thing was nothing.

404. At what distance could a man have heard that noise of the police you spoke of?—One man told me afterwards he heard us a mile away.

405. Giving plenty of opportunities of escaping?—We went on after that to another hut, and galloped up to that in the same way, and the man said he had heard us a mile off. We went on till at last we came to Mrs. Byrne’s hut, and found it empty too. Subsequently, at some distance off, I observed Captain Standish surrounded by a number of men, in conversation with a slip of a lad, a young native of the same class of youth as I supposed the Kellys to be, because I knew Ned Kelly very well; I had been previously acquainted with him. I came up to them, and I found Captain Standish was making proposals to this man to help him and to betray the Kellys. This was in the presence and in the hearing of a lot of mounted constables.

405a. Was there more than one of those men of the character of the Kellys?—Only one. I then went and remonstrated with Captain Standish for making such proposals to a man like that in the hearing of others, of any person whatever.

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406. Can you give the names of any present then?—I think Detective Ward was one who was present. It would be quite easy to ascertain.

407. Did this whole body of men remain together after you had searched the hut?—After Mrs. Byrne’s; after searching three huts the men dispersed; but I remonstrated with Captain Standish, and no person with any experience in police duty would have done such a thing. It was contrary to all practice to make proposals to a man like that, especially in the state of terror the country was in, to make proposals of that kind to anyone.

408. Did you believe from what you saw that the Kellys had been in that immediate neighborhood?—From what I have heard since I believe they had. I will come back to that. The information that was acted on, on that occasion, was given by a laboring man, who had been stopping back amongst those ranges in the neighborhood of Mrs. Byrne’s house. Several days after he came into Beechworth, and got drunk, and began what is termed “blowing” about this. The matter came to the knowledge of the police on a day that Mr. Sadleir happened to be at Beechworth, and the action I have described was taken on that.

409. Was that some days after this raid you have told us of—after that those men came back?—Some days previous—this was old information.

410. It was his information that led up to the proceedings you have described?—Yes; but it was too old.

411. Did you remonstrate with Captain Standish after searching Sherritt’s hut about keeping that body of men together before you went to the other?—No, I did not. I did not know what was going to be done.

412. This was all done without your knowledge?—Yes. The next thing that occurred was about the 12th of November. I had come down from Beechworth to Wangaratta, and a messenger came in at night to tell me that a party of police under Sub-Inspector Brook Smith had traced the outlaws from Lake Rowan and Ryan’s from along the Wallaby ranges, and had tracked them with blackfellows, and had recovered one of the police horses, which had been taken from the murdered police by the outlaws. I sent back word to them (they were undecided whether to come into Wangaratta or to remain where they were) to remain where they were, and by all means to keep the fact of their finding the horse secret. An hour or two afterwards I heard a party

of horsemen riding into Wangaratta in the dark, about eight o'clock in the evening, and leading a horse.

413. Were those the police?—Yes.

414. And leading this horse you have referred to?—Yes, I ascertained that was the horse. I remonstrated with Mr. Smith, and he stated that he found himself within five or six miles of Wangaratta, that the men were hungry and fatigued, and that he thought it as well to come in and sleep there and rest and feed the horses as to remain out, and that he would be at the spot where he stopped by daybreak in the morning.

415. Had he a black-tracker there?—Yes, two—one an old man, a good tracker, from Coranderrk, one of the old blacks, and therefore possessed of more skill than the present lot, and a young man who the old fellow called his pupil, named Jemmy, a very inferior useless fellow. Next morning I found Mr. Smith had not started. I got him up, went and roused him up, and sent him after his men. I examined the horse either the night before or the next morning with Sergeant Steele of Wangaratta, and we came to the conclusion that the horse must have been dropped about a fortnight from the appearance of the animal, his having been fed on grass, and from the swelling of his fetlocks that he had not been ridden for a week or more. Inspector Smith returned to his party, and his report to me was not satisfactory. Mr. Sadleir and I happened to come up to Wangaratta, and I went out with this party back again to the Wallaby ranges to see to it. We took one part of the country—Mr. Sadleir and I; and Inspector Smith and to the other Sergeant Steele, in whose experience and ability I had reason to have great confidence. We came back without any result. Then I sent Inspector Smith back to Beechworth with instructions to attend to the duties of his district and not interfere with the Kelly business any more.

416. Was that a sort of rebuke?—Well, I did not feel confidence in him; and that was the only occasion that came under my notice in which the men showed dissatisfaction with their officers.

417. What sergeant was with him?—Senior-Constable Johnson.

418. Is that the same man that set fire to the hotel at Glenrowan?—That is the same man.

419. What was the nature of the dissatisfaction?—The men were dissatisfied that they had not stayed there all night and followed up those traces in the morning; they were very sanguine about the gang. They had found what appeared to be a ramrod made from the branch of a tree, and whittled; they picked this up—a very good substitute for a ramrod; they had very great confidence that they could follow it up and find something.

420. Did the men under this officer's charge, by word or any expression they made use of; lead you to believe that they had not faith in him—that he displayed indiscretion or cowardice?—Not cowardice; a want of discretion, and a want of bush ability for work of that kind. No man said such a thing to me, but it was conveyed to me.

421. What opinion did you form of the case, from what you heard expressed by the men—did you form any opinion yourself on that, as to whether it was a want of judgment, indiscretion, or from any other cause?—Want of judgment, and general unsuitability for that sort of duty.

422. Why did you consider him unsuitable—what was the cause?—Well, I consider he had made a mistake in coming in that night. His convictions were not firm and decided enough; he had not decision of character enough.

423. You said you sent a message to a body of men to instruct them to remain there?—Yes.

424. Had those men then received your message?—I believe so.

425. Are you quite positive on that point?—Yes, I am quite positive on that point.

426. In coming in, he was guilty of insubordination and disobedience to a superior officer's orders?—Yes, and I told him that; and he gave his explanation.

427. Was that in writing?—No, orally.

428. From your own knowledge of what happened, do you think he was near the Kellys at the time?—I have very much reason to doubt it, because my inspection of the horse showed it had been left a week.

429. You said they picked up a ramrod?—That may have been lying there three or four days.

430. You did not consider his excuse sufficiently satisfactory to warrant him in disobeying your orders?—No.

431. And therefore sent him back to Beechworth, telling him to have nothing more to do with the Kellys?—I sent him back, not as a punishment, but because I did not feel confidence in him.

432. If you can, will you make matters as brief as possible?—I can give the name of the man at the farm, Margery was the name.

433. What was the name of the farm?—I do not know, simply Margery's farm.

434. Is it near to Barnawartha or Wodonga?—It is nearer to Barnawartha, within seven miles of Barnawartha. The strength of the North-Eastern district in September 1878, that is just about two months before, was three officers, nine sub-officers, forty-three mounted constables; then of foot, nine sub-officers and fifteen constables.

435. That is sergeants and senior-constables?—First and second-class sergeants and senior-constables.

436. An officer to every two men?—Yes; the senior-constables are merely men who get sixpence a

day more than the constables, and they get charge of the stations. That was just a month before the Wombat murders. I have just shortly to say that during that time, and subsequently down to the Euroa robbery, I was engaged forming search parties, dividing the country off into sections, and going out myself with them in turn—not all, but some of them.

437. Were you out at the time that information was given that the bank was likely to be stuck up?—I am not aware of hearing anything of the kind. I have not come to that yet. During the time I was compelled to go out, my colleague or subordinate officer in charge of the district, Mr. Sadleir, had just recovered from rheumatic fever, and was a convalescent at the time, and he was unable to go out at that time. He had resumed his ordinary duties, but he was not fit for extraordinary duties—travelling from morning to night through that rough country, and camping out.

438. The last date was the 7th November—what date do you fix for forming those search parties?—I was frequently—several times—out with search parties before then, but not for any length of time. On the 20th November 1879.

439. That was the time that Mr. Sadleir was not sufficiently strong, in consequence of his recent illness to be able to do bush duty?—That is it exactly. I had to go out with several parties, and I was out first with one, and then with another; and when I was not out with parties actually, I was continually travelling from one place to another; and when out with these search parties at that time we could not get any guides or assistance from the inhabitants, with the exception of one man, who is now a mounted constable, Dickson at Wangaratta, who joined us as a guide. He was taken into the force since, and there was a man picked up at Mansfield, named Nicholson, a native of that place or Gippsland, I believe, a resident there at any rate. After travelling through these ranges and that country, when we would come to a halting-place; we were in the habit of camping first and having tea, and placing sentries, and having supper, and then select a place to sleep in, leaving the fire, of which we had very little, and move on to another place to sleep. I, then, instead of being able to lie down to rest with the men, at that time generally had to go with two or three men to places from one to four miles off on foot—huts of suspected persons and so on.

440. What number of men would those parties consist of?—At first from six to eight and nine; but I used generally to go with as few men as I possibly could—small parties, in fact, of about six or seven. I would not get back to the camp after visiting those places until about twelve or two or three o'clock at night. I had to lie down to rest till daybreak, which at this time (November) was very early. This had a serious effect upon my strength. It reduced my strength. It also affected the whole party; we would come in very much fagged, horses and men. The young men used to recuperate in a couple of days; but it took me, at my time of life, and the other members of the force, mounted constables and others, more than that; but I had to go out notwithstanding at once.

441. As a matter of fact, is it not the hardest duty that a man can do?—It is the hardest duty one can experience. I have experienced duty of all kinds in the colony. I had experienced similar duty in that part before in 1852.

442. What sergeant had you?—I have been obliged to go out with different men, Senior-Constable Strahan and Constable Flood.

443. Where is Strahan's station?—He was then stationed at Greta.

444. What length of time would those search parties be out before returning to head-quarters?—At first a very short time. Myself, or James, or Steele did not remain out for very long; but on those occasions we went out for a fortnight or more, prepared for that. We had to go out as secretly as we could to avoid notice, because any movements of the police always created a sensation amongst the inhabitants and got spread all over the country.

445. What were the general instructions you gave to those search parties?—They had particular districts, and Mr. Sadleir and myself, with the assistance of Constable Wheelan, of Benalla, and Sergeant Steele of Wangaratta, mapped off this mountain country into districts; then each party took a certain district.

446. Have you a copy of that map, as marked at that time?—I left the map up at Benalla.

447. And the names of the various parties?—No. Those parties were told off, not in writing; they were all arranged, and then instructions were given to start.

448. Were any particular instructions given to those parties in writing or verbal?—Mostly verbal. I was out with one party, and Steele was out with one party, and James with one, and Shoobridge (Senior-Constable) with one; and those at a distance would be written to. Those at hand would get the instructions verbally, and they would put that down.

449. Would they give a written report on their return?—Yes.

450. Those reports are in existence?—I should think so.

451. They should be in existence at Benalla?—Yes.

452. Was the Constable Flood that you have now spoken of as in charge of one of the parties the constable that originally was in charge at Greta?—I believe so.

453. Whose name has been connected with this from the first?—He went out with me from the first.

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454. Did you give sectional plans of the country they were to cover?—No; because they knew country; but they got a description of the country, hills, and creeks.

455. Officially, did you give them any sectional plan or written instructions?—Yes, written; and of course, the men who were with me down at Benalla got verbal instructions. I went over the matter with Sergeant Steele himself.

456. In visiting the station you would be aware of the instructions issued by the Commissioner of Police?—What instructions?

457. To the police officers, if they received any information about the Kelly party?—The Chief Commissioner of Police had really nothing to do with that. I was in charge of the district, and the men received full authority to act upon their discretion, and representations to the contrary are not correct.

458. Then it is not true that the officers had to delay matters till they had telegraphed to the Chief Commissioner before they acted?—No.

459. Not from the commencement?—No, not from the commencement, never. When I took any important step, of course I communicated with the Chief Commissioner in writing or telegram.

460. They were to follow up anything?—To use their own discretion. When they were out in those parts of the country they were allowed to do anything they chose.

461. Was your plan of operations ever interfered with by an order from your superior?—Not at that time.

462. Not up to the period you are describing?—No. On coming in one morning from a search party, on Monday, 9th December 1878, I arrived at Benalla; and from the statements and reports of the other parties, I was satisfied that the Kelly gang were not in the Kelly country.

463. What do you mean by the Kelly country?—That back country behind Greta, extending away up on the east side behind Mansfield and Benalla, right down nearly to Omeo, and from there right across east. The country had been so thoroughly searched, and none of the search parties had obtained any traces whatever. After the murders we found their old tracks, and Senior-Constable James discovered their camp, and recovered a number of horses there—the camp they occupied before the murders.

464. At what place?—Called the Germans' Creek.

465. In the Mansfield district?—Yes, Mansfield sub-district; there were no traces discovered after.

466. In giving that evidence, is your reason for concluding they were not in the country because you got no traces of them, or from your knowledge that they were elsewhere?—No, because there were no traces.

467. You came to the conclusion from that that they were not in the Kelly country?—Yes.

468. Is that bounded by railroad that runs north-easterly up to Strathbogie and towards the Omeo country?—The Kelly country I particularly designate is not as far as Strathbogie; east of Benalla—that road.

469. Northerly and easterly, about the division of the Mansfield coach-road; that is what you call the Kelly country?—Yes.

470. Your information was they were not in that country?—Yes.

471. You did not include in that the Mansfield country?—Yes; from what Senior-Constable James said, I was of opinion it was very improbable they were there.

472. In speaking of the Kelly country, did the Commission understand that you designated the Kelly country about the division of the Mansfield coach-road and northerly and easterly up to Omeo?—Due east from Omeo to the New South Wales boundary; then due north to "the Heads of the Murray river"; then westward as far as Wodonga.

473. That would exclude the Strathbogie ranges?—Yes; a party of police had been stationed at Broken River, on the Benalla and Mansfield road, under Constable Irwin, for the express purpose of searching the country—the Strathbogie country—and back from there to the road from Mansfield to Longwood. There is a road runs right up to there. On that very occasion—I would not like to swear positively, but I had very little doubt of it whatever—a man named ———, who has been alluded to by Captain Standish yesterday—(I am quite certain that it was on that Monday—9th December)—came into the yard in the afternoon, soon after we had arrived, and told me he had got information, and requested me to take a party along with him, or rather to meet him up at the head of the King River, in a basin, about seventy miles off Benalla. I believe he subsequently took Superintendent Hare there; but he asked me to do that. I knew the man's character very well; he is a man of a very treacherous character.

474. Can you tell what connection of Kellys' he was?—He was Ned Kelly's uncle. He is married to an aunt of the Kellys. He was much distrusted by the Kelly gang, and also by the people of the country. I distrusted him at once. When he came he saw our horses—this was in the barrack-yard—the horses fatigued and jaded; and I said, "How can I bring these men up seventy miles by to-morrow night in the state they are in. You see the horses, and see it is impossible for us to arrive there in a condition to go in pursuit of those men."

475. Was this the first information you had received from him?—Yes; he promised to give information and to write, and promised to do a great deal, but did not come. I declined to go with him. I also spoke to Mr. Sadleir of the matter.

476. What was the intimation he gave?—That they were living up there; but at that very time they were down at Euroa.

477. That has been proved since?—Yes; they were at Faithfull's Creek station on the Monday, and they robbed the bank on the Tuesday.

478. You consulted with Mr. Sadleir about it?—Yes.

479. And you both agreed it was inexpedient?—Yes.

480. You thought his object was to lead the police off the track?—Yes. Previously, this man had promised to send for us, or to come, on certain dates on one or two occasions, and lead to where the outlaws were; and could have done so, I think, if he chose to. Still I thought his position and information untrustworthy, because I distrusted him; and I know they all distrusted him.

481. Was this man recognized as an informer, and in the pay of the Government?—No, he was not.

482. Was “Wild Wright”—Isaiah Wright—ever engaged by the police?—Never, to my knowledge. There was also received, a considerable time previous to that, a letter sent by Senior-Constable Kelly from Hedi, a letter that had in some way or other fallen into his hands; and it revealed, apparently, a plan on the part of some persons on the River Murray to help the outlaws over to escape into New South Wales.

483. What date?—I forget the date. No doubt the letter is producible amongst the others; but it was previous to this. As a matter of form, this was sent on to the New South Wales police, as we were in close communication with them, giving them all this information. Great importance has been attached that that was the cause of Mr. Sadleir’s starting up to Albury that night. Now Mr. Sadleir and I had come to the conclusion that the Kellys had been baffled in crossing the river; further, the opinion of all our best assistants, all the respectable portion of the community and the most experienced, was that the Kellys would make another effort to escape across the Murray at that time. Mr. Sadleir and I concluded that we would run up to Wodonga and Albury, as we were assured that the Kellys were not in the Kelly country, to warn the police all the way up and down as to the likelihood of their trying to cross. We two went up by the last train at night, and were to return by the first train in the morning.

484. Was this the time when Captain Standish said you pooh-poohed the information that was given to you about Faithfull’s Creek, and started off with Mr. Sadleir to Albury?—Yes, that was the occasion.

485. Was that the occasion of — giving you the information that Captain Standish referred to when you had all the horses saddled?—No, another occasion altogether. We reached the railway station, and at Benalla were just getting into the carriage, and the station was crowded. We saw Mr. Wyatt, P.M., in the crowd.

486. His station is at Benalla?—It is one place he visits.

487. Is that his head-quarters?—I am not aware he has any head-quarters. He visits almost any part of the district. Mr. Sadleir remarked to me, or we remarked together, his carrying something in his hand like a bouquet of flowers.

488. What train was that?—The last train at night, eight o’clock; it was quite dark, and Mr. Sadleir said, “I will go and see what is the matter.” So he went up and spoke to him. Mr. Wyatt and Mr. Sadleir then joined me; this was just as the train was starting, or just about two or three minutes before, and he told us that at Faithfull’s Creek, just as related yesterday——

489. Try and repeat it as closely as you can, because you can see a great deal depends on this evidence?—He told us that at Faithfull’s Creek, opposite Faithfull’s Creek station, a squatting station, it was observed from the train that a considerable portion of the telegraph wire had been broken down—in fact one or more of the posts had been broken; and he produced from the end of one of the posts an insulator, a group of insulators, two or three that he had in his hand; he might have had some wire; I do not recollect it, but have no doubt he will tell you himself about it. I sent Mr. Sadleir down to see the guards and the drivers of the train, with the view of asking if they had seen anything peculiar at Euroa, and also any of the passengers he knew. Mr. Wyatt merely said, as far as I can recollect, that his opinion was there was something wrong; Mr. Sadleir came back and stated that the railway officers that were on the train at Euroa had landed their passengers, and that they had the usual delay, and that everything was going on all right as usual at Euroa.

490. They had not observed it?—They had observed nothing unusual.

491. You do not recollect Mr. Wyatt saying more than that?—I have perfect confidence in what Mr. Wyatt will say about it. I do not remember any more that he said.

492. We understood from Captain Standish that you had received information that the bank was to be stuck up before this?—I had not.

493. Did Mr. Wyatt tell you on this occasion that Euroa had been stuck up?—No.

494. Captain Standish stated that Mr. Wyatt told you a bank was to be stuck up, and so on?—I do not know on what ground Captain Standish says that.

495. This is a portion of the statement made—[*quoting the Newspaper report*]:—“On arriving at the Benalla railway station, Mr. Wyatt met Messrs. Nicolson and Sadleir. That was on the evening of the 10th. They were then starting for the Murray, on the strength of some strange intelligence they had received from friends of the outlaws, that the outlaws were going to cross the river. Mr. Wyatt at once informed Mr. Nicolson of what he had seen, and told him there was no doubt the outlaws had been at Faithfull Creek or Euroa. Mr. Nicolson pooh-poohed that information, and not only started himself for Albury, but took Mr. Sadleir with him.” In giving your evidence (because this is most important) you said that when Mr. Wyatt showed you this group of insulators that he said there was something wrong; did he connect with that wrong

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anything about the Kellys?—Yes.

496. Why did not you tell that at once?—I was interrupted.

497. Did he infer anything wrong with the Kellys?—I believe he did.

498. Is that statement of Captain Standish substantially correct?—No. It is not a fair statement.

499. In what particular does it differ—tell us exactly what took place at this station?—I am doing so. I am only too glad to do so. Whatever Mr. Wyatt said, I understood that he believed that it was in connection with the Kellys. Whether he said so I am not prepared to say, but I took it in that way, and I replied to Mr. Wyatt. All the time I had in my mind that the men were making for the north, and I was going up to warn the police on the New South Wales side, and at Wodonga, to be on the look out, as I used the words, and you can ask him. I said, “Very well; even suppose they have gone, and pulled down those wires at Faithfull’s Creek, that does not affect what I am acting upon,” or words to that effect.

500. In point of fact, you thought the information you were going to give at Albury of more importance than the information given by Mr. Wyatt?—That was it exactly.

501. Why did you think that of more importance if he gave you actual information, and showed the wires affording proof; why would not that be sufficient to lead you to go and trace it at once?—I thought there was a possibility of the Kellys having, for some reason or other, cut down the wires at Faithfull’s Creek on their way, fearing information might be sent along.

502. But the bare fact of the wires being destroyed, and you getting the information a few hours after, would you not have stood a good chance, by acting promptly, of following up the tracks and catching them?—No; the breaking the wires in that country is very common, not at all an unusual circumstance.

503. Was the impression on your mind on the information given by Mr. Wyatt that the wires had been destroyed by a storm, or by some other means than by the outlaws?—I did not think it was done by the Kellys.

504. You discredited the idea it was done by them?—Not altogether; but I considered if they were making north to cross, that my course going up there that night and giving information that it would be too late to pursue them from where the lines were broken down, and that it was the better way to intercept them.

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505. Suppose it was correct information, would you have succeeded better than the other way?—I would not, because this information was given in the dark; we could do nothing till daylight—until morning—and those men could ride all through the night, and be at the Murray by morning.

506. What was the information from Faithfull’s Creek?—The communication was cut off at Euroa.

507. Would they be likely to destroy the wire, to destroy communication with the border?—They would.

508. As I understand you, you looked upon this injury to the wire as proof of the plan that you surmised was being attempted by them in escaping?—I did, rather than otherwise.

509. Therefore you pursued the object you had in view—to get to the boundary as quickly as possible?—Yes.

510. Was it substantially necessary for both yourself and Mr. Sadleir to go?—It was not.

511. But, on the information you obtained, would it not have been wise for you to have remained at Benalla, or remained at Faithfull’s Creek with a party of men, and the other proceeded away?—Certainly, If I had remained, it might have been wiser; but if I had remained at Benalla I would not have taken out a party when there were police at Euroa, and I would have waited for information by the next train, or sent a mounted-constable to enquire; but you must remember there were police at Euroa.

512. In point of fact you took no steps to ascertain whether the information furnished by Mr. Wyatt was of any value or not?—No; I had no time then; in fact my last words to Mr. Wyatt were as I was getting into the carriage—we were just in time to catch the train, and all this occurred in say about three to five minutes.

513. Under the circumstances of the nature, would the station-master, at your request, delay the train to Benalla?—I do not know whether he would or not. I know we always met with every facility from the railway people.

514. It might have been a mail train?—Even if it was a mail train, he would have done it, I think. There was a train in at half-past eleven, that brought up a constable from Euroa.

515. Then the first actual knowledge arrived at Benalla of the occurrence at Euroa?—Yes.

516. How long elapsed?—The outlaws left at eight, that would be three hours and a half.

517. Did you not get the telegram from Captain Standish?—I did, by way of Deniliquin. I was at Albury when his telegram reached me, and I had made all the arrangements with Albury and Wodonga police, and I returned on receiving his telegram at Albury. I got back with Mr. Sadleir to Wodonga, and went down in the same train in which we had come.

518. Can you fix the time you received that telegram from Captain Standish?—It was within an hour after our arrival at Albury.

519. What time did you receive that telegram of the 10th from Captain Standish in Albury?—It was

very late—I believe it was after twelve o'clock. It was shortly after the train arrived.

520. Had you liberty to use the telegraph wires at any time, day or night?—Yes, at all hours. There were certain times fixed at which the Railway Department's lines were at our disposal—extra hours.

521. What distance is it from Faithfull's Creek to Euroa?—Four to six miles.

522. The outlaws left Faithfull's Creek at eight?—Yes.

523. And what time did you first hear of it at Euroa?—On the return of Mr. Scott, banker, who was taken away with others, between nine and ten, and had been kidnapped at Euroa and carried away to Faithfull's Creek; and the robbery took place at Euroa in the day—the people were moving backwards and forwards quite unconscious of it, and a lot of carpenters working at a house on the railway reserve, opposite the bank.

524. The police officers had liberty to send all messages in preference to any other messages that the telegraph masters might have—do you know that such an order was issued?—I am not aware, but I never found the slightest delay; we always received the utmost assistance from the Telegraph Department. We got a spring-cart at Albury, and went across, and got back to the train; we went down in the train as far as Wangaratta, and stopped there. I ran from there to the hospital to get that black I had before—the Queensland black that I had before at Baumgarten's. I found him too sick, and I was sorry I was obliged to come away without him. Mr. Sadleir, by agreement with me, remained there to take out the party of police. I proceeded on to Benalla, and made my way as fast as I could down to the station, and got my horse, and despatched a telegram from Benalla to Mansfield.

525. What men had you with you?—I had no men; and then I went away off as quickly as I could back to the train that was waiting for me, and got into it, and Mr. Wyatt accompanied me.

526. What was the nature of the telegram?—To Mansfield police, telling where I had gone; that I had gone down to Euroa, and that I wished them to send down two trackers from there to me to Euroa—They had three, I think.

527. What hour would that be?—Just before I started.

528. Was it before ten o'clock?—Yes, long before; it was early in the morning—I came down express.

529. And the trackers were to go to Euroa?—I believe that is it; but the telegram can be produced. I also indicated to the police up there which way I thought they should move—what direction the search party should take.

530. In this special telegram?—In this telegram, it has been said that I telegraphed (something monstrous was conveyed about me) that I sent to the Mansfield police—"You have got your orders, go on." I sent no such telegram.

531. What direction did you give to the police?—I believe, as far as I can recollect, it was to move down the back road from that direction.

532. A copy of it will be available?—I believe so, and the original in my handwriting in the office, but I do not like to touch it or interfere with it.

533. How can the copies of those telegrams be obtained?—In the Benalla telegraph office. I warned the telegraph master to take great care of all telegrams. From the road between Mansfield and Longwood, I think that was it, searching the country towards Strathbogie; I do not recollect exactly, but I indicated the possibility of their making into the Strathbogie ranges. It has been said that I sent orders to the Euroa police to wait until I arrived—as a fact, there was a party at Euroa.

534. Who was in charge of that party?—Senior-constable Johnson and Detective Ward.

535. How many were in Euroa at that time?—Six or seven, that was Johnson's party. I am not aware and I do not believe that I ever said anything of the kind, as expressed. As I was coming down in the train—Mr. Wyatt was with me—I expressed the fear that I would be too late, that the police would be gone; and Mr. Wyatt told me that he did not think so, something to the effect that the men did not wish to go, they were sure to wait till I came.

536. And that was his opinion?—That he had heard so.

537. That was next morning?—Yes; I reached Faithfull's Creek, pulled up the train when we came opposite the creek, and left Mr. Wyatt there, and did not see him again; and I went and joined the party at Faithfull's Creek.

538. At Euroa?—No; I never went near Euroa; I went direct to Faithfull's Creek on the Benalla side, and joined the party that were waiting there, and started from there as soon as I possibly could.

539. At what hour?—I could not say.

540. Mid-day?—No; in the morning.

541. Between eleven and twelve would it be?—Oh, earlier than that.

542. What distance had you travelled then?—I merely had come down by train; I was in sight of it from the train—the Faithfull's Creek station is in sight of it from the train. I had come right through from Albury.

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543. From Benalla you came down, by train, after sending the telegram, and arrived at Faithfull's Creek—what time did the journey occupy?—About 30 miles.

544. About one hour and a quarter?—Yes.

545. Did you arrive before the ordinary train at Euroa or afterwards?—I arrived at Faithfull's Creek before every train.

546. The ordinary is ten minutes past ten, therefore you must have been before that?—I was some time before that.

547. Then it must have been between ten and eleven you started?—It must have been much earlier.

548. Can you trace the time at each point in the journey?—I was at Wangaratta soon after sunrise; that would be about five o'clock. I was then only about an hour going down to Benalla; that would be about six o'clock. Then I suppose I had a long way to go from Benalla to the railway station and back, and it would be perhaps over two hours—half-past eight when I arrived at Faithfull's Creek.

549. When you received, at Benalla, this information from Mr. Wyatt, could you not have communicated with the Euroa police?—No; the line was broken between Benalla and Euroa; it had been cut off at Faithfull's Creek, and there was no telegraph station there. There was a little delay at the station, owing to a gentleman who had nothing to do with the matter, and I would rather not mention it—it did not make more than ten minutes' delay—and we got away from him.

550. In Captain Standish's evidence he said there was a want of judgement or procrastination on your part, therefore you are desirous that you should give the exact information as to what occurred, and fixing the dates and so on?—There was a gentleman there, the overseer of the Faithfull's Creek station, who had been amongst the party stuck up, and he knew the country very well. I picked out the man, an overseer on the station, whom I subsequently employed, named Stevens.

551. He had been a groom?—Yes; and I saw the housekeeper, an elderly sensible woman, there, who had been there, in the matter, who had been stuck up all night, and I just asked her, "In what direction did you see the last of the dust of those men's horses?" She pointed the road going down to Violet Town. The men had been looking for traces with a black fellow name Jemmy—a very useless fellow—and they had seen some tracks, and we followed those. We rode ultimately in that direction, and got rid of that troublesome gentleman I spoke of. He had a fall from his horse, which I was not sorry for, and we went on with this groom, who knew the country. Well, we got in, and at last we crossed the line and re-crossed the line, and we got on the road running to the Murchison road, to the Strathbogie side of Euroa, and there we found what we believed to be the traces of the men. They turned down towards Euroa. We followed those traces right down. I was riding on the right, with some of the men in front with the blackfellow. Stevens and I were riding together, and there were a number of fine young men in the police party, and they were also observing the tracks too. The spur ran down from the Strathbogie range right down into the road, and the main road was a mile from it, and the paddock rail ran right into this part, leaving the face of the spur the boundary of the road. The blackfellow turned off, and said there were the tracks of two mounted men who had gone off the face of the road on to the range. He pretended to trace them along this spur about half way, and then lost them, and said there was nothing. In the meantime, myself and Stevens, the man from the station, and the others, kept our eyes upon these two tracks remaining on the road. Bye-and-bye we lost the whole altogether. After a little pursuing on that road, trying to pick them up, the road at this time being very dusty, we satisfied ourselves there was nothing down on that spur at all, and the young men were the first to discover and pick up the tracks again on the road, at the side of the road, some distance down. The tracks led to an open space on the right-hand side, and then going towards the gate leading into a paddock alongside the railway; the men got off their horses and traced them in a very clever manner; and they branched off into the paddock. In the centre of the paddock these traces were lost. I halted there, and I made two or three of the men gallop round; I did so in order to see if the fellows had taken off, if they had jumped their horses over. There was no trace of any such thing. All this time we were in sight of Euroa, and all trace was lost; it was about mid-day. I brought the men down and could not make anything more of that. I brought them down to the village of Euroa, took them to the police station to put their horses up, and we came into Euroa; and then the enquiry was made, for the first time, at the bank, amongst all who could give any information or throw any light on the matter. At the same time I ordered dinner for the men at the hotel; and we had something to eat whilst the horses were feeding. The men were overpowered at this time (it was a very hot day) with fatigue and the heat, fatigue particularly, because most of them were the same men I had with me just two or three days before; and at the table the men actually fell asleep over their food (there is no exaggeration in saying this) with fatigue, in all sorts of attitudes, not drinking a drop or anything of the kind. Johnson, who was the strongest and hardest man of the party, a most energetic man, went to sleep on the bush sofa at the side of the room, and the old man of the house—that is, the Euroa hotel—thought Johnson had a sunstroke, and he began practising upon him for that. The man was so dead asleep that he was not awaked, though they poured water over him. I could not take the

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sleep there for an hour or two. It was bright moonlight weather; and about six o'clock had tea ready for them, and as soon as that was over we started away down the Murchison road to a place we had heard of that they were likely to go to—two or three several places. It seemed when they were at Faithfull's Creek that they were asking from one or two persons—a boy particularly—where a certain boy was living; and they learned this. I was pretty sure they had gone north towards Murchison—due north. We searched all the suspicious places without any result.

552. Then you absolutely deny there was any procrastination?—I do most decidedly.

553. Were the members of the artillery force then stationed?—No, not until after. When I returned to Euroa—I had been very ill all that time, I mean nearly blind and suffering great pain from my eyes. We got in about six in the morning, and I got the men all to bed, and I lay down myself, but I got no sleep. I could not sleep, and in the course of the morning Captain Standish arrived by the morning train, on the 12th, and he consulted me about what was best to be done, and we decided to start off a party into the Strathbogie ranges, but I told him I was quite unfit to join the party. I was almost quite blind at this time. I was suffering great pain. We agreed to despatch a party that night into the Strathbogie ranges, and Mr. Hare was sent for to relieve me in consequence of the state I was in.

554. Was it your impression at this time that the sympathizers of the outlaws were watching the movements of the police wherever you went through the Kelly district?—Yes; I had no faith in anything that was done by the police except it was done in the most secret way possible. I have evidence to prove that at this very time I had no faith in the matter. I wrote a letter at that time to town that this galloping after these men—

555. To the department?—No, a private letter stating that we would get these men no doubt, but this galloping after them through the country was perfectly useless.

556. Because your movements were watched by sympathizers?—Yes, and I knew those fellows were too clever to be caught by a party galloping after them.

557. And that is how they got their information, by their own spies?—Yes.

558. To whom did you write?—Well, it is a very delicate matter—it is a letter I wrote to my wife.

559. Did you write to Captain Standish or any officer to the same effect?—No.

560. Irrespective of this private letter, will any document be found showing that you stated that this system of galloping about would be ineffectual?—No. I had hardly any correspondence with Captain Standish at that time; I was doing the outdoor work and Mr. Sadleir did the correspondence.

561. You still continued that system of galloping?—Up to the time of the bank robbery; after that I did not. I did so because there was such an outcry at that time about search parties, and about the police not doing anything, and I knew at that time it was no use attempting to confine our efforts to secret work, we must have made some demonstration because of public opinion.

562. I understood you had supreme control of all the operations placed under your charge?—Yes.

563. If there was anything to complain of with regard to tactics, were you not solely responsible for any mistake made?—Yes.

564. Then wherein lay the necessity for any complaint; if there was anything wrong with the proceedings, were you not responsible, and independent, and equally capable of carrying out any other plan?—I was responsible distinctly; the Chief Commissioner gave me *carte blanche*.

565. Why did you not alter the plan?—I would have done so, but I was removed; but what I wrote at that time was the conclusion I had arrived at then from the experience I had gained.

566. At what time did you arrive at that conclusion that it was useless?—[*The witness looked for a letter.*]—I can get it.

567. Could you fix about the date you had made up your mind to alter the plan of operations of which you had full control?—I cannot say; I made up my mind to alter the operations. The last party I came in from was that Fern Hill party, and it was about that date; that was about the 10th.

568. You made up your mind about that time to alter?—Yes.

569. Was that feeling growing upon you?—It was.

570. That was the process?—Yes.

571. You found that you were wasting strength and could not catch them?—Exactly.

572. How long had you been in charge of the Benalla district?—Then about six weeks.

573. Only six weeks?—That is all.

574. Did you, at the interview with Captain Standish on the 12th, communicate verbally that it was a mistake to follow out this system of search parties?—No, I do not think so.

575. Did you to any other officer subordinate to yourself?—No; at this time I was taken up talking of other matters.

576. You intended to reverse the policy; you were in continual communication and conversation with Mr. Sadleir?—Yes.

577. Have you at any time in conversation with him expressed the opinion that an alteration should take place in the mode of procedure?—I have no recollection of it, but I think it is very probable.

578. Can you say you did?—No; I think it is very possible I did.

579. I suppose on the morning of the 12th a general conversation took place between you and Captain Standish when you met at Euroa?—No, not much.

580. I suppose there would be some conversation?—Yes.

581. Relating to the mode that had been pursued before?—No.

582. This is important. The conversation of necessity would not have been, "How is Mr. Jones, or Mr.

Brown,” but naturally confined to the Kelly business?—To this Euroa outrage.

583. During that conversation did you say, “I am very unwell, and I have arrived at the conclusion that we ought to alter the procedure”?—I cannot recollect.

584. Then, as far as you recollect, you never communicated your determination to anyone in the police force?—No; I do not say the determination, I say the opinion; and on looking at the letter I find I used that expression. I felt quite heart-broken—our work and worry, and no result from it.

585. Had your state of health permitted, and you had not been removed by Captain Standish, in all probability you would have continued the same mode of operation for some time after the bank robbery?—

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No. I would have continued this pursuit until it was exhausted, and then I should have proposed to Captain Standish another system.

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586. What do you mean by “exhausted”?—Pursued the party into the Strathbogie ranges, given them a thorough search, as was done, and if any information had come in about their being anywhere, I would have sent the police in search of them; but I intended then, if no result occurred from that, I should have proposed another system.

587. Then you were consulted about this special party that was despatched into the Strathbogie country?—Yes.

588. And at that time you had your mind made up that if that resulted in no special effect —?—I did not say my mind made up, but the opinion I had formed.

589. I understood you to say that you would exhaust that system, and you explained what you meant by that, and you had made up your mind that when that party went out, that was to be the end of that system of procedure—is that so?—Yes.

590. You would have thought it wise not to communicate what was existing in your mind at that time to Captain Standish?—My mind was not so completely made up as to arrive at any definite conclusion as to what I would do; but that is what I felt, that a lot of this was a useless system, galloping over the country.

591. You say that you had written to a private friend to say you considered the system hitherto pursued by yourself, from your experience, was inoperative. You came to that conclusion about the time of the bank robbery?—Yes.

592. And you wrote that to a private friend?—I can produce the letter.

593. When you were relieved from duty in consequence of your eyes being sore and this tremendous hardship you had to undergo, when you came down you did not communicate to Captain Standish about this conversation?—No.

594. Can you say whether you did to your successor, Mr. Hare, then or at any subsequent period?—I had no communication with him.

595. Did you go on leave when you came down here, or go on duty at once?—I went on duty from the day I came down from Euroa; I arrived in the evening, and I went next morning.

596. Had you interviews with your chief after you arrived from Euroa, and while Mr. Hare was in charge in your place?—No; the Chief Commissioner came down two or three times from Benalla to Melbourne, and he never spoke to me about what was going on—he was exceedingly reticent.

597. You did not carry on a correspondence with him while you were in Melbourne doing duty, telling him verbally or by official communication that you considered the system of riding after the Kellys would be inoperative?—You had better ask him, but I have no recollection of it. When I came down to town—when I was in town in charge of the department, on every occasion that Captain Standish was called down to town by the Government, and it was very often he would be in my office, and he was most remarkably reticent, and never would give me the slightest information—I would not ask him. At the same time, I always asked him, “Do you wish me to go up, I am ready to go at any time?” That was all that passed between us, and he would shake his head and say nothing, and I knew nothing from that time of what was going on in the country.

598. You then resumed duty in that district yourself, relieving Mr. Hare?—Yes.

599. Did you then continue the system you considered would be inoperative?—No.

600. You carried into effect what your feelings were as to what ought to have been done in the first instance?—I did so; but I may explain that I began in this way, that the force was reduced by a very considerable number; that was when I resumed duty.

601. When was that?—About the 6th July 1879.

602. Did you make any private reports during the time you were on duty here. You left on the 13th of December, and you resumed duty in the district in the following July; did you, in the meantime, communicate either by official communication to the head of your department, the Under Secretary, or to the Chief Secretary any opinion as to how these men could be brought to justice?—I did not; I had no conversation with Sir Bryan O’Loghlen on the subject, because I could see he was in correspondence with Captain Standish.

603. Was Captain Standish then discharging the duties?—Yes, in pursuit of the gang; I was acting as Chief Commissioner.

604. When he took charge himself he assumed the position you had held?—Yes.

605. And Mr. Hare was acting under him?—Yes.

606. And when you came to town you did the ordinary routine office work of Captain Standish?—Yes.

607. Had you then in any official communication with the Acting Chief Secretary, Sir Bryan O’Loughlen, suggested how the Kellys might be brought to justice?—No; I knew at the time I had no knowledge of what was going on, and all communications at that time with the Government were with Captain Standish.

608. Directly with him and not through the office?—Yes.

609. At the time you left Benalla from ill-health, and having gained the experience which you necessarily must have had as a vigilant officer, does not it strike you now as extraordinary that you did not advise with your successor or with your superior officer as to the best course to be adopted in the interests of the public safety?—My relations with Captain Standish at that time, when I was in town, were against my doing so.

610. They were strained?—They were strained, and any expression of opinion by me was treated with I would not say almost contempt, but something very near it; I was not in his confidence at all.

611. At what period did that strained relation begin between you?—At intervals for some years past.

612. Under what circumstances—did that arise more particularly out of your official position?—Yes.

613. And the discharge of your public duties?—I had never any disagreement about the discharge of my duties, but frequently in other matters, and, now I think of it, perhaps in the discharge of my duties there may have been.

614. Would it be for the public interest to know the particulars?—I would not like to give a positive answer that some of our differences may not have been about public matters.

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*continued,*  
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615. At any time were your public functions interfered with as the officer second in command by Captain Standish?—Not up to the time of the Kelly business.

616. On any other occasion?—Subsequently; not up to that period. Our relations were strained previous to the Kelly outrage.

617. But up to this period, officially, do you wish the Board to understand that you and Captain Standish worked in harmony in your respective positions?—Yes, we did, especially during the Kelly outrage; and, as far as I am concerned, I maintain that on every occasion I worked in harmony with him up to that period. I had no serious difference with him until afterwards.

618. Then, at the period when you were taken ill, and it was necessary for you to leave for a time, do not you think, in the interest of the public service, it was absolutely your duty to communicate with the gentleman who took your position and your superior officer as to the best course to be adopted?—No encouragement was ever given me to offer suggestions.

619. No, but did not you think that to the Government, of which you were a very important officer, it was essential for your own personal safety and the public security to advise as to the best course to take from the much larger experience you must have acquired through being in that position?—Yes; I was quite ready to do so, but any advice I offered on the strength of my experience was pooh-poohed, previous to that and on that occasion.

620. On this occasion you left no record, neither did you verbally express to the gentlemen with whom you were associated as officers the importance of following out any course you thought best adopted for the object you had in view, neither in writing nor verbally?—No. The day I left was upon that occasion, the 12th. I was, as I tell you, when I came in from that party, completely prostrated; in fact when I was going about the street I had to be led about, and take the arm of someone.

621. Your answer is that you were too incapacitated at that time to advise?—Yes.

622. And Captain Standish did not ask you?—No.

623. Subsequently you say you performed all the functions pertaining to the Chief Commissionership of the colony?—Yes.

624. You were in constant communication with the Government on matters official?—Yes.

625. After you had time to recover your health, did you not think it of sufficient importance then, from the position you had occupied and the important position you then occupied, to consult with the Government, and to advise as to the best course?—I did not. Captain Standish at the time was in direct communication with the Government himself, and I was not. I did not know what course he was pursuing at all, and he never invited me to give any opinion. I gave an opinion once or twice—a suggestion—but on all those occasions he treated me with coldness and repelled me.

626. In your opinion, do you not think it probable that to the want of harmony that should have existed

between the officers at the head of the police force at this time that failure which occurred is to be attributed more to that cause than any other cause?—Not up to then—not at that time.

627. How many years have you been in the service?—Nearly thirty years.

628. What position has Mr. Hare among the superintendents?—There is Mr. Winch, Mr. Chomley, Mr. Chambers, and then Mr. Hare—he is the fourth.

629. You being, up to this time we speak of, Inspecting Superintendent; that is the legal term of your position under the regulations?—Yes.

630. Did you, in that position, constantly visit and inspect the stations under Mr. Hare's charge, and were you in constant communication with him?—No.

631. Were you on unfriendly terms with Mr. Hare?—No.

632. Was your position with Mr. Hare as strained as with Mr. Standish up to that time?—No, Mr. Hare was a man (excepting about ten years ago) that I had very little communication with. I only inspected his district once.

633. Did you communicate anything about your opinion on the Kellys to Mr. Hare on his assuming your place, or at any subsequent time?—No, I had no communication with Mr. Hare.

634. There has been a strained feeling between you and Mr. Hare for some time?—No; we had been as acquaintances friendly enough, but no intimacy.

635. Did you accompany Mr. Hare to capture Power?—No, he accompanied me; I was the superior officer.

636. And you went there—that is some years ago?—Yes, that is about ten years ago.

637. In this same district?—In the Benalla district.

638-9. You did not communicate with Captain Standish, the Government of the day, or Mr. Hare any information that you had learned by your experience as to how the Kellys would be best captured till you resumed duty?—I did. Any information that came to me or I could gather I forwarded them on to Captain Standish. Some of this used to be returned in a contemptuous manner, and often the only allusion he made as to some information I had sent him would be to sneer at it.

640. That was between the 12th September and the 6th July?—Yes.

641. And during the whole time, in any of those communications you had with Captain Standish, you never expressed the opinion that they were pursuing the wrong course?—I did not do so officially. It was not an uncommon expression on my part on that subject.

642. Was it in consequence of the feeling between you and Captain Standish that he abstained from communicating with the Government the opinion he had formed as to the mode of procedure?—It was not; nor from any feeling between Captain Standish and myself that prevented me from communicating with him; but at the time that I left I was too prostrated to do so, or to think of it; and from Captain Standish's manner towards me when he visited town it drove anything of the kind out of my head. I would not have presumed, under the circumstances, to have offered any suggestion whatever, as it was subjecting myself almost to insult.

643. Then there must be something in that question I asked you, that it was in consequence of the discourteous manner that you withheld the information?—I say I might have thought of it, and would have been only glad to give the benefit of any thought that came into my head, but that prevented it.

644. You had arrived at a certain conclusion before you left on the 12th, that if the search party had failed you would take another course?—I did not say that exactly. I would have tried something else.

645. For a long time it was your impression that the operations to capture the Kellys were futile?—I will not fix the date.

646. When the parties were out searching for the Kellys you had the impression for some time that the operations of the police were futile?—Yes; it must have been I was disgusted with the mode of procedure.

647. I would like to ask now, as it seems to my mind important—you have now, in the course of your evidence, intimated the position that some of the officers held, and to use the expression that it is strained, that there was an unfriendly feeling, a want of the usual co-operation, between you and Captain Standish, and between you and Mr. Hare?—No; I do not say so at all. There is not that feeling; but Captain Standish exhibited towards me that feeling on frequent occasions for a considerable time.

648. Now between you and Mr. Hare what is the position?—Just now?

649. For some time you say you had not much communication with him?—I have not. There are many officers I do not have communication with.

650. Up to the 12th December was there any unfriendly feeling?—No.

651. Looking after the efficiency of the force was your special duty under the 36th section of the regulations, and I want to know from you what was the feeling between other officers of the force—was there a friendly feeling between Superintendent Winch and Captain Standish?—Mr. Winch and Captain

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Standish were on very good terms. I do not know now—I believe they meet and speak with each other.

652. Do you believe that Captain Standish and Superintendent Winch are on friendly terms with each other, such as would be between a senior superintending officer and his chief?—Well, it appears that just about the time of the Kelly business at Euroa, but nothing to do with that, there was some feeling between the two.

653. Then would you say at the time of Captain Standish leaving the service that there was a strained relationship between Superintendent Winch and Captain Standish?—No, not at that time.

654. Is there now?—I am not aware.

655. Is there a strained feeling between you, the next under Captain Standish, and Mr. Winch?—No.

656. Not in the least?—No; I am not on intimate terms with or in the habit of associating with any of them.

657. It is not a question of intimate terms?—I meet Mr. Winch on duty, and he meets me, on the same intimate terms as I met all the others, with one exception.

658. Who is that?—I would rather not mention it.

659. Is that with Captain Standish?—He is not in the force. I say, with one exception, I am on friendly terms with every officer I come in contact with in the force, especially those who are well conducted.

660. You do not think there is a strained feeling between Superintendent Winch and Captain Standish, or between any officer and yourself?—I do not know about the feelings between Superintendent Winch and Captain Standish; I do not want to know anything about them.

661. It is important to see we have got the right statements before us; it is important to see what is the feeling of the brother officers; and, as the Acting Chief Commissioner, I thought you could have formed an opinion and could have told us what is your feeling with regard to the feeling of one officer to another. Is it one that is advantageous to the public service?—I believe the feeling between the officers is exceedingly good.

662. You say between the officers, one with the other, that the feeling is extremely good?—Yes, I do; but officers come very little in contact with each other now. Some do not come in contact for years, and they get strange to each other.

663. Was that the cause why you did not give your information to Captain Standish?—On my honor, I never kept any information from Captain Standish or Superintendent Hare; I gave them every information I could; and that suggestion that you have spoken of; if it had occurred to me, I would have given it; and it is only since I came to town, and looked among the papers for the Commission, I found the expression I used in the letter to that person.

664. You only desisted in tendering that information when you noticed Captain Standish's manner to you?—I did not desist in tendering information to Captain Standish; I did not keep anything back; but his demeanour towards me was not calculated to develop information.

665. In what way has that arisen?—It is very mysterious to me. It has arisen and shown itself in many ways.

666. Is it jealousy?—I should be very sorry to say so. I entered the force in the humblest position, and have risen to my present position. When I was removed from the mounted police, I was promoted for service some years ago—about the year after I joined, in 1853—and I have been continually on active service since; and I was selected by Sir Charles Mac Mahon to take charge of the detective police when it was organized. I took charge of it, and during that time I was in the heat and brunt of everything that was going on; and when I had to leave the detective force on account of my health breaking down, Captain Standish was not pleased with it, and I went to a quieter district, at Kyneton, to carry on my duty there, and along with other men I arrested Power, though I arose from an attack of fever. I followed him into the district where he was, and made arrangements for his arrest along with Mr. Hare, and took him. I had information that he had passed through a portion of my district, and on that I acted. I was then appointed to the city by seniority. I received no promotion on account of the Power capture. Every step has been simply by seniority.

667. Your position now has been attained simply by seniority?—Yes. My first promotion was for distinction, and after many steps and many years passing my present position has been reached simply by seniority. For fourteen years I was in the detective force, and though rising to first-class superintendent, I was receiving less pay than any superintendent in the force, and I would have received that pay still if my health had not broken down, and I fell into the rank of District Superintendent. At that time I was made the subject of much unpleasantness, as Inspecting Superintendent, and on several occasions Captain Standish did not support me.

668. Captain Standish stated that in his evidence as having been before that year?—Captain Standish behaved on several occasions in that way, and I forgave him over and over again. Then it came at last to this. I never made use of political influence, or assistance of any kind in my life, until my

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Commissioner of Police.

669. How long ago is that?—A very short time.

670. Did that improve Captain Standish's feeling towards you?—Yes. I felt it necessary to apply for a higher position to protect myself.

671. Have you had any personal quarrel with Captain Standish?—Never, until I received a letter asking me to come down to town on Saturday to have a chat with him, and the first announcement he made was that I was superseded; a junior officer was to go back on the Monday. Then my indignation broke forth.

672. That was just before the capture?—Yes.

673. Did he say why you were superseded by this other person?—That the Government had decided so. I replied to him I did not believe the Government had decided at all; that he had done it; that he had communicated with the Government, and that I would not submit to it, and I would see the Government about it.

674. Were you under the impression that there was a feeling on Captain Standish's part from the time you joined the police in 1853, a feeling as against you from that time?—No, not until I left the detective force, more particularly after I gave up the City Superintendentship and accepted the Inspecting Superintendentship.

675. I want to know whether the feeling which was evinced yesterday for the first time to our knowledge, as between you and Captain Standish, to your knowledge exists between other members of the force?—Not to my knowledge; and I never in my life heard Captain Standish speak as he did yesterday.

*The witness withdrew.*

*Adjourned to to-morrow at Eleven o'clock.*

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FRIDAY, 25<sup>TH</sup> MARCH 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

W. Anderson, Esq., M.L.A.,  
G. R. Fincham, Esq., M.L.A.,  
J. H. Graves, Esq., M.L.A.,

Geo. Wilson Hall, Esq., M.L.A.,  
E. J. Dixon, Esq., J.P.

C. H. Nicolson  
25th March 1881

Charles Hope Nicolson further examined.

*The Witness.*—The Commission asked for something in writing as to the police arrangements and the formation and organization of these search parties. I found the original document last night—[*handing in the same*]. I would draw your attention to this last note, which is written by Sergeant Steele. I consulted various members of the force, and he gave some very valuable information. I mention that as against the charge of red tape that was made against me—"From Wangaratta. 1st. Sergeant Steele. From Wangaratta to Whorouly; thence Merriang to Buffalo River, to head of Dondongadale Creek, to Rose, Mount Emu to Black Range Creek, to left-hand branch of King and head of Glenmore run.—2nd. From Mansfield road. Senior-Constable James. From Mansfield or road to Wombat, Stringy Bark Creek falls (Ryan's branch?) to Roschiel homestead; Peter Lane's run, between Mason's and Kilfera, on head of Fifteen-mile Creek, to right-hand branch of the King.—3rd. Benalla party. Mr. Nicolson. Benalla to Winton ranges, Eleven-mile, Bald Hill, taking dividing range at back of Lloyd's, Barnett's, Delaney's, and Tanner's, and follow up left-hand side of the Fifteen-mile Creek to near head. Special attention should be given to a lane at the head of Tanner's farm, leading to and from McBean's Swamp, known as Cart-road Gully.—4th. Samaria, Holland's Creek to the Monument Hill, do not appear to be provided for in the above, and may require a separate party. Nos. 2, 3, and 4, to start at same time. No.1 should start in advance of them, to stop them in event of their getting away from 2, 3, and 4. The first batch of men going to the Rose, and thence to Glenmore, will be quite independent of the other parties; therefore, calculating the chances of the men starting to search the Broken River watershed and the Fifteen-mile Creek watershed, it would seem better parties either from the commencement of the water, or else from Greta and Winton. With reference to Samaria, Holland's Creek, and the Monument Hill, I am of opinion that it could be worked by the Benalla party (No.3), either on their way up the Fifteen-mile Creek, or on their return therefrom. The paddocks owned by Stampuken, and others in which there is no person residing, should all be searched carefully, both for offenders and recent ridden horses." I had charge of the Benalla party. I had Senior-Constable Strachan and Senior-Constable Flood with me. They were my two assistants. The next thing I have to produce is the private letter that I alluded to. There is the paragraph I quoted. The date is the 19th of November 1878—[*handing in a letter*]:—"I am in good health and spirits, only chafed by the patience necessary in the search. The offenders have 2,000 square miles of mountain, rocky, thickly timbered, and scrubby country to play hide and seek in, and with hard galloping about the policemen will never catch them. Nevertheless, we will catch them, but it will only be by a fluke if we catch them at once."

676. I suppose in that letter you have not gone on further to describe the means you intended to adopt?—No.

677. At that time you had full command of the Kelly country?—At that time I had full command of the Kelly country. I was in charge of the North-Eastern district.

678. And from the 19th of November, the date when you wrote that letter to your friend, until the 12th of December, when you were sent to Melbourne by Captain Standish, you had not altered the operations then pursued?—No, I had not. I must add, with reference to that, that it was a thought just occurring to me while writing a hurried letter. I still pursued the work I was on, and I never entertained any serious thought at that time of the necessity for changing the tactics we were pursuing, because I considered it a matter of duty to search the country thoroughly first. But that was an opinion in advance

of my work, and I did not consider the work completed. In fact, I never thought of the matter at all—very little at all, at the time I met Captain Standish after the Euroa robbery. I am not aware that the matter ever occurred to me. I may have explained myself fully to Captain Standish in the matter, or to Mr. Hare. I may or I may not.

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679 Is this it. On the 19th of November you had a feeling that the mode you were adopting was likely to be inoperative except by some fluke?—Yes.

680 And you never took the trouble to think of any other means from then till the time you left Benalla?—It was a very floating thought—just what one would write in a hurry. It was not want of trouble in the matter. Although I expressed the thought, it was not confirmed in my mind up to that time. I will be much briefer than I was yesterday. When I returned to town I went to duty at once. I never left the office. I took charge on the morning after my arrival when I was relieved.

681 You were relieved through sickness?—Through fatigue. I was not ill at all, but I was suffering from pain and the effects of fatigue, and I was never incapacitated from duty for one hour from that time till I went up to relieve Captain Standish. He visited Melbourne several times. I spoke to him on the subject of the Kelly gang; but he was always very reserved, and did not seem to think fit to enter into the subject with me at all. But on his very first visit to Melbourne I remember distinctly saying to him this, speaking about the mode of operations—“Do you remember that man Sherritt, whom we saw at Mrs. Byrne’s that morning?” I said, “That is the sort of man to employ—that class of man.”

682. Was that Sherritt the man whom you saw Captain Standish speaking to before the trooper on the morning of the Sebastopol attack?—Yes, that is the man—of the same class as the Kellys themselves.

683. You said that was the sort of man to employ to get these men?—Yes.

684. Did you speak ironically to him of this proceeding?—No, quite seriously; and on the first occasion I say most solemnly that I said that to him.

685. What date was that?—About—I cannot tell. Captain Standish can tell. It was the first day he came to Melbourne, and the first opportunity I had after I came down to Melbourne in charge. I was on friendly terms with Captain Standish at the time; I was never unfriendly until I was superseded.

686. That is the 12th of December?—No, the following year—in June.

687. At the interview with Mr. Ramsay?—Yes, that was the first time. On every occasion that I could I did everything to aid the police up there; and I wish to speak straightforwardly in this matter, and although I do not pretend that that private letter influenced me at all, still the same thought was running in my head; the consequence was that the first time I met Captain Standish I did say that to him I merely submit that, if the Commission imagine it was through any desire to prevent assistance to Captain Standish that I did not speak to him before, it will be a misapprehension. I should like very much to know the date on which Sherritt was employed.

688 Was he employed by you?—Never by me at that time. He was employed then by Captain Standish and Mr. Hare—whether before that date or after I do not know.

689 Did you engage him at any time?—On my second visit I did. I left Melbourne on the 3rd of July 1879 for Benalla, to relieve Superintendent Hare, in consequence of instructions I had received from Captain Standish. I have something of importance to say on the office—that during the time I was in charge of the office, I carried on the business of the office most carefully.

690. In Melbourne?—Yes.

691. From December to July?—Yes; several documents which I considered, and which the chief clerk of the office suggested to me were matters for him to deal with, I sent to Captain Standish, and in every way I recognized his position of Chief Commissioner of Police. There were no documents kept back at all.

692. You were Assistant Commissioner at that time?—Yes, I was, and acting for him. When it was known decidedly that he was coming down to Melbourne, a few documents of the same kind were kept back for him instead of sending them up (they not being urgent), and nothing else. If you think fit to send into the office, to call upon the chief clerk in charge of the office, he will tell you the state that the office was in when I left it, and there are no grounds whatever for the statement of Captain Standish that I left the office in a muddle. I have always found, when I acted for him in the office, that it was the easiest billet I had had in the service.

693. What is the chief clerk’s name?—Mr. Moors.

694. Has he been there long?—Yes.

695. Does he understand the routine of the office?—Perfectly.
696. Is it usual for the chief clerk to see all the official documents that come in for the head of the office?—Yes.
697. He would know all the routine of the office?—Yes, perfectly.
698. Did Captain Standish, at any time since the 12th of December until Tuesday last, make any complaints as to the way in which you administered the department when in Melbourne?—No.
699. Did Mr. Moors?—No. Of course Mr. Moors was subordinate.
700. But he can give evidence as to it, one way or the other?—Yes. Further, on that point, when I had occasion to see the Honorable the Acting Chief Secretary on police business—Sir Bryan O’Loughlen—I was always most careful to mark the distinction that I was merely acting, and that Captain Standish, who was away, was the Chief Commissioner of Police; and I took the liberty once or twice (I do not suppose I am breaking confidence) to suggest to Sir Bryan O’Loughlen the advisability of Captain Standish resuming his proper place down here, and my going up there in his place.
701. You said just now that you were appointed some time between the 12th of December 1878 and the time of your resuming duty in the North-Eastern district in July. You were then appointed Assistant Commissioner of Police?—Yes. I was appointed assistant before; I was then acting.
702. When were you appointed assistant?—Long before that.
703. Can you give the date of that?—*[The witness having examined certain papers, was requested to hand in a note of all his appointments, with their dates, from his joining the force, which is as follows]:*—“Lieutenant, 14/2/55; Sub-Inspector, 31/1/56; Inspector, 2nd Class, 20/6/56; in charge of Detectives, 5/8/56; Superintendent of Detectives, 1/10/57; Inspecting Superintendent, 15/1/73; Assistant Commissioner, 13/12/78; Acting Chief Commissioner of Police, 13/9/80.” I spent a few days in looking over the reports and seeing what had been done on my return to Benalla.
704. That was on the 3rd of July?—Yes.

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continued,  
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705. In what state was the correspondence?—It consisted of letters and telegrams that had come in from the public and the police to the police authorities and the Chief Commissioner.
706. Were you then taking charge of the papers that Mr. Hare and Captain Standish had in charge in your absence?—Yes; all correspondence.
707. In what state were the correspondence and telegrams—were they properly filed in rotation?—Yes. The Chief Commissioner was in Melbourne. I relieved Mr. Hare.
708. Before you arrived in Benalla he had left?—Yes; and I relieved Mr. Hare. A large portion of the strength of the force and of the military had been withdrawn, and the force reduced.
709. You have not said when they were sent there?—They were sent there immediately after the Euroa robbery.
710. And after your removal?—Yes; and large reinforcements of police.
711. By whose orders were they sent?—At the request of the Chief Commissioner they were sent by the Government. The Chief Commissioner ordered the police up, not the military. There was a portion of the military still left. I had then to set about re-organizing the arrangements of the stations and the strength of the stations.
712. Are we to understand that the military were withdrawn immediately preceding your arrival?—Yes; a large portion.
713. The change took place simultaneously with your going up?—Yes; the horses also. I set to and re-organized the men on this basis, and adopted this view, that with the materials at my command my best course to adopt was to secure places from outrage where there was treasure, so that the outlaws would be baffled in any attempt to replenish their coffers or to get more money. I stationed at Wodonga a small party of men under Sergeant Harkin at Wodonga; the same at Wangaratta, under Sergeant Steele; the same at Bright, under Senior-Constable Shoebridge; and the same at Mansfield, under Sub-Inspector Toohey and Sub-Inspector Pewtress. At each of those places there was barely strength enough for a search party, but they could make up a fair party—seven or eight—by calling in men from neighboring stations. The only place where a complete search party was kept was Benalla. I provided for that subsequently, at the suggestion of Mr. Sadleir. I instructed the police throughout the district to arrange to get quietly and secretly from two to four townsmen of the right sort—that was the expression I used—who would turn out and aid them in case of an attack by the outlaws in any of the townships.
714. Men outside of the constables?—Yes, townsmen. This done quietly, and the names of the men being concealed, we had no difficulty in getting them in every place, it being done secretly and quietly, as I had directed.
715. Were you furnished with the names of these people?—Yes.
716. Was there an engagement entered into to pay them so much?—No, it was voluntary. There was one instruction conveyed in my letter—to rouse the people of the district to their duty as townsmen to resist

the outlaws.

717. Was there a sufficient amount of firearms provided the police, and sufficient for any civilians who might assist?—Not altogether; there were sufficient for the police; they were thoroughly well armed at that time and a surplus over; and as far as that surplus went, we distributed arms; but in many instances the men had arms themselves.

718. In the first instance, were the people properly supplied with arms soon after the murders?—No, they were not. The police were without any arms themselves, excepting revolvers.

719. Do you know whether men were not sent up from Melbourne without being furnished with arms?—I am not prepared to answer that question.

720. The police?—Where men were there were arms sent up, of course, which we kept a very careful account of in the district; and when men were sent up without arms, an order would come that such a man was to take the arms of such and such a man, who had left the district, or any arms unused and in reserve; but I am not prepared to say that men were sent up without arms. I am prepared to say that men were not sent up at all; that when casualties occurred to men through sickness or injury of any kind, I found great difficulty in obtaining men to supply their places.

721. Was this after your second visit?—On the second occasion. I have been over a dozen short, and at that time I could not spare a single man.

722. So you arranged for three or four persons to be engaged in each place?—Yes, I did. I arranged also a system that the police should have full authority to go out upon any occasion, according to their discretion, on any information.

723. You allowed the parties to start at their discretion?—On any good information they received.

724. Even from the commencement of the search?—Yes, even from the commencement of the search. I am not aware of anything to the contrary. I directed the police to be very very quiet; to discontinue search parties; to make no demonstrations at all.

725. When was that?—About the same time.

726. About July 1879?—Yes.

727. About what time in July did you tell them to discontinue?—At the very first.

728. Immediately after taking the papers over?—Yes; and I gave other directions by speaking to the men and otherwise to endeavor, by discretion and by not talking much, and being careful not to mention names or use peoples names at all, and in every way they could to regain the confidence of the people about the country. I sought to reduce the expenditure. I found police using hired horses, and some even in the habit of hiring buggies and horses; that I put a stop to, and called in the accounts for them. I had no *carte blanche* for expenditure—I had no money placed to my credit at all. I paid those accounts out of my own pocket and all other expenses.

729. Was that afterwards refunded to you?—Yes. I was going to add that I subsequently represented the matter, and recovered the money in the usual way from the Government. I found bills for the hire of some of the horses greater than their value. In one case the bill was about £19, and Mr. Sadleir bought the horse for £15. He got the man to cry quits for £15, and got the horse. The stable was a large one, and it was full of police horses on full rations. There was beautiful grass at this season. I had the stable cleared out, and the horses turned out into the paddock, with an allowance varying from 18 lbs. to 20 lbs. of good dry hay per day, in addition to the grass they were getting. I inspected those horses regularly with Mr. Sadleir.

730. How many?—Well, there would be all those horses that were told off for duty. There would be in the paddock there altogether (horses for all parts of the district, and working horses) about twenty to thirty horses. Many of them were spare horses, in case of accident, kept in condition. We inspected them thoroughly, and they kept condition exceedingly well—they were as muscular as possible. Whenever we observed a horse getting apparently sickly, which may happen with any horse, he was taken into the stable, and coddled up a little with oats and bran mash, and in a few days turned out with the rest. We kept the horses in such condition, because it was not advisable that horses that had to go out in pursuit of this gang should have heavy stable feeding, as they could not last above three days, whereas horses fed in this way, just as the outlaws fed theirs, all that had to be done was to turn them out to feed wherever they then were at night. I brought the horses up to that pitch, just as the outlaws were doing theirs.

731. Are we led to believe that this saving was in consequence of the new policy adopted by you on arriving at Benalla?—Yes.

732. Because, on your abandoning the search parties, you did not need so many horses to be kept in the stables?—No; the horses for search parties I did not stable.

733. And the horses were more effective under this method than stable fed?—Yes. I was continually travelling about the country myself, seeing people, and making acquaintances of people in all directions, and making friends, and trying to induce farmers and others to assist; and the men were doing the same, inducing people to see me, or making engagements to come and meet me. I always found them at the time very desirous to assist, but it was always about a month after that one of them would come in and give information, making

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it nearly a month old. At first it resulted in their never giving any information until it was about a month old.

734. Had they been in possession of this information a month?—Sometimes for a month; then gradually it was reduced to about a fortnight, and occasionally their information latterly, in some cases, Would be about a week old. I have in my hand a return of police expenditure in connection with the search of the gang of outlaws.

735. From what date to what?—From October 26th 1878, three days before the outrage, until December the 12th 1878, the day I was relieved. The railway charges were £703 15s. 7d.—that was on account of the first reinforcements sent up. [*The witness handed in the following document*]:—

*Police Expenditure in connection with the Search for the Gang of Outlaws.*

Service.	26th Oct. 1878 to 12th Decr. 1878	13th Decr. 1878 to 7th July 1879	8th July 1879 to 31st May 1880.	1st June 1880 to 28th June 1880.	Total.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
V. Railway charges	703 15 7	1,225 19 11	960 6 11	228 7 8	3,118 10 1
Coach and horse hire, stabling, &c.	226 14 6	406 16 3	27 10 6	5 10 6	662 11 9
Provisions for search parties	75 10 6	457 17 9	158 8 1	21 18 10	713 15 2
Arms and ammunition	963 3 3	741 11 9	306 0 9		2,010 15 9
Tents and field equipment	34 14 3	281 9 11	14 11 10	2 7 2	333 3 2
Secret service agents	75 1 0	473 19 0	600 11 6	59 1 6	1,208 13 0
Probationary constables		631 17 0	392 2 0		1,023 19 0
Queensland trackers		541 17 6	1,370 12 6	127 10 0	2,040 0 0
Travelling allowances to police	1,071 6 5	5,472 10 4	2,384 9 0	70 0 0	8,998 5 9
Miscellaneous outlay, including cost of Victorian and other trackers, &c.	261 14 5	1,137 5 11	558 2 6	159 0 3	2,116 3 1
	3,407 19 11	11,371 5 4	6,772 15 7	673 15 11	22,225 16 9

During that period, up to the time I was relieved, the expenditure was £3,407 19s. 11d. From December 13th, the day after I was relieved, until July the 7th, when I returned, the expenditure was £11,371 5s. 4d. From July the 8th 1879, when I began duty, to May 31st 1880, the amount was £6,772 15s. 7d.

736. That is the two occasions you were on duty. The other occasion Captain Standish was on duty?—Yes.

737. Can you account for the increase?—This account, on examination, will explain itself. From June 1st 1880, that is, when I was superseded by Mr. Hare, till June 28th, £673 15s. 11d.

738. From where are those records obtained?—From the accountant.

739. Then the accountant of the department will have all the detailed expenditure in connection with this matter?—All the details, I believe, have gone to the office. Then I gradually obtained agents employed on secret service, and after a time succeeded in collecting four. All I can recollect that I kept end paid regularly for any time were four. Those men were not on the whole of the time, but some at one time and some at another.

740. Were there any women engaged?—No, not that I am aware of. There were other persons that gave me information from time to time, in addition to those casual men, in a casual way, that I may have given a pound or two. I have employed, on an occasion, a man I could rely upon to visit a certain hut at midnight and watch it, where a policeman could not go, or a stranger could not go—a man in the confidence of those people and whose appearance there would have attracted no notice; but that was very seldom, and sometimes I have given a man ten shillings less. I obtained the assistance of a few people, and a great many assisted me from time to time.

741. All under pay?—No, a few occasionally; and persons who could do what I wanted. Without being remarked I ascertained in a very short time. I had information of the outlaws within about a month or six weeks of my arrival; circumstantial and positive information. My first object in going up was to ascertain whether they were in the district or not positively, and I found within about six weeks that it was as I had stated, that they were in the district. The information, at that time, always came too late. Gradually I began to get nearer and nearer to those men and more familiar with hearing about them; but I felt satisfied at last, from the information I was getting, that they would fall into my hands, as many other men of the same description, not quite so notorious, have fallen into the hands of the police with me; that I would have them arrested with ease. As time wore on, they were remarking the absence and

the telegram.—[*The same was handed in, and is as follows*]:—“——, whom we have conversed with on previous occasions, met me to-day here, on his way to see Sergeant Steele. Saw the Captain Sneak and other two close to T. Lloyd’s, in the bush, on foot, at eight o’clock last night. He recognized them clearly, but they jumped behind the trees, and he rode on without speaking. He has indicated the spot, so that it can be found without difficulty. Informant says two other horsemen passed almost at same moment, residents of neighborhood, and, as suspicion may fall equally on them, he risks the information. He only asks that tracks may be taken up at daybreak, before people are moving. His manner is very confident, and any misstatement can be soon discovered by tracking. He should have come into Benalla last night but that he was followed home by a lad on horseback, he thinks young Lloyd, who probably watched his place all night. I shall arrange here with Steele about local crossings, &c., and with the Eldorado constable. If party goes out, as I certainly recommend, you should send out orders to other places. Spink’s crossing, near Tarrawingee, not fordable. Two more constables, without horses, required here, and one, with horse, to Myrtleford; but this can be done best from Beechworth. Will return by six p.m.” I telegraphed to Mr. Sadleir to bring that informer down.

743. Where was that from?—From Benalla to Wangaratta. Mr. Sadleir happened to be up at Wangaratta, and met this man, and telegraphed that down to me, and I impressed that strongly upon him, and I went up to the train to meet Mr. Sadleir, and on his return he came alone. I asked him where was the man, and he said he was drinking; he left him drinking at the hotel at some place; that he did not think it worth while to bring him, because he thought he was quite able to lead me to the place himself. Upon conversation with Mr. Sadleir, I found that he could not do so, that his knowledge of the place was quite vague. One ridge on the right, among many other stony ridges—this was in September, and I found that before we could have any possibility of catching up with the supposed outlaws, even if they had left any tracks—those footmen, for they were on foot, not on horseback—the people about the country, who were the greater portion of them sympathizers, would discover us; and if we went to the spot with the blacks, we would be discovered before we got away from it, in tracing the way to where they had gone, and warning would be sent to the outlaws. Without saying more, I will hand in this letter to Mr. Standish, and to which he alluded in his evidence.

744. Is this the case—where the horses were unsaddled, where he said you got reliable information from Mr. Sadleir, and which up to a certain time would be acted upon—Mr. Sadleir thought that you countermanded it—is that the case you refer to now?—Yes.—[*The letter was handed in and read, as follows*:—]

Police Department, Chief Commissioner’s Office,  
Melbourne, 30th September 1879.

MEMO.—Attached are Superintendent Sadleir’s telegrams. The informant was ——; he stated he saw five men. From conversation with Superintendent Sadleir, upon his return from Wangaratta, it did not appear that “the spot was indicated so that it could be found without difficulty,” nor that “it could be taken up by the trackers at daybreak before the people were moving” and had become conscious of the presence of the police among them. The subsequent examination of Mounted-Constable Ryan as to the locality and its approaches did not tend to remove the above impression. It appeared that the neighborhood was settled, and that our party could hardly expect to pass Lloyd’s house, even at midnight without being discovered, and that the trackers might have to search over at least a quarter of a mile before finding the footprints; and considering the precaution said to have been taken by the men seen by —— in sending a man to dog him home, it seemed likely that they had taken the other precaution of moving off, and, with the fifth man and other friends, each had taken separate directions, so that the trackers pursuing might find themselves running down *one* wrong man. Sub-Inspector O’Connor was of opinion that the chance of success was a bad one. Considering my other improving sources of information, I determined, upon this occasion, not to disturb the false sense of security into which the outlaws have been lulled. Although I decided upon the above course upon *the merits* of the report made to me, yet I may remind the Chief Commissioner that ——, the informant, was the man who tried to induce me to proceed with the Benalla police and meet him at the head of the King River *on the day before the Euroa bank robbery*.

(Signed) C. H. NICOLSON, A.C.P.

To the Chief Commissioner of Police.

745. Can you give an idea of the locality—was this near Tom Lloyd’s house?—Yes.

746. At Kilfera?—Yes. I may tell you the man intended to come down to Benalla and lead us there himself to the spot. Considering the success of the system that I was following at that time, I was determined not to throw away the chances I held of securing the outlaws by running any risk of alarm at this time and frighten the outlaws away, and perhaps losing sight—losing all run of them—for months. I formed no cordon at any time. It was often supposed by people that the police had formed a cordon round; that was attributed to me—that I was endeavoring to form a cordon round them. I never intended or attempted to do such a thing, excepting of secret agents. On the contrary, I had very strong reason to apprehend that if we started them and betrayed to them the knowledge of the possession of good information against them and they escaped, that they would abandon that part of the country altogether and move away eastward to the north-east corner of the district, across the river, to Tomgroggin, in New South Wales, a very inaccessible district, and remain there until the vigilance was relaxed—in fact, remain masters of the situation till vigilance was relaxed, and then come down and make another raid upon the district. My determination was to prevent them making any raid; and I felt quite capable, from the means at my disposal and the way my system was working, of doing so, and I succeeded in that. I have often been out with mounted police at night; and any experienced member of the police force will tell you that going out at night with a party of mounted men on anything like vague information into the bush to make an arrest is a very unwise

thing. Experience shows that it is a thing that should not be done unless upon good information, as it results—as I have seen it often do—in the men being humbugged, kept out all night, and returning home, the laughing-stock of the people all round, without success. I may tell you that about this time, on the 26th July 1879, I visited a camp. A camp was discovered of the outlaws, up a creek in those ranges, between Chiltern and Beechworth. I found a camp in a depression in the low-lying ground alongside the creek, amongst some bushes. There were the marks of their horses standing there, and the marks of the bridles chafing the bushes, and very small quantities of ashes spread over about a couple of yards, and no appearance of the fire here they had come from. On removal

of a heap of leaves and rubbish, there was a round fire—a mark on the ground of black, showing where the fire had been, which they had carefully concealed in that way. Before abandoning this camp, they had put the fire out and thrown the ashes away and covered up the fire-place in this way. At last there were reports came in from the neighborhood of some distance from Greta, and between Greta and Oxley, of their stealing a number of mould-boards of ploughs.

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747. What date?—About the beginning of February 1880.

748. Where is the armour of Ned Kelly that is supposed to be made out of that?—It is in the dépôt.

749. Can the Commission see it?—I think so. I had three suits of armour at the dépôt.

750. Can we have Ned Kelly's armour brought here?—Yes; that can be done. [*The Chairman requested that that might be done.*] I sent the police out to enquire into those matters, and the enquiry was very actively prosecuted. It was personally in the hands of Senior-Constable Kelly. Some footmarks were discovered; but though they were out for several days enquiring, they could not discover who had been the offenders. Those mould-boards were taken from more than one man. There were two or three different farms they were taken from.

751. Within a radius of what?—About eight miles. There were traces of footsteps discovered; and I also received from another source a description of the footmarks of the men, and I believe they corresponded exactly with the description the police gave. One of them described was the footstep of a man with a very small boot, with what is called a "larrikin" heel upon it. I received information from one of my agents that the Kelly gang were the offenders.

752. Were the black trackers then under your control?—Yes; there were two black trackers went out with this party.

753. I mean the special detachment?—Yes; the Queensland blacks. There were two went out on those enquiries. There were other things stolen. There was a man named Carney, a selector, lost, I think, two sides of bacon, which were taken by the same party.

754. Was that from the same neighborhood?—Yes; from the same neighborhood. Subsequently I heard that they were being made into, and were intended for, armour.

755. How long after you got the first information about it did you hear that?—It was on May 20th. I will read if you will allow me—[*handing in a letter*]. We wrote those letters in a special way. Each of my agents had a special character given them. This one was supposed to be an inspector of stock, and the term "diseased stock" was supposed to mean the outlaws, and under that veil he wrote to me as follows:—"Greta, May 20, 1880.—Mr. William Charles Balfour, Benalla.—Dear Sir,—Nothing definite *re* the diseased stock of this locality. I have made careful inspection, but did find (*sic*) exact source of disease. I have seen and spoke to ——— and ——— on Tuesday, who were fencing near home. All others I have not been able to see. Missing portions of cultivators described as jackets are now being worked, end fit splendidly. Tested previous to using, and proof at 10 yards. I shall be in Wangaratta on Monday, before when I may learn how to treat the disease. I am perfectly satisfied that it is where last indicated, but in what region I can't discover. A break-out may be anticipated, as feed is getting very scarce. Five are now bad. I will post a note giving any bad symptoms I may perceive from Wangaratta on Monday or Tuesday at latest, and will wait on you for news how to proceed on a day which I shall then state, before end of the week. Other animals are, I fear, diseased.—Yours faithfully, B. C. W." I would draw particular attention to the date of that—May 20th.

756. That is a week before you were removed?—Yes. [*The witness handed in a list of his appointments.*]

757. You were a cadet were you not?—I was.

758. Will you proceed?—I had interviews with my agents from time to time, the one who wrote previous to that, and other agents as well, that the outlaws were in the vicinity of the Greta ranges, and were reduced to great straits. Their horses were worn out, and most of them were abandoned. They were on foot, and used to conceal themselves during the day on the ranges in various parts. They were for a short time, from information I was led to believe, on the edge of the Greta Swamp.

759. The ranges come quite close down to Greta Swamp?—Yes, and the outlaws used to move from there back; then they would go round and get across the Ovens River by the near bridge or some of the other crossing places that make away to Sebastopol, and make away towards the Pilot Range near Wodonga at

night. They used to travel until before daybreak. They were generally accompanied by their sympathizers; their immediate aids and active assistants were reduced to about four.

760. What month was this?—About the months of April and May. One of the four, I may mention their own sister; one or two of those sympathizers, when they travelled, used always to go about ahead on the look-out, and they would follow at the usual distance, just within sight. One of those sympathizers—the principal of them, and the most active of them—told them that they must get some money; they must go and “do a bank,” or “another bank.”

761. This is a portion of the agent’s information you are now giving?—Yes, that agent in particular.

762. Received about the time you got the correspondence?—Yes, I was in communication with them some time before that; the outlaws had been settled at somewhere in the low ranges between their uncle, old Tom Lloyd, and the paddock along the Oxley road—Wilson’s paddock; they had settled down for a time, concealed there. At that time, perhaps you may recollect, notice was taken by the press of very disorderly conduct at the Glenrowan Hotel.

763. How far are those places?—Greta Swamp was quite close, but the Glenrowan Swamp was some distance off. Glenrowan is about six miles from Greta Swamp.

764. They had settled down at Wilson’s paddock—how far is that?—Oh, a long way; that is not far from Greta, a few miles from Greta, nearer Wangaratta, on the Greta road.

765. All those places were in the immediate vicinity of the Glenrowan Hotel?—Yes, vicinity—but not immediate vicinity. I had a man, an agent, by the Glenrowan Hotel, watching it; and he was reporting to me from time to time the people who frequented it—they were creating a disturbance at this place; this was in May.

766. Would you indicate what hotel?—Jones’s hotel, where they were ultimately taken.

767. Were those communications by word of mouth?—Verbally, and I used to see him and note regularly in my note-book. None of the outlaws came to Jones’s hotel; they were all sympathizers, and they were, no doubt, carousing about there for a purpose.

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768. For the purpose of obtaining information?—They were there for the purpose of watching. I had a close watch at the same time from that down to Lake Rowan where there were some friends of the Kellys. The effect of those notices in the press drove them away from the neighborhood of Greta.

769. During the month of April or May?—The month of April. My informant stated that he knew perfectly well; he was never in personal communication with them, but, from his sources of information he knew perfectly well that they were in some gully between the Greta Swamp, Mrs. Skillion’s and Tom Lloyd’s, or the Quarryhole. He thought they would probably be, and he would find out.

770. That was all in the immediate neighborhood of Glenrowan?—Yes, not immediate neighborhood.

771. What were the notices in the press?—The local press drew attention to various riotous conduct going on at this public-house, and suggested that the police should take some steps about it.

772. You mentioned in your evidence notices in the press, have you got those extracts cut out and pasted in any paper?—No, I have not.

773. You did not take notes of them in your diary?—No, the outlaws had a tent about four feet high with them to cover them in bad weather, and, with a little vigilance and keeping perfectly quiet, my man said he would be able to bring us close to them, in fact, indicating in such a way that I anticipated in a very short time, being able to go to this place at midnight, wait till daylight, and have our hands on their throats without any trouble. At this time I also found very suspicious movements taking place between Glenrowan and Lake Rowan by means of the watch I was keeping up.

774. On the part of the outlaws?—Their friends; there was no appearance of the outlaws themselves. A party of their friends, active sympathizers, crossed the line just at Glenrowan, on horseback, got up mounted and dressed and equipped as if they were starting for the shearing. They were closely watched in the neighborhood of one of their friends at Lake Rowan, and a change was observed take place in this party. Four of the number (there were about six of the men) were stopped at Yarrawonga punt by the police, and it was ascertained who those four were. They were acquaintances, and were apparently going shearing, and were equipped in what is termed a very “flash” style for shearers.

775. Were those same the four you mentioned just now, when you said the number of sympathizers was reduced to four?—Three of them were; one, the principal man, was Tom Lloyd.

776. You are aware he was with them all through; during your evidence, you have mentioned young Tom Lloyd?—I think I have not mentioned young Tom Lloyd—he was absent for some considerable time in New South Wales, and then made his appearance.

777. What relation was Tom Lloyd to them?—First cousin. He disappeared from among those starting to shear. The police watched them, by my orders, as closely as they could, without being discovered themselves. Then one of my agents, who was watching the relatives’ house at Lake Rowan, observed a hut at some distance from the main house; he was watching it all night. At daylight he saw a man, one of the sons of

the house, come out of the hut and leave the door open. He was a very sharp man, and in a minute he saw the door close, and he was able to discern it was not closed by wind or any natural swing, but it must have been pushed to. He came in and reported this to me, and I knew that the Kellys had visited this place. I had heard of them and, although I did not expect much from it, I considered it necessary to send a party to surprise this hut, which they did, and they found master Tom Lloyd.

778. What date was that?—About the 13th of May; the men under Senior-Constable Kelly found Tom Lloyd on the 20th May. The party passed through on the 15th. Though my agent told me about Glenrowan and Greta, I was very watchful and very uneasy about that other country—about their being down in that other country—Lake Rowan, and from there north toward Murray river.

779. Going north?—Yes, north, towards the Murray.

780. Between the Murray and Glenrowan?—Yes.

781. Did they arrest Lloyd at the hut?—No, they stopped him and made him stand, and they saw the man, but there was no charge against him; he chaffed them and they came away quite good humoredly. There was no ground for arresting him whatever. We could have arrested him at any time some time previous to that.

782. Was Lloyd one of the men ultimately arrested as a sympathizer?—Yes, it is the same man.

783. Who was in Beechworth Gaol as a sympathizer?—Yes. About this time, soon after this I heard of Dan Kelly and Dick Hart calling at the place of a man near Chiltern, a well-known house.

784. Do you mean the outlaw, Dan Kelly?—Yes.

785. And Hart?—Yes.

786. What was the name of the outlaw Hart?—Steve Hart.

787. You did not say Steve?—I meant Steve Hart. They were described to me as very much emaciated; in a very miserable state, and asking for food. My informant told me that Dan Kelly's face was remarkably broad, and he was so emaciated that you could put your fists on his cheek bones; but this information was not given to me until some considerable time after that; but that was the first time, after, the movements of these men, that I heard any authentic information of the outlaws. I then heard of them——

788. When is this, April and May?—This is within a few days after the 20th May. At this time I had received notice of being superseded.

789. When is that?—A few days after the 20th, during the month of May. I received notice I was to be superseded in April, and that I was to be granted a month more. The month's extension was given me, and all these important movements were occurring during the month of May. Then I received information of the outlaws having been seen up in the Sebastopol, both at Mrs. Byrne's, the mother of one of the outlaws, and at ——, or —— had seen Joe Byrne.

790. Will you fix the date for that?—Yes, on the 26th May.

791. Had you heard it on the 26th, or had she seen him on the 26th of May?—I was in Melbourne on the 26th, and I heard it on that day on my way up.

792. That —— had seen Joe Byrne?—No, the appearance of some of the outlaws at Mrs. Byrne's house.

793. On what day was he seen?—It was some days before that.

794. And on the 26th you got notice he had been seen?—Yes, I came up from Melbourne, on my way to Beechworth. On Saturday the 29th of May I saw —— personally.

795. Which ——?—Old —— . She told me that, about three days before, she had seen Joe Byrne, in the morning.

796. How far would ——'s house be from Byrne's?—A considerable distance; this was a hut of ——, about a mile from the holding of the ——.

797. Was this where you saw her?—No; I saw her in Beechworth. This was early in the morning, and this person said she was looking for her cows, and when she came to this hut she saw the outlaw Joe Byrne come out of a calf-pen, and his horse was near at hand, in an enclosure. Some conversation passed between them—I presume you will hear it again, perhaps—shall I repeat it all?

798. It will be as well to give the information?—She asked him what he was doing there, and his reply was—"Oh, we could go anywhere were it not for your sanguinary son there." That was the principal thing I recollect. There were some other words between them, but I do not recollect them.

799. Did you take any action on the information supplied by this woman?—Yes; I had the place examined where his horse was said to have been, and I had the horse tracked from there to Mrs. Byrne's house, then traced away again from the house for some distance, on to a road, amongst a lot of tracks, where it was indistinguishable, the track was lost. I hurried down to Benalla—this was on Saturday—from Beechworth, arranging before I went for a party to go to a certain hut—Aaron Sherriitt's—commanding a view of Mrs. Byrne's.

800. Did he live at that time with his mother?—I think the mother-in-law was living with him. I do not know whether she was there at that time. I do not know who was there, except that Aaron Sherriitt lived

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there with his wife, and his mother-in-law lived with him before he went there. The men were to keep a look out in that neighborhood, to watch Mrs. Byrne's.

801. Were those the constables that were afterwards in Sherritt's house when Aaron Sherritt was shot?—No, I believe not. On Sunday I had the telegraph office open all day, I think, and I attended very closely to the telegraph office at Benalla all day. Then I had an agent that had been down watching and discovered young Tom Lloyd in the hut. I sent him up there into that country. I removed him from where he was up to the Sebastopol ranges, and that country, and I had a party of men ready, and warned the Beechworth men also to be ready, and I had the trackers also ready with the view of proceeding. I received a communication in the course of Sunday that a man, believed to be Joe Byrne, had been seen by my agent at the back of a rock, at the head of a gully near a place called London—a gully along Mrs Byrne's house, at the mouth of which her house is situated; it is a very long gully, remarkably steep. After a consultation with Mr. Sadleir and Mr. O'Connor, I determined to go out, and acting upon that information, started about five o'clock by the early train on Monday morning from Benalla, with the trackers and five or six men. We reached Everton, and got out there, meeting my agent and Aaron Sherritt, who had been employed even before I came up in enquiring into the tracing of the outlaws with the police. We proceeded on through the bush, guided by Sherritt, so as to avoid coming in contact with any individual, and reached Crawford's paddock. We proceeded on foot through that country until we came to the head of that gully. I sent three of the mounted men to take one side, and three to take the other side, on the very top of the precipices and cliffs. I myself went down with Mr. O'Connor and the trackers and one or two men. We left the horses. I had brought some of the men mounted to take the sides of the gully; however, down we went to the place with the guide to point out the spot where he had seen the man. The trackers went to the place. We could see the trace of footsteps, and we could see along the gully, but when we came near to this place, and we went up to the rock behind which he saw the man appear, there were no traces of any one whatever, and Mr. O'Connor told me the blacks explained to him there were traces of a young man with a foot just such as described as Byrne's, with a small foot, driving a cow up the gully. Mr. O'Connor and the blacks followed down this gully to near —'s house, and, looking for traces all round for a mounted man on either side of the cliffs, we examined the gully all down, and the men up above examined the country above, and without any trace whatever. I had no doubt at this time that this information of — seeing a man was perfectly true; other information about seeing the man at the hut, and about his being at Mrs. Byrne's, I was very doubtful of—at any rate, I was quite satisfied, after the search we made, and seeing this agent was wrong in this instance, that these (the outlaws) men were gone from there at this time. They had been there two or three days before, but they had returned back to Greta. I know that since then immediately after that they went to, and came round by, Greta, and crossed Glenrowan; they went away beyond Lake Rowan. In that direction I was watching before, and there the horses were stolen which were found when they were arrested, but I had to return and meet Mr. Hare.

802. The horses found on the capture of the Kellys they found afterwards were horses belonging to a man called Ryan, at Rowan?—Yes.

803. And those were the horses you speak of?—Yes; in fact I may state this with reference to that: I saw the convict Ned Kelly, after his conviction; had an interview with him; I knew him pretty well before, and he said to me in a sulky sort of way, "I hear, Mr. Nicolson, you have been saying you surrounded us, and we could not get away from you?" I said, "Well, Kelly, I did not say I surrounded you, but you know very well I did disable you, that you were disabled and starved; you were on your last legs." And his reply was, "Oh, how was that? Look at the horses we got, and where they came from."

804. Did you see those horses?—Yes. "Look at those horses we got." "Ah, but," I said, "you stole those horses in June?"—"Yes." "Are you not aware that I left before June; I left in the beginning of June?" "Oh," he said, expressing the greatest surprise.

805. Were those stable-fed horses?—I do not know; I never saw them.

806. You have brought us up to the 27th or 28th of May?—No; I have brought you up to the very last.

807. What day was that?—31st May. On the 1st of June we slept that night at Crawford's.

808. At Beechworth?—No; we did not go near Beechworth. I sent a party of men into Beechworth.

809. I want to get the time that your connection with the Kelly search ceased?—On the 1st June, at daybreak. After that night we slept at Crawford's paddock, and after that I broke up the party, and despatched them to search through the country. I returned with the trackers, and with Senior-Constable Kelly, the two constables, and Mr. O'Connor, to Benalla. Next morning, 2nd June, I had a meeting with

Nothing whatever. I received orders to proceed to the Wimmera, the North-Western district, and on the day they were captured I found myself away on the border of the South Australian colony, as far away as I could be.

812. Were you at Benalla or in Melbourne at the time of the Jerilderie bank robbery?—I was in Melbourne.

813. Do you know the particulars of the robbery there?—I have heard them just from hearsay, I know very little of it; I was out at Porcupine Creek, near Chiltern, on the road between Beechworth and Chiltern, and the track was pointed out where they had passed, and where Joe Byrne was seen.

814. You were in Melbourne at the time of the Jerilderie robbery?—I was.

815. Who was in charge of the north-eastern country then?—Captain Standish.

816. Did you make yourself acquainted with the particulars of that robbery, namely, what moneys were taken?—Yes, all the particulars.

817. I want to ask you about it later on?—Yes the particulars reached me in the usual way.

818. You had full information how many five-pound notes were taken, what bank, and so on?—Yes.

819. You had official knowledge—not at once?—I believe so.

820. You had not yourself personally?—No, I had not. I could not speak now, unless I looked them up.

821. I would like to ask some questions about that robbery, in consequence of its being spread about that a large quantity of those notes were circulated in Benalla; and therefore I should like you to be ready?—I may say, when in Benalla, I was informed frequently of the circulation of the notes, but they could not be identified; and I remember a correspondence passing through my hands, when I was here about notes that had been circulated, passed from one of the sympathizers to a storekeeper in Wangaratta, but I know of notes also that were passed in Benalla.

822. An article appeared in the papers about that time, that notes of the Jerilderie bank, in New South Wales, which would be subject to exchange in this country, were being very freely distributed in the neighborhood of Beechworth, for stores and otherwise. The matter was brought up in the House, and I did state that I personally found that that money was exchanged in Benalla for goods and stores; can you say whether that information, from your own knowledge, that I asserted was correct, was correct or not?—I believe it was—not to a large extent.

823. Do you know, of your own personal knowledge—when you were in Benalla were you informed by any person that supplies were bought in Benalla, or in the townships about, by the Kellys?—No; I have seen the Miss Kellys frequently in a shop at Benalla, making purchases there.

824. What character of purchases?—A very ordinary character; they were generally on horseback.

825. What did they buy?—Well, they were principally things for themselves, for their own consumption.

826. What things?—Clothing for the children.

827. Tobacco?—I am not sure of their buying it.

828. Was tobacco reported to you?—No.

829. Was it reported to you that they paid in Bank of New South Wales notes?—I was shown notes to smell. They smelt as if they had been planted in the earth.

830. Was it reported to you by any agent, or officer, or policeman that the Kellys were in the habit of getting supplies at Ball's shop and elsewhere, and that they paid for those purchases in notes issued in New South Wales?—Yes, I heard they did.

831. Have you heard that tobacco was bought there?—I will not say I have heard tobacco was bought there, but I know old Tom Lloyd, a relative of theirs, an uncle, used to buy stores of every kind, tobacco and other things, which I have no doubt reached the outlaws.

832. Did you hear beside of the purchase of sardines, and tinned fish, and hams?—No, I cannot say that.

833. You do not recollect the particulars?—No, I have heard of that kind of stuff being bought at places, evidently for them.

834. You have no doubt in your own mind that their relations—this man was their uncle?—I speak of other people also, sympathizers.

835. As a matter of fact, you know those supplies were bought there?—I heard afterwards that they were purchased.

836. Have you any doubt that those reached the Kelly outlaws?—Some things I have very little doubt of.

837. And that money was paid for those stores in Bank of New South Wales notes?—Yes.

838. And you yourself have smelt those notes, and said they had an earthy smell?—Yes, two were shown me.

839. Besides those notes, were you aware of other notes for large amounts being issued in the district?—I have heard of it, but I have only seen two notes shown to me by a storekeeper there. I wish to add, in reference to something said by Captain Standish: In the course of my duty there, hearing various rumors and reports from Aaron Sherritt, since deceased, of the appearance of one of the outlaws singly, sometimes singly and sometimes in couples, suddenly out of Sherritt's house, and also assertions that Byrne was in the habit of frequently visiting his mother's house, I formed a party and placed them in a cave just about Mrs. Byrne's house.

840. When was this; you had left on the 2nd?—This was previous to my leaving.

841. Will you fix a date?—About the 1st of December 1879. This place was thoroughly secret, and is away in the centre of nothing but rocks and stones, and no vegetation at all—nothing to induce any person to go there—and it was unknown, I was led to believe, to every one but Sherritt. I selected four men, and I spent with them, in the presence of Senior-Constable Mullane and Detective Ward, one to two hours in going over and instructing them in their duty, warning them against every possible contingency or

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occurrences that might take place, and impressing upon them that their object was not to be surprised, but to surprise again. They had the assistance of the deceased Aaron Sherritt. They started at midnight, humping down their provisions, and blankets, and necessities, without meeting with any one, and all these precautions were taken. Their practice was to come down the hill. The house (Mrs. Byrne's) was watched by Sherritt.

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*continued,*  
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842. He was not in the cave?—No, in the long grass, commanding a view of her house. About between ten and eleven o'clock these men used to emerge from this cave and come down very warily—they had been rehearsed in it all—and take up position apart from each other, to surprise the outlaws if they should attempt to visit that house. I had other four men who relieved them. They were relieved by four men at the end of each week, once a week. Before daylight in the morning they used to ascend the hill and get back before daylight into the cave. Aaron Sherritt was instructed and employed to go round quietly, and warn them not to leave any traces, footprints, &c.; and he was instructed to hide and conceal any if they did leave any. This was continued on for some time. Whenever I reported it to Captain Standish I received a reply from him to remove them at once.

843. To remove the men from the cave?—Yes.

844. Is that in writing?—Yes, I can produce the letter. That if I considered it was a secret, I was mistaken, that it was actually known in the Richmond dépôt.

845. What was known?—About the secret cave party. I replied, remonstrating against doing so, and assuring him of the perfect safety of the arrangement, and that it was a perfect secret up there. I also added that I was very sorry that the dépôt was such a place which received information of that kind so rapidly on such a matter where such matters were concerned, the secret movements of the police.

846. This was in December 1879?—Yes.

847. At that time I understood you to say you had full charge of that district?—Yes.

848. Then why was the necessity of communicating with Captain Standish at all?—I had to keep the head of the department advised of what I was doing, for the Government as well as himself.

849. And he had the power to countermand, by his order, what you did?—Yes.

850. Have you got the letter?—Yes, I have a letter to that effect.

851. You can put it in at some future time?—Yes.

852. Is that the first time that you make the statement that any order of that character was sent to you—it is in your memory that he was in the habit of sending similar orders?—I have other orders that I have received of a similar description.

853. I understood both you and Captain Standish that you were altogether acting on your own responsibility, that he understood you were acting in that way; and I understood you to say also you had sole control?—So I had until he interfered. As Chief Commissioner of Police he had the right to interfere.

854. When would you fix the date if the first interference—was this a solitary instance, or was it a matter that had occurred before the 4th December 1879?—I would rather defer answering that for the present.

855. I want you to see that Captain Standish was very specific; on more than one occasion the word that he used was that you had *carte blanche*, and did exactly as you liked—that you yourself took the responsibility?—I did take the responsibility until any occasion he interfered with me, when I had to submit.

856. Is this the position of affairs—you are now complaining of what Captain Standish did in 1879, countermanding orders you had given?—Yes.

857. He did so on other occasions?—Yes, he did so on other occasions.

858. You are not prepared at present to give that information, but you will do so later on?—Yes.

859. Did you let Captain Standish know that you had these men in the cave?—Certainly, I did, and soon after I received that letter.

860. Captain Standish says this matter was known in the dépôt?—Yes.

861. Were your men bound to any secrecy?—Yes, they were.

862. Then the matter must have been communicated from your men to the dépôt at Richmond?—Yes, I have no doubt he had been informed from the dépôt. [*The extract from the letter referred to was read, under the date 15th January 1880, as follows:—*] “It would be better to have this work done by them (that is the —) if the — are to be depended upon, even if we had to subsidise them occasionally. As to secrecy which you believe has been observed about this watching party, I may tell you that the existence of this party and even the names of the constables employed are known all through the dépôt.” That was the position then

when I received peremptory orders to retire.

863. Did he give you instructions, in addition to that, to stop it?—He did, on more than one occasion, till at last I had to give it up.

864. Were the instructions in writing?—I cannot remember; a number of Captain Standish's letters I did not keep.

865. I take it that you put in this letter to show that you were carrying out certain arrangements in this district, and they were unfairly interfered with by Captain Standish?—Yes.

866. Had you, after receiving this letter, positive instructions to discontinue this party?—I had; I wrote back to him, telling him, whether it was secret at the depôt or not, I could not say, but it was a dead secret up there, and for months afterwards.

867. Is it not perfectly credible, in fact, that it would be known at the depôt and not there?—Yes, but if it was known at the depôt, it must have been known by the men in my district; the men serving in Benalla and Beechworth did not know of it.

868. Have you the next letter of Captain Standish's imperatively commanding you?—No, I cannot say whether he wrote or ordered me verbally. He frequently visited me at that time.

869. Can you fix your memory now, not fixing absolutely to time, is it on your mind that on any other occasion he absolutely issued an order to you which, in your opinion, was contrary to your duty and interest?—Yes.

870. So that it interfered with the efficiency of the duty that you were then doing?—It did, and I can satisfy you of that. At the same time, whilst these men were out on this cave duty, I had a man travelling amongst the population all round who did not know the men were there, but his orders were, "Find out what is the talk about the Kellys."

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C. H. Nicolson,  
*continued*,  
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871. The point really is that your arrangements there were unfairly interfered with by the head of the department. He has sworn you had *carte blanche*, and yet it appears he interfered?—I ultimately, from his persevering and ordering me on this subject, had to break up this party

872. Were there other occasions of the same sort?—I will come to another occasion. I can bring witnesses also to prove these things.

873. Is it not a fact that nearly all the statements made by you, the same as Captain Standish's, will be corroborated; the official documents will put them right?—Yes, I am quite confident of that. When I took charge of the district, casualties arose; men, from one thing and other, had to withdraw from the district; a man with a broken leg, a man suffering from sunstroke or fever, and the meagre skeleton of the force I had was often reduced by about twelve men, and I could not spare a single man. One man died up there as the result of the work. I used to write very strongly, several times, about those vacancies being filled up. Here is one instance. There were all these men absent at one time—[*handing in a return, which was as follows:—*]

NORTH-EASTERN DISTRICT.

RETURN showing Unfilled Vacancies in the District on 24th March 1880

Station where Vacancies are.	Number of Men.	Required instead of—			Remarks as to Disposal of Absentees.
		Rank.	Reg. No.	Name.	
Benalla	1 M. Con.	M. Con.	2912	Brodrick, R. W.	Resigned and discharged, 9/3/80.
Beechworth	1 F. Con.	F. Con.	2850	Williamson, D.	In hospital at depot since 20/1/80.
Cashel	1 M. Con.	M. Con.	2525	Forrestal, M.	Ditto, ditto, 20/2/80.
Euroa	1 F. Con.	F. Con.	2659	Brownlee, Wm.	Resigned and discharged, 20/3/80.
Mansfield	1 M. Con.	M. Con.	225	Costello, Andw.	Returned to Western district early in January.
Rutherglen	1 ditto	S. Con.	1546	Gribbin, A.	Transferred to depot by order of C.C. P.
Shepparton	1 ditto	M. Con.	2521	Commons, Ml.	In depot hospital all the month.
Wodonga	1 ditto	M. Con.	2691	Carroll, M. F.	Transferred to depot by order of C.C.P.

This is my letter in reply to him:—

In reply to the Chief Commissioner's minute M 7787, 1/8/79, I beg to refer to the attached report, of 2nd instant, from Superintendent Sadleir, and also to the amended return furnished in consequence of changes made since the 19th ultimo. I beg to remind the Chief Commissioner of the reductions made recently in this district, viz., fifty-two constables and twenty-three soldiers, in all seventy-five men, and which do not include the detachments of military also lately withdrawn from Seymour and Avenel.

The attached return shows what is left in each station in this district; and I must respectfully protest against any further diminution of strength, excepting where constables are employed watching the banks shall be replaced by suitable men at the expense of those establishments.

The question appears to resolve itself into this:—Is it desirable to prevent further outrages by the Kelly gang? I submit that it is desirable to prevent further outrages. There is no doubt that their success has given them prestige, and that, together with the amount of money they obtained, has procured them assistance, and has acted as an antidote to the high reward offered against them.

I have reason to believe that the above effect is gradually becoming weaker, in consequence of their money being nearly all expended.

There is also the bad moral effect which would be produced should they make another successful raid, especially if blood is shed.

The mere loss of money to any banking establishment is, I consider, of the least importance in this matter.

It is not advisable to speak, at present, of the prospect of capturing the outlaws. But I trust that the existing state of things will not last much longer in the North-Eastern District; and I hope that the present strength will not be reduced, and that as little attention as possible will be drawn to the subject.

C. H. NICOLSON,

Asst.-Commissioner Police.

874. The date of that letter is 4th August 1879?—Yes.

875. Then that was the month after you resumed duty on the second occasion?—Yes, I had to go down to Melbourne once or twice to remonstrate about that; and my whole time, as witnesses will prove, or a great deal of our time at that time, with all this trying work hanging over us, was taken up in that way; there was not a month or two months passed without something of this kind to distract us from the business we had in hand.

876. When was that?—The whole time till the time I was superseded.

877. This is the communication you sent a month after you resumed duty?—Yes.

878. Was there any answer from Captain Standish?—Yes.

879. Have you it?—No, I have not, but the amount of men and the strength of the system I was to pursue was known to Captain Standish before that. The reason I repeated was, I found it necessary to repeat in matters of duty of that kind, to make it as plain as possible to Captain Standish.

880. Did he reply to that, explaining why the number of men had been reduced?—I have no recollection; probably he did.

881. Do you complain that, in reply to that, he reduced the men further, or did he send you more?—My reply to that is, that my force was never kept up to the mark. When I did get men to supply the places of those men, I had sick men and invalids sent up to me in that district.

882. He did not assist you after that remonstrance?—He may have sent one or two men. I can get the exact reply.

883. I recollect, at that time, there was a long talk in the House of the outlay, about the large expenditure, and the money would not be voted—perhaps there was some reason?—There was no increase to the estimates, to the number of the police force at all, so that there was no increase with the number of men with this Kelly raid; those extra men in the North-Eastern District were taken from other districts.

884. As the answer to that letter would be of an official character, is it likely to be in the press copies of the department?—I hope to find it in that; but during that time the strength of the force was never made up; and when I left the office, I used always to keep that and other memoranda before me on my writing table in the office. There was a list of the men who were missing on the table or above the

chimney. I have been short of men even at Cashel, that most important place, where most serious outrages might have been committed, where we had no telegraph station.

C. H. Nicolson,  
*continued,*  
25th March 1881.

885. Will you supply the Commission with the force of the North-Eastern District at the time that you left charge in 1880?—Yes, I will do so. Captain Standish alluded to my business habits, and my agents. I do not wish to take any notice of that, but I just wish to show the mode of my settling up, and for that purpose I will quote my report to the Chief Commissioner with reference to one of those agents. I wish to draw your attention to the fact that the essentials have been complied with. In the first instance the man does not make his appearance for a certain date, but I had arranged he was to be paid off on the day previous to that. I did not pay him after that, because I communicated with him in the channel which he chose himself. I next make sure I part with him on good terms, and not to send him away to do us harm.—[*The witness handed in the following paper:*]—Benalla, 26th February 1880.—Memo.—Confidential.—1. The attached claim is for service principally rendered last year, that is from 1st November 1879 to beginning of February 1880. Claimant made a charge up to yesterday's date, but, as I had sent him notice on 3rd February that his services were no longer required, I have only allowed to the 5th, as any delay which occurred was his own fault, my notice having been sent to him through a channel of communication chosen by himself. 2. Of course I have taken care to satisfy him that he has been treated fairly, and he is ready to take service again if required. 3. He has been employed watching Brien and his orangery, and working between the place and Greta. His observations and information obtained are valuable. 5. Will the Chief Commissioner be good enough to cause the amount to be drawn through the attached form H and sent to this office, so that £5 advanced to him can be stopped." I was most particular in paying away money to the same class of people as the outlaws. I used to get receipts from the office here, and have them witnessed by Mr. Sadleir; and my expenses did not mount up; for one man and the service of his horse it amounts only 15s. and £1 per week whilst I had him employed. The poor man lost by it, but it just happened by the arrangement he made he thought he could gain by it. But the total expenditure of mine of that kind was very small indeed. I have finished my statement.

886. I will draw your attention to two matters. This is your printed letter of 30th June 1880:—"I have the honor respectfully to request that, before proceeding to acknowledge the services of those engaged in the destruction of the Kelly gang of outlaws, a searching enquiry be held into the whole circumstances and transactions of the police administration in the North-Eastern District since the Kelly outbreak in October 1878, and particularly into the circumstances of my recent withdrawal from that district"?—Yes.

887. The question I want to ask is this. You have entered into a lengthy detail of the exact position of the Kelly outlaws at the time you left the district. Is that the reason that you ask that enquiry might be delayed until these facts you have now stated were made public. Am I to understand that you have now entered into the full details of the exact position you had the outlaws in at the time you withdrew in May and April?—Yes.

888. And therefore you consider at that particular time you were unjustly treated in your withdrawal?—Yes. Nothing to do with the reward at all, but with my withdrawal.

889. Was that what you meant in that letter you wish delayed till the facts you now mentioned were before the department?—Yes.

890. You wish us to understand in your opinion you had the Kellys almost completely under your control at the time you were withdrawn?—I do, and I say it not only on behalf of my assistants and agents.

891. Was that the object of the letter?—Yes, for myself and the others.

892. You recollect a letter—you have not alluded to it—which was given upon oath by a young fellow named —, is he one of the — that is alluded to in Captain Standish's letter?—I suppose so, I know the man well.

893. Did you pay him any service money?—I did.

894. Under whose control was the North-Eastern District; who was in charge when the sympathizers were put in Beechworth gaol?—Under Captain Standish.

895. Who was the officer who appeared against the sympathizers on the remands?—Mr. Sadleir, I believe, had to appear.

896. You were not in charge?—I was not there, so I have no exact knowledge of it.

897. Did you inform the officer that took charge when you last left the district that you were satisfied that you had the Kellys almost within your grasp?—I would not like to say that.

898. Did you give him such information as would be useful to him in the interest of the public?—Oh! Yes.

899. In every respect?—In every respect.

900. You gave him a detailed account of all the proceedings leading up to what you believed to be almost immediate capture, had you remained and carried on operations?—I spent over an hour in the presence of Mr. Sadleir and Mr. O'Connor, and I gave him during that time all the information I could think of, and turned from time to time to Mr. Sadleir, and asked him, "Is there anything else, Mr. Sadleir, you can suggest?"—and Mr. Sadleir from time to time would tell me if he had thought so, and remind me; but I presume it would be better to defer that till Mr. Hare has been examined.

901. What was the nature of your relationship with the men and officers during the time you were in charge of the North-Eastern District; not your superior officers, but those under you—the men under your charge?—Mr. Sadleir was the superintendent of the district, he was under me, and we were, and are still, on the very best of terms always.

902. He was immediately under you?—Yes; he was in charge of the district, and he rendered me the most valuable assistance through out and spared himself in no degree; and many most valuable suggestions he gave me, for instance, that about working the people up in the township to assist the police in case of attack, and so on. My acquaintance with Mr. O'Connor when I first came up; but after a time he told me that he had not been fairly treated, he considered, by my predecessor, and there was a disposition to leave him out of the way on any occasion when there was a prospect of capturing the men.

903. When you left the charge of the place one of your successors would be, of course, Mr. Sadleir, would it not?—No; when I left charge Mr. Hare was there, but I exclude Mr. Hare; he was not with me.

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C. H. Nicolson,  
continued,  
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904. By your predecessor, you meant Captain Standish?—Yes, in this respect only. Mr. O'Connor was on very good terms with Captain Standish even when I came up, but he was very dissatisfied with being left out. I told him that I considered it a very improper thing myself of any one to do anything of the kind to him—an officer coming from a neighboring colony with a party of men. I considered that it would be a very improper thing for the officers of police of Victoria to behave in such a manner towards him, and that he might feel perfectly satisfied on that point that there was hardly an officer in the colony would do such a thing, and from that time our relations were perfectly satisfactory. He placed the trackers at my disposal, and I could take them myself at any time—to take them whenever I chose, he could trust me entirely; I am not going to crack the police up and seek popularity by speaking of them; but I can only say they showed the greatest possible spirit throughout, and as a proof of it there was not one man brought before me for misconduct while I was up there.

905. Neither black nor white?—No, not one, during the last time I was up there.

906. In the course of your examination you stated you were displeased with the conduct of one officer?—One exception.

907. Who you think did not act correctly in that search, and whom you instructed not to undertake any search parties again; I mean Mr. Smith?—That was not the officer I alluded to.

908. The question I ask is this: in the course of your evidence you state there was one search party under the control of an officer, Mr. Smith?—Yes.

909. And that he acted indiscreetly in returning when he ought not to?—Yes.

910. Was he continued in the district, and was he in the district when you resumed control, in August of the following year?—Yes.

911. Excepting that instance, did you find it your duty to find fault with the discretion, want of pluck, or courage of any officer or constable under you?—No, I did not.

912. Would it be untrue to say, in your opinion, the men showed want of courage and dash, which constables should possess?—It would be incorrect, in my experience, to say that.

913. And that the constables under you have constantly discharged their duty as they were bound to in the public service?—Yes, during the whole time I was there, I can say that. I do not pretend to say I was a brother to the men, but I was always their comrade.

914. It could not be to you that the inference could apply, in Captain Standish's evidence, as to having treated the men like dogs?—Not truly, for I never had occasion to reprimand or admonish a man up there, from the time I relieved Captain Standish till I was superseded.

915. You have no idea whom Captain Standish referred to?—No, but I take it to myself. There is just one letter I was going to hand in—this is the letter of remonstrance I sent to Captain Standish, dated 19th May 1880—during the month I was given a month more to work. I found, from the disturbance during that month, that it was quite impossible for me to carry on. —[*The witness handed in the following paper*]:—

[COPY.]

V.498.  
MEMO.

Police Department,

Superintendent's Office, Benalla, 19th May 1880.

With reference to my recent interview with the Honorable the Chief Secretary, in the presence of the Chief Commissioner of Police, upon the subject of the search for the Kelly gang and a proposed change in the conduct of the proceedings, I now submit the following remarks, with the request that they may be laid before the Honorable the Chief Secretary:—

For the first six weeks after the murders, giving the Kellys credit for more boldness than they are now shown to possess, I pursued them with search parties in the hope that they would not be at such pains to avoid the police. At the end of that period, on the 10th December 1878, they committed the Euroa bank robbery, and our pursuit of them failed through want of efficient trackers, even although the tracks were recent.

On the 13th December '78, in consequence of injury to my eyesight, I returned to Melbourne, after which the force throughout the North-Eastern district was further increased by extra officers, a considerable number of mounted and foot police, a body of the permanent artillery corps, besides three detectives—Eason, Berril, and Brown—all acting under the special directions of the Chief Commissioner of Police and Superintendent Hare, and the system continued for nearly seven months more, about ten months altogether, without obtaining any traces whatever of the offenders. In that interval there occurred the bank robbery at Jerilderie, N.S.W., in February 1879, when the Victorian police in this district used every effort to intercept the outlaws on their return, but, as at Euroa, in the absence of efficient native trackers, without effect.

Although reports did come in of the re-appearance of individual members of the gang at different places, it was found impossible to follow up the traces.

Immediately after the Chief Commissioner's return to Melbourne in July last, I was sent back to the North-Eastern district, and placed in charge of the work. Superintendents Hare, Furnell, and ultimately Sub-Inspector Toohey were withdrawn, also over forty of the police, and the main portion of the permanent military detachment (the remainder, about twenty-two soldiers, were subsequently withdrawn from Shepparton, Violettown, and Euroa, but ultimately I obtained (7) seven constables in their places).

My own experience of active search in the ranges here, without something like precise information of the whereabouts of the gang, is that it is worse than useless, and I am supported in this opinion by the experience of every officer whom I have spoken to on the subject. It is most costly and most harassing to men and horses, and, owing to the bush skill and wariness of the outlaws, and to the security afforded them by the nature of the country, and by the character of a large number of the inhabitants, it is the most unlikely mode to be attended with success.

I believe it may be positively asserted of all the numerous search parties that were sent out at so much trouble and cost, no one connected with them went out or returned with a *correct* notion of in what point of the compass the Kellys were secreted, or, in fact, whether they were in Victoria at all. Knowing this, it would have been folly on my part to have continued such a system.

With the reduced means at my disposal, my first object was to re-arrange and secure to those townships where there was treasure protection against a raid; to maintain a few extra mounted men at Wodonga, Wangaratta, Bright, and Mansfield, ready to act in case of emergency, at any of the distant points. The only complete search party has been retained at Benalla, the head-quarters of the district.

Previously there had been search parties at each of the above-named places. With the assistance of the district superintendent, Mr. Sadleir, which I have received throughout, economy was enforced in every direction. Not one special railway train has been used; and in view of the search being protracted, every effort has been made compatible with efficiency to bring down the working expenses to the cost of an ordinary district employing the same number of men.

A further important reduction was effected by the Chief Commissioner's orders—Y1676, 5/10/79, and Y1933, 18/12/79—abolishing special travelling allowances to the police engaged in the North-Eastern district.

I may here state that, even when the outlaws are finally disposed of, this district will not bear much reduction in the present number of police for one or two years to come—until not only the criminal, but the large lawless, portion of the population are put down, and confidence in the police protection is restored among the honest and industrious.

Keeping the police on the alert, but quiet and undemonstrative even to conveying the impression that their keenness had become dulled and the pursuit relaxed, I endeavored to discover and cultivate as many sources of information as possible.

It can be easily understood that much difficulty exists in finding suitable agents to assist police in this matter; moreover economical considerations rather restrict me in this direction.

A few respectable farmers, selectors and others are, I believe, willing, and promise to furnish the police promptly with information; but when the opportunity occurs they shrink from the duty until too late, lest their complicity with the police should be discovered, and not without reason, for the friends and sympathizers of the outlaws are very watchful. As an illustration of their danger: The search of the police would commence at a *certain point*. The fact, unless precaution is used by the police, is frequently sufficient to indicate to the criminal class the source of the information, and in this Kelly case would probably entail serious consequences upon the informant.

To induce persons of the same class as the outlaws, and possessing the necessary knowledge and ability to become useful agents, is a matter of time and circumstances.

However, after working as secretly as possible, positive tidings of the presence of the outlaws in the district, and of the localities visited by them, was obtained, although too late to employ the police to pursue them. Since then, gradually, but steadily, more accurate and closer information of them and their movements has been received, until I have had strong reasons to expect their steady arrest, and that, by continuing to pursue the course I adopted, their ultimate capture is, I feel, a positive certainty.

They have never shown themselves openly, as at Euroa and Jerilderie, since the arrival of the Queensland native trackers here. The presence of the latter, and the precautions taken against a successful raid have baffled the outlaws. Their funds are almost exhausted, their *prestige* had failed considerably, and, consequently, the number of their admirers has deceased.

They are depressed and very distrustful. They have almost ceased to use their horses, or to carry their rifles, excepting when shifting from one neighbourhood to another.

They conceal themselves during the day, and moved out at night on foot, and visit or meet their few friends at irregular periods, and generally unexpectedly. These friends are confined to their blood relations and a few chosen young men of the criminal class, who have known them from childhood, none of whom, up to this date, can be induced to betray them, even for £8,000.

They are accompanied by one or two scouts, who search the ground before them for ambuscades, and they use all their craft against leaving any trail for the trackers. When they do visit any hut or place, they watch it for several hours previously, and after satisfying themselves that no strangers are within, one of them enters, and, if all is well, the others follow leaving one or two of their scouts outside.

The length of time occupied in their capture must depend much upon the opportunities given by the outlaws, the skill of the police, and the disposition of the people to aid the police.

I have already related how wary the gang are. Nevertheless, their exhausted means compels them to expose themselves more and more to danger of betrayal and (or) capture, and this is already observable to a marked degree; and their friends are decreasing, while the police are increasing in knowledge and experience, and in the number of those disposed to help them; rendering the capture of the gang certain, unless some unfortunate change takes place, and the

C. H. Nicolson,  
*continued,*  
25th March 1881.

outlaws, by a successful raid or by some other means, refill their purses again; in which event, to ensure their capture, the work of the police will have to be done over again.

The system that has had to be adopted in this extraordinary case requires the exercise of patience among all concerned. A premature and fruitless attempt to capture the gang would be madness. It would awaken all the fear of capture, and perhaps cause them to separate and steal out of the colony, and leave them masters of the situation, to return when least expected, and surprise us by another successful raid.

While acknowledging the consideration of the Government in proposing a change in the management of the Kelly business, thereby relieving me from the very trying duty upon which I have been continually engaged for the past ten months, nevertheless, my sense of duty impels me to point out, respectfully, the inadvisability of such a change. It will be seen by this report the system which I have pursued – a system which appears to be the proper one, under the circumstances.

It does not seem well to remove the officer who has collected and holds in his hands all the threads of a long and tedious enquiry just at the crisis.

Again, I submit that the change is impolitic, as this case is one in which keen public interest has been taken. The proposed change will probably be considered as an admission of failure on the part of the police; and, especially if my successor happens to be unsuccessful, a clamour will probably be raised that the organization of the force is wrong. This may lead to breaking up the constabulary, and to weakening the power to maintain law and order in the colony; whereas the real truth is there is no failure at present; on the contrary, by the exercise of patience and fortitude, success is a certainty.

(Signed)

C. H. NICOLSON,  
Assistant-Commissioner of Police.

To the Chief Commissioner of Police, Melbourne.

*The witness withdrew.*

*Adjourned to Tuesday next at half-past Eleven o'clock.*

TUESDAY, 29<sup>TH</sup> MARCH 1881.

*Present:*

The Hon. F. LONGMORE, in the Chair;

J. H. Graves, Esq., M.L.A.,  
G. R. Fincham, Esq., M.L.A.,  
E. J. Dixon, Esq., J.P.,  
J. Gibb, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.,  
W. Anderson, Esq., M.L.A.,  
G. C. Levey, Esq., C.M.G.

C. H. Nicolson further examined.

C. H. Nicolson,  
29th March 1881.

*The Witness.*—I wish to be allowed to supplement my evidence by a few remarks, which will take a very little time—a few facts which will take a very short time to put in.

916. *By the Commission.*—You had better go on then?—I wish to state that the interference with me in the North-Eastern district, on the part of Captain Standish, that I alluded to, worried and crippled me considerably, and also the two officers who were with me.

917.—Crippled their action also?—Yes.

918.—Who were they?—Superintendent Sadleir and Sub-Inspector O'Connor of the Queensland police; but I never allowed it to interfere with my work. As an instance, when I received from time to time several orders to withdraw the cave party, I did not do so. On my own responsibility I took that  
POLICE F

course. When objection was made to the employment of Aaron Sherritt by Captain Standish, I discussed the matter with him. At the same time I continued to employ Sherritt, although I at last received an actual order from Captain Standish, saying he insisted upon my ceasing to do so. He said he was untrustworthy, and so on.

919. It was the first time you have stated that Captain Standish instructed you to discharge Sherritt?—Yes. I kept Sherritt on, on my own responsibility, and paid him out of my own pocket for the time being, from time to time, whether I got the Government to recoup me or not, until the day I left.

920. Did you get that account disbursed again?—Yes, I did get paid without any difficulty. As to the repayment, I had never any difficulty in getting it in Melbourne. I considered, and I maintained, that I was the best judge on the spot as to whom I should employ and whom I should not employ, and that it was impossible for Captain Standish, or any person sitting on a chair in Melbourne, to judge or dictate to me, with all the responsibility that was thrown upon me, in what I was doing up there, whom I should employ and whom I should not.

921. Were those the only two instances he interfered with you?—There was a spirit the whole time pervading that way; in fact, for months before I was withdrawn I had the consciousness that there was some mischief brewing.

922. You felt there was mischief brewing against you for months before you were withdrawn?—Yes. I charged Captain Standish on one occasion, at Benalla, with exhibiting my confidential letters to him to Mr. Hare at the dépôt. His reply was to the effect that he considered he had a right to do with the letters he received what he liked; consequently, I was very guarded in my communications to him. During this time I maintained courteous relations with Captain Standish, and outwardly there was no exhibition of feeling on my part, at any rate, towards him. When I, in April, received notice in his office in a very curt manner, that I was to be superseded, then seeing that the public service was being sacrificed and all the labor of years was to be sacrificed——

923. That was nearly two years after?—Yes. I was saying it was only then that I expressed indignation to the Chief Commissioner of Police.

924. That was in 1879?—No, in April 1880.

925. That was when you got the month's notice?—When I first was informed, and called down to town, and I warned him of the disaster that would ensue.

926. Was it all verbal?—Verbal; but I will give you more of it. I then insisted upon having an interview with the Honorable the Chief Secretary.

927. That was Mr. Ramsay?—Yes

928. He had only just taken office then?—He had just taken office. This was on the Saturday.

929. What date?—I arranged with Captain Standish that I would come on the following Monday morning. I will give the date presently. Captain Standish said, "Well, if you wish an interview with the Chief Secretary, I should wish to be present," and I said, "Certainly, I have not the slightest objection to you or anyone else being present." I would not go into this fully but that Captain Standish says I attempted to steal an interview without him. On my arrival at the office on Monday, Captain Standish told me I could not see the Chief Secretary till two o'clock—that he would not be at the office till two. As I was just leaving Captain Standish's office after hearing that, I saw the Chief Secretary going up stairs to his office.

930. Both departments are in the same building?—Yes. I followed Mr. Ramsay up stairs—I did; not rush up after him, as was insinuated—and, when he reached his room, I asked him if he would allow me to speak to him. I said, "Mr. Ramsay, Captain Standish tells me that I am to have an interview with you at two o'clock; he did not expect you at your office till two; would it be all the same to have the interview now, because I wish to return to Benalla by the half-past two train?" Mr. Ramsay was quite agreeable, and I was turning away from him to go and tell Captain Standish when Captain Standish came following up, running after me, as if I were trying to steal a march on him, and looking at me in an insulting manner, as if I had been trying to steal a march upon him.

931. That was the inference you drew?—Yes, he came looking at me in that way.

932. And you now, in giving your evidence, say that he did look at you, and you felt he was looking at you in the way you describe. That is what you swear?—I do; and my impression was confirmed by what he said, the other day, in evidence before this Commission. Mr. Ramsay heard me most patiently.

933. Where was this?—In his own room—in the Chief Secretary's room, in the presence of Captain Standish. And he received me more than courteously, I may say kindly; and he assured me that; it was no reflection intended on me; that it was just a change, like in a game of cricket—a change of bowlers.

934. Was that the exact expression he used?—That was the exact expression he used on that occasion. I explained to him how dangerous this was, and that there was very little analogy between the Kelly business and the game of cricket; and how dangerous this change that was about to be made would be. I then left Mr. Ramsay, he promising to consider my application not to be removed. I understood that the thing had already been decided upon.

935. Your remonstrance was with a view of his reconsidering his determination?—Yes; I called at Mr. Ramsay's office in the course of the afternoon.

936. What office?—His private office, that afternoon; and he led me to understand that I would receive an intimation about the matter—a favorable reply. On that occasion I did not force myself into; Mr. Ramsay's room, but saw him in the usual way that anyone going to his office would see him.

937. Was that about the time Sir James McCulloch's name was introduced?—No, after that. I returned then to the district.

938. Why did you ask for this extension—a month's time?—Because just at that time I was receiving other information from that man that wrote about the armour, and ought to have gone on. The information began to come in at that time when I went back very fast, of a very important character—all indicating a speedy termination.

939. You stated in your evidence that between this date, on or about the 20th April, your agents were giving you almost daily information?—Yes.

940. And you stated in your evidence the position of the men at that time—that they—were short of money, and were in the habit of going to Lake Rowan and other places?—I do not know exactly about Lake Rowan.

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*continued,*  
29th March 1881.

941. You said about that time?—Yes, from the time I went back and resumed work again, I found it was no use my continuing going on with the prospect of being withdrawn at the end of the month. You cannot command information, of course, in police matters; you must wait until it comes in to you. I telegraphed to Captain Standish about the middle—the 20th—of May, stating that I would be down the following day, and asking if he would be good enough to obtain me another interview with the Chief Secretary. Captain Standish spoke in his evidence as if there was only one interview; there were two interviews. I followed my telegram the next morning, and presented myself at Captain Standish's office. On meeting him I was polite, as usual, and he to me. He said, "Ah, Nicolson, I was dining at the Governor's last night, and I saw the Chief Secretary, and he does not think there is any occasion to have any further interview with you." I replied, "Do you then tell me that you are unable to obtain an interview for me with the Honorable the Chief Secretary?" He said, "Yes." So I took leave of him. I left his room and went down to Mr. Ramsay's private office, and had an interview with him; it lasted about half an hour.

942. That was on the 20th?—On or about the 20th of May.

943. It would be the 21st, the day following your telegram?—Yes. I then told Mr. Ramsay the state of affairs up there, as I had told him before in the presence of Captain Standish. I told him that Captain Standish was no authority on any matters of the kind; that he had no practical experience. I told him that Captain Standish would not give his mind to the business, and hardly to any one else; at any rate, that I could not get him to attend to me ten minutes at a time—to sit down and talk over the Kelly business. He could not, even of a period of ten minutes, fix his attention upon the matter. And I expressed to Mr. Ramsay that it was a great pity that before he decided that he had not consulted me also. I suggested that, though I was Captain Standish's subordinate, still I was his colleague, and I had been up there a considerable time, and I was an experienced officer, and I was a better authority on the matter than Captain Standish possibly could be.

944. Were you at that time recognized Assistant Commissioner of Police?—Yes, I was. Mr. Ramsay listened to me very attentively throughout, and there was no warmth whatever between us, excepting on my part, in endeavoring to induce him to reconsider the matter; and we parted just in the same friendly manner as before, he promising to reconsider and let me know. He made this one remark, showing the impression that I had made upon him, "Well, you see, Mr. Nicolson, having made all these arrangements with the head of the department, it is very difficult to alter them."

945. Captain Standish was not at this meeting?—No. It has been said that Mr. Ramsay interrupted when I was saying this, about my speaking in this matter of the head of my department. I have no recollection of Mr. Ramsay doing so, no recollection whatever, and this was the only opportunity that I had. I was certainly speaking very plainly, and speaking out very strongly about the part that Captain Standish had taken in this matter to him; I certainly was. I met Captain Standish at the railway as I was leaving by train when I was returning to Benalla. He handed me a telegram, addressed to me, and he said, "Paying you an amount of courtesy in bringing you this telegram which I suppose you would not show to me. I hear you have had an interview with Mr. Ramsay, and you have been abusing me. I consider your conduct very disloyal." Now when he said that, I smiled at his talking about my conduct being disloyal to him. He said "Mr. Ramsay," I forgot his exact words, but it was to the effect that I had conducted myself so violently that Mr. Ramsay had to check me.

946. He did not state that?—Yes, he stated that. This was at the platform, in a great hurry; the bell was ringing; he detained me so long I had to go away without a ticket. I replied just in hurry, about that violent conduct and checking me, "Never," not in a violent way at all, quietly; and the bell was ringing at the time, and, just as I was going away, he put himself in a very offensive attitude and manner, and said, "I believe Mr. Ramsay," as much as to say you are telling a lie.

947. Is this the occasion that Captain Standish stated he met you at the train?—This is the occasion mentioned in his evidence.

948. And this is your account of what occurred?—Yes; I am not sure that I spoke. He was addressing me all the time; but when he said I had spoken in a violent manner, and Mr. Ramsay had to check me, I said, "Never." Of course I do not disbelieve Mr. Ramsay either, but Captain Standish meant to convey a very offensive imputation. On my return to Benalla I was superseded by Mr. Hare, as I have already told you.

949. Had not this telegram anything to do with it?—It was important information from Mr. Sadleir to hurry me up, important information having come in, which I have already related to you. I acted upon it up to the day before Mr. Hare relieved me.

950. You were superseded immediately?—Not till the 2nd of June, a day or two after; but between that date and the 2nd of June I was engaged upon the duty up to the night of the 1st of June, when I came in to Benalla to meet Mr. Hare. I will point out to you that that is one of the instances when I was worried and interfered with; instead of being at Benalla when that important information came in that had to be attended to, I was down fighting in Melbourne, contesting against him in Melbourne.

951. That letter is dated May 20th (the one about the diseased stock; can you say from memory whether that was in your possession prior to your interview with Mr. Ramsay, or afterwards?—It was in my possession on that day, and I showed it to Mr. Ramsay.

952. You showed that letter to Mr. Ramsay?—I showed the letter to Mr. Ramsay, and I should here

state that I did not show it to Captain Standish. In my previous interview with him, when he told me he could not get an interview with Mr. Ramsay, my interview ended, and I left the room and went out to Mr. Ramsay. On the previous visit to Melbourne I spoke of, before Captain Standish insinuated that I had remained in town all day on the occasion of my first visit to Mr. Ramsay in April, Captain Standish makes a mistake; he speaks of only one interview, whereas there were two. On that occasion Captain Standish——

953. On what date?—In April. He wrote to me, saying something to the effect, “You did not go away,” and he has spoken here of his sending a messenger to the railway station to see me off or to give me some message, and I was not to be found, insinuating that I did not go off with the train. Now

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*continued*,  
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Captain Standish knows very well, for I wrote it to him, that I went out that day from town to Flemington. I had to see some friends there, and I took the train from there instead of Spencer street, and I went back the same train, and I wrote to Captain Standish telling him, so that I did go by that train.

954. This is what he did say:—“Mr. Nicolson came down to my office afterwards, when I asked him, ‘When are you going back?’ he said, ‘I am going back by the next train—the afternoon train.’ He not only did not do that, but he remained in Melbourne, and went to Sir James McCulloch to ask him to go and see Mr. Ramsay and intercede on his behalf?”—That was on the last occasion.

955. Early in May?—Yes. I returned by the train I mentioned to you from Flemington. I may mention there is a significance in my calling upon Sir James McCulloch at that time. Sir James McCulloch was in office at the time Power, the bushranger, was arrested. At that time he (then Mr. McCulloch) expressed himself very handsomely as Chief Secretary about my conduct in the arrest of Power.

956. May I ask is there a complete file of the particulars connected with the arrest of Power in the department?—There is. I should be very glad, with reference to that, if one or two members of the Commission would go over that file. Sir James McCulloch had expressed himself in that way years before, and though I never sought for influence or went to any person—but on that occasion I thought the best thing I could do was to go to Sir James McCulloch, and mention to him the position I was in, and remind him of the opinion he had expressed of me when he was in office, and to speak to Mr. Ramsay.

957. When was that—the Tuesday following the Monday you saw Mr. Ramsay in the morning?—The 21st May. That was the second occasion.

958. Although you knew Sir James McCulloch, what was the necessity of your asking him to accompany you to Mr. Ramsay’s private office?—Sir James McCulloch had the experience before him of the Power case. He was in office at that time, and he had, as I have already said, been very complimentary to me on the occasion of the capture of Power. He had learned when he was in office what sort of work it was. He did not accompany me to Mr. Ramsay’s office.

959. Did you think if he saw Mr. Ramsay he might influence him?—I did.

960. Now will you tell us by what train you left Melbourne after interviewing Mr. Ramsay on the last occasion?—On the following day.

961. That would be the 22nd of May?—Yes, the 22nd of May, by the half-past two train. On that occasion I did not go this telegram had not come, but after leaving Sir James McCulloch. I did not leave town that night. I wished, if possible, to get some definite answer or information before I started as to whether I was to remain. It seemed very little use my going back, but I was determined to go back, but it was important to have a definite answer before I went up.

962. Did you go from Spencer street then?—Yes.

963. The difficulty in this matter appears to me is as to date. Your first interview with Captain Standish was in April, and the second was at the private office in May?—That is it.

964. The first time you went from Flemington and the second from Spencer street?—Yes.

965. It was upon the May occasion that Captain Standish met you at the railway station?—Yes.

966. Did you come upon that occasion—that is about May, about the time of the letters about the armour—and interview Captain Standish here?—Certainly.

967. He knew you were in town?—Yes.

968. What time was it that Captain Standish told you he had interviewed Mr. Ramsay at the Governor’s dinner?—May—the morning of the last interview with Mr. Ramsay, and the only interview I believe I had with Sir James McCulloch.

969. What was the date of the first interview with Mr. Ramsay?—The first interview was on Monday the 3rd of May.

970. That was the time you alluded to the interview between you and Mr. Ramsay, when he said he would let you know later on whether he would consent to your remaining a month longer?—Yes, that is so.

971. That was on the 3rd of May—the afternoon that Sir James McCulloch accompanied you to Mr. Ramsay’s office?—No, he did not accompany me.

972. Was it on the 4th of May you returned to Benalla?—The Chief Commissioner directed me to stay, and then on the following day—on the 4th of May 1880—the Chief Commissioner informed me that the

Honorable the Chief Secretary had continued me for one clear month.

973. And you left by the 2.30 train that day?—Yes, I left Flemington at three o'clock on that day.

974. You were informed that you had another month?—Yes.

975. When did you return to Melbourne again to see Mr. Ramsay?—The 25th of May—Tuesday—I returned to Melbourne.

976. What was your reason for returning on the 25th?—Because I saw it was certainly impossible to go on any longer with the state the case was in with the prospect of being superseded.

977. You came down on the 25th of May to point out to the Chief Secretary that you had things to arrange, that it would be a false policy to remove you then?—Yes, on the Monday, the 24th—[*looking at a diary*—having requested the Chief Commissioner to obtain an interview with the Chief Secretary on the 25th.

978. On the 25th, when you saw Mr. Ramsay, was there any complaint of your unfairly endeavoring to force yourself upon him?—No, not the slightest.

979. On the afternoon of the 25th Sir James McCulloch accompanied you to Mr. Ramsay?—No, I called on him alone.

980. He did not accompany you?—No. I did not ask him to. As to what took place between Sir James McCulloch and Mr. Ramsay I do not know to this day.

981. You do not know that he saw him?—I believe he did.

982. Captain Standish states that Mr. Ramsay said, "Mr. Nicolson, supposing you were head of a department, and one of your subordinate officers came to me and abused you behind your back, what would you think?" On what day would that be if it occurred?—On the 25th of May.

983. Mr. Ramsay made that statement to you on the 25th?—I have no recollection of Mr. Ramsay saying such a thing, but if he did it was on that date.

984. I think you joined the police force about 1852?—Yes.

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985. As a cadet?—Yes.

986. I think you got your first promotion for gallant conduct about the time of the capture of Conor and Brady in Kilmore?—Yes.

987. Since then you had a large experience of police business?—I have.

988. You were for a length of time in the detective police?—Yes, about fourteen years.

989. And you kept yourself *au courant* of what was going on in this colony, and also in New South Wales?—Yes.

990. You were in constant communication with the force of New South Wales?—Yes, while I was in charge of the detectives.

991. Will you hand in a return of the length of the time it took to capture the bushrangers in New South Wales and in Victoria—Power and other men; Ben Hall and Gilbert—can you get this?—I will, but it will take a few days to get it—it is many years ago.

992. The time during which Power was at large, and the length of time of various times in New South Wales—Hall, Gilbert and other men, an specially those men who shot a number of police under circumstances not very dissimilar to the circumstances of the shooting by the Kellys—do you think you will be able to supply that?—Yes, I think so; it will take a few days, but I can do it.

993. You have read Superintendent Hare's report?—Yes, his letter to the Chief Commissioner of Police, 2nd July.

994. Have you a copy of it?—Yes.

995. Will you look at paragraph 3.—"I received orders from you at the end of May that I was to proceed at once to Benalla to relieve Mr. Nicolson. I accordingly, on the 2nd of June, went up there. I arrived at Benalla at about eleven o'clock that day. I saw Messrs. Nicolson, Sadleir, and O'Connor in the office. After some conversation on general subjects, Mr. Nicolson produced a letter he had received from you, directing him to give me all the information he had obtained concerning the Kelly gang during his stay at Benalla; he showed me the state of his financial account with one of his agents, and said there was nothing owing to any of the others. He opened a drawer and showed me a number of papers and the correspondence which had taken place during his stay in Benalla, and said, 'You can get all the information from these papers'. He gave me no verbal information whatever, but said, 'Mr. Sadleir can tell you all I know concerning the movements of the outlaws'. He left the office, and I never spoke to him again, and he went to Melbourne by the evening train." Have you any explanation to offer about that report?—I would rather wait until Mr. Hare gives his evidence on the subject, if the Commission will allow me.

996. You give the statement a denial?—I do, but I would rather speak of it after hearing Mr. Hare's evidence.

997. Have you closed?—No, but I will shortly do so now. I am going to hand in my report, and ask you to allow me to read the points of it.

998. Will you put in what letters you received from Captain Standish ordering you to dismiss Aaron

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*continued,*  
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Sherritt?—I will try and do so. I have to say this, that I had no difference with Superintendent Hare. I was on terms of friendly acquaintance with him up to the date of his letter on the 2nd of July. When he arrived there, on the 2nd of June, I, with the other officers, Mr. O'Connor and Mr. Sadleir, received Mr. Hare with kindness, although I was frequently annoyed by his being brought into opposition to me, sometimes apparently on his own account, and sometimes through Captain Standish.

999. Will you give any evidence of that?—I will produce papers presently; I am just finishing this. When I took charge at Benalla in July, relieving Mr. Hare and Captain Standish, I found the men, notwithstanding their seven months' work, very ignorant of how to use their arms—the rifles (the most important arms of precision)—the Martini-Henry, and other weapons with which they were armed. Some of them had lost their ramrods, others their side-guards; some of them had never fired a gun in their lives (so they stated), and they had all the appearance of it.

1000. Ramrods are used for cleaning those guns?—Yes, they are fastened in the usual way. The guns are breech-loading.

1001. What were those men you alluded to?—Policemen.

1002. Were those the men you were selected for this special service, or were they there by accident?—They were the men left in my absence to continue the work.

1003. Those men, you say, on your return to duty, in July 1879—were they all inefficient—you have your mind's eye on some particular men?—Yes, the men at Benalla.

1004. Did those men remain on with you on duty on the district?—Yes, until I left.

1005. You still retained them?—Yes, I still retained them.

1006. Could you name some of those men?—They were nearly all the staff, with few exceptions, senior-constables.

1007. Your statement applies to the general body of police?—The police as a body. One of the men named Keene shot another, Mr. Henry.

1008. Shot a comrade?—In the barrack-yard, larking.

1009. This is a proof of his inefficiency, you think?—Yes, he was larking. He thought his rifle was not loaded. He was handing a Spencer rifle down, and he saw no cartridge, and he drew the trigger. He was so ignorant, and thinking it unloaded, and he drew it back and forward, and loaded it without knowing, and shot this man through the body, on the 26th of July 1879, immediately after I took charge.

1010. Did you put them through a proper drill after that?—I did. I formed a class for them at once, under Senior-Constable Irvine, and, when duty admitted of it, I had them taught properly how to shoot, measure distances, and so on.

1011. With what weapons?—The Martini-Henry and Spencer rifles, and double-barrelled breech-loading guns, the three weapons they were armed with; but gradually, as the men got proficient, they all took preference to the Martini-Henry rifles.

1012. They believed in their precision and lightness?—Yes; this is the analysis of their scoring, showing what progress and efficiency they arrived at.

1013. Were the equally efficient is the use of revolvers?—They all knew how to fire a revolver, but a great many of them did not know how to aim.

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1014. After instruction this is the result?—Yes—[*handing in the following papers*]:—

### RIFLE PRACTICE.

*Scoring Analysis of Rifle Practice of the Benalla Search Party since first regular practice, giving each day's score, number of practices, total score, and average for each day.*

Rank	Name	28th J y	30th J y	3rd S e p	18th S e p	25th S e p	29th S e p	3rd O c t	14th O c t	31st O c t	3rd N o v	12th N o v	28th N o v	6th D e c	16th D e c	19th D e c	No. of Pract ices	To tal Sc or e.	Aver age per day.
A. C. P. Supt. Senr.	Nicol son Sadle ir	10 14	10 7	13 17	18 15	21 15	6 21	20 19	8 19	15	13 3	13 5	14 18	12 25	21 11	3 6	3 1 1 1	3 3 6 0	1 1 1 0

-	Irvin	0	0														2	1	1	15
Const.	e, R.	0	3															1	6	2/11
Md.-	Arth			7	13	10	6	3	16	5								3	7	16
Const.	ur, J.			6	9				8	17								1	1	2/11
"	M.																	1	7	2/11
"	Bell,	0	4															1	7	2/11
"	W.			9	21	14												4	8	62/
Proba-	W.																	2	2	11
tioner	Cann							2	2	15	10	5	5	7	8			2	6	10
Md.-	y, W.												1				22	2	8	27
Const.	Falki																	3	7	8
"	ner,																	8	3	1 1/2
"	A. J.																	3	2	2
"	Grah																	1	3	1
"	am,																	4	4	4
"	R.																	4	4	2/3
"	Hagg																	4	4	7
"	er, N.																	5	5	1/8
"	Kirk																	7	7	1
	ham,																	4	2	1/3
	T. H.																	2	4	2
	Moor																	2	2	2
	e, W.																			
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*Scoring Analysis of Revolver Practice of the Benalla Search Party since first regular practice, giving each day's score, number of practices, total score, and average.*

Rank	Nam e.	2 8 t h  J u l y .	2 5 t h  A u g .		3 r d  O c t .	1 3 t h  O c t .	1 4 t h  O c t .	1 5 t h  O c t .	3 1 s t  O c t .	3 r d  N o v .	6 t h  N o v .	1 2 t h  N o v .	1 8 t h  N o v .	2 8 t h  N o v .	2 9 t h  N o v .	1 6 t h  D e c .	1 9 t h  D e c .	No. of Pract ices	To tal Sc or e.	Avera ge per day.
A. C. P. Supt. Md.- Cons t.	Nico lson Sadl eir Arth ur Bell Can ny Falk iner Grah am Hag ger Gasc oign e Irvin e Kirk ham Moo re Phill ips Rya n Wall ace	6 1 2	2  0 3	11  6 2	2  4  18	17  18 9 5	17  15 19	18 14 12	9  6 14	15  12 18	23 24 12	18 10 4	19 12 0	9  6 10	6 11  15 13	12 7  5 8	11  0 19	4 6 1 0 3 8 0 4 1 1 0 1 1 1 2 4 5	6 4 6 2 9 0 2 1 4 1 2 8 4 1 1 7 6 5 1 9 0 0 0 1 0 2 5 8	1 6 1 0 1 9 7 5 1 4 1 1 4 1 1 4 1 1 1 3 5 13 /5

This was regularly carried out as rifle practice, and the score kept as you see there.

1015. And they attained fair proficiency?—Yes. In Mr. Hare's letter, in which he speaks of the men firing with great precision, he pays me a great compliment.

1016. That was on the 16th, at Glenrowan?—Yes.

1017. You practised it yourself?—Yes, I was doing this with the utmost care and economy when I received the communication from the Chief Commissioner of Police, that Mr. Hare said “I was wasting too much ammunition,” and the Chief Commissioner said “I must stop it.”

1018. Was that communication in writing?—Yes, I extended this practice all through the North-Eastern district, allowing a certain amount of ammunition to be used in that way in every station in the district. I also instructed the men myself how to attack the offenders if they should ever come in contact with them either in a house or in the bush. I also taught them that they were to dismount if on horseback, and how to fire their rifles. They were to dismount, and how to do so; never to fire off the horse’s back. Anyone who takes an interest in those things will know that it is an axiom introduced in all the late wars never to fire a rifle off a horse’s back. It is admitted as a general rule that a man cannot shoot with accuracy off a horse’s back; of course the very heaving of its flanks would prevent that. I directed them also how to approach and engage with these men—a very simple matter. I just told them, keep twenty yards from each other, the leader and two or three men in front, the other two or three men under the senior-constable to run up at right angles in this way—[describing the same by gesture]—driving them along by degrees till they close in on them and rush them. I was inspecting the Beechworth district in 1877, the year before the murders.

1019. What constable was there then?—Mounted-Constable Thom. This is my report of the man in charge at Greta.

1020. Is this the station where you drew attention to the necessity of having an efficient man at Greta?—Yes. Mounted-Constable Hugh Thom, 2372, about eighteen years’ service, “32 years of age, intelligent but not smart looking, soiled dirty jumper, dirty breeches, and a crushed uniform hat, beard untrimmed, his arms clean and serviceable. Mounted Constable J. J. Hays, about 24 years of age, five months’ service, intelligent, and promising looking, but not so smart and clean looking as when he first arrived from the

depôt; the example of his superior officer, Constable Thom, in that respect has evidently not been improving to him—arms clean and serviceable.” I may tell you now that Mr. Hare has had the most efficient men in that district.

1021. May I ask are those specimens of the usual reports you make?—Yes, the usual reports.

1022. Could you, without inconvenience, get the report made on that station prior to Thom’s coming there?—Yes. That would be not by me, but by the Inspecting Superintendent of the day.

1023. What action was taken on your report?—This man Thom was removed and another man put in his place.

1024. Not for a long time afterwards?—I cannot say. I visited the notorious Mrs. Kelly’s on the road from hence to Benalla. She lived on a piece of cleared and partly cultivated land on the road-side, in an old wooden hut, with a large bark roof. The dwelling was divided into five apartments by partition of blanketing, rugs &c. There were no men in the house, only children and two girls of about fourteen years of age, said to be her daughters. They all appeared to be existing in poverty and squalor.

1025. What is the date of this?—April 1877. “She said her sons were out at work, but did not indicate where, and that their relatives seldom came near them. However, their communications with each other are known to the police.” This is important. “Until the gang referred to is rooted out of this neighborhood one of the most experienced and successful mounted constables in the district will be required in charge at Greta. I do not think that the present arrangements are sufficient.

1026. Whom was that sent in to?—The Chief Commissioner of Police. This is one of my “twaddling reports”: “Second-class Sergeant Steele, of Wangaratta, keeps the offenders referred to under as good surveillance as the distance and means at his command will permit.”

1027. Will you fix the distance from Wangaratta to the Kellys’ house?—I should say about 16 miles.

1028. And how far from Greta to Mrs. Kelly’s?—About four—under four miles. “But I submit that Constable Thom would hardly be able to cope with these men; at the same time some of these offenders may commit themselves foolishly some day, and may be apprehended and convicted in a very ordinary manner.” This was the cause of my instructions to the police generally; and I had expressed my opinion since that to the officer in charge of that district, that without oppressing the people, or worrying them in any way, that he should endeavor, whenever they commit any paltry crime, to bring them to justice, and send them to Pentridge even on a paltry sentence, the object being to take their prestige away from them, which has a good effect as being sent into prison with very heavy sentences, because the prestige these men get up there from what is termed their flashness helped to keep them together, and that is a very good way of taking the flashness out of them.

1029. In making a report of that description, did you ask Thom had he made them amenable to justice lately, for instance the members of the family, the —?—I did.

1030. What was his reply?—I forget.

1031. It was sufficient to induce you to make a report, that a man should be sent to keep them under control?—Yes.

1032. Are you aware who his predecessor was?—No.

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continued,  
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1033. Do you know whether it was Flood?—I think it was.

1034. Do you know that he always had four or five of them in gaol?—I know Flood was very efficient.

1035. Was this report before of the shooting of Fitzpatrick?—Yes. I took a young constable with me part of the road, Constable Hayes, and I instructed him—similar instructions as those to Thom—and warned him never to go near that house, and to tell the other police that came there never to go near that house alone, always to have a second constable with them.

1036. Then you had an idea they were absolutely dangerous all through?—Oh, I knew it well; and I instructed the police never to go into that house alone, simply because I knew if there were two constables together bad characters are always afraid to proceed to extremities with them, because a constable is a witness and support to the other.

1037. And you had previously known Ned Kelly personally?—Yes. I visited Chiltern, the same district, at the same time, 1877.

1038. Do you recollect the date of the shooting of Fitzpatrick—April 1878?—Yes, I think it was.

1039. This is previous to that again?—Yes.

1040. This is before Byrne became connected with it?—I believe so. In speaking about the crime report book—that is the book in which reports are made, and in which reports are made of people who make complaints to the police—I may quote the following:—“About six cases to date, in 1877, mostly horse-stealing, which horses were ultimately recovered, impounded in New South Wales.” This is a form of crime which is said to be common here when the Murray River is low. “The animals are said to be impounded with the view of buying them out cheap”—that is over in New South Wales—“they are frequently recovered, but the offenders, said to be New South Wales men, are never convicted. I can see no difficulty in bringing those offenders to justice, if the Ovens district police make systematic arrangements with the cooperation of the well known Mr. Singleton, who is in command of the New South Wales police, Albury district.”

1041. I suppose, in making that memorandum, you were aware that in New South Wales no man can legally ride another man’s horse without either a permit or some notification in his pocket that the horse he is riding belongs to other man?—Yes. This is a communication from Mr. Singleton:—“Albury, 14th September.” This is to the officer in charge of the Beechworth district, to whom my communication had been sent for his attention. “My dear Sir,—In reply to your confidential note of the 12th instant, I beg to state that I believe that a regular system of horse-stealing is carried on by Victorian thieves, and that the animals are brought across the Murray and impounded in New South Wales, where they are sold for a mere trifle, and *vice versa* by New South Wales thieves to Victoria; very many horses stolen from Victoria have, I believe, been impounded at Quat Quatta, near Howlong. I would suggest that on a report of horse-stealing being made within a reasonable distance of the border, that you give instructions to the police in Albury, Howlong, and Corowa be informed as soon as possible.” Very soon after this regular system was established, the well-known Baumgartens were discovered receiving a very large number of horses, and Ned Kelly was the man who brought the horses to them.

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*continued*,  
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1042. One of them?—One of the men.

1043. Corowa was opposite the Victorian town of Wahgunyah, Howlong being the nearest place to Chiltern, and the other to Wodonga—the three crossing places?—Yes. Here is a document showing the reduction of strength at a station, done without any reference to me whatever. I do not know whether it is worth taking notice of; but I was in that district, at Stanley, near Beechworth; that is not in the dangerous district.

1044. Whose recommendation was that?—Mr. Brook Smith’s.

1045. Were the police taken altogether away from Stanley?—No; but there were two men there. I do not mean the reduction was not a proper one, but I was not made acquainted with it; and that was the usual custom, and that was what I was annoyed with Captain Standish for; they were done by him without consulting me, and without my knowledge, though I was visiting and reporting on the district. Here is another matter that I would like to draw attention to. While inspecting the county of Bourke district, in April 1876, I pointed out some irregularities in the mode in which the constable kept his money books. Shall I read that portion? This is the date—“5/3/75. Murdoch v. Murdoch, Hotham. Prisoner delivered at Hotham lock-up, by Kalkallo police, but no receipt producible, 23/12/74. Stephen v. Snowden, distress, £7 3s. Donnybrook. Amount collected by constable, who handed same to plaintiff direct, instead of to clerk of petty sessions.” And several others of the same kind. I was trying to introduce a uniform system.

1046. What was done on that?—I pointed this out to the Chief Commissioner in this report, and it was referred to Mr. Hare by the Chief Commissioner, who referred it to Constable Redding.

1047. You are pointing out this as a portion of your ordinary duties?—Yes.

1048. The object you have in view is to show that your recommendations were not attended to?—Yes.

1049. What was done in that case?—The correspondence does not show, and I am not aware of it.

1050. What will show that?—It ought to be on the papers, and its not being so is a proof of the

irregularity. "With reference to the receipt for prisoner Murdoch, the watch-house book at Hotham will show the prisoner was lodged there. I consider that in a place like Donnybrook, where the clerk of petty sessions only visits twice a month, and the clerk requests that the proceeds of distress warrants may be paid over to the plaintiffs, there is no objection to the constable doing so, providing he holds a receipt from the person to whom he paid the money, which was done in these cases. I am not aware how Mr. Nicolson became aware that Constable Redding is wanting in discretion, and requires looking after. He has been a long time under me, and I have not discovered it; on the contrary, I have found him a most zealous man, and most anxious to do his work, and a man in whom I can place the greatest reliance."

1051. It then, from that version, becomes a matter of difference of interpretation as to what it properly the duty of the constable?—Yes.

1052. You considered he was guilty of dereliction of duty; Mr. Hare, on the contrary, considered he performed his duty under the circumstances?—Yes; I am quite prepared to show that my system was the correct one. I reported: "Mtd.-Constable Redding, 1990, general appearance clean and creditable; kit clean and in good order; the leather pad under hilt of sword worn out and the mouth of scabbard loose and requires immediate attention. He has had no practice with his Webley's revolver; permission given to fire six cartridges and report result." "Mtd.-Constable Redding, 1990, is a man of considerable police experience, but wanting in discretion, and requires looking after; otherwise, from the opportunities of distinguishing himself which he has had, he might have occupied a better position in the force." I sent this as usual to the Chief Commissioner.

1053. Soon after resuming again you said you had been frequently interfered with by Mr. Hare, and sometimes by Captain Standish; is that one of the cases by Mr. Hare?—Yes, that is one of them.

1054. Are the cases generally that you have referred to in which Mr. Hare has interfered with you of a similar character?—No.

1055. Are there some of a more serious character?—Yes; this was done. Mr. Hare says, "I am not aware how Mr. Nicolson became aware that Constable Redding is wanting in discretion, and requires looking after. He has been a long time under me, and I have not discovered it; on the contrary, I have found him a most zealous man, and most anxious to do his work, and a man in whom I can place the greatest reliance." He praises him up, and contradicts me about the man, and asks my reason.

1056. Would Mr. Hare have greater opportunities of seeing the way in which this constable performed his duty than you would as visiting inspector?—As a rule, he would, but I might have special knowledge of the man.

1057. You were only paying a visit of inspection to this particular station—how often?—I had no knowledge of the station.

1058. But, as a matter of fact, the Bourke district was under Mr. Hare?—Yes.

1059. Would you or Mr. Hare have a better opportunity of judging of the merits of any particular constable?—As a rule, he would. I may remark further, here is the result of this. On the 26th June 1876 Constable Gill reports from Wallan Wallan:—"For the information of the Superintendent in *re* accidental death of Constable Redding." The day of this man falling off his horse, I said the man wanted looking after, and I find the man fell off his horse after a night's drinking, and broke his neck. "It appears from information received from Mrs. Redding, together with the evidence given at the inquest, that he (Redding) left Donnybrook at about half-past two or three o'clock on the afternoon of the 23<sup>rd</sup> instant, for the purpose, as he stated to his wife, of going to Wallan Wallan on duty. He reached Beveridge at about half-past three or four o'clock, and went into O'Connor's store for the purpose of paying a small account. After the account was paid, Mr. O'Connor asked him to have a drink, which he (O'Connor) says is usual with him when an account is being settled. He (Redding) had the drink, a little brandy, and remained at O'Connor's for an hour or so, and went from there to Mrs. Wall's hotel, where he had another small nobbler of brandy. He remained at Wall's for some time, but had only the one drink there. He went back to O'Connor's again, where he remained for another hour, or an hour and a half, and had a drink or two more. In short, it appeared from the evidence given, that he might have had a half dozen drinks altogether while at Beveridge; but it was also stated that he could carry a good many drinks before they would show on him. Mr. McCormack, farmer, of the Red Barn, and Mr. O'Connor, the storekeeper above referred to, were the last to see him alive at Beveridge, between nine and ten o'clock on the night of the 23<sup>rd</sup>,

and both stated in their evidence that he looked to them to be perfectly sober. They saw him get on his horse and ride away quietly, although Mr. O'Connor stated that he must have commenced to gallop soon after leaving his place, for he said he could hear the noise of the horse galloping along the Donnybrook road. Nothing further is known of him, until next morning about half-past eight or nine o'clock, when Mr. Gann, a butcher from Donnybrook, finds the body on the Sydney road, about a mile from Beveridge court. Redding's troop horse was found in a paddock on the side of the road close to where the body was found, in a paddock on the side of the road, with the saddle and bridle on." It is just simply I made the remarks about this man,

and I think my remarks proved correct.

1060. Is that the moment serious charge you have against Mr. Hare for interference with your duty?—I was acquainted principally with this man. He served under me, and I saw he was just the same as before, and I gave them the benefit of that knowledge, and warned them. This is the last thing I have to refer to. In Captain Standish's examination he alluded to paying my agents large sums of money. I just hand in this document, to show the sums that were actually paid. That was the first payment made when I went up there by myself, and these were the amounts afterwards—[*handing in a paper, Bourke, 23rd May 1876, and papers attached*]. He paid a large sum immediately when he went up there, and raised the market on me as it were.

1061. This shows the money paid for secret service by you and Captain Standish?—In one instance.

1062. Can you give the return of the secret service money paid by Captain Standish. You paid the secret service money yourself when you were there?—Yes.

1063. Can we get the return of that?—Yes, I will hand in the complete return.

1064. That shows that for the same service Captain Standish paid more than you?—Yes.

1065. Can you produce the letters in which Captain Standish ordered you to discontinue the employing — as an agent?—Any letters on that subject are amongst the bundle that have come down from the country, but I am prepared to prove that by oral evidence. I may say my statements have been made almost entirely from my own memorandum books; the papers on the Kelly business were left behind at Benalla, and I have not seen them. I have had nothing to do with them, and I have merely applied for anything that I wanted. One thing I omitted to say, in practising the men's shooting, I expended about eight or ten pounds in prizes for them, and in shooting I have paid for ammunition for them out of my own pocket.

*The witness withdrew.*

Stanhope O'Connor sworn and examined.

S. O'Connor,  
29th March 1881.

1066. What are you?—I am a gentleman living on my means at present.

1067. What were you formerly?—Formerly Sub-Inspector of the Queensland police; and at the time when I applied for this enquiry, I was in the police, and had no intention of living.

1068. You have left the Queensland police now?—I have. I met Captain Standish in Albury on the 6th March 1879.

1069. Was that when you came from Queensland?—It was.

1070. What was the cause of your coming to the colony?—This is a document sent by my Government showing the arrangements made that brought us over—[*producing a document*].

1071. It was by request from this Government and Captain Standish you came down?—It was.

1072. You brought some native troopers with you?—Yes.

1073. You met Captain Standish, you say, in March 1879?—The 6th of March 1879 at seven p.m. I was accompanied by six black troopers, and by one senior-constable, a white man. The names of my men were—Senior Constable King, Corporal Sambo, Troopers Hero, Johnny, Jimmy, Barney, and Jack. I requested permission from Captain Standish to halt for the day, as one of my troopers named Jack, was very ill. This Captain Standish granted at once. On the 8th March 1879, at nine a.m., Captain Standish, I, and my men left Albury for Wodonga, Victoria, where Captain Standish directed my party to remain for further orders. Captain Standish and I proceeded to Benalla, arriving there at two p.m. On Monday the 10th Senior-Constable King and the six troopers arrived at two p.m. from Wodonga at Benalla. On the 11th of March, Captain Standish ordered us out on our first trip, but had me sworn in previously member of the police force of Victoria.

1074. And your men?—No; only myself and my senior-constable. The black trackers do not take the oath ever; they are enlisted. We left Benalla at eleven a.m. on the 11th in company with Superintendent Sadleir and five or six Victorian constables. Prior to leaving, I told Captain Standish that I only required two of his men; but this I was told was not sufficient, and I must take not less than six Victorian constables with me. Captain Standish informed me in the presence of Mr. Sadleir that I was to be in charge of the party.

1075. That was that you were to be above Mr. Sadleir?—Yes; certainly the whole party, playfully saying to Mr. Sadleir, "Although you are Superintendent of Police, do not think you are over Mr. O'Connor." Those are his words as near as I can swear to them. Mr. Sadleir and myself were always on the best of terms. I and my party returned to Benalla on the 18th of March at 5.50 p.m., owing to the fact that the party was not sufficiently supplied with necessaries, and that one of my troopers, Corporal Sambo, got very ill.

1076. What do you call necessaries?—Blanketing and clothing.

1077. Provisions?—We were not supplied sufficiently with those. I consider necessaries everything.

1078. Food and clothing?—Food and bedding would be better. He was so bad, indeed, that I had to send him back to head-quarters on the 15th.

1079. What do you call head-quarters?—Benalla. I always called that head-quarters; and on the morning of the 18th we met Constable Bell, who informed me that my trooper was dying. This man died on the evening of the 19th of congestion of the lungs. I do not attribute any blame to the Victorian authorities in this matter. In fact, Captain Standish showed my men every kindness.

1080. Where did you go?—Mr. Sadleir will know all about that. He knows more about the country.

1081. He was with the party all the time up to the 18th?—Yes. On the 16th April we started out

again, the party consisting of about the same number of men.

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1082. That would be about sixteen altogether?—About fifteen or sixteen—five of my men, myself, Mr. Sadleir, and my senior-constable, and five or six Victorian constables.

1083. Did all those trackers come from Queensland?—Yes, up to this time.

1084. Because you recruited afterwards?—Yes; I will come to that directly. We had no information.

1085. Had you any the first time?—None. We went up to King River, and on the fifth day, namely, the 21st April, arrived at De Gamaro station. — informed us of his having found on the run, near the Black range, a horse, answering the description of one of the horses ridden away from Jerilderie by one of the outlaws. — offered to show us the horse and its tracks; but just as we were arranging for an early start for the morrow a constable galloped up with a letter from Captain Standish, saying if we were not on anything perhaps it would be better to return.

1086. “Anything good?”—Any good information. The letter stated that Mr. Hare thought that he had found some traces in the Warby ranges. Mr. Sadleir and I conferred together, and sent Captain Standish word of what we had been told, and as he had left us to decide, we preferred to follow our own information, but if he (Captain Standish) still thought it advisable for us to return, he was to send us word again, and we would obey. This he did the next day, and we returned to Benalla immediately, on the morning on the 23rd.

1087. Where was Captain Standish?—At Benalla.

1088. At what distance?—I do not know exactly—about thirty miles.

1089. Did you go to De Gamaro station to look after the Kellys?—Certainly. Subsequently, after Mr. Nicolson took charge, the above horse was recovered, and was found to have been one of the Jerilderie horses taken away by the outlaws.

1090. A police horse?—A New South Wales police horse.

1091. How long was this after you received information about the horse?—A considerable time—months. Captain Standish, I may say, did not believe anything. When we gave information about it, he laughed at it, and took no more trouble about it. Up to about this time, and a little later, Captain Standish was upon the most intimate terms with me, (in my statement, in my report of 7th September, it ought to be fourteen months he treated me most discourteously instead of sixteen) and often expressed a wish that I would join the Victorian force after the Kellys were taken. Captain Standish showed a great want of interest in any work in the Kelly pursuit. This was not only observed by myself, but by both Mr. Sadleir and Mr. Hare.

1092. Was that verbally, or how?—Repeatedly, day after day. Mr. Sadleir will be to prove it, and I suppose will repeat what he has often said to me. In fact, Mr. Sadleir often observed to me that he never could get two minutes’ conversation with Captain Standish upon Kelly business; that the moment he began to talk upon the subject Captain Standish would take up a novel and commence to read. Mr. Hare also frequently remarked the indifference of the Chief Commissioner to his work. About the beginning of May 1879, Captain Standish, in official matters, began to show his dislike, and wanted to take my men from under my command and place them in different townships. This I could not do on account of my instructions from my Government, which I hand in as follows:—“Telegram from Brisbane, May 13th 1879. To Sub-Inspector O’Connor. The Colonial Secretary desires that you will not separate yourself from your troopers, not allow any to be detached from you.—C. H. BARON, *pro* Commissioner.” This telegram I did not show to Captain Standish. I showed it to Mr. Hare, who advised me not to show it, as it may cause ill-feeling.

1093. Between the colonies?—I suppose that was what was meant; but I never objected to let my men go out, whenever I was asked, without my accompanying them. I never found any difficulty in working with Mr. Hare. He always treated me with the greatest kindness, and frequently remarked the insolent manner of Captain Standish to me. Mr. Hare and I, with my men, went out upon those expeditions Captain Standish told me most markedly that Mr. Hare was in charge; and upon the last one, which was in the vicinity of the Bald Hills, Mr. Hare stated, from what he saw of my men’s efficiency at tracking, that he thought we should never go out unless upon the best information, as something good might turn up in our absence. Mr. Hare’s usual plan of working was to scour the country with large parties of men—not upon any information.

1094. How are you able to say that?—Because I was quite conversant with all the working, with the exception of two or three times Captain Standish withheld knowledge.

1095. To your knowledge?—Of course I am speaking of myself.

1096. Were you with the parties?—Only on two occasions. I used to hear him say when he came back, “I will go out in the mountains in a couple of days’ time,” and so on. Mr. Hare went upon the chance at dropping across the outlaws. I may remark that this, I say, was his usual plan—of course once or twice he got information. The man, Aaron Sherritt, was employed by Mr. Hare, and Mr. Hare firmly believed in him. On one occasion a letter was written and sent to Aaron Sherritt from Joe Byrne, asking him to meet the writer at Whorouly races to ride his (Joe Byrne’s) horse. It told Aaron where to meet the writer. Mr. Hare and several men went to the races, but Captain Standish would not allow myself and the party to go. Mr. Hare returned, stating that Aaron Sherritt said he could not meet the outlaws. I cannot give the day of that occurrence. On another occasion, of which I cannot give the date either, Captain Standish received a note about eight p.m. from a man, stating that without doubt the four outlaws were in a certain hut, which he described, and

informing the Chief Commissioner he could easily capture them by sending out a party. Captain Standish sent out Mr. Hare and a large party of men, as near as I can remember, consisting of eleven.

1097. Can you say in which direction they went to identify it?—No; I have forgotten that. Captain Standish admitted the letter the other day in his evidence.

1098. Was it after the Whorouly races?—After this he admitted remembering getting the note while he was dining at O’Leary’s.

1099. Is that the date?—Yes. After Mr. Hare had proceeded some distance on his journey, the party met a man whom Constable Faulkner and other constable of the party recognized; this man rode away. Mr. Hare and party surrounded the hut in due time, and the door was opened by the same man as the party had met on the road, but there was no sign of the outlaws. It was upon this occasion that the Chief Commissioner would not let me go out; and when I explained his folly in refusing his permission,

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he replied, “I will endeavor to get the Kellys without your assistance”; and by sending this party out I considered it was conclusive evidence of his trying to do without our assistance. In Captain Standish’s evidence he says the Queensland police had such a train of men and baggage horses, and that we would be so slow. Now Captain Standish would not let us go out without six or seven Victorian police; and as to our slowness, that is not correct, as Mr. Hare will remember that, upon one occasion, he and his constables could not get up to one of the trackers, who at the time was following some horse tracks, before the tracker had gone a distance of four miles. This was on account of the great pace the boy was going.

1100. Was he on horseback?—Yes. Mr. Hare told this, not only to me but to Captain Standish and Mr. Sadleir; and I may mention that the trooper Mr. Hare had then was not a man that I relied on, as I only got him in Victoria, from Coranderrk, after the death of Corporal Sambo, and he had no experience in tracking.

1101. Was this a Victorian tracker or was he a Queensland man?—I believe he was originally from Queensland, but he had been at Coranderrk since he was a youngster.

1102. What was the special duty of the black trackers in Queensland—the same as here?—Just the same as the white police in one branch, as we have a large district of blacks to deal with; on the other hand, to arrest bushrangers, horse stealers, and cattle stealers, travelling sometimes sixty or seventy miles a day. I have done it myself in arresting a horse stealer, going at the rate of forty miles a day, and arrested him successfully. You can read in the papers about our going thirty or forty miles a day in tracking.

1103. The other charge was as to baggage and that kind of thing. Is it a fact that the black trackers require a lot of baggage, or do they go with the least possible thing they can go with?—With nothing at all in Queensland. They strip there and go with only their cap and ammunition and rifles; but it must be borne in mind that those boys and men came over from a tropical climate. I lost one from congestion of the lungs, and I only wanted sufficient covering for them at night. If we had been on actual information we could have gone without a pack-horse or anything—when the good information came in we could have done it.

*The witness withdrew.*

*Adjourned to to-morrow at Eleven o’clock.*

## WEDNESDAY, 30TH MARCH 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

William Anderson, Esq., M.L.A.,  
G. W. Hall, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.,  
E. J. Dixon, Esq., J.P.,  
James Gibb, Esq., M.L.A.

Stanhope O’Connor further examined.

1104. Will you go on?—In my opinion, Mr. Hare’s energy was misdirected. Mr. Sadleir, upon several occasions, remonstrated with Mr. Hare, and tried to show him the folly of his going out, as he did, upon no information. Before going any further, I wish to state that Captain Standish often spoke of Mr. Nicolson in the most disparaging terms. On one occasion, after Captain Standish had been running Mr. Nicolson down, Mr. Hare replied—“You should not say that; Nicolson is, and always was a true and loyal friend to you.” On another occasion, Captain Standish, referring to the death of the late Hon. John Thomas Smith, said—“Now Nicolson’s billet as Assistant Commissioner will soon be done away with, as the Hon. John Thomas Smith got it for him; the billet is a farce, and it will be all up with him now, as he has no other friend left.” Captain Standish never once went out with a party of police the whole time I was with him in Benalla.

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1105. You heard Captain Standish's statement here?—Yes, he went to Melbourne several times, but never stayed long, as he told me he was always hunted out of Melbourne by Sir Bryan O'Loghlen, the Acting Chief Secretary at that time. After Mr. Hare came home from his last trip in the bush, he was very down-hearted and in very bad health.

1106. When was that?—That was just immediately before they went to town, about the end of June 1879. He expressed himself as being thoroughly beaten, and that he did not care about staying any longer, as he could not see his way to capture the outlaws. Captain Standish was most reticent of his information; he would not tell Mr. Sadleir anything until Mr. Hare was first informed, and even then not until some days after. Captain Standish and Mr. Hare left for Melbourne about the end of June 1879, not together, but one left before the other. Mr. Nicolson arrived at Benalla of the 3rd of July 1879.

1107. Was Mr. Hare at Benalla when Mr. Nicolson arrived on the 3rd July?—If he was, he was on leave; I know he got so many days' leave. He commenced to work in totally different manner to his predecessors. He went about and had interviews with several persons who would be likely to have the ear of the Kellys or their friends, and succeeded in getting some to work for him as his agents and spies. He (Mr. Nicolson) was not in the least reticent of his information to us—that is Mr. Sadleir and myself—but was always asking about it and advising with us both. On the 15th August 1879, a telegram was sent to Mr. Nicolson, from the Chief Commissioner.

1108. Did you see it?—I did; the contents of it were the information of the sticking up the Lancefield bank, telling Mr. Nicolson to start our party by special train for Kilmore, But he, Mr. Nicolson, was not to accompany us.

1109. Do you mean by "your party" the trackers?—The trackers. We arrived the same day at Kilmore, late at night. Although it poured with rain all night, we succeeded in picking up the tracks of the robbers, and we followed them into Pyalong, a distance, I believe, of eighteen miles. Here a heavy storm hail and rain came on, and quite obliterated the tracks, already very faint of the last night's

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rain, but we have solved the great question, namely, the direction the robbers had taken, and to our assistance the speedy capture of the bank robbers was due. I refer you for corroboration to Sub-Inspector Baber. This gentleman is a Victorian police officer, and accompanied us through the whole trip. The first information we received was on the 29th September 1879, from Mr. Sadleir, who was up at Wangaratta, and, I believe, somewhere about there saw this man, who informed him that he had seen five armed men answering to the description of the outlaws on the road between Tom Lloyd's house and some other place I have forgotten, a distance of about four miles between the two places. Mr. Sadleir wired down this information to Mr. Nicolson, and recommended our party to be got ready, and that he would be down by the 6 train to Benalla. Mr. Nicolson at once replied to Mr. Sadleir to bring the informer down with him. This Mr. Sadleir did not do, on account of the man saying he was afraid to be seen with the police. When Mr. Sadleir arrived, he informed us that the informer told him that he (Mr. Sadleir) would find the tracks of the outlaws about half-way between the above places, and Mr. Sadleir said to us—"I think I can find the place that the informer means," but upon Mr. Sadleir referring to me for my opinion, I told him and Mr. Nicolson I thought it was a good chance thrown away, as the party would have to find the tracks before daylight, for if we failed to pick them up, the people going to work in the morning would discover us, and the alarm would be spread far and wide, so I strongly recommended our not going unless the informer came and showed us the tracks. Mr. Nicolson, after considering my advice, and remembering the previous character of the informer, very properly decided not to go. After this we were unable to get any information fresh enough to work upon, as heavy rains always had occurred before we got the news, until one day, I cannot remember the date, at 6 p.m., we had information that the outlaws had been seen on the railway line about Wangaratta, with the telegraph wires broken. We started within two hours of the notice to the scene, but upon arriving at Wangaratta got word that the whole thing was a mistake, and was explained in the press next day. It was a threshing machine pulled down the telegraph wires in passing across the railway line. After this appearance of activity on the part of the police, information ceased for some time to come in, as the Kellys got a fright if they showed out we would be after them at once. This we got from their friends, so some time passed before the outlaws began to forget the matter. This put us—Mr. Nicolson, Mr. Sadleir, and myself—on our guard that, unless good reliable information came to us, we, I mean the party, should not go out. After a time, Mr. Nicolson again got information, and told us to be in readiness to start at any moment.

1110. What date was that?—I have no date, but some time about the time the plough-boards were taken, I think; it was after this breaking of the line; it was drawing near the close—about April, I suppose, I would not be sure. He told me to be in readiness to start at any moment, as he knew that the Kellys were within a certain radius, and he was only waiting for information that would point to the exact spot where they were last seen to enable us to pick up their tracks; and I have not the least doubt that if Mr. Nicolson had been allowed to remain, the outlaws would have been easily taken. Everything was pointing to the fact; information of a much fresher date was continually coming to hand; and at last, about a week before Mr. Nicolson was removed, an informer actually saw Joe Byrne and spoke to him. We got word after twelve hours after she saw him, but we had some four or six hours' heavy rain between. We, Mr. Nicolson, Mr.

Sadleir, and myself, proceeded to Beechworth, and there saw Aaron Sherritt, who begged and prayed of Mr. Nicolson not to go out, as he himself had tried to follow the tracks of Joe Byrne, and found that they went from where Joe was seen to his (Byrne's) mother's house, and from thence on to a main road, occasioned by the rain which had washed them out. He also said, if we did not get the outlaws, they would know who had given the information, and would come and murder him and his connections. Mr. Nicolson was very anxious to go out, as he considered it would probably be his last chance, and after working so hard for such a long time he did not like to give it up; but he asked the opinion of all present, namely, Superintendent Sadleir, myself, Senior-Constable Mullane, and Detective Ward, and we all said we considered it would not be justifiable to risk the lives of the informers under the circumstances. This occurred just in the last week of Mr. Nicolson's being up there. As nearly all our agents were in this portion of the district, we still hoped to have another chance, and we thought we should, too, when on the 31st of May, an agent, whole name I will call —, sent in word that he had seen Joe Byrne up a gully about a mile from his (Byrne's) mother's house. We started out at once, took train to the nearest point—Everton; thence by horseback to a certain paddock, about two miles, I think, from the spot where the outlaw had been seen; thence by foot to the exact place. We got the man's track, and, after following it for some distance, found it was only a man collecting cows. The tracks went from one side of the gully to the other, turning down the cattle, and eventually a mob of tracks went down the gully towards Mrs. Byrne's house, followed by this track. You can always tell when they are driving, because the man's tracks are on top of the cattle. Aaron Sherritt, who had met us near Everton, and who acted as a guide and accompanied us on the trip, saw at once that it was Joe Byrne's brother, Patsey, who was very like the outlaw. We returned to Benalla, and Mr. Nicolson was superseded by Mr. Hare the next day, the 2nd of June 1880. I may here state that hardly a fortnight passed but Captain Standish was ordering and counter-ordering Mr. Nicolson, sometimes demanding him to reduce the number of his men, at other times he was not to employ such and such a person, or not to put police here and police there, until I often wondered Mr. Nicolson did not pitch the whole thing up; but, as he often say to me, all his private feelings were sunk out of sight, and therefore, for the public good, he stuck to the work. Before I conclude this part of my evidence, I wish to refer to the part of my published report in which I state—"He made a series of communications to the Queensland Government, tending to depreciate me and to remove the men from my control and supervision. This was done without my knowledge, and, consequently, I had no opportunity of explaining to my Commissioner." Captain Standish's communications were these, and I may state that I applied for them to the Queensland Government, whom I am representing officially now, and they evidently misunderstood, and sent me the wrong letters, not the ones I asked for; so if the Commission wish for them, it will be fully a fortnight before I can get them.

1111. It will be well to get them?—Very good. In this office there is some correspondence it would be well to get, which will bear me out in what I say in reference to taking over the boy, named Moses, from my command to the Victorian Government's. Captain Standish asked the Queensland Government for my men to remain without me, and without letting me know that he was so doing, and when this was refused, he applied again for two or three of my men, and was again refused; but he was allowed to

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retain one trooper, the one which I had enlisted in Victoria. Subsequently my Government, through my Commissioner, informed me that of course they never thought that Captain Standish would have taken this man from under my command while we remained on duty in Victoria; but Captain Standish did not lose a minute, but sent up orders to Mr. Nicolson to take the man over at once, without any reference to me. This was not in the letter, but I mean the order came to Mr. Nicholson. I immediately reported the matter to my Government, recommending for this act of discourtesy our immediate withdrawal, and I was recalled accordingly. That is my evidence in chief up to the time of Mr. Nicolson's removal. Mr. Hare superseded Mr. Nicolson of the 2nd of June 1880, when, in the presence of Mr. Sadleir and myself, he (Mr. Nicolson) handed over the documents, papers, &c., of the office. We all talked together for some time, and then Mr. Nicolson and Mr. Hare went to work. I remained some time longer.

1112. How going to work?—Going to work in handing over the office and giving him information of everything about his time up to then. I remained some time longer in the office and then I went outside, and was joined some time afterwards by Mr. Hare. Mr. Hare and I stopped talking to one another until Mr. Nicolson came out, and then the three of us walked down to the hotel to lunch. Mr. Nicolson, a short time after lunch, asked me to dinner at seven o'clock to meet Mr. Hare, and I accepted his invitation, but about 5.50 p.m. Mr. Nicolson ran up to me and told me he had to go to town by the six train, and therefore would have to put off the dinner, but he was going to write a note to Mr. Hare explaining his apparent rudeness. Mr. Hare, a few days after, expressed to me that he thought Mr. Nicolson did this a slight, but when I told him that I had been asked as well and had been put off in the same way, he said that of course made the thing look different, and from the 3rd of June to the 25th of June, the day I left Benalla, Mr. Hare was working just in the very same way as Mr. Nicolson had been doing when he was removed from Benalla. Mr. Hare, two days before I left, told me he did not know what to do; although he had *carte blanche* to do what he liked and unlimited money to spend, he could get no information. That concludes my evidence in chief up to the time I left Benalla. I left Benalla for Essendon with my troopers on the morning of the 25th of June 1880.

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1113. This was in consequence of your recall by the Queensland Government?—Yes, I put up at Flemington. I made arrangements to take berths in the Queensland steamer that was leaving on the 29th, but on Sunday the 27th of June, at half-past 7 p.m., I received a note (this is the original) from Captain Standish.

1114. Were you at Essendon when you received it?—I was at Flemington:—“Melbourne Club, 27th June 1880.—My dear Sir,—I have just received telegraphic information that the outlaws stuck up the police party that was watching Mrs. Byrne’s house, and shot Aaron Sherritt dead. The police, however, appeared to have escaped. In the urgent position of affairs, could you return to Beechworth with your trackers by the early train to-morrow, or by a special train, if that can be arranged. If you can oblige us in this way, could you manage to come in at once to see me at the Club by the hansom which I send out with this?” I lost no time with responding to Captain Standish’s letter. I got into his hansom which brought his letter, and was driven to the Melbourne Club; there I met Captain Standish, who had said—“Mr. O’Connor, in the urgent state of the case, can you manage to accede to my request?” I replied immediately—“It has always been my wish to have the chance of getting those fellows.” Captain Standish in his report, stated I “haw-haw’d.” I never did such a thing in my life; I was only too glad to get the opportunity. The only condition I made was, being under orders to proceed to Queensland, I was disobeying the head of my department, and therefore I must request that he would ask Mr. Ramsay to see that I was held blameless with my Government. Before leaving, Captain Standish said—“How long will you be before you are ready to start?” I looked at my watch, and I forget what time it was, but I told him I would be ready at ten that night. At half-past seven I got his letter, and at a quarter to ten I was ready at the station. All my arms were packed up, and the boys’ uniform and everything put away. I had to break open the cases, clean up the guns, accoutre the men in a proper way, and get back to the station by ten, and I was there at the train at a quarter to ten.

1115. It was not a ruse to make the Kellys believe you were going?—No, I was under orders to go. I mentioned one thing to Captain Standish, that is, that my wife would accompany me to Beechworth, as in all probability this tracking would be for several days, if not a week; she would like to be near where the work was going on, and therefore I requested that he should see that there was a first-class carriage on the special train for her convenience. Captain Standish referred to a memorandum which he had in his hand, and replied—“Of course there will be a first class carriage; there will be a first-class carriage, a guard’s van, and an engine—they always have these on the special train”; and I remarked that this was not the case, as on our special trains, when we used them, there was only a guard’s van and an engine. I have a reason for mentioning this, which will appear by-and-by. You know by the press reports about the journey up as far as Benalla. There I arrived about 1 a.m., and met Mr. Hare with several men. They got into the train with us, Mr. Hare in the same carriage with myself and wife and my wife’s sister—we all talked and chatted.

1116. There was really a first-class carriage with the train?—There was. We all conversed together, and were upon the best of terms. Mr. Hare even asked me when I had got information by letter from Captain Standish. I replied—“At half-past seven.” He said—“I never saw such a fellow as that Standish. He does not seem to care a single rush about the work. I told him hours before about it, and I begged of him to go out and see you personally, as I knew it was a condescension on your part to come out to work again after the way he treated you.” I said—“Well, he never did, he wrote.” We ran on towards Glenrowan, and were stopped before we got there, by the pilot engine being seen pulled up ahead. Mr. Hare, who had a key, opened the carriage and got out upon the line, and met a porter or guard carrying a lamp, who stated to Mr. Hare about the line being taken up. Mr. Hare, after informing me of this occurrence, said—“The only thing we can do is to draw up to the platform at Glenrowan, so as to enable us to get our horses out.” This was done, and Mr. Hare and I were talking and considering the advisability of mounting out horses and riding down to the place that we supposed to be a mile off, the broken part of the line, and the order was given to that effect to get the horses out. It was just in the middle of this getting the horses out that Constable Bracken appeared upon the platform in the most excited state. He did not, as far as I remember, address any person in particular; but he stated—“The Kellys are in Jones’ public house; for God’s sake take care or they will escape.” Mr. Hare turned round to me and said—“Come on, O’Connor, or they will be gone,” or “they will escape,” and we started, Mr. Hare slightly in the lead. Before going a few yards, Mr. Hare said—“O’Connor, are the men coming?” As I stated

before, the men were in the act of getting out the horses and the noise was terrific, the horses coming out half rearing and plunging through the van. I turned round and sang out—“Come on, boys, come on,” and I saw following me a line of men. It was just sufficient light to be able to see that some were black and some white, but not to know the names; in this form the party approached Mrs. Jones’, and when about twenty-five yards from the house, as near as I can remember, we were stopped by a single shot, which was immediately followed by a volley from the outlaws from the house. This I, and, by my hearing, I judge our party replied to.

1117. How many were the party?—I should think about seven in the first rush up to the hut. Before I could load my rifle, which was a breech-loading Snider, Mr. Hare sang out to me the words which I stated here—“O’Connor, I am wounded, shot in the arm; I must go back.” This Mr. Hare did, and I may say I am giving him ample margin when I say he was five minutes on the field, that is at the front in the fight.

1118. He was not over that?—Not over that certainly. In Mr. Hare’s printed report he states that he

spoke to the men and ordered them to stop firing. "I was struck by the first shot, and my left arm dropped helpless beside me. The firing was continued on both sides with great determination for about five minutes, when it ceased from the verandah, and screams from men, women, and children came from the inside of the house. I at once called on my men to cease firing, which they did." I deny that statement most emphatically. Mr. Hare went back, I do not know for certain whether he went to the station as I stated in my written statement, at any rate he left the front, but whether he left to the platform or the station I did not know from my own knowledge at the time, but he did not return again to the front. And it was I who gave the order for the men to take cover, and it was I who, upon hearing the cries of the women, gave the order to cease firing. It was I, who called out to the women to come out. I never heard Mr. Hare speak after he left the front.

1119. What did you say in telling them to come out?—I sang out—"Cease firing," and I had to continue that for some seconds, some long time after the firing ceased, and then I sang out—"Let the women out, let the women out"; and the cry was taken up round the line by the men, and a few minutes after the women passed out immediately on my left. There was a man between Constable Kirkham, he was immediately on my left at the time, and I challenged the women to see there were no outlaws getting out, and he challenged them also.

1120. How near were you to them?—I imagine it was about the width of this room of where the women passed out. That was the first intimation that I received, and may I say, on the part of the other men, that any man received, of there being other than outlaws in the house. Mr. Hare also states that he loaded and fired his gun several times after the shot wound; this I must emphatically deny. I will in due time bring one, if not more, witnesses to prove what I state. After Mr. Hare left, I suppose—I will not swear, but I suppose—ten minutes or a quarter of an hour intervened before I saw one of the engines going back towards Benalla. This engine was followed immediately, within five minutes, by the second engine.

1121. What was the time that the first went?—I could not tell the exact time; it was after Mt. Hare left the front and retired. This second engine, subsequently, I found contained Superintendent Hare, which, I think, he admits in his evidence. I at this time—just about the time that Mr. Hare was going away—saw that we were most recklessly exposing our lives, and as I stated, ordered the men to take cover. I dropped into a little gully that was running past the front of the house. My men were on each side of me. I had only five with me, as you may remember one had been taken away. If I may be allowed to guess at the time, about half-an-hour or three quarters of an hour after I had taken cover, a bullet struck a piece of wood in front of my position, which at once showed me that I was not in a secure place. I then followed the drain or gully down until I came to the position which I never left until I was superseded by Mr. Sadleir. I may state my men—two of them—eventually, during the morning, came to me in this place, and from this position I commanded the whole of the house, and I was convinced that no living man could get out of the front of this house without my knowledge.

1122. Had you pretty good proof at this time that all the persons other than the Kellys were out of the house?—I cannot tell the time, but I will refer to that presently. While I was in this second position, Senior-Constable Kelly came to me and said—"O, my God, I believe the outlaws have all got away." My reply to him was—"I will swear they did not get out at the front, as I have never left this place from the first attack." I asked him why he thought so, and he replied—"As I was passing round at the rear of the hut, about a hundred yards from the back door, I came upon a rifle all covered with blood, and a scull cap. I believe the rifle to be one of the Kelly's, as it is a revolving rifle. It looks very like as if the outlaws had got away."

1123. It was daylight at this time?—I do not think so; I could not be sure. Upon another occasion, subsequently to this one, Senior-Constable Kelly again came to me and said—"I hear that there are 40 prisoners in the kitchen of the hotel." I asked him who told him, but I do not wish to say positively who it was, but I believe it was Constable Braken, or he had heard it from some man that Constable Braken had told him.

1124. Can you say the time?—No, I could not make the attempt. I remember ten o'clock seemed to me to be four o'clock in the evening.

1125. You do not know whether it was daylight at the time?—I would not like to state.

1126. It was after several volleys had been fired from your men?—Of course. Oh, certainly. Mr. Sadleir then arrived, and made his way up to my position, and we had some conversation.

1127. He was not on the ground before this?—Not when this was told me.

1128. Was he on the ground before he came to you?—I believe he came straight to me.

1129. Did Mr. Sadleir arrive at this period?—No; not when I took my second position. When he came to me and showed himself to me, I saw he was there, he took command.

1130. Previous to this point of your evidence, about the 40 person inside, you have stated that Mr. Sadleir had arrived, and superseded you in the command?—I did mean it in that way.

1131. You got the information before you were superseded?—Yes; that was the first intimation when I saw him that he had arrived.

1132. Was that subsequent to everything I have stated?—I believe so; he made his way to my position.

about the Kellys, I cannot remember what it was, and left me there.

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1134. Did you confer as to the best course to take then?—Well, we had plenty of men then, we were conferring about the number of men. There were plenty of men then, and Mr. Sadleir considered it best to keep them secure, if they had not got out.

1135. Did you confer as to the positions of the men?—Not at that time. I told him I would remain there and let my men command the front of the house, and cannot remember what he said to me; but he left, and subsequently sent for me, which was at half-past ten a.m.

1136. That was hours after?—An hour perhaps.

1137. You remained where you were; he left you, and you saw no more of him until he sent for you at half-past ten?—Yes; I made my way at once to where he was at the railway station.

1138. Had he arrived by train with a lot of men?—Yes. There we had a long conversation. Ned Kelly had been taken prisoner.

1139. Was this the first time you were aware of that?—No; I knew about it from Constable Dwyer, who was bringing ammunition round.

1140. Did you take part in the capture of Kelly?—No, that was right away to my right.

1141. About what time was this?—Half-past ten when he had this conversation, Kelly having been captured. Kelly was wounded in the station-house at that time. Mr. Sadleir and I then walked round the line of men, getting what information we could, and suggesting any improvement in the way of watching the house. In Mr. Sadleir's statement, he mentions the time which I do not dispute, that the outlaws let the prisoners out. When the prisoners came out, they told us immediately they came out, which I most decidedly considered the best time to get true information, that Joe Byrne (that was in the morning, I think it was eleven o'clock) had been shot at daylight in the morning, by a shot that entered at the front door, cutting the femoral artery, and that Joe Byrne was in the act of drinking some grog at the time.

1142. Would not their armour cover that femoral artery?—No, there were cracks in it. One of them stated that Joe Byrne's toast was "Many more years in the bush for the Kelly gang." Eventually, Mr. Sadleir and I conferred as to the advisability of endeavoring to break into the house, but when we considered there were two determined ruffians, in nearly invulnerable armour, encased, as the prisoners told us, in the brick fireplaces of the house, and the doors barricaded with the furniture of the house, we thought that we would not risk a single life if we saw the slightest chance of getting the remaining outlaws without that risk, even if we had to wait the whole day. While talking together, Senior-Constable Johnson came up and proposed a plan to drive the outlaws from the cover of the house. He proposed to set fire to the building, and when the smoke got thick he had no doubt the outlaws would run out. Mr. Sadleir acquiesced in this, but did not allow him to carry into execution at once. We still had a hope that they would surrender. We were calling out to them to surrender, but getting no reply, we allowed this constable to carry into execution this plan.

1143. Before doing this, were there many volleys fired into the house?—A great many before we called out. A great many.

1144. Not exactly volleys?—Indiscriminate firing. But under cover of heavy fire the man approached the house to set fire to it.

1145. Previous to that, have you any recollections when you noticed the last shot coming from the house?—I can only give that from hearsay. I cannot tell when I saw the last, but one of the constables reported to Mr. Sadleir that a shot was fired, I think, about a couple of hours before the house was burnt—two hours before the house was set fire to. But one of the men stated he saw one of the outlaws pass the window about twenty minutes before the house was burnt. Mr. Sadleir will be probably able to remember the man. One of the men came up and said he saw, I think, Dan Kelly, pass the window about twenty minutes before the house was burnt. We collected the men, and put them upon two sides of the house, and called out to the two outlaws that we would give them so many minutes, and if they did not surrender, we would fire, and I think we stated that we would burn them, but there was no reply, and after giving two or three heavy volleys, under which Constable Johnson approached the end of the building, and set fire to the house. I think we gave them ten minutes or a quarter of an hour after we warned them.

1146. Was there any firing on the part of the police from the time that you were made acquainted with the fact that there were others in the hotel besides the Kellys, until after the prisoners were liberated?—I should say most decidedly, yes; but mind the prisoners were in the kitchen—there were shots exchanged, I believe, after we knew the prisoners were there.

1147. Fired indiscriminately through the house?—No. We knew the prisoners were in the rear in this kitchen, a totally distinct building, separated by several feet from the building where the outlaws were.

1148. How did you know that?—From information before, whenever Senior-Constable Kelly got the information. They were in the rear of the building, and it was from out of there they came.

1149. Then on the man's statement, which was not corroborated, you caused firing of that sort?—We replied to shots that were fired at us.

1150. Was the door open at this time?—No; all barricaded. I took it for granted that the prisoners were in the building behind, I took that as gospel truth.

1151. But with the knowledge of the large number of people there?—I did not believe all about the people there. I heard there were 40 men there.

1152. How many actually came out?—I think it was stated 20; they all threw themselves down in a heap, so that it was not easy to tell the number.

1153. From the time you got the information till eleven o'clock, when the prisoners were released, was there firing at the house by the police?—Certainly there was, but it must not go out as if we were firing

into the 40 or 20 prisoners.

1154. It was only a small place?—There is a great deal of difference in the matter of where we pointed the gun. I admit that every bullet had its billet, and was meant for the outlaws; but I never fired into that kitchen.

1155. You received information from Senior-Constable Kelly that there were some 40 prisoners in the kitchen?—That he heard so.

1156. He informed you of that?—Yes.

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1157. Firing took place after that, before the prisoners were released?—Yes, certainly.

1158. Did you tell every member of your force that there were prisoners in the kitchen, and to direct their firing to any special part of the building?—I did not, but Senior-Constable Kelly, I imagine, did.

1159. Of your own knowledge, did he—did you tell him to?—No.

1160. Would it not have been your duty, as commanding officer at that time, to avoid any unnecessarily risking the life of innocent persons, to have at once sent round to the members of the force?—In a time of excitement like that you cannot always do the most advisable thing and reckon what is best. I did what I thought best, and that was on no account to let the Kellys escape. I knew this, if there were any people in the house they would, in all probability, be friends of the Kellys, their relations and sympathizers, and men that helped them.

1161. You are giving us this impression, that you did not unnecessarily risk the lives of those people, because you were concentrating your firing of that portion of the building occupied by the outlaws?—Yes.

1162. At the same time, you say the remainder of the force were ignorant of that fact, as far as you knew?—I did not say that, but I believe Senior-Constable Kelly went round and informed all the men.

1163. How many were in your force at that time?—I believe about 14 of us.

1164. Armed men outside?—Yes.

1165. I mean from the time you were relieved?—No, I cannot say that, because fresh men kept coming in.

1166. Up to the time Mr. Sadleir came?—No, I cannot say, because men came in from different parts, when I left my position, which I thought most dangerous one.

1167. Mr. Sadleir had arrived before the prisoners were released?—Yes, a long time.

1168. Did you inform Mr. Sadleir of the fact that there were 40 prisoners in the kitchen?—Yes, he knew of it.

1169. Was there firing from then till the release of the prisoners?—Yes.

1170. At that time you did not know the number of men engaged on police duty?—I do not know up till this moment. I believe there were about 60 eventually; they kept coming in fives and tens. What I wish to state is that there was no indiscriminate firing after I knew, on my part, and the men who were with me, into the house where the prisoners were. Our fire was concentrated on the place where the outlaws were, and where the firing came from.

1171. Were you aware that there was a man then in the house beside the outlaws, before the place was set on fire, or when it was being set on fire?—I cannot remember.

1172. The old man Cherry?—I cannot remember whether I heard of it before or after, now. I remember so much afterwards that I am frightened to say now whether I knew it before. Before going further I would like to hand the copies of the telegram that Captain Standish sent to my Government, asking to keep me. These were sent before he asked me, dated 16/6/80—"Would like to retain troopers till Superintendent Chomley returns with trackers from Queensland; he will reach Brisbane on Monday." The telegram was the telegram before I left Benalla. This is the telegram the Government sent 27th May 1880—"Colonial Secretary, Queensland. Kelly gang have again broken out. It is of the utmost importance that you should give orders to Sub-Inspector O'Connor to remain here and assist for a few days. He will return to Queensland tomorrow, unless your telegraph to-night to contrary.—ROBERT RAMSAY, Chief Secretary." The reply was—"Keep O'Connor and police so long as they can be of any service to you. Sorry to hear these scoundrels are adrift again.—A. H. PALMER." Anybody would have inferred from that I had been asked to go and had refused. Instead of that, it has been sent before I had ever been communicated with. Well, the house was burned, and eventually the bodies of the two remaining outlaws recovered, together with that of Joe Byrne, and Captain Standish arrived on the scene.

1173. Were those the only two bodies discovered?—The two outlaws, Dan Kelly and Steve Hart, and the body of Joe Byrne.

1174. Were they all dead?—They were all dead.

1175. Were you present when Cherry's body was taken out?—I was, and he was not dead.

1176. Did you hear any remark he made?—He could just speak in a low voice; I could not tell what he said; the priest spoke to him, and gave him absolution, I believe, and he died immediately afterwards.

1177. Martin Cherry was the only man taken out who was not dead?—Yes. Captain Standish arrived upon the Glenrowan platform at about half-past five.

1178. What was the cause of Cherry not being able to speak?—His being shot in the house.

1179. Was he injured by the fire?—No, not touched by the fire; the body of Joe Byrne and Martin

Cherry were neither of them touched by the fire. Captain Standish got out on the platform, and immediately saw me, but took not the slightest notice of me.

1180. That was about half-past five?—Yes; until I put out my hand, which he just touched with his fingers. Mr. Sadleir also stated to me that Captain Standish was very cavalier in his manner to him. After a little delay, the whole party, with the exception of a few men left to guard, proceeded back to Benalla. I do not know if it is necessary to state here, but in Captain Standish's evidence, he says, "I instructed Mr. Sadleir not to hand over the charred remains of the outlaws." To the best of my memory, I overheard Captain Standish, in reply to Mr. Sadleir about the bodies, say, "Certainly, by all means, let them have them"; that they were to give up the bodies. I have had no conversation with Mr. Sadleir about this, so of course, if he says "No," I am mistaken; but from the best of my knowledge and belief, Captain Standish gave him permission to give them up.

1181. Do you remember Kate Kelly going up to the house?—No, not actually going up to the house; but I remember her making a step in advance, as if she were going up.

1182. Was she ordered back by the police?—Yes.

1183. What time was that?—Just after the house was set on fire, she made a step forward, and Mr. Sadleir, who was in charge of the attacking party, said, "Kate Kelly, stop a minute; where are you going?" She said, "I am going up to see Dan," or one of them she mentioned. Mr. Sadleir said, "Will you induce them to surrender?" "Surrender to you — dogs; no, I would sooner see them burnt alive!" Mr. Sadleir said, "Stand back"; and he said to me, "If that woman gets up there, we cannot do a single thing; we will have to leave the outlaws, instead of trying to rush in and get the bodies." We cannot do

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anything if she got in and got them under her protection. We thought they were alive at that time. If she had said, "yes, I will induce them to surrender," we would have been very glad for her to have gone up.

1184. Do you remember any conversation with the priest before he went into the house?—Yes, I remember the priest started to go up immediately, about half a second, after Kate Kelly; and Mr. Sadleir stopped him, and he asked him some questions, which I have forgotten, and I have forgotten the answer. At any rate all the crowd began to clap him; and he drew back again when Mr. Sadleir remonstrated. He then went on—the crowd clapped again. Mr. Sadleir said, "If anybody is to go up, it is my place, and I beg you to go back." The priest stood back, and the crowd clapped, and he stepped forward at the same time. The priest was in front of the body of police. Mr. Sadleir and myself, and several men, moved with the priest, the priest having a lead about the length of this table.

1185. He proceeded and entered the house?—He entered one door, I forget which door it was; it was not the room the Kellys were in, but the police—four constables—tried to burst open the door in the partition of the room, in which the outlaws were, and I saw them try three or four times till the door gave way, and then only through the fire which had charred everything; it was like a seething furnace.

1186. Did the police followed the priest immediately?—Some men did through the way he went.

1187. Simultaneously?—Immediately after.

1188. Did the priest not first came out of the house and hold up his hand, signifying that all were dead, before the police entered?—No; he did it to the people, not to the police; he went in at the door and came out again, and held up his hand to the people. At the time he went into the room there were constables trying to burst the door of the closed portion of the house, and it gave way after three or four attempts; it fell in nearly burnt through the time.

1189. And those police went up at the same time as the priest went?—Yes; immediately on his proceeding. Mr. Sadleir said, "Father so and so, if it is any one's place to go up, it is mine—stand back," and the priest went on, clapped by the people, and Mr. Sadleir said, "We must go on now," and we all went on, and then the whole crowd closed in round us when they saw us moving.

1190. What resulted from the priest's entrance; what was the next?—Nothing resulted.

1191. Did he communicate anything to the police after this?—Mr. Sadleir said to the priest as he passed through when he went out, "Did you recognize them?—the fire was so fierce we could not recognize a face when we looked in. He stated to the best of his belief he saw the two outlaws dead.

1192. Was that in the room where the police burst the door open?—Yes, the partition was burned, which the police did not know, and the priest not knowing either, went in by a fluke through it.

1193. The priest did not know them?—Yes, he did, that is what I understood from him.

1194. He was a priest from another colony just travelling through?—Well, I gave the description of it as far as I know, and it was this, to the best of his knowledge it was the two outlaws. I am only telling what I learnt subsequently from Mr. Sadleir. The priest was occupied immediately after with this dying man Cherry.

1195. Was the hotel door standing open all the time, or how did it come open?—I cannot tell you, because after I left the door of the house I was very little engaged there. I saw no open door when I was in the front of the house. I cannot give any evidence on that. Up to the time, I left to the front again. I was round at the rear most of the time.

1196. Not between half-past ten at the time the place was burned. You do not know when the door

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was opened?—No, I cannot say. The dead bodies of the two outlaws and of Martin Cherry the Chief Commissioner saw on the platform, and, after this conversation with Mr. Sadleir that I referred to above, we all got into the train, with the exception of a few men left on guard, and proceeded to Benalla. Captain Standish never as much as said “Thank you, Mr. O’Connor,” or recognized me in the slightest way, except what I have referred to there; he just merely touched my hand. I went in and saw Mr. Hare on my arrival at Benalla.

1197. Where?—Into his bedroom; and his remark to me was—“Let bygones be bygones,” and seemed very friendly disposed. I accepted his hand at once.

1198. Are you aware whether any civilians offered to enter the house before it was set fire to?—Not to my knowledge; I cannot remember—certainly not; I think I would have remembered the circumstance if it had occurred.

1199. During the time you were serving under Mr. Hare, you had no quarrel in your capacity as an officer?—Not any at all, nobody could get on better that we did all the time we were together.

1200. Officially you agreed?—Officially and privately, until the time we had a private quarrel which I have previously spoken of. And then on Mr. Hare coming and assuming command again, we were on the most friendly terms.

1201. This private quarrel in no way interfered with the discharge of your public duties?—In no way at all. Resuming my narrative:—I saw Mr. Hare, and he then in conversation said to me—I cannot remember the words, but something about “I sent up to Mr. Sadleir to tell him or advise him to burn the house”; that was the effect of it, that he had been either cognizant of the burning or had sent instructions; I do not know which it was. I only bring this in because Captain Standish’s evidence states something about it. Next morning, after never receiving a word of thanks from Captain Standish at all, I left Benalla for Melbourne. Mr. Hare was in the same train, and also Ned Kelly. Mr. Hare was in a separate carriage when I arrived at Euroa, where the trains meet. I received the *Age* newspaper, and, upon reading the report, I saw that my name was not mentioned; in fact, I might have been in Queensland. I waited till I got to Seymour, where the train waits for a quarter of an hour, and went into Mr. Hare’s carriage. I said—“Hallo! Hare, how is this, look at this report, why you have been doing everything by it, and I am not mentioned; how do you account for that?” Mr. Hare replied—“Oh, wait a bit, wait till you see the *Argus*, that will make it all right; the *Argus* is all right; the *Argus* is here, you can have it,” and he handed me the *Argus*. I took that with me into my own carriage. The *Argus* report mentioned we were at the place, and that was all. When I met my friends, they wanted to know what I have been doing at this fight—why did not I accompany Mr. Hare in the first rush, why not help him in some way, and would not be satisfied until I told them the whole story, and actually had to go down and publish in the *Argus* a short *resumé* of what occurred. In Mr. Hare’s report he stated, after omitting my name, you

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night, say altogether, he published a short paragraph on page 7, at the top of the page—“Since writing the above, I have seen a statement made by Mr. O’Connor to the press, and, after reading it, I can have no doubt his statement is perfectly correct; but in my report I have merely stated facts that are within my remembrance, and, no doubt, in the darkness of the morning and the excitement of the time, I may have omitted many incidents that occurred.” Well, I say if Mr. Hare acknowledged that to be true he should have mentioned it before. This is the report:—“I went down by the special train on Sunday night, at the request of Captain Standish. I collected my troopers, and started three hours after I received notice. I agreed to go on condition that the Government of Victoria would see me held blameless, as we were under order to leave Queensland. On our arrival at Glenrowan, we heard that the rails had been taken at some distance further on. We thought that the best course would be to get the horses and proceed to the spot. Bracken then appeared, and informed us that the Kellys were at Jones’ public house. Superintendent Hare, myself, and four or five men rushed up to the house. When we got within 25 yards we were received with a single shot, and then a volley. We returned the fire. Hare said, ‘O’Connor, I am wounded, I am shot in the arm, I must go back’. He left immediately. We remained, and our incessant fire drove the outlaws into the house, which we heard them barricade. Mr. Hare returned to the station, remained a short time there, and then went to Benalla. I stood at my post until half-past ten in the forenoon, when I was sent for by Superintendent Sadleir. I was within 25 yards of the house the whole time. At daybreak I got behind shelter. One of my troopers was shot alongside of me—cut across the eyebrows. He jumped on the bank, fired five shots into the house, and said, ‘Take that, Ned Kelly’. It seemed to afford him great relief, but rather amused me. I was left in charge of the men from the time Mr. Hare left until Mr. Sadleir arrived on the ground.” I had not seen Mr. Hare’s report at this time. I never thought that officially it would be the same as the newspapers, and it was after I reached Queensland that I got the *Argus* with this report published in it. My Government met me on the steamer when I went to Queensland. A report was handed me by the constable, and I did not get this till five or six days after I arrived there. I had not seen this one then, calling upon me to explain how it was I had not done my duty; in fact, the whole of it was so strong that that day I wrote an account, and that same day sent in my resignation.

1202. What do you mean, “not doing your duty?”—I consider it was not doing my duty when they said, “Why did I not do this and that.” Judging from the reports that went up, they thought I have not been there, and that Mr. Hare had done everything.

1203. Had you heard that Captain Standish had written to the Queensland Government respecting your delay in the colony as permitted?—There was nothing about that in the report; but I refer to the account of the Glenrowan affair, and they did not consider that I have acted as an officer, and called upon me to explain, and I was so annoyed that I sent in my resignation the same evening and gave a full statement, as I am giving now. The following morning I called at the Commissioner of Police's office. The Commissioner of Police was very hurt at my sending in my resignation. He begged of me to withdraw it, and represented to me that it was not his fault this report came to me, it was the Colonial Secretary, Mr. Palmer. After a couple of hours' talk I agreed to withdraw my resignation. The Governor subsequently sent for me, and with the Chief Secretary spoke to me about the whole occurrence, asked my opinion upon several incidents in it, for instance, the burning of the house, and I gave my opinion; and then they asked me what steps I intended to pursue; my reply was, "I must return to Victoria to demand an enquiry to Mr. Hare's report about what occurred at Glenrowan." They quite agreed with me that I should have one, and upon that understanding I came over to Victoria again, as you can see by the date of my application for the enquiry, 7th September 1880, and now the date when the enquiry began, the 18th of this month. My Government most kindly gave me leave, and I think for nearly five months I was on leave, but still I could not satisfy them that I was going to have the enquiry. I could get no answer. So at last they wrote and told me that they could not give me unlimited leave, and my reply was, "I beg to resign," and was sorry they did not see it was for their own interests that I should still remain in the Queensland force to attend any enquiry that might be called for. It was very shortly after this Kelly Reward Board was appointed. The Queensland Government telegraphed to me in a great state to represent them officially at that board for fear that I would not do so. I agreed to do so. So you see that I actually resigned my appointment to get this enquiry, although I did not mean to infer that I would have stayed for a very long time in the Queensland police, but I mean it was really the cause of my resigning my appointment in Queensland not being able to get the enquiry into this. I have been labouring under that ever since the Glenrowan affair, most people believing Mr. Hare's statement was true. After I arrived in town I never received a communication from Captain Standish, never so much as "Thank you Mr. O'Connor," or anything whatever until I received this.

1204. That was the first official recognition?—Yes, I will read it; "Police Department, Chief Commissioner's office, Melbourne, 2nd July 1880.—Sir—I have the honour to enclose for your information a copy of a letter I have received from the private secretary to His Excellency the Governor. It gives me great pleasure to have this opportunity of conveying to you this expression of His Excellency's appreciation of the important services you have recently rendered to the Police Department and the community generally in connection with the destruction of the Kelly band of outlaws.—I have the honor to be, Sir, your most obedient servant, F. C. STANDISH, Chief Commissioner of Police. Stanhope O'Connor, Esq., Sub-Inspector Queensland police." This is the enclosure, "Government House, Melbourne, June 30, 1880."—You notice the difference of the dates, the time that elapsed before Captain Standish was "pleased" to send this to me.—"Sir—Although the Governor has already communicated to you by telegraph his congratulations to the police of the successful overthrow of the Kelly gang, he was not at the time fully aware of all the circumstances of the case, and I am now directed by His Excellency to request that you will convey to Mr. Superintendent Hare, Mr. Superintendent Sadleir, Mr. O'Connor, and the members of the police force engaged on the occasion, his thanks and congratulations upon the promptitude, courage and determination displayed by them, and also upon the very proper prudence and caution exercised, by which, no doubt, several valuable lives, which might otherwise have been sacrificed, were saved.—I have the honor to be, Sir, your obedient servant, (Signed) FREDK. LE PATOUREL, Private Secretary. Captain Standish, Chief Commissioner of Police, Melbourne."—You can see from that that nearly all the people imagined that Mr. Hare remained on the field, and was, in fact, doing everything. Subsequently, I dined at Government House, and I gave Lord Normanby a full detailed account of what happened. He was not aware of anything of the sort. In fact, the first telegram, that Mr. Hare got, I

believe, thanked Mr. Hare, not mentioning any others at all. Afterwards, Mr. Ramsay wrote this to my Government:—"9th July 1880.—I avail myself of the opportunity afforded by the return of Mr. Sub-Inspector O'Connor to Brisbane to express to you the thanks of this Government for the great service rendered by the Government of Queensland in allowing that officer, and his man to remain on duty in Victoria for so long a period, and especially for your prompt reply to my telegram of the 27th ult., authorising me to detain Mr. O'Connor and the native troopers when on their way back to Queensland. Mr. O'Connor and his men were present during the whole of the encounter with the outlaws at Glenrowan, and it will gratify you to learn that they rendered most valuable assistance on that occasion. I am assured by the Chief Commissioner of Police that there is no ground whatever for supposing that a feeling of jealousy existed at any time of the part of the Victorian police towards Mr. O'Connor and his party of trackers. It appears that the greatest cordiality invariably prevailed between the two bodies, and I am quite at a loss to understand what can have given rise to a contrary impression.—I have the honor to be, Sir, your most obedient servant, (Sd.) ROBERT RAMSAY."—I wish to state that the Chief Commissioner of Police was

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aware that there was this jealousy, because, prior to my leaving, I called upon the Chief Commissioner of Police, and he, in his office, offered to shake me by the hand, which I declined. He asked me, "What is this I have received from your Government. They state there has been a feeling of jealousy between your men and our police?" My reply was, "Captain Standish, the Victorian police, as a body, both officers and men, have always treated us with kindness, with the exception of the Chief Commissioner of Police, Captain Standish"; and I said, "When the time comes, as I have no doubt it will, I will do my best to prove to the satisfaction of the commission or board what I say"; and in the face of that he tells Mr. Ramsay to write the letter there was no feeling of jealousy. I think I may say I have concluded, with one exception. In reference to my evidence this morning, when word was sent to Mr. Sadleir that Joe Byrne was seen at a certain place, and that we started up to Beechworth, I wish to state more fully about that. The communication was addressed to Mr. Nicolson, at Benalla. Mr. Nicolson was, at that time, down in Melbourne worrying about this business whether he was going to be removed or not. He was down there when the information came. We immediately sent a telegram down to him, which was the telegram that Captain Standish said he was so courteous as to hand to Mr. Nicolson at the Spencer-street station. Mr. Nicolson came up by that train, arriving about eight o'clock, and met Mr. Sadleir and me at the platform, and we all then went up in the train to Beechworth.

1205. What is your opinion of the action taken by the police in setting fire to Mrs. Jones' hotel?—I think it was the most proper thing to do. We knew at the time the outlaws were encased in what you may almost call bullet-proof armour. They were in a bullet-proof house as long as they kept in the chimneys and the house was barricaded. There was no way, except by serious loss of life, and it is the duty of a police officer not to sacrifice his men's lives; if he can see his way to do his work as effectually on the field was of more value than two outlaws' lives. After mature consideration Mr. Sadleir and several of the sub-officers considered it was a proper thing to do. Any army man would consider it nothing but false sympathy about those ruffians.

1206. Have you related all the circumstances of the attack on the house?—I can only speak from hearsay.

1207. Were there not some other persons injured?—Yes; but I would suggest that Mr. Sadleir, who knows all the circumstances of the case, would be better able to speak of that.

1208. You did not see the prisoners?—I saw them, but I have forgotten, and Mr. Sadleir will go more clearly into all the details.

1209. As a matter of fact you know there was a child hit?—I know there were one or two persons hit.

1210. They were not situated in that part that was in your view?—I believe they were in the front.

1211. You were not cognizant of that?—No.

1212. You were in charge at the time?—I was certainly in charge as a sworn-in officer of the Victorian police. I have heard statements since that the authorities here say that I was not, because I had left, but it was on the understanding that once being an officer here when I was asked to go back and resume my work I still occupied the same position; but I believe, from a very fair authority, that is one of their police, that I had nothing at all to do with it—that I went up there simply as a volunteer.

1213. You went up at Captain Standish's special request?—Yes; and I was not it worthy, after he had done that, of being acknowledged?

1214. And did not that show jealousy on his part?—If you follow the evidence throughout you will see the matter culminated in that point.

1215. Why did he ask you to go back?—Because he knew the outlaws would get away, and the police would be the laughing-stock of the colony. It was against his wish, but Mr. Hare recommended it. You see the time he took to do it—when he saw the country and all would be at him he reluctantly did it. If it was not for Mr. Ramsay, who believed in the trackers, I firmly believe he would not have sent for me at all.

1216. Is it in evidence when Captain Standish received the telegram?—I think he said early in the day. What I say is this—taking merely one instance, I most decidedly admit it would not be borne. But to understand that you must take the events all through from the commencement, from the time I stated he would endeavor to take the outlaws without us. Then there is the fact of his meeting me and saying, "What the Dickens have you done here; you have done nothing"; and I can bring out a great deal more in evidence.

1217. He stated you have brought contrary to his recommendations?—That, I think, is very conclusive.

1218. There was no jealousy between you and Mr. Hare?—Certainly not; not to the slightest as far as I know, while I was up there, and the Police Department, as a body, worked most harmoniously together excepting Captain Standish; that was the only case that would be injurious to the public interest.

1219. During your experience with the police, did you see any want of efficiency on the part of the men?—As policemen or what?

1220. In any way?—As bushmen, certainly, there was a want of efficiency.

1221. You were here when Mr. Nicolson gave his evidence; he alluded to several instances of men in the police service where they were unable to know the proper use of firearms—in some cases, never having shot a single shot from any gun—did you meet with any men to lead you to suppose they were so thoroughly

ignorant and unfit for that particular class of duty as that?—There were several cases. I cannot recall names or times, but I know there were men sent to Benalla who did not know what a breech-loader or a cartridge was, and they had to be thoroughly instructed; and Captain Standish objected to this, and wrote to discontinue this wasteful extravagance; but I mean as police constables they were a fine body of courageous men. I state that all those that came under my notice could not be better; they were a splendid body of men.

1222. Not lacking in courage?—No.

1223. But in discipline?—No; in discipline they were splendid. I never heard of a case where a man was called up and reprimanded.

1224. But they were no bushmen and not used to arms?—I do not say all of them, but a few. As to their capacity as bushmen, Mr. Hare will bear me out that on one occasion, in going to a certain place, we suddenly came across a road, and there were eight or nine or ten men, a great many of them thought they knew the country thoroughly, but they had no more idea than the babe unborn where they were. They had to send a constable a few miles down to find out where they were. There were no guides amongst the police, showing the actual necessity for some outside assistance, such as spies, who knew the country. I was out with Mr. Sadleir, with a party under Senior-Constable Flood, a most good and able man; he was able, but even he showed he did not know the country. After proceeding till four o'clock, instead of being at the place we thought we would, he told us he had gone the wrong way, that he thought the road led one way and it led another.

1225. Were they better adapted for town police than for a service of that kind?—No, I did not say that. I say we wanted guides, we could not do with the police solely, some men (Mr. Hare and Captain Standish) never had guides, which I want to maintain Mr. Nicolson made it his first duty to get.

1226. On what terms were those men specially selected—for their special knowledge of country life?—Well, no; during Mr. Hare's time generally county Bourke men were, I believe, taken because they belonged to county Bourke and to Mr. Hare. I know one or two of the men had complaints that when Mr. Hare went out that he excluded the men who used to be in my party, he took on new county Burke men instead. The men came up and did not like it, and at one time two or three of those men Captain Standish recommended Mr. Hare to take, which he did.

1227. Is there anything else?—Nothing else that I remember.

1228. One general question: can you, now the matter is long past, account for the long delay in capturing the Kellys, you being an officer of the service here and of Queensland?—Well, the first principal point I always considered was the want of knowledge on the part of the police of the bush, they did not know the country. In conversation which I had with a gentleman up there, a thorough bushman, he pointed this out. He said to me, "Look here, men in the police here, what they want to do in this country districts is to learn the bush. These men never go off the main road." He said when the men were stationed at Hedi, they just used to ride up and down the road. "I have asked them to come and muster cattle, and to see how those outlaws work." They wanted men more of that kind—bushmen, men who could go through the bush. I know there are some of that sort; there is one constable, Graves, a capital bushman, who led us in one party very well, but it was only in a very small circle of district. This man knew the country, and could go on end for a day and still know the country.

1229. As far as you were able to judge, was there a want of a thoroughly well organized system for the outlaws' capture to be established by the officers in command?—There were two different systems employed; and I most decidedly say the first system of scouring the country, after the first two or three trips, was certainly useless, because you could never get away without it being known; and in that country a large number of men riding shod horses can be heard half-a-mile away; and, unless on certain information, you may ride within half-a-mile of the men you are looking for and not know it. When I arrived, I found they had no information, and never could say the Kellys passed such and such a house at such a time, so that we really never had an opportunity of finding the tracks. We got on track several times in our travels which we thought were the outlaws'; and we followed, on one occasion, four men following stock on the run; and we thought undoubtedly those were the outlaws, because no one would have ridden over those ranges.

1230. Do you think any information was given at any time that would have been of service, and, for want of promptness of action on the part of the officers, the opportunity was lost in capturing the outlaws?—No, I do not know a single case where there was a want of promptness of action; but, in my evidence, I said I thought there was a chance which Captain Standish interfered with our going out, which I considered one of the best chances. That was the hut referred to in the evidence, where the information came in that the outlaws were undoubtedly in the hut; and by the fact of the man going up and opening the door—the same man who met the police—there is some color for believing the outlaws had been there. I say that Captain Standish showed a great want of judgment, to say nothing of jealousy, in not allowing us to go out then.

1231. Do you think, from your knowledge of the country now, that it would have been possible to cut those men off from their supplies?—No, I think it would have been impossible.

1232. They had supplies at every turn?—They were supplied anywhere they liked by their friends, and had only got to arrange with them where to take up their provisions.

1233. Your impression is that they had a number of friends and sympathizers in that district?—Undoubtedly.

1234. Who always kept them supplied with the ordinary necessities of life?—Yes.

*The witness withdrew.*

**THURSDAY, 31ST MARCH 1881.**

*Present:*

HON. F. LONGMORE, in the Chair;

E. J. Dixon, Esq., J.P.,

W. Anderson, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.,

J. H. Graves, Esq., M.L.A.

Stanhope O'Connor further examined.

1235. *The Witness.*—I forgot to mention in my evidence yesterday—I said in my evidence I was to be at the railway station at Essendon at ten o'clock. I arrived there at a quarter to ten, and at ten o'clock the stationmaster at Essendon sent for me—I was a little way down the platform—to ask me if I knew anything about the starting of the special train from Melbourne. He said the train was there but there were no orders. I told him I knew nothing; I could not give any opinion. About ten minutes after ten he sent for me again. He said, "Can you tell the officials in Melbourne, if there are any police coming up, or even Captain Standish, because they do not know what to do." I replied, "All I know is that Captain Standish informed me that the special train would be at Essendon at ten o'clock." The second remark I wish to make is, one of the members of the Commission asked me yesterday in my evidence as to who gave Senior-Constable Kelly the information as to number of prisoners, and whether they were in the house. I forgot at the time. I said I believed it was Constable Bracken, but since looking at my notes I find and I believe it to have been a woman, who came out of the house, because Constable Bracken, I find from hearsay evidence afterwards, had gone immediately after the telegram. The third remark I wish to make is, when I mentioned about the delay in sending the Governor's letter by Captain Standish, one member of the Commission suggested that Sunday might have intervened. Well, the 27th, we all know, was Sunday, and the 30th was Wednesday, and was the date of the Governor's letter, and I received it from Captain Standish on the 2nd; so that Sunday did not intervene.

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1236. After one of the children was wounded in the house did you see a man rush out with a child in his arms—a man named Neil McHugh?—No, I did not.

1237. It is stated he brought out one of the wounded children; did you see that man that day?—I cannot remember seeing him; in fact, I saw none to speak to, none of the women, or any of the people that came out at all, to my knowledge, to speak to the whole time. I only knew of their passing by.

*The witness withdrew.*

Francis Augustus Hare sworn and examined.

1238. *The Witness.*—I joined the police force as lieutenant of police on the 1st January 1854. My salary then was £300 a year, with all the allowances I now have, and in addition rations. I now, after twenty-seven and a quarter years' service, receive £375 per annum and without rations. I was promoted to the rank of superintendent in November 1866, which rank I now hold. I had nothing to do with the Kelly business until the murders at the Wombat. On the 26th October 1878, the morning after the intelligence reached Melbourne that Sergeant Kennedy's party had been shot, Captain Standish came to me to the dépôt, and ordered me to get as many mounted men as possible from the dépôt and Bourke district men, and to pick out the best men I had.

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1239. Kennedy's party was shot on the 26th?—Yes, on the morning after the intelligence reached I had—

1240. I want you to fix the date of that?—That would be the 27th. It was a Monday morning. I think he was shot on the Sunday.

1241. I want you to fix the date for certain?—Monday must have been the 28th. I was ordered to pick out the best men in the district; also to get ready all the available arms out of the store, and select as many horses as I could get out of the paddocks that were fit for work. I sent several mounted men that day to Benalla. For some weeks afterwards I was busily engaged getting in horses, buying arms, and instructing men how to use them.

1242. That was in Melbourne?—Yes. Every day men and horses were arriving at the depot *en route* to Benalla. It appeared to me that the picked men in the colony had been selected for this duty, and they were all splendidly mounted. From the time Kennedy was shot up to the time of the Euroa bank robbery my time was fully taken up sending supplies of horses to the North-Eastern District. On the 26th of November 1878 Captain Standish sent for me and told me that Mr. Nicolson had informed him that he had obtained reliable information that the Kelly gang intended sticking up a bank in some part of the district, and that Mr. Nicolson had requested Captain Standish to tell me to take the necessary precautions at the stations in my

district. I was all this time in Melbourne.

1243. Was this statement of Captain Standish's verbal?—Verbally. Captain Standish frequently used to send for me on occasions of that kind. He consulted me in that way, and spoke to me. I think the Seymour bank was specially mentioned as likely to be stuck up. I issued orders on the subject, which I will read to the Commission. The order is dated 26th November. This was to the men, telling them to instruct the banks. I will tell you what I did first. On the 30th November 1878 I informed Sergeant Purcell, at Seymour, that the Kellys contemplated sticking up one of the Seymour banks, and that there men would be sent up there for duty, and that I wished their duty to be kept quiet. I did not wish him to let the public know they were policemen.

1244. A kind of secret service?—Yes; and the banks were also to be informed.

1245. Were those men to stay in plain clothes?—Yes. On the 27th December, three constables arrived at Seymour. There would then be five men at Seymour, that is the three I sent up, a sergeant, and a mounted constable. On the 4th December 1878 I sent a memo. to Avenel to the following effect, "A foot constable armed with a revolver would be sent to Avenel. A constable should be placed on duty in plain clothes, and should never lose sight of the bank during office hours." The next day Constable Kelly arrived at Avenel for that duty.

1246. What Constable Kelly is that?—He has never been mentioned—Foot-Constable Kelly, from the Brighton station, and he is at Brighton now. This made three men at Avenel—that is the senior-

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constable in charge, a mounted constable, and the one I sent up. On the 7th of December 1878 I sent the following telegram to Sergeant Purcell, "Send one of your plain clothes men to Nagambie for same duty there, and send Constable Byrne" (he was in charge of Nagambie) "copy of instructions you got from me." That same day Sergeant Purcell sent one of the three men to Nagambie, Constable Burton was his name, with a copy of my memo, dated 30/11/78, that made three men—a senior constable, a mounted constable, and this man, made the three men at Nagambie; these were the three next to townships adjoining in the North-Eastern District.

1247. Avenel being the next bank township adjoining Euroa?—Yes. "Depôt, 26th November 1878. Memo.—Information has been received that the Kelly gang contemplate sticking up one of the Seymour banks, and I have thought it advisable to send up three foot constables for duty in the streets of Seymour. One should always be on duty in plain clothes, with instructions to keep a watch upon the banks, especially the Colonial Bank, which could be easily robbed." My reason was that the Colonial Bank is situated some distance outside the town, some distance from the people, and could be easily robbed on account of its isolated position. "It would be advisable not to let the public know that these men are constables, otherwise a statement to that effect might be inserted in the local newspaper. I have arranged that Sergeant Purcell's case should be heard at the General Sessions the first thing on Monday morning, so that the sergeant may be able to return the same afternoon. I think it would be advisable that S. C. Gilfedder should remain at Seymour during Sergeant Purcell's absence, and the constable at Seymour be sent to Tallarook, Sergeant Purcell therefore give instructions accordingly. The managers at the local banks had been cautioned to be on the alert, in case the rumors circulated may be true.—FRANCIS HARE. P.S.—It would be advisable not to let the public know that these reports are going about; it will only cause excitement which may do considerable harm.—F.H."

1248. Are you quite certain Captain Standish told you he had received information about the bank being stuck up?—Undoubtedly, and from Superintendent Nicolson.

1249. Not from Mr. Green?—No; I never heard anything about him till the last seven or eight months that he had anything to do with it.

1250. Where was Mr. Nicolson at this time?—In charge of the North-Eastern District.

1251. And Mr. Green is an inspector, is he?—An inspector in the city.

1252. Was Mr. Green inspector in the city in your district?—No.

1253. Who was he under?—Under Mr. Winch. About 12 noon on the 12th December 1878 I received a telegram from Captain Standish (I was in Captain Standish's office, he being up the country), and the clerk handed me in a telegram directing me to report myself with horse and accoutrements at Euroa that night.

1254. Where was the telegram dated from?—From Euroa. I left Melbourne by the train between two and three o'clock. I met Captain Standish and Mr. Nicolson at Euroa, and there was a number of police there. Captain Standish wanted me to go out that night with a party of police in search of the Kelly gang. I told him I knew nothing of the circumstances of the bank robbery, except from I had seen in the papers, and I thought it unfair, without making some enquiries myself, to be thrust into such a position; and as two days had elapsed since the robbery, in all probability the outlaws would be 100 miles away by that time. I did not care about rushing into the matter without making some enquiries into the circumstances of the case myself, besides which I told him I was not at all well at that time. I did not feel fit to go out. Had I wished to shirk the duty, I could easily have got a medical certificate from any doctor in the colony so to state. But still I went up to Euroa on this Kelly business. The party of police started off next morning into the Strathbogie ranges under Senior-Constable Johnson; he was a fine plucky fellow. I did not know what their orders were, but I think Mr.

Nicolson started them. I did not get up and see them start. I did not see anything of them again, but they remained away from six or seven days, and then reported themselves at Benalla without finding any trace of anything.

1255. To whom?—To Captain Standish and myself and Mr. Sadleir, we were all working there together. I then set to work to gain a knowledge of the men; there were a great number of them strangers to me.

1256. The constables you mean?—Yes, the constables under me, and also the district. I obtained general information as to what had been going on since the murders at the Wombat; I conversed with every member of the force I came across to find out their opinions on matters, and what men I thought fit to take charge of parties. Sometime afterwards I selected three very good men, they were constables, and I asked Captain Standish to give them the rank of senior-constable, which is similar to the rank of corporal in the army, so that they would not be of the same rank as the men they took out.

1257. What would be the increased pay?—Sixpence a day; at that time there were no vacancies in the force for senior-constables, but they were to be put on permanently as vacancies occurred. Under this arrangement they would have control over the men. Captain Standish complied with my request, and the next day constables Johnson, Mullane, and Hood, were appointed senior constables.

1258. That position has an increase of pay of sixpence a day?—Yes.

1259. Which is the increase of the senior-constable?—Yes, there were no vacancies in the force at the time.

1260. Is this Johnson a man that was stationed at Violet Town and who was afterwards at Glenrowan?—Yes.

1261. Is Flood the man who was mention as the man stationed at Greta in the old time?—Yes, and is now stationed at Yackandandah.

1262. Is Mullane the man who is now stationed at Beechworth?—Yes. From the time the sub-officers were sent out in charge of search parties they were told what information had been received. I might explain as to sending out search parties, there were rumors coming in of every sort and kind, some true and some untrue. The search parties were sent out and were left unfettered in every possible way to go into the ranges and search. Besides the men I have mentioned, who were fit to take charge of parties, there were Senior-Constable James of Mansfield, Sergeant Steele from Wangaratta, Senior-Constable Irwin at Alexandra, Senior-Constable Shoebridge at Bright, and Senior-Constable Kelly at Wood's Point.

1263. Is this Senior-Constable Kelly who was afterwards at the Glenrowan affair?—Yes; and there may be other men whose names I have forgotten—those are the men that come to my mind. The first month or so I did not go out with the search party. I remained at Benalla, and my time was fully

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taken up going about the district making enquiries and getting things in order. About this time all the sympathizers were arrested.

1264. By whose orders?—By the order of Captain Standish. We all acted together, Captain Standish, myself, and Mr. Sadleir.

1265. Captain Standish was there?—Yes; he was in supreme command at this time. Those sympathizers gave us a great deal of trouble. I had to go up, some five or six or seven times to Beechworth every Friday afternoon, and remain there all Saturday—sometimes all Sunday, because I could not get away on Sunday—applying for remand, and fighting for it.

1266. What was the nature of the annoyance the sympathizers gave which led to their arrest?—I will state first what we did with reference to the arrest of those men, and upon what information. All the responsible men in charge of different stations who had been a long time in Benalla—the detectives and officers—were all collected at Benalla, by Captain Standish's orders. They (the different constables and officers and detectives) all went into a room, and were asked the names of the persons in the district whom they considered to be sympathizers. I had nothing to do with it, merely listening and taking down names that fell from the mouths of the men.

1267. Who asked the questions?—Captain Standish and Mr. Sadleir, and I myself asked some.

1268. Did Captain Standish asked each constable, "Whom do you consider a sympathizer in your district?" and so on?—Captain Standish, Mr. Sadleir, and myself asked that. I knew nothing about the sympathizers, but one man came forward and said, "There is so-and-so Smith." "What did he do?" "Well, I know he is a useful friend of the Kellys. On one occasion I saw him follow us about." Then we said, "Put his name down." Then the detectives knew a great many men, and they went through the same process of enquiry, and so we selected a certain number of names.

1269. How many?—I should think about twenty. The Government were aware of the action we were about taking, and it was with their consent we did all this. It was necessary for us to arrange to capture all the sympathizers in one day, because if we had not done so, it would have been just as much difficulty in catching them as the Kellys; so it was done confidentially, and on a certain day all the men were arrested, with but two or three exceptions. There was one case of a man of the name of Ryan, of Lake Glenrowan. There are two brothers, very much alike. We picked out one brother as being a great friend of the Kellys, and

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the two constables who went out to arrest this man saw what they thought to be the man, but it was really his brother, and when they found their mistake they let him go, he not knowing what was up; but, thinking there was something wrong, took a short cut, and they saw him galloping up to his brother, but the constables caught him before he got there. As to the cause of the arrest: it was found these sympathizers were annoying us in every possible way, watching every move we made. One or two men, I heard before I came up, were watching the police at all times. A man named Isaiah Wright was one.

1270. Were there any remarks about either of them beside watching?—I was not there; I know it was the substance of the complaint. About five or six days before the Jerilderie robbery, Aaron Sherritt came to Benalla (that was the first time I had ever seen Aaron Sherritt), and asked to see Captain Standish. He was away from Benalla. I explain to Aaron who I was, and asked him what he wanted Captain Standish for. He said, “I have some important information to give him, and I wish to speak to him privately. I told him Captain Standish would not be back that night. I led Aaron to believe I did not care to hear his news, but kept him engaged in conversation. I had heard his name and knew who he was. Captain Standish informed me, when he returned, that he had never seen him either from the day he spoke to him at that Sebastopol affair, at Mrs. Byrne’s, which Mr. Nicolson referred to. Some time after—about an hour—Sherritt said, “I think I can trust you with my information;” and then he told me that on the previous afternoon, about two o’clock, Joe Byrne and Dan Kelly came to his selection. This is not Mrs. Sherritt’s house; Aaron was not at that time living with his mother, he was living on his own selection; it was mid-way between Mrs Sherritt’s and Mrs. Byrne’s. He said Joe Byrne came to him whilst he was working on his selection. He told me Joe Byrne jumped off his horse, and that he had always been his most intimate acquaintance; he said he came and sat down beside him; he had been his schoolfellow and with him in crime nearly all their lives; he said Dan Kelly was very suspicious, and would not get off his horse, and did not get near him, and he said they sat talking for a long time, and then asked him to join them, as they were going across Murray, and intended going to Goulburn, in New South Wales, where the Kellys had a cousin. He said they urged him to go for a long time as a scout. Sherritt never told me that at that time they were going to stick up a bank. He told me he refused to go with them, and after some pressing, Joe Byrne said, “Well, Aaron, you are perfectly right; why should you get yourself into this trouble and mix yourself up with us.” He said they were talking to him for about half an hour, but kept looking round and watching every move that was made. I do not remember any further conversation then. Not to go into the town. He was a remarkable looking man. If he walked down Collins street, everybody would have stared at him—his walk, his appearance, and everything else were remarkable. I said, “Be careful, now you are in Benalla, that you are not seen here; do not go into the town, but get some hotel near the railway station”; and I gave him £2 for coming down to give this information.

1271. Did he advise you to take any steps to prevent the Kellys going into New South Wales?—No; he merely came to give the information to Captain Standish. He led me to believe they were going to leave the colony, and he gave the brands of the two horses that the outlaws were riding—Joe Byrne was riding a magnificent grey horse, and the other a bay.

1272. The impression he made on your mind was they were about leaving the colony?—Exactly.

1273. Did you think the information credible?—Certainly; his manner led me to believe it, and I shall tell you afterwards how it was corroborated. We then set to work.

1274. Who?—The officers, Mr. Sadleir and I. I at once informed Mr. Sadleir, and we set to work sending information to all police stations on the border.

1275. That night?—Yes, immediately, by telegraph, to all the border police on both sides of the river. There was a party of police at that time—or two parties, I am not quite certain—in charge of Senior-Constable Mullane and another, about Chiltern. It is a wide locality, however. One party I am certain of; and we started them up the Murray towards the Gravel Plains, in the direction where the Kellys’ friends

were known to be; and also it would be a likely crossing-place if they went over to Goulburn, because there is a chain of hills running right across the Murray—right across to Goulburn, in New South Wales. These men remained away for six or seven days. They had a long way to go, and before they returned the Jerilderie bank had been stuck up. I think, but I am not quite certain, that Senior-Constable Strachan was in the locality, and we sent him to some of the other crossing-places on the river.

1276. Who was the officer in charge of the special you spoke of?—Senior-Constable Mullane., and I think Sergeant Steele was also sent out with the party; and we informed them of the brands of the horses, and gave every information in our power to the police of New South Wales, right up and down the river. The day after Sherritt had given me the information, we heard that Joe Byrne and Dan Kelly had been recognised—and had been seen late in the evening—that was, the evening of the day that he saw them riding horses of the description given to me by Sherritt, towards the Murray, which in every respect corroborated Sherritt’s statement. The Jerilderie robbery took place on the 10th of February 1879. Directly we heard of it we sent parties to almost every crossing-place on the Murray. We got a telegram at Benalla about eight o’clock, informing us of the robbery, and we sent out, and watched every suspected place on our side, but no tidings could be obtained of their return. On the Saturday after the Jerilderie bank robbery—I think the 15th of February—I went to Beechworth, and there met Aaron Sherritt by appointment; Detective Ward made an

appointment with him to meet me. I arrived at Beechworth at eleven o'clock on that night, Saturday, and I met him after that time. He told me that on the previous Wednesday, Dan Kelly had called at Mrs. Byrne's house, and had his breakfast there; and told Mrs. Byrne that after the bank robbery the outlaws all divided and agreed to meet at a certain place; that he had kept his appointment, and he came to see if anything was wrong with the other men, as they did not keep their's. That afternoon on the Wednesday that Dan Kelly was at Mrs. Byrne's, we received information that Dan Kelly was seen riding towards the Buckland Gap, towards some very thick country there; that a man saw him, and I saw the man; he said he had not the slightest doubt it was Kelly, and that again corroborated what Sherritt said. Aaron Sherritt said to me, "Now you had better come to-morrow night. I have good reason to believe they will be at Mrs. Byrne's house—the other three men—you have better come and watch the place." Of course, I had my doubt about Sherritt all the time; but still I thought he was true. He was acting fairly towards me, and it turned out to be the case; but all my men were suspicious of him, and they were afraid to see me go out with him, as I did frequently. The men all said, "You will come to grief with that man some day, he will 'sell' you to the Kellys." I said, "I have the greatest confidence in him"; I deserved to be "sold" if I did not know a man when I saw him, as I had had opportunity of seeing Sherritt, and I agreed to go and watch Mrs. Byrne; this was about Saturday night, about twelve or one o'clock.

1277. What day?—The Saturday. I might say Detective Ward was present during the whole conversation. I made arrangements with Aaron where I would meet him, some distance out of Beechworth, on the following night, Sunday, at eight o'clock. Next day, Sunday, I went down to Eldorado, where there was a party of police in charge of Senior-Constable Strachan. I directed Strachan with his party to meet me at a certain place on the bush. I do not think I saw him himself, but one of his men; he was out at the time. I said, "Tell him to meet me at a certain spot"—an old hut that he knew, and the man I was speaking to knew—"at nine o'clock at night." I then returned to Beechworth about 14 or 15 miles, and I was engaged all that day making other arrangements, in company of Detective Ward. Met Sherritt at the appointed place, and we then started to the place that I had directed the constables to meet at, but after waiting there for an hour—that is Ward, myself, and Sherritt—Sherritt said to me, "Mr. Hare, if we do not go at once, you will lose the chance of getting the gang."

1278. The constables did not come to the rendezvous?—They did not come to the rendezvous. He said, "I am confident of being there to-night." I was very much put out not meeting the police, so I turned round to Ward and said, "Will you stick to me if we go by ourselves?" he replied, "I will, Mr. Hare." I said to Sherritt, "All right, lead the way;" and we got on our horses and went through a terrible country—thick, scrubby, stony. I had never been through that country before. At last, as we were riding along, Sherritt pulled up his horse and said, "Mr. Hare, do you see anything?" I said, "No, I do not see anything." He said, "Do you not see a fire ahead there?" He was a little at advance of me, and on looking closer I saw a fire, and he said, "Those are the bushrangers, they have made a fire to-night, and they are camping there, and it is a thing I never knew them do before; they must have some drink in them, otherwise they would not make the fire so foolishly"; and said, "this is the bushranger's country, and no one but them would be out in this country." We dismounted from our horses and made him do the same, sat down on the ground, and he turned to me and said, "Mr. Hare, what do you want me to do—what is the best to be done?" I said, "I think the best plan to do is to make certain the outlaws are at the fire, because if we know they are at the fire we know how to act. It may be anybody else; and you crawl up to it, take your boots off, and get as close as you can, and ascertain if you can hear voices or anything else." He went away and left Ward and myself sitting, and we fastened our horses up behind. He remained away about ten minutes. He came back again walking, and Ward said to me, "By God, we are sold." I said, "What is the matter, Aaron?" He said, "Mr. Hare, how far do you think the fire is from us?" and I said, "About 150 yards, I thought," and he said, "It is nothing of the kind, it is three miles away." I said, "Nonsense, Aaron, you have sold me; you have gone and warned those fellows to be off." He said, "No, come, get on your horses; where is the fire now?" he said "We will ride up to it." We rode and rode and rode, until we got to the edge of a high bank—a precipice—and we found the fire was on the other side of the gully, the Woolshed diggings were between us and the fire on the hill above us," and I said, "You are right—what is to be done?" and he said, "Hurry along as quick as you can, and come away from this mistake we have made, and come on towards Byrne's house."

1279. Was there anybody but the three?—Nobody; the police never made their appearance. We then rode towards Mrs. Byrne's house. It was then about half-past ten that at night. We left our horses about half a mile from Mrs. Byrne's house, and we walked down to Mrs. Byrne's. We listened for some time from a distance, and we could hear no voices, but we saw a light in the house. Aaron Sherritt then crawled up to the house, and he listened under the window for five or six minutes, and there was no sound, and he returned to us. He then pointed out a spot to me in the bush, and said "That is where they tie up their horses when they come here," and frequently after they had their meals at Mrs. Byrne's they lay down beside their horses and that spot. The three of us went through those bushes, and we saw nothing.

droppings of horses, and where the bark had been eaten off by the horses. I recognised that, and saw the stockyard, and he said, "Now, Mr. Hare, if the outlaws come at all, they must come this way, through the stockyard, and towards the scrub I have shown you. We will wait here now till the morning for them." We laid down watching that night until daylight, but saw no signs of anything. Aaron Sherritt said, "Those men will be here. They have disappointed me to-night, but they will come within a day or two. Now, if you want the outlaws, you must watch this place." I said, "All right, Aaron, we will watch it. We then got on our horses and rode into Beechworth—about six or eight miles, I think—and I went into Beechworth to arrange for a permanent party to come out—not the Eldorado men—and we went out there to stay. I stayed there for 25 nights, watching all night and lying under a rock by day, with a party of men—I think I had seven men. At the same time, above us there was a wonderfully formed camp of the outlaws that they used to resort to, that Aaron Sherritt pointed out to me. It was most ingenious—a place impossible to be attacked. They could shoot any number of people coming up, and you could not touch them. I put four men in this camp. They were about one mile above me in the mountains. I formed a sort of a camp for myself—took our provisions there, about a mile away from Mrs. Byrne's, where we used to retire to every morning at daylight. The duty during this time was terribly irksome. We had no cover by day, lying on the rocks, and sitting behind a tree all night.

1280. Who was the sergeant in charge?—I had a party of my own men, Bourke men. Senior-Constable Mills, who had been at Whittlesea, was in charge with me, and Senior-Constable Mays, now at Mansfield, was in charge of the upper camp. That duty was not only irksome but dangerous in the extreme. I never left my camp at night to take up my position but I felt anxious as to whether the outlaws might be in our watching place and open fire on us, and again when we returned to camp at daylight in the morning the outlaws might have taken out our position in the mountains, and shot the whole party without the slightest difficulty. My way of going to and from the watching place was this: I generally used to ahead of the party and separate them, that is keep about twenty yards apart, get into the watching place myself first, and the men would follow, so that if one were shot, at any rate the others might be able to take the outlaws. That we carried on for five and twenty nights. I felt the responsibility on myself very great, but the prospect of our meeting the outlaws cheered us all up, and so it went on day by day. We had great difficulties to contend with, first to supply ourselves with water, which is one of the chief things in a watch party. There was only one waterhole, and we used to carry our water with a can, and even then, from our position, we used to see Mrs. Byrne looking for our tracks, because policemen's tracks are always known over the place. They have different boots and different shoes to their horses. We used to see this old woman go to the water and look for our tracks, and also look about the road. We had no fires, except occasionally when the men beseeched me to let them have a fire to boil tea, and then it was put out immediately. The nights were exceedingly cold.

1281. What month?—March. Some of the men were very much frozen when we left our places in the morning. However, I kept it up, but Mrs. Byrne by accident discovered our camp about the twentieth day. Aaron Sherritt's knowledge of the movements of the police was wonderful. He said he was the scout, or head-centre, of the district; that he could give me any information about the movements of my men in any part of the district. I said, "I do not believe you." He said, "You may question me—try me if you like—and see if I do not." So I asked him one day, "Can you tell me what has occurred the last few days, or the day before yesterday?" He said, "Yes; Detective Ward and other man rode out of Beechworth, a party of police have come into Eldorado, and some men through near Everton; but I do not know the particulars beyond that there are some policemen there." I said, "Now, Aaron, will you tell me how you got to know?" He said, "I will not." I said, "Why; are you not in my confidence?" He said, "No; there are certain things I will not tell; I will tell nothing against myself to convict me, although I have been in all the crimes with the Kellys for years past." It would take me a week to tell the half he said. All this time this man was faithful and true to me. I say he was a man of most wonderful endurance. He would go night after night without sleep in the coldest nights in winter. He would be under a tree without a particle of blanket of any sort in his shirt sleeves whilst my men were all lying wrapt in furs in the middle of winter. This is an instance that occurred actually: I saw the man one night when the water was frozen in the creeks and I was frozen to death nearly. I came down and said, "Where is Aaron Sherritt?" and I saw a white thing lying under a tree, and there was Aaron without his coat. The men were covered up with all kinds of coats and furs, and waterproof coatings, and everything else, and this man was lying on the ground uncovered. I said, "You are mad, Aaron, lying there"; and he said, "I do not care about coats."

1282. Do you know he was a constable's son himself?—Yes, his father was a constable in England. He was born on these mountains. I said to him on one occasion, "Can the outlaws endure as you are doing." He said, "Ned Kelly would beat me into fits." He said, "I can beat all the others; I am a better man than Joe Byrne, and I am a better man than Dan Kelly, and I am a better man than Steve Hart. I can lick those two youngsters to fits; I have always beaten Joe, but I look upon Ned Kelly as an extraordinary man; there is no man in the world like him, he is superhuman." Frequently, when he has been lying by me at night, he said, "You will catch Joe, Steve, and the others," and I said, "Why," and he said, "He is too — smart." I said, "If he comes here, I will get him." He said, "No, except you take great caution; do you think that Ned ever goes in front? No, he sends the other three a hundred yards ahead." I said why do they obey him, and do that; and he said, "He carries out his orders at the point of his pistol." I said, "This must come to an end"; he said, "No; I look upon him as invulnerable, you can do nothing with him," and that was the opinion of all his agents; nearly every one in the district thought him invincible. When the police had a row with any of the sympathizers they would always finish off by saying, "I will tell Ned about you; he will make it hot for you some day," never speaking about the others at all. I went back to Benalla after leaving this. Would you like

me to state how my camp was discovered?

1283. You had better do so?—It was discovered by accident in an extraordinary manner. Two days before it was discovered—

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1284. You said it was about the twentieth day out?—Yes, and I remained about five days after. One of the party in the upper camp (it was a very hot day) was induced to sneak down to a water-course, say a mile and a half away, and he was carrying a bucket in his hand. Directly this occurred Mrs. Byrne got information. She sent for Aaron Sherritt immediately, and said, "There is a party in the mountains here; go and look for them to-morrow." Sherritt said, "All right; I have not seen anything of them." She said, "No, but a man like a constable was seen walking with a bucket towards the creek, and I myself went to the creek, and I found where there was some soap. The fellow had washed his hands there, and he had been whittling a bit of stick"; and she produced this stick to Aaron, and said some was sitting there, and believed it was one of those constables. Aaron said, "All right; I will go and look for them." Next day he went back and said, "I have been in every direction, and cannot find them at all." On the Sunday morning we were lying at our camp—that was a day or two after—and the sentry who was on guard, about nine o'clock in the morning (we were all asleep except the sentry on watch), he came down where I was lying, and said, "Mr. Hare" — I said, "What is the matter?" and he said, "The old woman is in our camp, and Aaron is lying down at the lowest point, and she has seen him." I jumped up and saw the old woman's back walking out of the camp, and I watched her away till she got over the brow of the hill; and I rushed down to Aaron, and said, "Good heavens! You are discovered; the old woman has seen you." He had his hat over his face, and I put my hat and coat over him to change his style of dress, with a white helmet, and I said, "Cut away to some place as to prove an *alibi* if you had been seen." He went away and showed himself in some other part of the district. He came back that evening, and he said he was in a mortal funk for fear the old woman had seen him. He took a flute and went down to the house, and said that broke the ice. He said on his return, "She has lost her faith in me, but she did not recognise me. She said, 'A pretty fellow you are, going to search; I found the men in the mountains to-day.'" He said, "I am all right; I am still on terms of intimacy with the others in the house." I said, "How did the old woman find us?" Aaron said, "Because one of the men left the sardine tin on the rock," she saw it across the valley. We watched her going down the hill, and on the opposite side there was a hill across the valley; and I saw her walking straight, across to something white on the rock, and she told Aaron Sherritt when she was up at the rock that she saw something glistening, and she came across and found the sardine tin, and found our men in the camp. She told Aaron Sherritt—"If she could only find out the number of men in the camp, she would get Joe to shoot any number under fifteen or twenty. She said, "There must be a great number of them there, because of the way the ground is beaten about, but I only saw one men lying there." The same thing occurred again the next morning. The sentry saw the old woman again, and I called the sergeant, and said, "We had better give her a fright." The sentry saw her going right over us, up the range, to peer over a rock, to look down upon us. I said to Senior-Constable Mills, who was with me, "Go up and give the old woman a fright," and he went up in the direction she was going, and hid behind a rock, where he could see her. She used to go crawling along like a rabbit, and only show her head over the rocks. At last she passed the rock where the constable was hidden behind, but he was on the one side and she on the other, he followed her, and directly she got away about a yard or two he gave her a tremendous yell, and jumped on her. The old woman lost her presence of mind, and almost fainted, and said, "What! What! I am only looking for cattle," and then she soon recovered her assurance, and got impertinent, and said, "I will get my son to shoot the whole — lot of you."

1285. What age is the old lady?—I am not certain; I should think between 40 and 50. Now, going back to my narrative: I stayed at that place five days after the camp was discovered, at the earnest request of Sherritt, who said to me, "It is no use going away; she has no means of communicating with the outlaws. I am the only one that can do that, and when they come I will get the news." I said, "I did not believe it." He said, "Believe it or not, but do not go, because she has discovered you." I stayed five days longer, and then I thought I was wasting my time there, and I went back to Benalla, leaving my parties for, I think, a fortnight longer. By that time, I think, Mr. O'Connor had arrived with his Queensland men. They arrived on the 8th of March. After this I was nearly all my time out with search parties. I went out of information that the Kellys had been seen in a certain part of the country, or that they were likely to frequent a certain locality, and upon that information I went to search the locality. The way we used to work in the thick bushy country was this: I would put the men who knew the country in the centre, extending our line as far as we could according to the nature of the country leaving a distance of about ten yards from the first man, the next one ten yards from him, and so through the men from right to left; but as the country became open, we would leave a longer distance between, say 50 or 10 yards, and so search the whole country for miles and miles without being heard or making a noise, which was an important thing to observe. In going up steep mountains or gullies (and the ranges were very steep) we used to ride thus, the leading man would be about twenty yards ahead of the second man, which was generally myself. We kept in a line, so that if an attack was made only one man would be killed, and the others could come up immediately. I am just now coming to Mr. O'Connor and his report. Mr. O'Connor has mentioned some information about Cleary's house, that Captain Standish withheld the information from him. This was on the morning of the 26th of

May. I will state all the circumstances in connection with what was done. On the evening mentioned, Captain Standish and Mr. O'Connor were dining at Mr. O'Leary's; I was at the hotel at Benalla, where we all lived. The letters were handed to me about eight o'clock. I opened them all. I used to open all Captain Standish's public letters and any letters giving information. I could tell what sort of writing they would be in, and I read this note that came from a certain person. I have not got the note, and do not know where it is, and Captain Standish has not got it. The information was this, "that a party of four men had been seen crossing through some country on two occasions by a farmer, and that they were going in the direction of Cleary's house." He gave us all this information. He said, "I am certain that they were the outlaws." He said, "I did not know them by their personal appearance, but from their manner I think they must be the outlaws." He then added, at the bottom of the letter, an extract, which I took out with me. This is the portion of the letter which I found among my papers—[*producing the same*]. I have not the rest of the letter. I took out that extract from the letter that very night, as it gave me certain directions how to find Cleary's house, not knowing the house or the locality:—"If you could cross over to the 15-mile convenient near the Glenrowan station, and thus evade Greta, you

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could cross on to the road leading between Wangaratta and Tom Smith's; and when you get as far as John Patterson's, 200 yards in the direction of Tom Smith's, there is a lane running due east; go up it through the first cross road right on over the hill, and Cleary's is on your left, just as you come into a piece of open ground. It is a chock and log fence. His house is at the side of the fence towards the east end; you will find it as I say, right against the east end of the Wattle Hill." That letter arrived on Saturday the 24th of May. Directly I received it I thought the information very important, and I sent over to Captain Standish to tell him that I wanted him at once. He came over within about ten minutes or a quarter of an hour. He said to me. "Now I think this is good information, and you start away first thing in the morning; you had better arrange about getting your men ready at seven or eight o'clock." I went over to the barracks and I saw my men, and said, "I want to turn out to-morrow at seven o'clock." I told them to get pack-horses and everything ready, and gave them no further information. Mr. O'Connor returned about, I think, an hour or an hour and half afterwards, and he said, "What is the news?" I nodded my head to him as if to say, "Ask Captain Standish;" and he turned round and repeated the question, "What is the news?" Captain Standish had previously told me not to say a word about it; and I said, "Not even to Mr. O'Connor?" He said, "No, I want this to be kept perfectly quiet." Mr. O'Connor got very much annoyed, and he said to me, "What is the meaning of this?" Up to that time I think he had pretty well known all the information we had received. Nothing had been kept from him as far as I know, and as far as I am concerned I had not a thought in my mind unknown to him. I told him everything. I did not tell him, however, in this case; as Captain Standish had bound me to secrecy, I told him nothing. I got up at six o'clock next morning, and started with my usual party; and Mr. O'Connor lent me one of his boys named Moses, whom he generally lent me when I went out. We started away about seven o'clock from Benalla, and instead of going in the direction of the place we were going to, we took the opposite direction, following the advice of my informant, as given in that memo. I have read. The direct course would have been through Greta and straight to the house, instead of that I went in another direction, as if going over the Warby ranges. When I got on the road that runs at right angles to the road we were going, that is from Glenrowan to the station owned by Mr. Newcomen, some of my men saw a man they recognized some of the greatest sympathizers of the Kellys, a man named Nolan. I was at the head of the party. We were going through settled country between fences; we had not gone into the mountains. One of the men cantered on to where I was riding and said, "Mr. Hare, we have just passed that fellow Nolan." I said, "All right." This was on the Sunday. I said, "That is all right, he cannot do us any harm, because we are going in the opposite direction we intend to go to search to-morrow." We continued in the direction of Wangaratta, leaving the place we were going to search entirely to our right. We went over the Warby ranges to a camping place that I knew there, and when we got on the Wangaratta side of the Warby ranges we turned up to the right to a camp that I had used before. I must go back a little. I did not know the country well there, nor did any of my men, so I telegraphed to Sergeant Steele at Wangaratta, on the Sunday, to send a constable named Dixon out who knew the country there, and tell him to meet me at a certain spot. Dixon met me at that spot. When I got out of Benalla, about five miles, and got into a quiet spot, I told all the men to dismount. I never told them in the town what information I was going upon. I got them round me and said, "I will tell you now what information I am going on," and I read them the letter that had been received by Captain Standish, and gave them all the news that I had. They were all in great spirits, and thought it was capital information. We stayed at the camping place that night, and fastened up the horses, and gave orders to the men to turn in after they had had something to eat. We made no fire or anything of the kind, and I said that I wanted to be called at one o'clock in the morning. At one o'clock we all saddled our horses, and away we went. Dixon led the way, as he was acquainted with that part of the country. We passed through Glenrowan gates, and we went down exactly as directed by my informant how to go. We got to the railway about an hour before daylight, and saw the hut, and it was exactly as described in the letter. I sat on a lock in front of the house with my men around me, and said to the senior-constable, "You take three men to the back of the house, and I will keep three here; take which men you like. When you see me move from my position, you move from yours, so we will approach the house; you keep the back, and I the front." Just at grey dawn

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and I could see some distance, I jumped up and told the men I had with me to follow me and also the black boy. I went to the house and knocked at the door. When I knocked some one said, "Who is there?" I said, "All right; open the door." The owner of the house, a man named Cleary, jumped out and opened the door. I said to him, "Have you any strangers in the house?" He hesitated a moment, and said, "Yes." I said, "Who are they?" very quickly, and he said, after hesitating for a moment, "A man by the name of Nolan." I rushed into the house and called to the men at the back to come up, and we searched the house thoroughly. We searched the place. I saw Nolan, and said, "Hullo, Nolan, what brought you here?" I knew him. I had bought a horse a few days before from him for the Government. He said he thought the outlaws were going to steal it, so he sold it. I said, "Why did you come?" And he said, "I came to warn the people of the district about a funeral that was going to take place." I said, "Where is the funeral?" He said, "Out in that direction; the other side of Glenrowan." I then made a thorough search of the whole premises. I got the boy Moses, to take a circuit round, and see if he could find any tracks, and we remained and searched the straw-shed where there was a cellar or anything of the kind, and we could find no traces whatever of the outlaws. We were all on such friendly terms, Cleary never asked what we were looking for, and Nolan said, "What brought you here? I suppose this blackfellow tracked me here, and you have come up on my tracks." One of my men answered, "Yes, they are wonders these Queensland blacks." He said, "Do you mean to say that they can track in the dark?" And he said, "Oh, it matters not what tracking they do, they can track you wherever they like," and then related some anecdote about their wonderful skill. Then we searched all round the premises to see if there were any tracks. There had been very heavy rains three days previously, and any tracks at all would be noticed as plainly as possible. We took a circuit round Cleary's place and then returned to camp where we had stayed that day. We stayed there all that day and night; next day we went into Benalla. Those are exactly the facts with reference to this matter.

1286. You were convinced that the Kellys had not been there at all?—I could see no traces whatever of them. The party that I always took out with me were chiefly men from my own district—this is to say the Bourke district—with the exception of a man named Canny, who was taken on account of

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his knowing the country and also the personal appearance of the outlaws, and another man named Bellis, who was a wonderful bushman, accustomed to bush life. He was a kangaroo hunter by profession, and made a capital living by shooting kangaroos. He has not joined the police. Many of the men taken on at that time joined police, but this man did not; he is now a selector, and is living near Yarrawonga. I would like very much if the Commission would summon him, as he was an expert, a thorough bushman in every respect. He is a wonderfully acute and intelligent man. His evidence would be of more value than the constables or any of the men who were with me. By taking out my men on all occasion with me gave some dissatisfaction among the men at Benalla.

1287. Jealousy?—Yes; but I knew my men and they knew me, and I could depend upon them if we happened to fall in with the outlaws. The duty was arduous, and great responsibility was thrown upon the leader. There was a great deal of work to be done by day and night. Some of the Melbourne papers used to describe our life as a pleasant pic-nic. I never asked the men to do anything I did not share the work with them myself. We had always to keep guard of a night over the men who were asleep, and also watch the horses whilst grazing—the feed for our horses was a great difficulty with us, and the poor beasts, after carrying us all day, had to be turned out often in a rocky mountain without any grass, and frequently in low sour stuff that they could not touch. Frequently after we arrived in camp I would send a couple of men out on the tops of the high mountains to watch for fires—distant fires—and do the same at daylight next morning. I used to catch and saddle my own horse every morning, and unsaddle him every evening. I called the men myself every morning when it was time to get up. We used to get up about daylight, pack the swags, put them on the pack-horses, and have our breakfast. I assisted in this every morning. I or my men never slept in a tent all the while we were out, nor had a fire after dark, with the exception of two or three occasions. By my assisting the men in everything I kept them in good spirits. I put myself on the same level with them in every respect, and I am sure every man that ever went out with me would tell the Commission the same tale. I had no difficulty in keeping the men in good spirits, and I had a splendid party with me. They deserved success, but unfortunately we did not meet with it; but I feel assured, notwithstanding all that has been said about my manner of working, that, had I not been taken ill, we must eventually have come across the gang. Once or twice we were very near them, but they managed to escape us in the mountains; in sending parties out in search of the gang my idea was that we would compel them to be constantly on the watch; and I did not like to give them undisputed possession of the country in which they lived by keeping my men out of it. If anything, my men were too anxious to meet the outlaws, and used to implore me to let them have a fire at night, but I pointed out the danger to them of this, of the gang creeping down and firing upon them whilst they were standing round the fire. Their reply was, "One or two of us may fall, no doubt, but we shall get them notwithstanding." The excitement kept them up, because we never lay down on a night but we might have to fight for our lives before morning; also by day, when searching the mountains, with rocks as big as this room, we might at any moment be fired on. The outlaws knew all our movements, and our party could be tracked by themselves or friends for any distance. Ned Kelly knew all our camps in the Warby ranges; and

when going to Beechworth with one of the constables of my party he told him of all our movements, and described the men who used to go and look for the horses at daylight. He said there were two young men who used to go out and get the horses. Each man had his own work to do and catch the horses. One man was told off to light the fire and boil the billy of tea, the others had to pack up the swags—the hardest work we had. It took a long time to pack up everything we were carrying. Ned Kelly described the men and everything we did.

1288. Then you mean it was at night you did not light fires?—I never did light a fire after dark, with but two or three exceptions.

1289. You did in the morning to make the tea?—Yes; then we squashed it over directly after the billy had been boiled. Our search parties generally consisted of seven or eight men. Some used to think it was far too many, but to make an allowance for two or three to be shot down at the first volley the remaining men would be little enough to contend against the gang. In my opinion, I think the way the trackers were used was wrong, having to carry about such a quantity of camp equipage, without any Victorian police—there was an officer, sub-officer, and six black trackers. I can only remember being out once with them, but Mr. O'Connor says twice; he is no doubt right, but I only recollect once. I did not approve of the way they were worked. I may be wrong in my ideas; Mr. Sadleir quite differed from me, and I believe Mr. Nicolson does also. I merely give my opinion, I have had a good experience at the Cape of Good Hope with blacks, tracking cattle and deer, and I imagine I know their powers as well as anyone. The New South Wales police often use them, but not in a body. One or two blackfellows go with the police, and hunt down an offender a distance of hundreds of miles. They could not do this if they were hampered with a crowd of men and baggage. I think the black most useful in a certain way, and I feel certain if I had had a blackfellow on one occasion I would have got the outlaws. This was the occasion in which Mr. O'Connor yesterday mentioned that he was sent for by Captain Standish when he had good information. If you wish I will explain the circumstances; it will be another narrative of what we had to contend against.

1290. As there is a charge against certain officers of the police of not allowing the trackers to be used, you ought to give your views?—The narrative is this:—I started away with my party—I do not know the date—but the date Mr. O'Connor refers to. I do not know whether he left Benalla before me; but I went to the place where Aaron Sherritt had told me the outlaws had been harboured after they committed the murders, and where they had been fed for three or four days by a man at Sandy Creek. That was between the Murray and the Warby ranges. We found no traces at all at this house. We searched an immense forest, known as the Ironbark country. After searching that, I worked up towards the Warby ranges; and, after a very hard day's work, we got on the Wangaratta side of the Warby ranges. I was looking for a camp for the evening. It was just about sunset; and we came across a place with a paddock on the one side and a very hilly country on the other, with a track running between the two up into a very very steep ranges. We were then about two miles from a well-known sympathizer's house—the man who had fed the Kellys after they left Wangaratta, about a week or so after the murders. Mr. Nicolson gave it in his evidence, they went through Wangaratta, and to this man's

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place for breakfast, and were tracked by Mr. Smith with his trackers passing the door and going into these very mountains. I had untied my 'possum rug and laid it at the foot of a tree, and the cook had got the provisions ready—we lighted the fire and boiled the billy—and we were all sitting down at our meal (we never sat together, but sat about ten or fifteen yards apart, with our rifles by our sides). I was just at the slope of the mountain, but still I was in a little glen as it were; and while we were eating our meal instantaneously every man jumped up and ran down to a thick brush fence. I said, "What is up?" One of them replied, "There are the Kellys, coming across straight for us." When we arrived, we saw the tracks of two horses going up the hill; the tracks could not have been more than half an hour old, because the green pieces of grass which the horses had cut up were perfectly green and lying there. I jumped up and went in the direction the men had run to behind this fence, and I saw two young men galloping straight where we were. I crouched behind the fence, and when they came between the line of men we have formed by this fence we all stood up at once, and one of my men recognized them to be the sons of the sympathizer whose house we were near, and of another sympathizer who lived near Greta, my men recognizing them both immediately. I said, "What are you doing up here?" One of them said, "We saw some smoke, and we came up to see what it was." I said, "Have you been up to-day?" They said, "No, we have not." I said, "Do you know anybody who has been up here to-day?" They replied, "No." I said, "There are tracks of two horses gone up a very short time ago." "They did not know anything," he said. I said, "This track can come from nowhere but your house; cannot you explain what these two tracks are?" "No," he said, "I do not know anything about it." And both became very impertinent, and began to bounce us. The man acting as my sergeant then—Senior-Constable Mays—came to me and said, "I am sure there is something up here, the Kellys are close on us here somewhere or other." He said, "Let me go with them to the house." I said, "All right, go down with them; leave half the party with me, and I will remain here and watch this pass, and you take those two fellows down, and when you get there keep everybody in the house for the night; do not allow anybody to leave the place at all." One of the party that went with Mays, a man named Lawless, is a young fellow, short, not unlike Steve Hart.

1291. He was a policeman?—Yes; Constable Lawless. As those two men approached the dwelling-

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house the whole household came out—that is, the daughters, the father, and mother, and everybody connected with the house; they could see the men coming a long distance, four armed men and those two young fellows riding beside them, and the people stood at the door and were all talking together. When the men approached within about fifty or eighty yards, Mays thought that they recognized that they were not the outlaws but that they were police. Lawless saw a man walking down to the end of the garden, and he went down towards them. When he got near the bank—there was a creek there or a bathing place—this man called out, “Is that you, Hart?” Lawless replied, “No, what Hart do you think it is?” and his reply was “Steve,” of course meaning the outlaw. Lawless answered, “No, I am not Steve, nor yet any of the Harts.” Upon that the man looked round full at him, and turned deadly pale and said, “Oh, I thought it was some of the bushrangers coming down upon me.” Lawless took him up to Sergeant Mays, and narrated this story to him, and they consulted together what was best to be done, and decided upon sending up to me at once, and to give me this information, and to beg of me to come down. I went down, and immediately I got there I saw the dangerous duty imposed upon me and the position I was put in. I had never been into this house, but I was afraid that some of the men that I had put round the house might shoot some inoffensive individual coming in there not being an outlaw; so I took Bellis and went out a long distance away from the house, so that I could challenge anybody that came up until I got the people who might come between me and the house, and I told the other men to surround the house itself and put two of the trustworthy men on the other side where there was a road coming in. I gave them the most positive orders that not a shot was to be fired, at anybody until I had given the order or fired a shot myself. The night was bitterly cold; it was a white frost; and we lay there, out in this exposed place, until about six o’clock next morning. I consulted with my sergeant, and we considered it best to send into Wangaratta at once, which was only about eight or nine miles off, to get out four additional men. I did so, and four men came out. The party was in charge, I think, of Senior-Constable Kelly. I told him that I was certain that the outlaws were somewhere near, and to keep a watch over the place all the next day, and until I ordered him to withdraw; to allow not a soul to enter or depart from the house until he got orders from me. Directly daylight broke we returned to where we left our camp. We had some breakfast, saddled and mounted our horses, and went into the mountains. We followed the two tracks we saw the previous evening for some miles—and both Bellis and Canny were capital trackers, of course not equal to blacks, but very good for European trackers—and we went on to the tracks for a considerable time. We found the tracks first on one side and then another. The men all begged on me to let us abandon our horses, leave them behind, so that we could follow the tracks quietly, and no noise occur. I did so, and we walked on and on, and we found other tracks joining in, and they lost the tracks once or twice. When we were going on these tracks the men, all of them excellent men, called out, “Mr. Hare, do you hear any voices ahead?” running up to me. I said, “I hear no voices at all.” However, I complied with their wish, and said, “Let us run on these tracks, as far as we can,” and we went on, and about one o’clock we came to a dead standstill; they had lost all tracks, and we could go no further. We then had to return and pick up our horses. We took a long circuit. That afternoon we rode for hours, and that night we made back again to the same place where we had been the previous evening. We did not take our pack-horses; we left them in the paddock, and we went into camp. The next morning I went right through the ranges, the dense part, to get on to the Winton side of the Warby ranges. We were having some lunch, and one of the men went up to a hut; and the owner of this hut said, “You police had been camping on the top of that high mountain a night or two ago, or the night before last.” And we said we were not there at all. She said, “Nonsense, My husband and I saw the fire on the top of that sugar-loaf cone.” He said, “No,” I went up to the hut to see the woman; she described what she and her husband had seen, the fire up there, and I knew it could not have been the police, and no person would go up there for amusement. The next morning we made straight for this hill; it was a very difficult hill to ascend, nothing but sharp rocks standing on end, and when I got as far as the horses could go, I told the men to separate out and surround the hill and go to the top as quickly

as they could. We got on the top, and when we got there we found some embers and some fire; the fire was not quite out; it appeared as if it was a place where the fire had been made between two rocks, and the whole place, which might have been camped on, had been set of fire by some she-oak trees that had been burning there. We searched all the ranges about there, and that night we camped where we did the previous evening, or where this woman gave us the information. Next morning we got up, and I saw another hill, not in the direction I had been, which was towards the Ovens River, apparently north. I took down the men towards Glenrowan, and there was a very high point of a hill there. We got into foot of it, and I said, “Suppose we go and search at the top here, and see what we can find.” We rode as far as we could, and I divided the men to surround the hill in the same manner as the other hill. Being a very heavy weight myself, not being active on my legs at my time of life, I made my horse do a great deal more work than the men made their horses do, and by so doing I got on the top of the hill first. I looked round me to see if I could find any traces of the outlaws, and there I saw a fresh track as if done a few minutes before I had been there, and where a man had slid down with his heel of the rock; the moss was lying at the bottom as if he had slipped down. I did nothing; I sat there till the men came up. I said, “Look here, men, what is that?” and the man Bellis came forward and said, “That is the heel of a man.” “Well,” I said, “where is the man, can you follow it?” He said,

"I will try," and he went some distance and pulled up, and said, "I have lost the track, sir." I then said to the men, "We must get these fellows, they are not far off from us, the country is thick no doubt." And I made another attempt, and I got up to another high hill, the same as was done in the order. I should here state that on the top of each of those hills I found stones recently removed and standing on their edge, some of them, perhaps one or two, on top of another, some recently moved, the ground fresh under it, as you can see when a stone is moved, and other placed perhaps two or three put together. I asked Canny and Bellis, who knew the country well, "Can you inform me what is the reason of these stones being moved?" and they could give no satisfactory reason, they had had no experience of the kind. At every hill we found the same thing, the stones removed. On this other hill there was the same thing, and I found tracks on the top of it. Those were the circumstances under which I sent word to Captain Standish on the two occasions the information I had got, and about what I was doing, and upon that he wrote up to Mr. Sadleir and Mr. O'Connor. I did not ask him to do so. They were at that time up at the head of the King River.

1292-3. Was that the occasion Mr. O'Connor referred to that he was at the station?—Yes.

1294. That accounted for the fact he could not send the tracker?—Yes. That afternoon my men were very much done up, and so was I myself. I had not led my pack-horses come with me that day, because the mountains were too severe for them, and they could not travel on them, and I wanted to be very quick. While I was on the top of one of the highest hills I saw one of my constables galloping up with another person. This was a gentleman who lived in the locality. I went down the hill a little and beckoned to them to come up to me. It was on his run. He beckoned to me to come down, and at last I got him up. I pointed him to those loose stones and those tracks that I found on this hill. I said, "Can you tell me who has been up here—has anybody been up here belonging to your station today?" He said, "No, we do not go up here once a year;" "but," he said, "if you come along with me, I will show you something that I fancy will be of some service to you." I said, "What is that?" He said, "There is a spring, the only water in the mountains, situated up here, and there is a tent erected on it, one of my men told me so." I collected the whole party and said, "Come and see what it is." He led the way, and we found a tent, and in it there were some oats and general horse feed, and the full appliances of what they call in the country beemen—men who go about collecting honey in the mountains; but there was no trace of anybody at the place, and the spring was all covered over with tracks of shod horses. We waited about there for some time to see if anybody would come, and no one came. We were very careful when we went down to the tent to leave no marks of our being about, or tracks, or touch a single thing in the place. I took the men away, and said, "We will be here at daybreak to-morrow morning to see if there is anybody here." We went some distance down towards — station, and camped there for the night.

1295. Had you no person with you?—My party of police.

1296. Had you no person with you who could compare those tracks, or trace them at all?—No, we could not trace them at all. The tracks of horses in the water showed they were all shod horses where they had been feeding on the swamp. The tracks of the heels were men's footmarks, and no tracks of the horses on the top of the hills.

1297. I mean the places where you said the tracks of the horses cutting up the grass were?—That is a different story altogether; that was on the other side of the mountain.

1298. You could not make any comparison between one and the other?—There was no party there. These were on a different side of the mountain.

1299. You were on the Warby ranges on the first occasion of the tracks at the northern or Yarrawonga side?—No, on the Wangaratta side, within eight miles of Wangaratta. Then I crossed over the Warby ranges, towards the Winton side. Continuing the narrative, the next morning we got up very early and surrounded this place, and went down to it. There was still no one in it. Shall I relate the story about the boy Moses, who was with me on the occasion, and when he came upon the tracks Mr. O'Connor referred to in his evidence?

1300. Was Mr. O'Connor put on the tracks?—He was away, and it would have taken some days for him to get down to there with his men.

1301. Was Mr. O'Connor's statement, in your view correct?—What I want to show is that this man travelled exactly as I say the men in New South Wales do. We had a party there, and we had a blacktracker, and we came across, about four o'clock in the afternoon, four tracks of horses going in the direction of the Ovens River. Moses was with us at the time, and he said to me, "Shall I follow them?" I said, "Yes." He took the cartridge out of his pouch and stuck it into his rifle, and away he started, with his head down, first this side and then on that side—[*explaining by gesture*—]and kept on riding at a hand gallop, and it was as much as we could keep up with him. He went on three or four miles that way, and suddenly he came upon the road leading down to Yarrawonga from Wangaratta, the main road. There he pulled up, and said, "Lost the track here." I said, "How so?" and he said, "Got on the road here." That road was a well-beaten, dusty road, which lots of bullocks and drays had gone across. Before he stopped I said, "Have you been following the track all the

come across the other side the same way. The Ovens River was about 100 yards from us, and it was then about dusk, the sun had been down about half an hour. We had no blankets, food, or anything, and I saw nothing could be done that night. I said then to the men with me, "To-morrow, instead of going down that river to where the tracks lead to, let us work back and see where they come from." They all agreed it was a very good idea, because we could tell whether they were the police, outlaws, or the time they were made if we knew where they came from. Moses picked up the tracks next morning, and went back again and worked them back, and when he got to a certain place, where there were two big stones, he said, "Take off saddle here," and I said, "Where?" and he said, "Here, one fellow saddle here and one fellow there. And we all jumped off our horses, and we found first a tin empty, such as we used to have preserved meat in—it was of the same description as we had—and there I found another one, and found a police strap, a Government strap, and the men came to the conclusion that it was Senior-Constable Kellys' party, because when I had removed him from the house where he had charge of I told him to go and form a camp in the mountain so that he could watch the house, and we gave them some of our provisions—he had none at the time. He came from Wangaratta without any provisions; and we recognized that these were the tins we had given him before. I subsequently made enquiries, and I found this was the very camp, and that he had gone down the tracks towards the Ovens and had gone up that way into Wangaratta. I tell that narrative because I think that is the way the blacks should be worked. One or two black-fellows with a party of police are very useful. We cannot undervalue their services; but in a mountainous country, for a whole cavalcade of black-fellows and white-fellows to go together, I say I do not think it would ever answer as far as catching the Kellys is concerned. I am only giving my opinion from my experience of them. I may be wrong. To resume, I do not know that I have got anything further to say with regard to that. I was removed from the district some time after this.

1302. What time did that occupy?—I arrived in the district on 12th December 1879, and I left Benalla on the 7th July 1879, and during all that time, as I have stated, I was out with search parties off and on. I used to be sometimes four or five days in Benalla recruiting men, horses, and myself. I found it very hard work upon my men. They were all young active fellows; and we found that the work of that sort told upon the men over 40, and many of them had to leave.

1303. Were most of your men experienced bushmen?—No, not in the sort of country. I have stated I had two excellent men—Bellis and Canny—but some were very bad, others fair; but you must remember this was new country to all of them except myself. I was there in 1854, 1855, and 1856—Wangaratta, Buckland, and Beechworth—and knew pretty well the whole district.

1304. Can you inform us how you carried your provisions?—On pack-horses.

1305. How did you procure then when you ran short?—We went in to get them. I have got bread and meat from some of the farmers, but we generally stayed out as long as the provisions would last, and they went in.

1306. Did you make yourselves known to the parties you got provisions from?—We were as well known as the town clock, such a large body of police mounted, our horses, and everything were as well known as if in uniform in Melbourne. We were known by everybody in the district.

1307. That you were out?—That we were out. We could not hide it from them—we must leave our tracks behind us.

1308. If you were so generally known as belonging to the police force, did not it lessen your chance of capturing the Kellys?—Not a bit. Because we were as much as possible in uninhabited country. Frequently we had to go between fences and show ourselves, but we avoided as much as possible all habitations, and only when we were compelled did we go between fences; then we were known as well as the policemen in Collins street.

1309. Did you go searching this place from private information received?—Information of varied character; one account being that they were in one part of the Warby ranges, and another in another part, and so I thought we would give the place a thorough searching. All those stories we heard we were obliged to enquire into, because the very one we omitted would have led onto them. Even if we did not send out a party, we would have to make some enquiries as to the truth of the report.

1310. When you were leaving the district—recalling your memory to the facts of the case—do you take upon yourself to say that you had then had more authentic information or general knowledge of the Kellys than when you went up on the 12th December?—Most undoubtedly.

1311. Do you think they were in that district all the time?—Most undoubtedly.

1312. Did you ascertain what those traces were on the Warby mountains?—No, never to this day; and I believe it was the men flying before us; but if we had had some of Mr. O'Connor's men on that day we could have got them, I believe.

1313. That was the time you found the tent?—Yes.

1314. How far were those places, to the best of your knowledge, from the residence of the Kellys—where they had been from childhood?—I suppose about twelve miles.

1315. That is from Greta?—Yes.

1316. Would the twelve miles include all those places?—Very nearly all.

1317. There is one thing about the surrounding of Cleary's hut—did any of your men at any time enter the hut?—I did; three of my men did. I searched it thoroughly.

1318. Do you consider the men in your force were fully armed and were well acquainted with the use of firearms?—Thoroughly—my men were. I will come to that subject hereafter as to what Mr. Nicolson has said. My men were as well acquainted as I was, and I have had a gun in my hand since six years old; and we

allowed the good shots to take rifles and the indifferent shots to take double-barrelled guns which will cover so much more space—they were loaded with large pellets, sixteen to the charge.

1319. Were your plans ever interfered with by any superior officer?—Never, not in any way. Whenever any information came we used to discuss it in the office—that is, Mr. Sadleir, Mr. O'Connor, and myself; and I think, with the exception of that one instance Mr. O'Connor has mentioned, I think that

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was the only instance to my knowledge; that there was not an instance throughout the whole time in which everything was not told to Mr. O'Connor, and in that case I was told not to tell him by Captain Standish, and I then referred him to Captain Standish. Mr. O'Connor, Captain Standish, Mr. Sadleir, and myself were all on the most intimate terms possible all the time we were at Benalla, and all the ill-feeling that has been shown before this Commission has arisen since the capture of the Kellys.

1320. As far as you know?—No, I know everything. I know that Captain Standish, Mr. O'Connor, and myself lived together like brothers—we occupied a sitting room together.

1321. How can you speak for all like that?—Because Captain Standish was never up there afterwards.

1322. Did you not mean to say since you left the district on the first occasion, instead of saying since the capture of the Kellys?—Yes, that is what I meant.

1323. Concerning that, did not you and Captain Standish and Mr. O'Connor live in the same rooms in the hotel?—Yes.

1324. Dine together, occupy the same apartment at the hotel?—Yes; lived by ourselves, I say, I thought as much of Mr. O'Connor as any man I ever met in my life. We were on terms of more than ordinary friendship.

1325. Official?—No, private. I never cared of any man more than I did for Mr. O'Connor, and he for me. He made my house his home when he came down here, and so it remained until I left Benalla on the first occasion. I do not for a moment say that Captain Standish and Mr. O'Connor had not squabbles. We were all “chaffing” each other as we were living together. Some are more given to “chaff” than others. Captain Standish was sometimes rather nasty in his “chaff” to Mr. O'Connor, and Mr. O'Connor would not stand it.

1326. Was that during the “friendly terms” you speak of?—Yes. And they used to have a row perhaps for half an hour, and then one would say he was sorry for it, and they would meet quite friendly next morning at breakfast. Between him and myself I do not think we had the slightest difference. Mr. O'Connor has rather a short temper, and Captain Standish used to say rather nasty things, and Mr. O'Connor would not stand it, but it was made up the next morning, and nothing came of it—and so it went on to the end of the time. As far as the official business was concerned, I am really at a loss to know how it can be said that Captain Standish did anything to prevent the Kellys being caught, through his apathy or anything else. Mr. O'Connor never, when we were on terms of friendship said, “If Captain Standish had done so and so we would have got the Kellys.” He used to remark to me the indifferent manner in which Captain Standish behaved from time to time when the subject of the Kellys was mentioned.

1327. What do you mean by indifferent—apathetic?—Yes, apathetic. He would change the subject to something else; and Mr. Sadleir has remarked the same.

1328. Mr. O'Connor said you had several times remarked to him that Captain Standish was indifferent?—I do not deny Mr. O'Connor's statement. I dare say I may have said, “He does not take a great interest when you speak to him;” but when I have spoken to him he has always shown the utmost interest in the whole affair, and from Captain Standish down to the lowest constable I am sure that we had but one object in view during the seven months that I was up there. I do not exclude Mr. O'Connor at all. He never said a word to me at all about any chances we had thrown away, and he showed as much interest as I did.

1329. To make them amenable to justice?—Yes, just so, to catch the Kellys. It was his thought day and night—that is, Captain Standish's—and every constable's there; and to say now that the reason the Kellys were not captured was because of the squabbles between the officers, this I deny. As far as I was concerned, for the seven months, I declare there was no chance thrown away that I knew of; I never threw one away that I knew of, with my feeling on the subject then. I never received information without enquiring into it.

1330. Were you aware of any difference between Mr. Nicolson and Captain Standish?—No, never, not up to that time.

1331. Mr. Nicolson never said anything in your hearing?—He was not up there.

1332. At any other time?—No.

1333. Did Captain Standish take out a search party at any time?—Never. He came out to visit me when I was at the watch party one night; but I do not know that he did on any other occasion.

1334. How did Captain Standish employ his time at Benalla?—He took charge of affairs, attended to all the correspondence and all the matters at head-quarters.

1335. Was that a heavy responsibility?—It was a heavy responsibility. He had to decide between the different reports that came in—not by himself, but Mr. O'Connor and Mr. Sadleir and I assisted him.

1336. You lived at the hotel at Benalla on one side of the river?—Yes.

1337. Are the police there at the other end of the town?—Yes.

1338. After you had breakfast, Captain Standish went to his business at the barracks every morning, and remained there all day?—Yes.

1339. And at times in the telegraph office, and he did office duty there?—Yes.

1340. And he restricted himself to that?—Yes. He was not suited to take charge of a party of police, on account of his age and the character of his experience. He has been in the office thirty years, and to put him in charge of a search party on a mountain he would have to rely on his men. The men look to their leader, and he would have been most unsuitable.

1341. Do you know really in your own mind why Captain Standish went up there at all?—I do not. He went up after that affair occurred at Euroa, and he found Mr. Nicolson knocked up, and he sent for me. I do not know why he went. I think the Government insisted on his going there.

1342. Are you aware that Mr. Berry, as Chief Secretary, before he went to England, told him that if he were the head of the police he (Mr. Berry) would go up and stay there till the Kellys were made amenable to justice?—Yes, he told me to that effect; and Captain Standish wanted to return some time before he did leave, and Sir Bryan O'Loughlen advised him to remain.

1343. Then for all practical purposes he was not required to remain in the Benalla district?—I did not say that. We required the brains of half a dozen men to decide upon the intricate matters constantly coming in. I will give one instance. The Euroa bank was stuck up by the outlaws, and they went away riding three bay horses and one grey. For months after that we used to get reports from every side of

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the district of three men on bay horses and one on grey. The sympathisers and the lads in the country did it on purpose. I used to get one grey and three bays reported from Shepparton one day, Wodonga another, Strathbogie the day after, and we could not allow one single iota of evidence to drop without enquiring into it when the information came saying the men had been seen.

1344. Then you believe that in the active pursuit that you were following, in going out with the search parties, it was necessary to have some responsible party in Benalla to conduct the correspondence and so on?—No doubt of it.

1345. While you were in charge in that district of the parties that were there in pursuit of the Kellys, can you say what were the instructions to the out-stations, such as Wangaratta. Could the men act on their own responsibility, and go and follow any traces when they got them; or had they to remain in till they got instructions giving permission to go out?—No; their duty was this: to report the information they received to Benalla, where we had a board of officers, and it was referred to all of us. We considered what was best to be done, and if we so decided, the men who got the information, were sent to enquire into it at once.

1346. Were the same instructions acted upon when you were there before Mr. Nicolson relieved you as apparently you gave to the men on the final occasion?—No; there was a difference because of their parties. There was no party large enough to go in pursuit of the Kellys at any place but Benalla; but I would rather you would let me go on with my statement. The first time I was out we had men at all those places, and each of them had parties.

1347. They could act independently?—Yes, but always consulting us first, it only took about five minutes.

1348. They had to consult head-quarters first?—Yes, but it only took five minutes. I could show the danger of letting the men go out without letting us know at head-quarters. We had six and eight and ten parties out at the same time, and they might meet and clash. The constables did not know each other, and might be firing into each other. We had to work the district so as to know where every man was. Say a man at Mansfield got some information from the Wombat, and he telegraphed down to Benalla, and we gave the directions "Go and look after it yourself, and see if there is anything in it," or in like manner; we used to get information irrespective of the men and sent them out to search.

1349. You must be aware that the papers have frequently stated there was a lot of "red-tapeism," and that officers were not allowed to take any action till they had received orders from head-quarters, and in one case there was said to be a delay of eight hours before the men could take action?—I heard all that but I defy anybody to say a delay of ten minutes elapsed when we got information.

1350. I can understand that head-quarters ought to know; but suppose the police at Wangaratta sent to Benalla saying they received information and asking whether they were to act, and you replied "Send out the search party," and they received information at Benalla to go to a certain point, when the search party arrived at the certain point—if they were received other information, could they go on further without coming back for further authority?—Most certainly. I say that without any hesitation, and I do not think you could find a leader of a party who would come forward and say he was hampered in his instructions, notwithstanding what has been said in the press that they could not go at once.

1351. I want to draw your attention to this in your printed statement:—"I had long talks with them and their men on the state of affairs, and informed them that I intended stationing black-trackers, whom I expected from Queensland at Benalla, Wangaratta, and Beechworth." Was that in confirmation of the opinion that you had as to having black-trackers in pursuit of the Kellys?—That is on my second occasion.

1352. You say you told them you were going to recommend that black-trackers should be stationed at

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*continued.*  
31st March 1881.

Benalla, Wangaratta, and Beechworth—did you continue to have confidence in black-trackers in pursuit of the Kellys, so much so that you continued to use them on your second occasion?—Yes, but in a different way.

1353. Were those the black-trackers that were sent for by Mr. Chomley?—Yes.

1354. Are they in the district now?—Yes.

1355. Therefore you considered them useful?—Yes, to go with parties. “I also told them that at each of these towns I would have a full party of men stationed, so that, if any information was received about the Kellys, they would be in a position to go in pursuit at once.”

1356. Did that position of affairs exist upon your visit between the 12th December and the time when you were relieved by Mr. Nicolson?—It did, with the exception of the black-trackers.

1357. Were there parties at those towns who could go in pursuit at once?—There were undoubtedly; but you are touching upon matter I will go into further on more fully.

*The witness withdrew.*

*Adjourned to Eleven o'clock to-morrow.*

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## FRIDAY, 1ST APRIL, 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

W. Anderson, Esq., M.L.A.,

J. H. Graves, Esq., M.L.A.,

E. J. Dixon, Esq., J.P.,

G. W. Hall, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.,

F. A. Hare further examined.

F. A. Hare,  
1st April 1881.

1358. *By the Commission.*—Will you resume your narrative?—I was saying yesterday that I never threw away a chance anytime I was up there, to my knowledge, and spare myself in no way. I was told when I returned to Benalla, after an unsuccessful search, that I was a great fool to go out so much—that I would kill myself.

1359. Who told you that?—Mr. Sadleir and Mr. O'Connor. One day we were talking over the matter, Mr. O'Connor said, “Captain Standish ought to be ashamed of himself, sending you out so much.”

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*continued,*  
1st April 1881.

But I felt it was a disgrace to us (the police) that we could not catch the Kellys, and I strained every effort to succeed.

1360. Do you by the word “us” mean the police force of the colony generally, or yourselves individually?—The police force of the colony. So it went on, until at last the cold frosty nights did nearly kill me—sleeping without fires, and with little covering over myself and party. On several occasions our ‘possum-rugs in the morning were hard frozen—we were obliged to put them before the fire before we could fold them up.

1361. Of course that does not refer to the time when you resumed duty, for that was on the 12th of December?—No, this was when I was doing the first work, about June.

1362. The winter of the season you were there?—Yes, I have been giving some anecdotes of the whole time I was out. I came in from my last trip about a week before I was relieved. I would draw attention to the fact that this was not an ordinary climate we were working in. We were up on the mountains, and on one occasion the men went for water in the morning to make some tea, and they found this creek frozen, running water, and we were lying within about a hundred yards of that. Mr. O'Connor in his evidence has stated something concerning a letter that was received by Aaron Sherritt from Joe Byrne—that he was to meet him at Whorouly races. I will tell the Commission the exact facts of the case. The letter was written in peculiar phraseology that none of us here could understand, and it had to be interpreted by Aaron Sherritt himself before we knew what it meant; but the purport of it was asking Aaron Sherritt to go over to Whorouly races—this is a small country racecourse on the Ovens—and to meet him—the writer—Joe Byrne—at a certain place, as he wanted him to ride his black mare in some hurdle race. I saw the letter, and beyond doubt, it was in Byrne’s handwriting, because we have seen a great many of his documents. I communicated with Captain Standish on the subject, and we (the officers) decided what was to be done. We arranged that I should take three of my best riders and pluckiest men, and go to the races myself. I selected three men unknown to the public in that part of the country, viz., Senior-Constable Johnson, Constable Lawless, and Constable Falkner. I told them what duty they would have to perform and the information that I had received, and directed them to ride singly, as if unknown to each other, on to the racecourse. Lawless I set up with an under-and-over table and dice, Johnson was got up as a bookmaker, and Falkner was to act the yokel and patronize the other two, the under-and-over place, and to make bets on the races. I myself drove on down to the course

in a buggy and mixed among the people, and the ordinary police in uniform attended the races. I took all those precautions for the purpose of preventing anyone knowing.

1363. Did Sherritt know?—Of course. He was there.

1364. Did he know the three men disguised?—Yes; he knew the arrangements altogether. I mixed amongst the people; and the ordinary constables in uniform did their duty, and did not know those men I had; and none of the mounted men on duty knew me, I think—they did not recognise me.

1365. The police did not arrest your three-card trick man?—No; in little country racecourses they are not so particular about little things of that sort—there is no money made. I merely give this statement to the Commission to show them that, if we had taken black-trackers there, no secrecy of any sort could have been observed—we might as well have stayed at home. Near where those races were held Joe Byrne's aunt resides; and one of his brothers was on the racecourse—came down from Sebastopol, where they lived; and a number of their greatest sympathizers were there also. There is another short incident with regard to this search that I want to give you. On one occasion, about the month of May, we received information from a very reliable source that the outlaws were about to visit one of their sympathisers, who lives at the foot of a very steep mountain and surrounded by mountains. A party of men was sent out by the officers, about ten o'clock, from Benalla, in a wagon, to within about two miles of this men's hut; I think it was in charge of Senior-Constable Mays. They approached the house some time in the morning—about two or three o'clock; had to go some distance round for fear of the dogs alarming the house that there was some one about; they succeeded in avoiding the dogs, and took up a very good position, just above the house, where they could look down upon it and see everything that was going on. About sunrise in the morning, they observed two boys, sons of this sympathizer, come out with a couple of dogs. They walked about for some time, and the men thought they were looking for cows. When suddenly the dogs came upon the tracks of the police, and followed them up to hill to within about ten yards of where they were lying. The dogs, directly they saw the men, stood there and barked. The boys came up, saw the men, and returned immediately to the house. The owner of the house then came up himself, and spoke to the men. He had some words—I do not remember exactly what they were; however, he went back to his house, and immediately three shots were fired from the house, and there was a hollow trunk of a tree lying upon two logs, and an axe was taken and three distinct blows given upon this, evidently as a signal; and you could hear the echo resounding from all sides of the hills, both the three shots and the blows upon the timber.

1366. Nothing further came of that?—No, nothing further; the men left at once. Kate Kelly was there that morning at this house, and when she came out it was evident the whole thing was blown, through the shots and signals.

1367. Those signals, in your opinion, prevented the outlaws from visiting the hut?—Undoubtedly.

1368. Do you consider the object of those blows and shots was to warn them, being in the neighborhood, to clear out?—Yes. It was a signal no doubt.

1369. When Senior-Constable Mays reported to you, you came to the conclusion that he had acted wisely, as the outlaws had cleared out?—Yes; and I may say that sympathizer dogs and the dogs of the relations were a great nuisance to us. The next time I went to this spot, I appointed a man with a few baits and a bag, and told him to drop a bait here and there, and let any animal that liked pick it up.

1370. Baits to destroy dogs?—Yes.

1371. Strychnine on a bit of meat?—Yes; but after that many of the dogs about the place you could not poison if you tried. They always had muzzles on day and night, and used to come into Benalla with the muzzles on. I have seen Mrs. Skillian and Katey Kelly come into Benalla with dogs muzzled.

1372. What you want to convey to the Commission is this, that the Kellys were so supported by sympathizers that actually the dogs were trained so that, if strange horses came, the dogs would look out for the tracks and boys follow them up?—Yes, that is it.

1373. If, in your opinion, the signals you spoke of were the means of preventing the outlaws approaching, you must have been cognizant of the fact that you were within a very easy distance of the

outlaws at this particular period?—No; you do not know the situation of this place. There is a very high mountain, almost impossible to go up on one side, and the range runs in a kind of horseshoe right round this sympathizer's house—he is at the foot of the gully, and there is only one main entrance to the place.

1374. It struck me that you, having this information that the outlaws were there, within, say, three quarters of a mile?—Within five miles over in those mountains—a circuit of five miles. This man being in the centre, the sound would travel five miles round.

1375. But even then you would have them within a very limited distance?—No; if they were within twenty yards there you would not see them.

1376. You might not see them, but the information would be on your mind that the Kellys were within five miles radius of that spot, or less?—Yes.

1377. Did it not strike you at the time that it would be expedient to reinforce your party as quickly as possible and surround the neighbourhood, even with all its difficulties?—I could not surround these mountains with 50 men. To put the cordon round that place, I could not do with 50 men.

1378. Do I understand you to say it would be impossible?—It would have been impossible with the force at my disposal, or, in fact, any force you could have found. This house was situated in a place called the Bald Hills, and the sound would echo all round it. I have told you the terms on which I was with Mr. O'Connor, and now I wish to state with reference to Captain Standish. Captain Standish placed an immense amount of confidence in me, and, I think, by so doing, caused a good deal of jealousy throughout the force. He used to consult me upon nearly all subjects that he wanted advice on, and we were always on the most friendly terms. I do not think I ever had a dispute or row with him in my life. The same with Mr. Nicolson. I never knew that there was any ill-feeling existing between us, and always thought that we were great friends. I know that our families were on most intimate terms; and it was not until I was ordered to Benalla on a second occasion, to supersede Mr. Nicolson, that there was even any ill-feeling I was aware of. He has never brought forward one case. He says I have thwarted him in his duty. I have no idea how I have done so, and was not aware of it until he told it here. He brought forward an instance, and he stated that this showed how I thwarted him, and he thought that this was a most serious case. The fact is, I differed in opinion from him. He made a statement against a man, Constable Redding, in whom I had the utmost reliance, and my opinion was borne out by every officer under whom he served; and I, as the officer directly over the man, took this man's part, and stated what I knew of the man. Mr. Nicolson only once inspected my district since he has been Inspecting-Superintendent.

1379. How long is that ago—when was he appointed?—Some years ago.

1380. And he inspected your district once?—Yes; and it was on this occasion that he found fault with this man.

1381. That was the man at Donnybrook?—Yes, who was subsequently killed by a young horse falling with him. We tracked where the horse had stumbled on a stone, and the man was doubled up and broke his head.

1382. You think that circumstance was purely accidental?—Entirely. I wish to state another great difficulty we had to contend with—the want of young smart intelligent officers. We have plenty of officers in the force, but I think there is not one of them five years under my age. The junior officers are older than their seniors on the list—many of them; they have only been appointed these last four or five years. I myself, for instance—I do not think I should have been sent on those parties, but I had a good knowledge of the country, and was a fair bushman, and there was no one to take my place. My experience of twenty-seven years was surely likely to be of more service than my being stuck in the bush, where perhaps a young officer would have done even better than I could do, because he was younger and had more dash in him; been left behind at head-quarters to assist and to arrange things there. I felt myself, when I was out, that I should not have been out—that my service should have been of more value inside.

1383. Most of the officers at that time were men nearly as far advanced in age as yourself?—Yes; some older. There were some officers sent for to come up to the country; Mr. Drought was one. He was sent for by Captain Standish, who wanted to divide the district in the Kelly country into certain sub-districts, and put an officer over each. Mr. Drought was one mentioned; Mr. Twohey was another. Mr. Drought came up, and I had some conversation with him, and he told me that he had never been on a horse in his life except once, and then he fell off; and I said particularly, “You will be no use here,” and he said, “No, no use whatever.” It was not his fault, it was his misfortune.

1384. I suppose you know that Mr. Pewtress, one of the best officers in the service, is the same way?—Well, Mr. Pewtress told me he was a very good horseman—when he was a boy—but I never saw him ride. As to another weak point mentioned by Mr. O'Connor, I agree with him—that our men did not know the country. I frequently put the question to Mr. Sadleir—we had only recently taken charge of the district—and I said, “How is it so few of your men can lead us through the bush?” and he said, “Those men who know the country were shot.” But there were other men who knew the roads, as O'Connor said, but they did not know short cuts, and we had to employ men for the purpose to take us through the bush.

1385. The officer you have mentioned, Mr. Drought—do you know how long he has been in the service?—I think before I was.

1386. I see he joined in 1852?—Yes, I did not remember the dates.

1387. With regard to the unfitness of the men to use firearms, I would like to ask if your idea is the same as Mr. Nicolson's?—No; but I will come to that bye-and-bye if you will allow me. I have already said that my own men were well acquainted with arms.

1388. They principally were Bourke men?—Yes.

1389. Would you not be able to express an opinion as to the others?—I can; but I will come to that hereafter. I now come to the eleven months that I was away from the district.

1390. Before that I want to ask one question about the district. We have heard many assertions that several of the people about the Benalla district were assisting the outlaws in one way and another. Do you know of any instance beyond the relatives?—Yes, we had reports daily of them. The people at Glenrowan, or do you mean in the town of Benalla?

1391. Yes?—Yes. There was one instance I can mention, but I had better not give the name.

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1393. Then he is a near relation—a cousin of theirs?—Yes. The Kelly family are the most prolific family I ever met in my life. There was no part of the colony from which we did not receive reports of them; in every part of the colony the Kellys had a cousin, an aunt, or something. If they had not a relation, they had a sympathizer who was always talking in their favor and picking up the news; for instance, about Blackwood, Trentham, and Avenel, and over towards Gippsland, Omeo, and other places are full of their blood relations. There is no part of the colony you can mention free of them.

1394. When you left the first time, about what number of the force was there on the ground—when you left Mr. Sadleir?—I could not possibly say the number; there were large numbers of men over the place, many parties; and I could not give an estimate within thirty.

1395. In order that the question may be quite intelligible, will you explain to the Commission exactly the position you were in in regard to that North-Eastern district. Though you were in charge of the North-Eastern district for the Kelly business, you did not do duty at Mansfield?—I did not do duty, but I had supervision. The whole district was under Captain Standish, Mr. Sadleir, myself, and Mr. O'Connor joined.

1396. Did you go up to Mansfield to do duty there—at that time Mr. Pewtress was there?—I do not think I was there.

1397. Did you visit the Wombat, where the constables were shot?—No. I was within three miles of it one day.

1398. When you were with the search party at Daws's, was that the nearest you were ever to it?—Yes.

1399. You did duty from Broken River, Daws's, round Wangaratta, Benalla, and down to the Murray?—Yes; and down the Murray towards Kialla.

1400. That is north-east from Benalla towards the Murray?—Yes. When Mr. Nicolson relieved me I sat with him.

1401. On which occasion?—When he relieved me; when I gave up charge, and came down to town.

1402. Is that in December?—No; I relieved him in December.

1403. You relieved Mr. Nicolson twice?—I did.

1404. When was it you are speaking of?—When Mr. Nicolson relieved me on the first occasion, I sat with him on several hours, and gave him all the information I could remember that had occurred during my stay there. I gave him the names of the agents I had in my employ; told him how they could be trusted, and my experience of them. Amongst them I gave him the name of the writer of that letter that he put in evidence here; the one who wrote about "Diseased stock." I had visited the writer on several occasions, and he was working for me for some two or three months before I left; and I will fix the date—from the date of the sympathizers being in gaol, and just about to be discharged.

1405. That was when he began?—That was when he began. That was my first interview with him. There was not a single thing I kept back from Mr. Nicolson that I remembered, and gave him full information on —

1406. This man specially?—Yes, I did tell him of that. I said he was one of the most reliable men I knew.

1407. And had he been previously employed by Mr. Nicolson during his time?—I cannot tell you that. At any rate, he did not give me his name; I found him out myself.

1408. Why were you relieved?—Because I was so ill.

1409. You were saying just now when you were relieved by Mr. Nicolson on that occasion you gave him all the information at your possession, as was your bounden duty, and what you were paid for by Government?—Yes, no doubt.

1410. On the matter in Mr. Nicolson's evidence: you mentioned that you gave all the names of all the agents, and intimated to him what your course of proceeding was, and that amongst the list you gave the name of the agent whom you had employed, who wrote subsequently about the armour?—Yes.

1411. Mr. Nicolson said when he went on duty that he found the men unaccustomed to the use of arms. He has given the names of some men. Now you mentioned certain men you had with you, namely, Mays, and men from your own district, and other men; were those men left with Mr. Nicolson?—No; I think the majority of my own men returned to my district with me.

1412. That would be in accordance with orders?—Yes. We had to reduce the district, and I asked Captain Standish to let them go with me.

1413. Did Mays?—Yes, and Mills. Falkner did not leave.

1414. Did Phillips?—He was not in my party. Lawless left with me, and O'Lachlan left with me. I think that was all; and I think Falkner was the only one remaining.

1415. Mr. Nicolson gave the names of certain men, that were there when he returned to duty and relieved you, who he said were unaccustomed to the arms then given out to them—the Martini-Henry rifles and others; and he gave a list of men he had taught under his own supervision. Were any of those men in your party that you say were thoroughly accustomed to arms—was Kirkham?—Yes, I looked upon him so; he was for a short time (two or three months) in my party.

1416. Was Moore?—Never.

1417. Was Canny?—He was.

1418. Was Falkner?—He was.

1419. Was Bell?—No.

1420. Was Senior-Constable Irwin?—No.

1421. Was Mounted Constable Graham in your party?—I do not know him.

1422. Was Hugger?—No.

1423. Was Arthur?—I think he was out on two or three occasions.

1424. Was this the Arthur who was at the capture?—Yes. He is one of the best shots in the colony. When he joined us and left the dépôt, the drill instructor wrote up a note when he came up to Benalla, and said, "If you want a good man, pick up Arthur; he is the grandest shot I have seen in the dépôt."

1425. Was Phillips with you?—No. He is the man specially referred to that had never fired a gun.

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*Mr. Nicolson.*—I said he had never fired off a gun.

*The Witness.*—Phillips had been acting in town as orderly to the Chief Commissioner of Police. He was removed from that duty, and a vacancy having occurred in the Benalla district, he was sent up on once, and he had never been out on a search party up to the time I left; and had only been, I think, about a few weeks at Benalla.

*Mr. Nicolson.*—I beg to remark that it does not follow that the men mentioned as having been in the shooting class were meant by me unfit to shoot. I took all the men I could get.

*The Witness.*—I may state, in connection with that, that during the time I was at Benalla, when I came in with search parties, that I frequently let the men go out and fire for practice. I do not think I ever came in but the men went and had some practice, both with the double-barrelled guns and also with the other weapons that were served out to each. Every man shot with his own weapon, and my men especially I used always to let practise.

1426. Were your men all good horsemen?—Well, I do not quite understand the term.

1427. Good riders?—They were not all equal to the Kellys—three were. I believe those three men, if we had come across the Kellys, would have followed them, and overtaken them. Those three men were specially mounted for the purpose. The picked horses of the district were given them. They were Canny, Falkner, and Lawless. There was also Senior-Constable Johnson, who was out with me on one or two occasions, though I did not look upon him as one of my party. You could not get better riders in the whole of Australia for bush country, or more plucky men than those.

1428. Did they all leave with you?—No, only one left with me—Lawless. Canny is up there still, and Faulkner has come down since the capture. Now I will come to the second part—the eleven months interval. Unfortunately, during this interval, Mr. O'Connor and I had a difference—"relations were strained," as it is now called, between us, and we had some communication with each other. I wrote to him, and he wrote to me, and then it dropped, and nothing more was heard of it. On my going up to Benalla—though I suppose if we had met in the streets we should have "cut" each other—I got into the office at twelve o'clock. Mr. Nicolson, Mr. Sadleir, and Mr. O'Connor were there. I went up and shook hands with Mr. Nicolson and Mr. Sadleir, and I felt rather frightened about Mr. O'Connor, but I held out my hand to him, and he took it like a man, and we became friends immediately. From that time, I do not say we were on as friendly private terms as previously, but circumstances were altered. Mr. O'Connor had his wife there, and was not living at the hotel; he had been married in the interval, so that there could not be so much private acquaintanceship between us; but as far as official relationship went, I spoke as freely to him as I did before. I would not have mentioned this, had it not been mentioned, and I wish to explain my part in it. Many private conversations have been given before the Commission that I think it would have been far better to have avoided. If I had known all I said would have been repeated, we would no doubt have been more restrained in our intercourse. I wish now to state to the Commission the circumstances under which I went to relieve Mr. Nicolson. Captain Standish came to the dépôt, and informed me that I was to proceed to Benalla to relieve Mr. Nicolson, and take charge of the whole proceedings in connection with the Kellys.

1429. What date?—On the 30th of April this conversation occurred. I protested in the strongest manner possible at my being sent up again. I pointed out that there were officers senior to me, none of whom had been called upon to undertake the hardship and the responsibility that I had during my seven months there, and I told him I thought that the responsibility should fall on the senior officers.

1430. Do you mean you pointed out you ought not to be sent up on duty or that it was unfair, passing over the senior officers?—I thought it unfair, passing over the senior officers, and making me go.

1431. Do you mean "unfair" towards them or yourself?—Towards me, and their not being asked to go, and my being sent. I stated to him that on the previous occasion I had been selected to undertake the duty that others had failed in—that my senior had failed in—and that I reaped no profit by the duty I was sent upon. I refer to the capture of Power, the bushranger.

1432. There is some significance I should think attached to the remark, "I stated that a promise was made to me when I was sent for previous to the capture of Power, the bushranger, that Mr. Nicolson and Mr. Montfort had reaped the benefit of the capture, and that I, who was directed to organize the whole affair, am still in the same position as I was then, notwithstanding the promises made by the Chief Secretary, Sir James McCulloch." You intended to direct special attention to this for some cause or other?—Yes.

1433. During the time Mr. Nicolson was giving his evidence he said he had the management of the whole organization that led to the capture of Power—do you mean to give any further information about that?—Yes, I do, but not now.

1434. Hereafter?—Yes. I stated then that ten years had elapsed and my position in the police force

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was still the same as it was then. His reply was, "It is no use saying anything about it, you will have to go." I said to him, "Well, I will insist upon having an interview with Mr. Ramsay before I go, to point out the position I am in." He said, "Very well, I will see Mr. Ramsay, and I will make an appointment with him to see you." He telegraphed up to me and told me that Mr. Ramsay would see me at two o'clock. I saw Mr. Ramsay in the Executive Council Chamber. I said, "Mr. Ramsay, I want to see you on the subject of my going to Benalla. I think it unfair that I should be sent up there after all I have undergone," and made several other statements concerning what I have gone through in the Kelly country before. Mr. Ramsay replied, "Mr. Hare, this Kelly business has been fully discussed by the Cabinet, and it is their unanimous decision that you should be sent up to take charge of affairs. I give you *carte blanche* to do whatever you think proper, and I leave you entirely untrammelled." I then said to Mr. Ramsay, "Very well, Mr. Ramsay, if that is your decision, I suppose I must go. When do you wish me to go?" He said, "Immediately." Then he said, "When will you be able to go?" and I said, "In a couple of days." I had a subsequent interview with Mr. Ramsay concerning this business, more especially about the Queensland trackers, and I then said to him, "Suppose I make certain arrangements with certain people, will you bear me out to those arrangements?" He said, "Mr. Hare, the Government will bear you out in every arrangement you make—you do as you please, and I will see you through." On Monday the 3rd of May I received a note from Captain Standish, telling me that I need not go at once to Benalla, and that Mr. Nicolson had been allowed to remain there a month longer. About this time I wrote

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a letter to Mr. Nicolson, to which I told him I had heard that he had been saying that I had had something to do with his removal, and that I was ambitious to take his place up there. After some days he replied to my letter, and he said, "I have been informed that you have had something to do with my removal, but I am glad to find from your letter that such was not the case."

1435. Have you that copy of the letter or the reply?—I have the reply. It is a private letter, and I do not care about putting it in.

*Mr. Nicolson.*—I have the original letter, but I have no desire to produce it.

*The Witness.*—My reason of writing to him on the subject was that Captain Standish told me that when he told Mr. Nicolson I was to relieve him, he said, "What! Be relieved by an underling!" Well, I thought the term used towards me was rather uncalled for in the position I held in the force, and the way we had always worked together, and I wrote that letter to him. I told him, if I had my own way I would stay where I was. Shortly after this, a person waited upon me in Mr. Nicolson's interest, and discussed the matter over with me, and endeavoured to get me to use private influence to prevent my going up there. I said, "No, but I will be delighted if Mr. Nicolson can arrange it himself; but after what Mr. Ramsay has said to me, I decline to take any further steps in the matter."

1436. *Mr. Nicolson.*—I do not wish to interrupt. Are you sure that that person called upon you at my instigation?

*The witness.*—I do not say at your instigation; I said in your interest. I received orders from Captain Standish, about the end of May, that I was to proceed at once to Benalla to relieve Mr. Nicolson. Accordingly, on the 2nd of June I went up there. I arrived at Benalla by the eleven o'clock train. I went first to the hotel, and after some time I went to the office of the superintendent of the district, Mr. Sadleir, which was also Mr. Nicolson's office. I need hardly tell you I felt it very much being sent up there, going to relieve a senior officer to myself, and knowing also that Mr. Sadleir was strongly opposed to my coming up there. I walked into the office and shook hands with each of the officers, as I have already said. We discussed all kinds of subjects for the first half hour after I got into the office, and nothing was said in relation to the Kellys at all. I wished to receive charge of everything, and I was waiting for my senior officer to commence the conversation and the handing over. Mr. Nicolson took a letter from his pocket, of which this is a copy, dated Melbourne, 28th May 1880:—

MEMO.

Mr. Nicolson being aware that the Government has decided that he should be relieved from the special duty in connection with the outlaws, on which he has been engaged since July last, I beg to inform him that Mr. Hare will proceed to Benalla on Wednesday the 2<sup>nd</sup> prox., to take charge. I beg that Mr. Nicolson will be good enough to supply Mr. Hare with all the information he is possessed of, and to give him the names of the secret-service men he has been employing of late. When Mr. Nicolson has done this, he will return to Melbourne and resume the duties of Inspecting Superintendent, which have not been carried out for upwards of a year and half. There is no doubt that the country stations are in want of a thorough inspection.

(Signed)

F. C. STANDISH,  
Chief Commissioner of Police.

He produced the original of that letter and commenced reading the second paragraph. He opened the drawer of the table he was sitting at, and pulled out a sheet of paper and said, "I have paid up the agents up today with one exception." Then he went over this account of this agent and that one, and showed me that this man or the other had been overpaid a pound or so, or anything of that kind. He then referred me to some papers. He said, "Here are the papers connected with the matter." Those papers he showed me were private letters

sent to Mr. Nicolson from his agents, not those that the clerks had any connection with, but that he alone and, I presume, Mr. Sadleir had read, and they were all in a row in the drawer. He then said, "There are a lot of letters here from a certain agent—(naming him)—I think I will take them away with me." I said, "Do not do that, let me have the benefit of them to read them over." He then turned round with his hand and said, "Mr. Sadleir, will you tell the rest." To confirm my statement in that respect, as Mr. Nicolson differs from me to a certain extent, but there are Mr. Sadleir and Mr. O'Connor to give evidence of what they saw. But I will produce a little book in which I made a minute that evening. When I went to Benalla I intended to keep a record, as far as I could, of each day's work, a thing I had not done before to any great extent. So I commenced in this little diary—[*showing a book*]*—and it is continued in this book, which was sent down to me by Mr. Sadleir, without my asking for it, shortly after I was shot. "June 2nd, Wednesday. Left Melbourne by the early train; found Nicolson, Sadleir, and O'Connor in the office. Nicolson gave me the names of special men engaged by him, letters from them and said Sadleir would tell me everything. He told me all in about ten minutes. Saw Senior-Constable Kelly that evening." And then I refer to another matter. That was written that afternoon immediately after it occurred. There was an agent of Mr. Nicolson's down at Benalla, I was told, who came down from Beechworth specially to be engaged by me. Senior-Constable Kelly told me that he made an appointment with him to meet me at a certain spot at Benalla that evening. I went to that spot and remained for half an hour and he did not put in an appearance. I went up to the railway station as the train was going, thinking he might be going away from there, and I found him there. I had about five minutes' conversation with him. I said, "So-and-so, why did not you keep your appointment with me?" "Oh," he said, "I am not going to work for you." I said, "Why not?" "Because you prevent me getting some money from the Government when you were last up here." This agent had been working for me previous to Mr. Nicolson's coming to the district. I said, "I had nothing to do with that, it was Mr. Sadleir. He told me he had discharged you, and subsequently you came with an account of some £30 or £40, a large sum like that, and you said you went up to the Upper Murray." I said, "I had nothing to do with that, it was Mr. Sadleir did all this. I did not have you discharged. I did not see you when you returned." "Yes," he said, "But I am told it was your doing." I said, "I can tell you it was nothing of the kind." I said, "Mr. Nicolson has great faith in you, and I wish you would continue working for me." He said, "I will do nothing of the kind," and he got into the train and went away, and I have never seen him since. I sent that telegram that afternoon to Detective Ward to come down from Beechworth to Benalla. He arrived in the morning by the early train, the first thing. He said to me, "Mr. Hare, do you know that Mr. Nicolson has discharged all the agents up at Beechworth. He sent a telegram up last night to Senior-Constable Mullane, and he told me that all the agents were to be discharged."*

1437. Had you the agent that wrote about the "diseased stock" in your employ?—Yes; I will come to that. Ward said, "I thought it strange he did not telegraph to me direct, because Mullane has had nothing to do with the working of the Kelly affairs up at Beechworth; he is merely in charge of the Beechworth station." I said, "Are you sure, did you see the telegram?" He said, "Yes." I then left him for a moment. This conversation occurred outside of Mr. Sadleir's office. I left him for a moment standing there, and I ran inside to the office to Mr. Sadleir, and I said to him, "Do you know anything about the telegram that Mr. Nicolson has sent to Mullane to discharge all the agents up there?" He said, "No, I never heard anything of it, and I do not think he has." I then called to the clerk, and said, "Have you any record here, in the office, of a telegram being sent to Beechworth yesterday by Mr. Nicolson?" He said he had not.

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1438. Who was the clerk?—Senior Constable Smyth. I then, I believe, sent to the telegraph office to see if any telegram was sent to Beechworth from there, and the reply came back, "No, there was not." Mind you, I am not positive of this; but it is in my belief that I did send, and then I went back to Detective Ward and said, "I can find no record whatever of that telegram;" and Detective Ward suggested perhaps Mr. Nicolson might have sent it from the railway station telegraph office. I asked him what time it came up. He said, "In the evening Mullane told me about it." "Well," I said, "this is a strange thing for Nicolson to do. He handed this over to me at one o'clock, and then, in the evening to send the telegram to this effect; I cannot understand it."

1439. Did you ascertain about the railway station telegram?—No, I had no time. The Commission can send to Senior-Constable Mullane for the original telegram. I never saw it; I had no time to ask for it; but it can be sent for. And I would like to have it produced, and see where and at what hour it was sent. The agents in this district included Aaron Sherritt and a number of others. I don't wish to mention who were then receiving pay from the Government at this time.

1440. Was this man, the "diseased stock" man, amongst the Beechworth lot?—No.

1441. He was employed at that time?—Yes; not under wages at that day, but Aaron Sherritt was. I would point out to the Commission how embarrassed I would have been if that order had been carried out without my knowing anything about it. I sent Detective Ward back to Beechworth, for fear anything would be done, to stop all proceedings. I said to him, "I give you instructions to order that no change is to be made till you hear from me. I am in charge of the district at this time." For the first two or three days at Benalla I occupied my time in reading up the papers in the office. There were hundreds telegrams and documents, and an immense number of private letters which were lying there, which I have referred to, and I read, I think, every one of them.

1442. In what condition were they—a state of muddle?—No, beautifully tied up; each agent's letter tied up consecutively, and orderly arranged.

1443. *Mr. Nicolson*.—You said they were lying about.

*The Witness*.—I meant lying in the drawer, in good order and all tied up carefully. I may say I have never had a word of communication with Mullane from the time I left, either by word or letter. Amongst the papers in the office were a number written by the “diseased stock” agent. I do not know for certain that the one that Mr. Nicolson has put in here was left behind, but, if not, there were a great number of a similar description; and I saw, when Mr. Nicolson was giving his evidence the other day, that he had five or six letters in his hand by the same writer, which he put by and did not put in evidence. Those letters I must ask the Commission to get him to give up. I saw them.

1444. *Mr. Nicolson*.—I shall be very happy to produce them. I produce that one I did as the most significant.

1445. *By the Commission*.—Were they official documents belonging to the Government?

*Mr. Nicolson*.—Well, I left them with Mr. Hare, the whole of them.

1446. *The Witness*.—Do you refer to documents sent to Mr. Nicolson in his official capacity?

*The Commission*.—Yes, of course; Government documents, for which the Government paid.

1447. *Mr. Nicolson*.—Do you consider they belong to the Government?

*The Commission*.—I do.

1448. *Mr. Nicolson*.—After this was all over, those documents, especially that about the armour, were very important to me, and I requested Mr. Sadleir to send them down to me for my custody; and these were very important to me.

1449. *The Commission*.—The originals?

*Mr. Nicolson*.—Yes.

1450. *The Commission*.—You obtained those letters through Mr. Sadleir because you thought it would be necessary to have them furnished to you in order to make your statement?

*Mr. Nicolson*.—Yes.

1451. *The Commission*.—Have you returned those papers to Mr. Sadleir?

*Mr. Nicolson*.—No.

1452. *The Commission*.—You obtained those documents from Mr. Sadleir—official documents—to assist you to make the statement to the Commission?

*Mr. Nicolson*.—No, to preserve them for the Commission.

1453. *The Commission*.—Did you ask Mr. Sadleir to supply you with special letters and documents in his possession relating to the Kelly capture?

*Mr. Nicolson*.—Only these in particular, not the special ones.

1454. *The Commission*.—Have you, since you made use of them for the purpose you obtained them for, returned them to Mr. Sadleir?

*Mr. Nicolson*.—No.

1455. *The Commission*.—You obtained them to make your statement?

*Mr. Nicolson*.—No, for their preservation.

1456. *The Commission*.—All the documents relating to the Kelly capture should have been retained by the officers as official documents.

*Mr. Nicolson*.—All the documents were retained there.

1457. *The Commission*.—They would be retained by the officer in charge?

*Mr. Nicolson*.—Yes; I left them with him.

1458. *The Commission*.—Would it be the duty of the officer in charge to take charge of all papers that came into his possession?—

*Mr. Nicolson*.—Yes.

1459. *The Commission*.—Then, in fact, you have taken extra precautions that these particular letters should be preserved?

*Mr. Nicolson*.—Yes.

1460. *The Commission*.—Have you done the same with any other office except the one at Benalla?

*Mr. Nicolson*.—No, not at all.

1461. *The Commission*.—Have you sent any communication to Sergeant Mullane, at Beechworth, to send you any special paper in his possession?

*Mr. Nicolson*.—No, I have not, that I am aware of; I have said nothing to Mullane at all.

[*Mr. Nicolson was requested to hand in the papers in question, and also that if he had any other original documents to return them to the office.*]

[*The letters were handed in.*]

*The Witness (examining the letters)*.—I was under the impression there were more letters than these, but no doubt, these are all, as Mr. Nicolson says.

1462. *The Commission (to Mr. Nicolson)*.—Did you write as Chief Commissioner for the letters, or as a private person?

*Mr. Nicolson.*—Entirely as a private person, because I was deeply interested in them.

1463. *By the Commission (to the witness).*—You now say you have read all those letters; did you see one dated 12th July 1880?

*The Witness.*—I don't know.

1464. Here is a letter to Mr. Nicolson on 12th July 1880, in this; how could you have seen that?—I hope I will have an opportunity of seeing them.

*The witness withdrew.*

*Adjourned to Tuesday next, at Eleven o'clock.*

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## TUESDAY, 5TH APRIL 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

J. H. Graves, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.,

W. Anderson, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.,

E. J. Dixon, Esq., J.P.

F. A. HARE further examined.

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1465. *By the Commission.*—I think you complained that Mr. Nicolson had withdrawn all the agents in that part of the district?—Yes; the Beechworth district. This is from the Benalla Railway Telegraph Station to Senior-Constable Armstrong:—"Benalla Railway Station, June 2/1880. Send Constable Armstrong back to his station. Withdraw the watch party, and send them to duty. Any further orders from Superintendents Hare of Sadleir. Detective Ward already instructed that no further authority for money or supplies for Tommy of his friends.—(Sd.) C. H. Nicolson, A.C.P."

1466. Have you seen this before?—I only saw it yesterday.

*Mr. Nicolson* asked to give an explanation at this point.

*Mr. Hare* protested against such a course.

*The Chairman* stated he thought it would do for Mr. Nicolson to give his desired explanation later on.

1467. *The Witness.*—I wish to point out that I never saw this telegram till yesterday. I made a statement that Detective Ward came down to me and then said that Senior-constable Mullane had received instructions to pay off all the agents, and that Ward said he thought it was an extraordinary thing that Mr. Nicolson had communicated with Mullane on the subject, while he had the full charge of all those things.

1468. *By the Commission.*—Having seen the telegram, does it contain the inconvenient instructions that you gave it credit for?—Not to the extent that Detective Ward led me to believe.

1469. There is nothing in it that was damaging to you as officer in command of the force at the time?—I think when this telegram was sent after things were handed over to me, and no record of it left in the office, it was an unusual course, and of course I believed what Ward told me, that he had received those instructions from Mullane.

1470. Having seen that now, is there anything in the instructions calculated to damage your position there at the time?—Here is the thing most extraordinary for Mr. Nicolson to give instructions to withdraw the watch party that was watching that certain place.

1471. What was the watch party—where was it?—I do not know; I got no information from Mr. Nicolson, as I have already stated. You see he tells Ward to withdraw the watch party at six in the evening, whereas he handed over everything to me at one o'clock.

1472. Will you now resume your narrative?—Yes. For the first two or three days of my stay at Benalla I occupied my time reading up the papers in the office, and obtaining all the information I could possibly get on the subject of the Kellys. I had a long conversation with Mr. Sadleir the first afternoon, who assisted me in every possible way, and gave me all the information in his power. I conversed with the different non-commissioned officers and constables I came across, and obtained their views on the duty upon I was engaged. Most of Mr. Nicolson's communications with his agents were by word of mouth

and not in writing, and the information I obtained from documents in the office was very scant and of not much service to me. I now go to the letters on the "diseased stock." Amongst the letters in the

office handed over to me by Mr. Nicolson were a number of letters written by the "diseased stock" man; I cannot say for certain the number, but, as far as my recollection goes, I should fancy there were at least ten or twelve. There is one letter here I never saw. It is addressed to Mr. Nicolson after the Glenrowan affair, that is July 13th; and the other three, dated February, March, and May, I may have seen—I have no recollection of having seen them, because I went through numbers of letters and papers within those three

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days.

1473. What is the date of the one you did not see?—July 13th; a letter addressed to Mr. Nicolson in answer to a communication of his. There were a large number of other letters from different agents. There were some from Joe Byrne to —, and Ned Kelly to —, and from the outlaws to Detective Ward.

1474. Are those letters obtainable?—I presume so; I left them in the office when I came away, together with letters of this description—whether they are there still I do not know. There were also some letters from another agent that Mr. Nicolson wanted to take away when he left, and I begged him to leave them for me to peruse, and take them after when he thought fit. His communications were very voluminous. He is not mentioned here.

1475. Did you see them?—Yes. I saw them and read them all. I then started round the district to see the non-commissioned officers in charge of the principal stations, and I had long talks with them on the state of affairs, and informed them that I intended stationing back trackers, whom I expected from Queensland, at Benalla, Wangaratta, and Beechworth. I also told them at each of those towns that I would have a full party of men stationed, so that if any information was received about the Kellys they would be in a position to go in pursuit at once, and all I wished them to do was to communicate by telegram with me previous to their starting off, so that I might know in which direction they had gone.

1476. That was simply to communicate the information to you, not to wait for a reply?—Of course they would wait for an answer. Undoubtedly I would allow nobody to go out, or rather, if there was a telegram I would expect them to let me know, and while their horses were being saddled I could give them the necessary information. There is always an officer in Benalla, and the telegraph office is within 100 yards of the police station. For instance, there was a party at Yarrawonga and there was no telegraph station, and those men got permission to go whenever they got information. After a few days I returned to Benalla and started off two or three parties of men, who had been taken on specially in the police force in consequence of their knowledge of the country and the outlaws.

1477. Are they in the service now?—Yes, I will mention them in a minute. I directed them to obtain private horses and to go into the country they knew best, and knock amongst their friends and relatives in order to see if they could get any information concerning the outlaws; they might go where they liked and remain out as long as they thought fit. There was a man of the name of McHenry, a constable, who had been taken on especially for his knowledge of a certain part of the King River country, that is to say by Dodongadale. He had relations in that district, and I thought I would endeavor to work the district as Aaron Sherritt had worked his district when he was the agent for the Kellys. I gave this man his discharge so that he could show it to anybody that doubted he had left the service, and he went away into this country to find out what information he could get, and communicated under an assumed name to me through the post office anything that he heard. I received several communications from him, perhaps three or four. I also sent a man of the name of Constable Canny and Constable Falkner into the country that Canny was thoroughly acquainted with. They went to a squatter's station, borrowed horses from him, left their own at the squatter's place, and they went about the country that was known to Canny seeking for information, and from time to time they communicated with me also. About three days before Sherritt was shot, they returned to Benalla with some important information they had picked up from a Chinaman. I wanted further information on the subject, and sent Falkner back, and during the time that he was away Sherritt was murdered and the Glenrowan affair came off. He subsequently told me that he obtained full information of what I required. If you wish it I can tell you what it was. It was that a Chinaman (not aware that those men were police) they got into conversation with, and the subject of the outlaws was brought forward. The constable said, "Oh, the outlaws are out of the country, they are gone away to California." The Chinaman said, "No fear; Kelly up at Buckland; get supplies from Chinamen." He said, "They come down frequently from the mountains with pack horses and take their supplies. But do you not tell policemen about it. If you do, Chinaman's store get burnt, my garden destroyed and everything, you are not to say a word about it." These men were not quite certain as to whether it was the Buckland or some other locality he referred to, and I sent Falkner back again. I received information also that the Kellys were dependent in a great measure upon the blood relations. I should say not the Kellys, but the outlaws; I mean, when I say Kellys, the gang altogether—on their blood relations for their provisions. I sent a party of the police into Aaron Sherritt's house; that was the first party that was put there. I sent a party of police from Wangaratta to watch Mrs. Hart's house. They live within a mile and half of Wangaratta. And I placed four men at the Glenrowan police station to watch Kelly's house. The orders given to the three parties were that they should never leave the houses—that is to say, Sherritt's house and Glenrowan police station—during the day, and of a night on leaving, if they were to go away singly and meet at some appointed place, and they were not to go until an hour or so after dark, that they were to endeavor to keep at such a distance from those houses, so that they should not be observed; and on returning in the morning to the different places, they were to return singly, and at intervals between each of them, before daybreak. The four men, as you know, were in the house of Aaron Sherritt up to the time that he was shot. The Wangaratta party kept watching up to the very morning that we met the outlaws at Glenrowan. They, on returning, heard the shooting, which was nine miles away—the shooting at Glenrowan. The Glenrowan party removed the Saturday previous to the Glenrowan affair, in consequence of Constable Bracken coming in to me and telling me that the weather was so desperately cold and wet that, unless the men were taken off duty, the four of them would have to go to hospital. You see the very places that I had those watch parties were the two very places the outlaws came to. Unfortunately the police at Sherritt's behaved as they did; and if the other party had not been removed the previous day, the outlaws would have found four more men there too.

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1478. Is it not possible the Kellys came in consequence of the police not being there?—No, they were not aware, for what took place at Sherritt's house, that the police were in the house; but when they heard people moving in the house, they asked Mrs. Sherritt, "Who are those people; is that Jack or Willie?"—I think those are the names of Sherritt's two brothers—and she said, "No, it is a party of police in there."

1479. You have just made use of the expression that I drew your attention to. You said, "If the police had not behaved as they did at Sherritt's." Captain Standish referred to that portion of the evidence?—My opinion is different to Captain Standish's. My view is that those men ought to have either died or shot the Kellys—one or the other. By the way, I will describe the house to you when I came to it, how the house was situated.

1480. Do I understand you to say, when you say they ought to die, that, in your opinion, as police officers when they came in the face of, or near approach to, the outlaws, they should have made them amenable to justice, or failed in the attempt by death or otherwise?—May I withdraw this part of my evidence so as to bring it out fully in another place, as I intended. This is the reason that I think made the Kellys break out on that occasion; it was the cause I had always thought in my own mind, my stopping their supplies by having the parties at Skillion's, Hart's, and Byrne's; and Aaron used to say, and it was a well-known fact by everybody at Glenrowan that the Sunday the Kellys were there, that Ned Kelly mentioned my name in particular over and over again. Why he should have had a down on me I do not know; he spoke of it when he first arrived. He said, "Inspector Hare," and sometimes, "That — Hare." He spoke the whole day about it; he spoke to Bracken about it; and when Mr. Curnow stopped the engine-driver, and he said only a few words, he said Kelly was going "to get the inspector." In many instances he mentioned Mr. O'Connor with his black trackers; but in particular—those were his words—he would get "that inspector." From the date of my arrival at Benalla up to Sunday 27th June, I heard nothing positive concerning the movements of the outlaws, although their agents and sympathizers were particularly active. I was privately informed that the outlaws were about to commence some outrages that would not only astonish Australia, but the whole world. I may here state that I had interviews with Aaron Sherritt about, I think, four or five days after my arrival at Benalla. I met him in Beechworth with Detective Ward, about a mile or two out in the bush; we never met in the town. I said to him—"Aaron, I am sorry to hear"—(of course, I shook hands with him first)—"that you have not worked well since I left the district; you have given some dissatisfaction." His reply was in the presence of Detective Ward—"I could not work for that crankie Scotchman," alluding to Mr. Nicolson. I told him he had promised before I left that he would work for him, and do what he could do for him. He said—"He used to lose his temper with me sometimes, and distrusted me in everything; and I told him I did not care about working for him." I said—"Well, what about the outlaws, where are they?" He said—"They are about still," and he promised me that he would set to work with all his might, and endeavor to let me capture them. He said all along—"I wish you to capture them, Mr. Hare, and I am only sorry that you ever left the district." Mind you, as to all this statement, the man is dead, but Detective Ward was present, and can corroborate every word I say or otherwise. He said—"Beyond doubt you shall have them before long, because they have been knocking about this part of the district for some time, and my mother and my sisters had seen them." I asked his advice about the four men watching in his place. I said—"Do you think it is known that they are there?" He said—"No, I do not. I do not know any better place where they could be; nobody comes to my house, except my wife's mother, and they are not likely to inform the outlaws of anything that I am doing." I told him I was sorry that he had got married during my absence; that was because of his relations, father and mother, were much opposed to his marrying a Roman Catholic, as they were Protestants. I had a long conversation with him, and that is the substance of what he said, and what I said to him. He left, and returned to Beechworth. I was at Beechworth exactly a week before Aaron Sherritt was shot—the Saturday. I saw Detective Ward, and I had reason to think that the four men in Sherritt's house were not performing their duty properly.

1481. Do you know the names of those four men?—No, I have not got them. I telegraphed for them—[*looking at a telegram*].—No, I have not got them. The man in charge was Senior-constable Armstrong, and one man was named Duross, and two others I do not remember the names. I said to Ward, "Well, there is something about that party," and I fancied from his manner he thought the same although he did not say so. I said, "Well, I will stay from here to-night, and at eight o'clock this evening have a horse round here for me, and I will go down to the place myself just to see if they are doing their duty." We rode down, and before I was starting Ward said to me, "You need not take your gun" (I never travelled without my double-barrelled gun and my revolver): I said, "You can take your revolver if you like." It is about twelve miles from Beechworth. I got down there a little after nine o'clock. The house was weatherboard, shingle roof, that shape—[*drawing the same*]. The house is about the size of this room we are in, about the same length, and perhaps not quite so wide, with a partition in the centre of weatherboard and canvas door which formed the bedroom.

1482. Thirty feet long?—About that, thirty feet by twelve, and with a fireplace at one end, and on the opposite end was the bedroom. The house is situated about fifteen or twenty yards from the Eldorado main road from Beechworth. I had never been there before, and Ward said, "That is Aaron's house."

1483. Is it fenced in?—No, nothing; no fence whatever, just on a hillock of rocky ground, amongst

some low timber, not very large trees. I said to Ward, "Go up and see if there is anybody in the hut," I remaining in the road myself. Ward was away longer than I thought he ought to be, and I heard some whispering. I made my horse spring forward to see what it was, and said, "What are you whispering about?" and one of the constables, one of the men whose name I do not recollect, came forward to speak to me. I heard Ward say, "There is Hare down there" in a peculiar voice, as much as to say something was wrong. As I say, I went up at once—I said, "Where is Armstrong?" He said, "He is away, sir." I said, "Where?" He said, "With Aaron Sherritt." I said, "Where are they?" He said, "They are watching down at Mrs. Byrne's;" and I said, "What are you two men doing here?" One of them answered me that Aaron thought it was too light to go when he went, but I said, "Why did Armstrong leave you behind, and go by himself?" I saw at once that there was something wrong by the man's manner and I said to him (his name I do not recollect), "Can you take me down to where these men are?" "Oh, yes," he said, "certainly." I jumped off my horse, and told Ward to remain at the hut with the horses, and I would go down with these men to where Aaron was. I took two with me; I left the

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other two behind, Duross and the other. One of the men said to me, "You cannot go down there now I come to think of it; and I said, "Why?" He said, "Because you will have to go up to your middle in sludge and water across the creek." I said, "Lead the way; let me go the way you take up your positions every night." I went through the creek, and got up to my waist. This man was a long time taking me to the spot; lost his way once or twice on the way. I do not know whether he did it for a purpose or not, I thought at the time he did; and at last we came to within fifty yards of Mrs. Byrne's house. I said, "There is the house," because I had watched there before. He said, "Yes;" and I said, "Now where shall we find Armstrong and Aaron Sherritt?" He said, "I do not know where Armstrong is, but Aaron Sherritt lies under that tree generally," that was within thirty of forty yards of Byrne's door. I crept down towards Sherritt, and I found him lying motionless. I called out, "Tommy." I might here explain that I never called him Aaron when I was out, and in sending all the telegrams we invariably used the name "Tommy." We called him sometimes "Aaron," and sometimes "Moses," so that the telegraph people might not know whom we alluded to. I touched him on the foot, and beckoned him to come with me; and we went up in the bush away about 10 yards. Just at this time I saw Armstrong as I was walking up; he came towards me. I said to him, "Armstrong, what is the meaning of this?" He said, "The man that spoke to you at the hut told you a lie, sir. I was collecting some wood when you were at the hut, and directly I heard you had gone down to the party I followed, and I reached the place before you did." I called the man up, and I said, "What do you mean by telling me such a lie?" He had not a word to say for himself. I gave him a great rating at the time, and told him he ought to be ashamed of himself; and then I had a long talk with Aaron Sherritt. I said, "What sort of men have you got with you here?" He said, "The man in charge is an excellent man, Armstrong; you could not get a better man in the world." Armstrong was there, and I said, "Well, Armstrong, what about this duty; do you think it is any good remaining here?" He said, "Yes, I do that we are sure to get them if they are in the mountains; they must come to their mother's place to get provisions." I said, "Suppose you saw them come into the house, what would you do; what is your plan of operations?" He said, "I would shoot them dead if I was certain they were the outlaws, if Aaron told me they were the outlaws." I said, "That will do." I said, "You give that man a good blowing up."

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1484. About what day was this?—Exactly the Saturday before the outlaws were at Aaron Sherritt's house.

1485. Was the outlawry act then in operation?—Undoubtedly. Perhaps the Board are not aware how it became inoperative as soon as Parliament dissolved. The Governor gave the dissolution on the Saturday, and on the Monday morning the outlaws were shot; it was in operation up to that Saturday morning, and directly the House dissolved that Act expired.

1486. It was the following day the affray took place?—On the following Monday.

1487. You consulted Aaron Sherritt as to the qualifications of the men—did he express any opinion as to the others?—He implied as much, he did not think much of the other three, they were all equal in rank. I thought Armstrong was a good man, and I did not think much of the other two, deceiving me in the way they had done. This was the night I referred to in my former evidence. I spoke to Aaron Sherritt and subsequently to his wife about lying out in the cold without his coat. He was lying under a tree, and would lie there until four or five the next morning. The ice was on the water that morning, but still he was lying there from eight in the evening till that time. I made him (Aaron) walk back towards his house, which was about a mile or a mile and half from Mrs. Byrne's, in an opposite direction from where you have heard so much about of the other Sherritt's house. It was towards the Murray way, the other was towards the Beechworth way, where he lived previously—near his mother's house. He walked back with me, and I had a long conversation about affairs, and he seemed very confident about the result if we only stuck to it, and I told him what we were doing about the other houses—Hart's and Skillion's. He seemed very confident of success, so much so that when he brought me up to the river in going to his house, I made him walk through the river because the river was full of holes, and he took me across. I said to him then, "You had better, Aaron, come up and get a cup of tea at your wife's." I told her to have some hot tea for me when I returned. I asked him to go to the house with me. He said to me, "No, Mr. Hare, this is Saturday night, and I must go

back at once to the men.” I thought to myself, here is a man who has been working for the last eighteen months—is this put on or is it reality—so I sat on the bank of the creek to see whether he did return afterwards, and remained, I suppose, about a quarter of an hour just to test him, and I could hear his steps going further and further up in the direction of the ranges, and I left confident that his whole heart and soul were in the work. I went back and found Detective Ward there, and I had a cup of tea myself. As I said before, this was on the previous Saturday, the very time that Joe Byrne and Dan Kelly were at Aaron Sherritt’s house. I do not think it is known whether the four outlaws were at the murder of Sherritt. The police reported it so, but it is generally believed that Joe Byrne and Dan Kelly were the only two, because Ned Kelly and Steve Hart were at Glenrowan at three o’clock that morning. They might, of course, after they had left Aaron Sherritt’s house be at Glenrowan, galloping all the way, if they left, say at ten or eleven o’clock; the distance is, I should think, about 25 miles between Glenrowan and Aaron Sherritt’s house. I complained to Ward about the behaviour of Duross and the other constable, and he told me that immediately after I had left with the men that took me down, Armstrong appeared, and he told him to tell the truth at once, and what he was doing. Well, I took no further notice of the matter; I gave them a good blowing up, and I thought that was sufficient. When men are on that sort of duty you cannot be as severe as in the office in town here, because you have not men to replace them, you must make news of the material you have.

1488. Armstrong was not with them in the first place with Sherritt?—No, Sherritt was watching alone. As regards of shooting of this men, I have heard the evidence of Captain Standish, but I think there was a great blame attachable to those four men, and I do not think there ever was an enquiry into the matter beyond the coroner’s inquest. I was wounded the next day. I am only speaking of what I have heard and seen since. Another thing those men did. The information never reached Beechworth at twelve o’clock on the Sunday at twelve o’clock on the Sunday, whereas they were stuck up at between nine and eleven p.m. I think the men should have done more than they did. I do not think they ever fired a shot.

1489. That is certain?—Is it. They got into the bedroom, a part of the building that is divided by a bit of canvas, and they remained there without doing anything.

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1490. Do you know if it is true that they secreted themselves under the bed?—I do not know at all what they did; I know merely from the report they gave they were in the chamber that was used as a bedroom.

1491. Did you ever hear such a thing?—I am not certain that I did; in all probability the bed was a most rustic one, and it was probably what they would do.

1492. Is it true they were not with sufficient arms?—No.

1493. What arms had they?—Double-barrelled guns each of them, and revolvers; we allowed the men to select their own arms. They were well provided with arms in my opinion, and I fancied at one time that they could have knocked out the bark at the back of the house, but I found out afterwards, as I have stated above, that the house was weatherboard, not bark. The door was running right through like that—[*indicating the same*]*—here is the fireplace, here is the bedroom.*

1494. There would have been no difficulty in forcing their way out of the hut under those circumstances?—I should think not, under the desperate circumstances.

1495. Do you know whether the police fired at all?—I am not aware that they did; I do not think that they did.

1496. Is your own opinion of what you have read, or your memory, that Byrne did know the police were there or not?—I believe they did not know the police were there from the questions they put to Mrs. Sherritt; when they heard the noise of the guns or rattle inside they said, “Is that Jack or Willie?” If it had been them, I suppose they would have shot them also.

1497. They would not approach the hut if they knew the police were there?—No, I am sure they would not. And those four outlaws would no more have thought of approaching the hut than flying. On the 24th June I received a communication from Captain Standish that Mr. O’Connor and the black trackers were to be sent back to Queensland.

1498. Before you go from that, in your previous paragraph where you say they were particularly active, and you were “privately informed that the outlaws were about to commence some outrages which would not only astonish Australia, but the whole world”—you have not given any information as to what the nature of that information was?—The very words I have said, “The outlaws are going to do something that will not only astonish Australia, but the whole world.” The information came from Mrs. Byrne.

1499. You have no particulars of the nature of their intended outrage?—Nothing whatever, not the smallest conception of what it was to be. The next morning Mr. O’Connor started away from Benalla with his “boys.” I had but one Queensland black of our own at Benalla, that is Moses. Mr. O’Connor had sworn him into his detachment when he was here, and on leaving he gave him back to the Victorian Government, and there was another at Mansfield of the name of Spider. I telegraphed for the one at Mansfield to be sent down to Benalla at once, so that I might have two trackers in case anything happened before Mr. Chomley, who had gone to Queensland for a fresh supply of trackers for our force, returned, as I did not expect him back for the eight or ten days.

1500. You telegraphed, so that you might have the two trackers at Benalla?—Yes, at my headquarters, in case anything occurred between the departure of Mr. O’Connor and the arrival of Mr.

Chomley. On Sunday the 27th of June I was at the telegraph office at Benalla. At ten o'clock a.m. I received telegrams from all the stations in the district that everything was quiet. I made an appointment with the telegraph master to be at the office again at nine o'clock that night. About half past two that day I received the memo. from the railway telegraph office to go to the general telegraph office, as there was important information for me there, and a memo. had been sent to the same effect to the telegraph master. I lost no time in going there, and received a message from Beechworth, that Aaron Sherritt, in whose house I had the watch party, had been shot the previous evening at six o'clock. I immediately sent for Mr. Sadleir, and we consulted together as to the best course to adopt. First of all we decided to give Captain Standish all the information in our possession, and ask him to request Mr. O'Connor to return without loss of time to Benalla with his "boys," as we considered they might have a good chance of tracking the outlaws from Sherritt's house.

1501. What time was that?—That was about half-past two o'clock on Sunday; that was the first notice I got and we decided at once that was the first thing we would do. Mr. Sadleir suggested that Mr. O'Connor should be sent for, and I agreed to it at once; he made the suggestion. About six or eight o'clock that evening I received a telegram from Captain Standish, informing me that he had written out to Mr. O'Connor asking him if he would return to the district with his men, and saying that if he agreed to it he would send him up by the first train on Monday morning. I replied,—“If Mr. O'Connor does not come up to-night, it is no use his coming at all; and I will take my two blacks with my party, and start off to-night.” In answer to that I got a telegram from Captain Standish saying that Mr. O'Connor had agreed to return, and that he would leave town about ten o'clock. I then telegraphed back that I had made arrangements for an engine to be got ready for me at Benalla, and asking whether I might take that as a pilot engine. This Mr. Sadleir also says he suggested to me, but I do not recollect whether he did or not. If he says he has a recollection of it—he claims to have recommended that I should send for the black trackers, get the pilot, and that he also offered to go with the party to Beechworth—if he did, I do not contradict it. Captain Standish's reply was—“A good idea, there is no knowing what desperate deed the outlaws may now be guilty of—have a pilot.” Those were his words. The whole afternoon, Mr. Sadleir and I were engaged in the telegraph office warning all the stations to be on the alert. At places where they were no telegraph offices we sent private messengers to convey the information of the outrage at Beechworth, and to be on the alert also. I went myself to the railway station, which was about a mile or a mile and a quarter from the telegraph office, where we had been engaged the whole afternoon, and made arrangement with the station-master there about the engines, and how they were to be relieved at Wangaratta and the different places. I think there is a different style of engine used between Wangaratta and Beechworth to that between Benalla and Wangaratta. The station-master rendered me every assistance in his power, and complied with every request that I made. I arranged to have the trucks all ready for our horses, so that we would go up by the train that brought Mr. O'Connor and his men to Beechworth. I then returned to the telegraph office, where Mr. Sadleir had remained during my absence, and made arrangements for horses, provisions, and everything we would require, to go to Beechworth, as that was the nearest point that the railway went to Aaron

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Sherritt's house. My idea was that we would get to Beechworth about daybreak in the morning, get on our horses at once, and go down to the Woolshed where Aaron Sherritt's house was situated, and endeavour to pick up what information we could there. I selected Senior-constable Kelly, and Constables Arthur, Barry, Gascoigne, Canny, Kirkham, and Phillips to accompany me, leaving a party behind us, already equipped, with two black trackers, for Mr. Sadleir, at Benalla, in case anything occurred whilst we were up at Beechworth. Having completed all my arrangements, I went and lay down to get two or three hours' sleep before I started. At one o'clock in the morning, I was at the railway station, had the horses put in the trucks, and waited the arrival of the special, which, I think, arrived at half-past one or two o'clock. Before the truck arrived, Mr. Rawlings, a gentleman whom I had only once seen in my life before, asked me to allow him to travel in the train, as he had a free pass on the railways, and he would not be defrauding the Government. I told him I had no objections to his doing so. The train arrived shortly after this, with Mr. O'Connor, at Benalla, with his five "boys," and I think there were four gentlemen of the press, and Mr. Rawlings and two ladies in the train also. One of the engineers at Benalla came to me before we started and told me that they wished me to put a man on the pilot engine, one of my men, to keep a look-out to see if there was anything wrong with the line. I selected Constable Barry. I did not put him, as is generally supposed, on the buffers in the front of the engine, but I put him alongside of the boiler, standing up, so that he could see at least ten or fifteen yards in advance of the engine-driver and stoker, and I fastened straps so that he could hold on with them; I did not fasten his body. After this, there was some alteration as to the engine that was to act as pilot, and the next engineer declined to let the man go upon it. He said it was very dangerous position to put a man in, and in case of anything occurring the man would be killed, and I withdrew him. The engine that brought up Mr. O'Connor's train went as pilot, as they had broken their brake, and they attached a brake-van on to the engine. With reference to this pilot, I may state to you a bit of information that occurred not this time, but I have it in my recollection of the previous time of my being up there, and it will come in as the reason I took the pilot. About the time that the sympathizers were being remanded from week to week, we received a letter from some of the agents stating, with other information, that the outlaws intended to blow up the train with dynamite about a certain period. Just at this period alluded to, something went wrong with the telegraph

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wires; at a certain hour every night in Benalla the wires refused to act, they could not work them—there was no communication between Benalla and Beechworth, or, I should say, there was a stoppage between Tarrawingee and Beechworth. The Government were informed of it, and Mr. Woods, who was the Commissioner of Railways at that time, took steps to protect the line in certain dangerous places, and he had men watching them for some time—I think for three months they watched the horse-shoe bend coming down a very steep incline from Beechworth. They sent up best telegraph men, who were enquiring into the stoppage and could not find the reason of it. Generally, it was supposed every night, a piece of wire was thrown over the main wire, and a ground connection made, and they could not work the wire. Men were sent every day to examine the line and nothing could be discovered, and they sent up some of the leading telegraph men in Melbourne to try and discover what was the cause of the stoppage, but to this day it has never been explained. On Friday evening, during this week I have alluded to, we were all going up to Beechworth, the police constables, the witnesses, and the reporters from Melbourne—a number reporters were going up to Beechworth of that Friday evening, during the week the stoppage was going on, and when we heard about the dynamite. Just as we were leaving Benalla, a message was sent to me that the wires had stopped working, and that there was no communication with Beechworth—that the same stoppage that had occurred all the week occurred on that night just as we were leaving Benalla. We had the train crowded, and we consulted together what was best to be done; we were in a great fix, and we decided we would go, at all events as far as Wangaratta, to see if the line was open between Benalla and Wangaratta, or between Wangaratta and Beechworth. There was no intermediate station between Beechworth and Wangaratta, and when I got to Wangaratta, the man said, “We cannot communicate with Beechworth, but we can with Benalla.” Then Mr. Sadleir and I consulted again as to what was to be done, and we said we would go as far as Tarrawingee; we had an operator from town with us in the carriage. We got to Tarrawingee; there was no telegraph master there, and there was no communication from the wires to the station. We were very much perplexed to know what to do, to give the alarm to the passengers—it might be a false alarm—and I went up to the station-master and I said, “Will you stop the train for me for a short time?” He said, “No, I have no power to do it.” I said, “I am superintendent of police; you must, I tell you to do it.” He said, “I cannot.” I then rushed forward to the train to the engine-driver, and I said to him, “I am superintendent of police, and I want you to stop the train till I tell you to go on—there is something wrong with the line, I fear.” Everybody by this time had begun to call out in the train, especially the reporters, “What are you keeping us here for all night?” It worried me considerably, and then I consulted with the telegraph officer, who came with us from town, and he said to me, “If I can get to the wire up above there, I can tell whether the current is going through, by putting the wires between my teeth;” and we hoisted him up the best we could, at a point away from the station. This all took time, and all the people were yelling at us in every direction. When he got the wire between his teeth, he said the current was through between Tarrawingee and Beechworth. We decided to go on and to chance it; and we did chance it, and fortunately it came out all right, and the line was never stopped after that night. We subsequently got some information that the outlaws did not know how to work the dynamite; whether it was true or not I do not know; I merely give the information we received. That was the reason we decided to take precautions on this occasion, knowing they might tamper with the line. This has not been known till this moment, because we did not want to alarm the passengers on the line, they were alarmed enough. My party already mentioned joined the train at Benalla, and just as I was starting I asked the station-master to give me the key of the carriage, fearing something might occur on the line, and he did so. The pilot engine started, I think, about five minutes before our train. We went along pretty rapid—the ordinary pace, and when within about two miles of Glenrowan station, I was sitting in the carriage with the two ladies and Mr. O’Connor, and I heard the engine whistle. I thought it was a strange thing the engine should whistle here. I put my head out of the carriage and saw the three red lights at the tail of the pilot engine. I at once took my double-barrelled gun down from the rack, put a couple of cartridges in it, put my bag of cartridges round my neck, opened the door, and jumped out of the train.

I walked towards the pilot, and when I got within half-way between the pilot and out engine I met a man carrying a lamp—the guard of the pilot engine. He told me he had been stopped by a man holding up a red handkerchief with a match at the back of it. He said he was the schoolmaster at Glenrowan, and that the Kellys had taken up the line. He did not make me quite understand which side of Glenrowan was taken up. The schoolmaster had said to him that the outlaws had taken possession of the town, and that “they were going to catch the inspector”—these were the words he used that the guard told me. I took three men with me from the party I had. I do not remember who they were, but I left Senior-constable Kelly behind. I spread them out above the bank, one on each side, and I walked on the other side of the line. I told them to keep a look-out—that anything might happen at any moment. I walked towards the pilot, and I spoke to a man there, and he told me the same story—that was one of the drivers. I said to him, after consideration, “I think the best plan will be for you to go quietly along to Glenrowan, and we will follow close up to you in the train.” I have stated here in my printed report that it was the engine-driver, but he called upon me subsequently and told me it was the stoker or fireman that spoke to me—that the fireman knew me and he did not. I wish to make the correction at his own request. He said he had been branded as a coward. The man I was speaking to hesitated

a little, and I said, "All right, I will jump on the engine with my three men, and we will go along quietly." Then from something he said (I do not remember what it was) we decided to shunt back to the train and hitch the pilot onto it. When I got back to the train, I spoke to everybody there—the reporters, Senior-constable Kelly, and everybody. I said, "Kelly, you get with the other three men on to the other engine and I will get on this one. Put the men amongst the coals of the tender, and you yourself stand as I do, at the door of the engine." I mentioned then, and I never remember it till it was related here by Mr. O'Connor, about the horses, whether we could get them out anywhere there, and it was decided we could not; so we went up to the platform in the manner I have described. When we got to the platform the engine-driver thought he saw some one about on the platform, so I waited for about half a minute before I gave orders to the men to jump off the engines. Just at this moment, I think, Mr. Rawlings came up to me; I said, "Look, there is a light down there at the station-master's house." (I do not exactly know the distance of all these places, because, I may tell you, I have never been at the place since, and had never looked at the ground before, though I had often passed the place, so I give the evidence just as the impression was left upon me at the time.) I said, "There is a light there, and we will go and see if he can give any information about what is going on here." Mr. Rawlings walked down there with me. When we got there we did not go to the door, but to the window where we saw the light. I tapped at the window, and I could see a woman inside with some children. I said, "Where is your husband?" She would not answer, but went on weeping and crying "Oh! Oh!" I said, "My good woman, do be calm for a minute; tell me where is your husband;" and she said, "They have taken him away." I said, "Who has taken him away?" and then there was a pause again for about eight or ten seconds. She then replied, "They have taken him away." I then asked, "Who do you mean by 'they'?" and she said, "The Kellys." I said, "In what direction they have taken him?" and she led me to infer that they had taken him to the mountains. I am certain she did not say a word about Jones's hotel.

1502. You say in the mountains, meaning the Warby Ranges?—Yes.

1503. Where are the Warby Ranges from that position?—The house of Mrs. Jones is between the station-master's house and the Warby Ranges, and in pointing in that direction it would be in the direction of Jones's hotel; but I feel confident she said, "Taken him to the bush." She certainly did not say Jones's hotel, as far as my recollection serves me. As I was walking to the station-master's house, Mr. Rawlings then offered me his services, and on my return he said to me, "I am not armed; can any of your men lend me a rifle?" I said, "I do not think so, but I will give you my revolver, and I will stick to the double-barrelled gun." He asked me to give him the gun, but I said, "No, I will stick to the gun myself." He took the revolver, and I began to explain how it is worked, and he said, "If it is a Webley revolver, I know how it is worked." We returned to the railway station, and I said, "I am going to order the horses out at once." I wish particular notice to be taken of this, because numbers, some have given different versions of this. I am giving the version impressed on my mind that the horses were never taken out till I returned there, because I had no information to take them out till then. Before I took them out I had the information that the Kellys had been there five minutes previously. I was standing on the platform in amongst all the reporters, police and every one; and as we were all together, and a number of the horses had been taken out (say five or six of them—they were not in horse-boxes, but trucks), Constable Bracken at this time appeared. Where he came from, or how he came upon the platform, I do not know, but he said, "Mr. Hare, go quickly to Jones hotel, the outlaws are there, and I have just escaped from them; they have a number of people in the hotel." I called up the men; I said, "Come on, men, here we have got them at last; we have got them in Jones's hotel." There was some delay; the delay seemed to me a long one, but I suppose it could not have been for more than four or five seconds before I again called out, "Oh, come along, we have got them in the house, and if we do not be quick they will escape from us." Some one called out, "What are we to do with the horses, sir?" I said, "Let go the horses, and come along as quickly as you can." With that every horse dashed out of the carriage—the remainder of the horses that had not been taken out—there was a few had been taken out. They scampered away as hard as they could in between the fences. I knew they could not escape. I then, when I saw four or five, a group of men (I cannot tell the number) standing near me, I started off towards Jones's hotel, followed by the group of men that were there. I remember going through a little iron gate that checked me for the time, and I made straight for the left-hand side of Jones's house. I had to turn up, I remember, to the right.

1504. How many men had you with you?—I could not possibly say. There was a group around me, there may have been four or five, there was one Queensland man among them. I ran towards the extreme left of Jones's hotel, and whilst running up I saw a flash, and by that flash a man. He was just at the edge of the verandah, out of it.

1505. The flash of a gun?—Yes, and the report also followed, I should say, and my hand dropped beside me. I had no more pain then than if I had hit my hand like that—[*illustrated his meaning*]. My hand dropped just like that immediately the shot was fired on the left by a man, Ned Kelly, I heard afterwards; three flashes came simultaneously, first the one which hit me, and then three almost within half a second of the first. The second my hand dropped beside me. I fired with my gun in this position—[*the witness illustrated his meaning*]—with my right hand. As I told you before, I had been

born at the Cape of Good Hope. I remember distinctly firing those two shots, and, immediately after I fired, I put the gun between my legs. It is a breach-loader, with the action between the hammers, and in touching this action the barrels drop forward, and then I took the two cartridges, pulled out the old ones, and put the new ones in. I have the most distinct and positive recollection of that. The firing on my right was taken up by my men, or the men that followed me up, and it was continued for, I should think, five minutes. During this time, at intervals, I fired my gun off at the outlaws. I never moved from that one spot. I kept firing at intervals. The effect that the shot had on me was just as if I had looked at the sun. Immediately I was struck my eyesight was affected, my eyes became dim. I kept firing from time to time. The two shots, I recollect most distinctly, were the two I fired immediately my hand dropped beside me, and I know I fired several after, how many I would not like to swear. I think six.

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1506. Where did the bullet enter?—[*The witness showed his wrist.*]—I was hit when running up, and carrying my gun in this position ready to fire, with the hammer on full cock, and my finger in this way. I generally carry my arm further advanced than most people do, and the bullet entered there—[*describing the same by gesture*]. In the middle of the second or third round—perhaps three or four—I heard, when we replied to the shots from the verandah, the shrieks of women and children inside—of persons inside. I cannot say women and children, perhaps the better word will be persons inside. As long as the firing continued on the verandah, I continued firing at those who were firing at us. I had but one thought, to keep firing as long as those men kept firing at us. In the middle of the firing a man called out, “Fire away, you ——; you can do us no harm.” That man was standing about, I should fancy, five or six yards from the other three. It was the man that fired at me, for, after firing at me, he retreated backwards into the verandah. One of the police (I afterwards found that his name was Gascoigne, who was in my party), called out, “That is Ned Kelly’s voice.” Suddenly the firing ceased, and I imagined that I saw the people going into the house. I am not quite certain of that; I imagine that; that is a fact not impressed on my mind.

1507. That is the firing into the verandah?—Yes. The firing ceased, and I imagined the persons had gone inside the house. I called out to Senior-constable Kelly, “Kelly, surround the house, and for God’s sake take care those fellows do not escape.” I told my men previously that I had been shot in the wrist, and I said, “Kelly, be careful that those fellows do not escape; I am going to have my arm tied up.” I left the ground then where I had stood. I declare positively I never moved from the spot until the firing had ceased. I returned to the railway station, and on my way there I saw Mr. O’Connor coming up, running from the direction of the station towards Jones’s hotel. He was in a crouching position with his head down, in that way—[*describing the same*]—and as I passed him I called out, “O’Connor, the beggars have shot me in the arm.” I do not remember that he made any reply to me. I got on to the platform, and I found the reporters there collected together. I said, “Will some of you gentlemen bind up my hand? I have been shot in the wrist.” I was bleeding most profusely. I felt it from the very first, from the moment I received the shot, that the blood was spurting from me as if out of a spout. One gentleman, I think it was Mr. Carrington—I had never seen any one of them before in my life—got a handkerchief and bound up my arm, assisted by some other gentleman. I felt no faintness whatever then; I felt as well as I do at the present moment; and I remember distinctly being as collected as I am at this present moment when I went on to that platform. I knew Mr. Melvin of the *Argus*; he came up and patted me on the back, like that—[*illustrating the same*]—whilst my arm was being bandaged, and he said, “Well done, Hare, you have managed this affair as you have everything else you have undertaken.” I had once before seen him, and that was on the occasion of the Lancefield robbery. The other three gentlemen of the press I had never seen before in my life. I state this in the consequence of a remark that was made when the next morning the papers came out in my favor. I never saw one of the reporters after I left the platform, to my recollection. I may have seen them when I was in bed, but I do not recollect ever seeing them. After my hand was bandaged, I started off with the intention of going round the sentries, and as I was passing a certain spot in front of the hotel, somewhere near where I had seen Mr. O’Connor running up, Senior-constable Kelly called out of me, “Mr. Hare, we are short of ammunition; please have some served out to us.” Mr. Rawlings, overhearing this, said to me, “I will take it round to them, if you like.” I said, “Yes, do if you please, you will find it in the guard’s van.”

1508. Was that on your return?—Yes. I then proceeded to do as I intended to have done, that was to post the men, commencing from where I had left the ground before, and when I had got into the open space of ground I left as if I was getting very weak, and I began to stagger. I might tell you here there is something wrong with my heart, the doctors told me at home, and I felt my heart throbbing tremendously. I determined then to go and sit quiet for a little while and keep my heart quiet, because I had been rushing about a good deal, backwards and forwards. I went up to a fence, I do not know where the fence is, but I know it has a top rail and several wires; that was to the near of the railway station. I tried to get through this wire fence. I had my gun in my right hand, and I got half my body through, and then I found my hand hanging listlessly beside me, and when I lifted it up it dropped down and I could not get it through the wire fence. I drew back again, and I sat down then for I think about ten minutes behind a tree, and I had full command of the house at this time.

1509. In view?—Yes, in view under my rifle, so that if anything turned up I could have fired. I am giving this from my recollection, I have not been there since. Whilst I was lying there my hand was hanging listlessly beside me. I saw a stream of blood running down. It struck me that this could not last very long, that the blood was flowing so freely, and I thought I had better return to the platform. I had a great difficulty in getting to the platform, and just as I got under the verandah of the station I called out to somebody, some of the people on the station, “Catch me, please,” and with that I dropped down on the top of a lot of bags or sacks; I remember dropping on something. I remained there; I do not know how long. Whether I fainted or

not I do not know, but at all events the next thing I remember I was sitting in a railway carriage with the ladies that were there.

1510. They had never left the carriage?—They have never left the carriage. I received some refreshments from those ladies, and I understood I was going to Benalla with them. The refreshments I received put new life into me as it were, and I jumped out of the carriage and I went to the guard of the train, the engine was in front of the carriages, and I said, “How long will it take you to run me down

F. A. Hare,  
*continued*,  
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to Benalla and back again?” I forgot the answer, I think it was twenty minutes or half an hour, or something of that kind. I said, “All right, take me down as quickly as you can.” I had great difficulty in getting into Benalla. I turned deadly cold and the engine-driver and stoker opened the furnace. The blood was still running all over the engine, right down from my arm all this time.

1511. Were you on the engine?—Yes, on the engine, in front of the furnace. I should say previous to my going I had started the engine to Benalla, but I cannot tell when—it is out of my recollection altogether—and told the guard to go and give all the news to Mr. Sadleir, and to request him to bring all the men he had at Benalla with him to Glenrowan, but I cannot say when this was; it is a blank in my mind when I did this, whether it was when I was returning on the second occasion, or whether it was upon the first occasion. I got to Benalla, and I gave instructions to the telegraph master to telegraph to Beechworth, and also to Violet Town and Wangaratta, to have all the available men to send down to Glenrowan without loss of time. I then called, I think, Mr. Lewis, the inspector of schools. He was on the Benalla platform. I said to him, “I feel very weak; I have been shot by the Kellys; would you kindly give me your arm to go to Dr. Nicholson, and from thence to the telegraph office?” He assisted me. I called at Dr. Nicholson’s house. I woke him up. This was, I should fancy, between three and four in the morning. I told him I had been shot through the arm by the Kellys; that I was anxious to go to the telegraph office, and begged him to follow me there, and come and dress my arm. When I got to the telegraph office I was terribly excited, and it was some two or three minutes before I could collect my senses. I dictated a telegram to the telegraph master to Captain Standish, telling what had occurred. Immediately after this they begged of me—I was sitting on a high stool, without any back—Mr. Saxe, the telegraph master, begged of me to lie down on the ground on the mattress, where they intended to have slept, alongside the instrument. I took his advice, and stretched myself out on the mattress. Just as I lay down Mr. Sadleir came into the office. I said to him. “Sadleir, I am shot in the arm, but I do not think it is anything of any consequence. I will return with you to the ground, to Glenrowan.” He said, “Do not be such a fool; you are a regular glutton; you have got one shot through you, and you want to get some more, I suppose.” Immediately after this Dr. Nicholson came in. I do not think he had seen me when Mr. Sadleir came into the office. He cut the handkerchief that was over my wrist, and he said that a mistake had been made in tying it up; that I was not bleeding from veins, but that I was bleeding from arteries; that the artery had been shot through; that the blood from my heart could not get into my veins, and that every drop of blood was running from me. He got the back of a book, and made an impromptu splint. He fastened it under my hand, and then I lost consciousness, and fainted away. How long I fainted I do not know. I have never seen Mr. Saxe since, except he came to see me that afternoon, and when I came to myself I was perfectly prostrate. I found that they were throwing brandy down between my teeth down my throat, and I got Mr. Saxe and one of his assistants to assist me over to my hotel where I was staying, as I could not walk myself. When I came to myself Mr. Lewis had left me, and on my way to the hotel I met him returning, and he advised me on no account to go back to Glenrowan. He assisted me to the hotel, and got me upstairs, and put me to bed, where I remained for the remainder of the day, suffering excruciating agony. I have given the whole narrative of this as far as I can remember, and I wish to make few remarks upon it. Mr. O’Connor has stated in his evidence, first of all, that I never fired before or after I was struck.

*Mr. O’Connor.*—I said you never loaded again; I did not say you did not fire again; I admit that you fired.

*The Witness.*—The impression on me was that he said I had not fired a shot. Mr. O’Connor states in his evidence that he called out to the men to cease firing as there were men and women inside the house. I do not deny that Mr. O’Connor did so for a moment—I am sure if he says it, he is convinced he did do it; but I say I called out before he did, that his narrative commences at the time I saw him running up the drain. Not for a moment do I wish to say that Mr. O’Connor was not amongst the men that ran up with me. I do not say he was not; all I say is I did not see him, and that the other persons whom I have spoken to, who were with me on that occasion, that I knew were present, stated distinctly that they did not see Mr. O’Connor. I say most positively that I called out to cease firing, where I have stated in my evidence to-day. Here is a paragraph in the *Age*, dated Tuesday, 29th June 1880;—“Mr. Hare could be plainly seen by the light of the moon. He walked boldly towards the hotel, and when within 25 yards on the verandah the tall figure of a man came round the corner and fired. The shot took effect on Mr. Hare’s wrist, but Kelly found in him a foeman who would not shrink from him. Senior-constable Kelly and Rawlings were close to, and the former promptly returned the fire, which was taken up by Hare, although wounded, and Mr. Rawlings followed his example.”

1512. *Mr. O’Connor.*—Who wrote that?

*The Witness.*—The reporter’s name was McWhirter, a gentleman I have never seen before, and not till

six months after the occurrence. I will read another paragraph:—"When about 60 shots had been sent into the walls of the building the clear voice of Hare was distinguished above the screams of the terrified women and children, who were in the hotel, giving the order to stop firing. This was now repeated by Senior-constable Kelly, to the men who under cover were surrounding the house at the back, but the Kellys fired three or four more shots, after which one of them gave vent to coarse and brutal language, calling to the police," so and so. There is another paragraph I wish to read:—"Seeing the wound, the ladies implored Mr. Hare not to return to the fight, but he did so; his re-appearance in the trenches was the signal for renewed firing, and the valley soon became filled with smoke. Mr. Hare then became faint from loss of blood, and was compelled to leave the field." I say that these paragraphs, from a gentleman I have never seen in my life before, or not till six months after, when he stopped me in the street one day, and gave me the narrative of the proceedings, are significant. I said to him:—"I don't know whether I have done Mr. O'Connor an injustice by omitting his name; can you assist me in the matter; did you see him go up to the front with me?" His reply was, "I did not see him; I saw him lying in the drain, and I was near him at the time you were firing at the men." I think I have stated most positively that I did not leave the ground till I saw the outlaws in the house, and Senior-constable Kelly setting to work to surround the house.

1513. Till you saw the outlaws retreat into the house?—Till I saw the outlaws retreat into the house; then I called out "Cease firing." I have told my intention was to have gone round the house to see the sentries after my arm was bandaged up. I remember going towards a tree on the left-hand side of the house, and seeing two men behind the tree, and that is as far as I went. I did not speak to

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anybody, for in my report—which was written while I was very ill—I see I stated here "I visited." By that I mean I saw two or three of the men behind trees.

1514. Did you speak to them?—I did not. I do not think I spoke to anybody when I went back the second time, until I returned to the station, or on the way to the station. I heard it stated afterwards that some one on the platform saw me approaching, and said, "There comes Hare, as drunk as possible." I was staggering up to the station. I heard that stated—I do not know who it was that said it—I was supposed to have been at the hotel drinking.

1515. Had you had nothing at this time?—I had not. I had not drunk a drop of liquor or any sort or kind that night. There is one remark I wish to make, with reference to an incident that I gave you this morning, about the man Aaron Sherritt. When the police were watching Mrs. Byrne's house, I received information that they had in training a grey mare, in Mrs. Byrne's stable, under lock and key. This is an unusual thing in a small place of that sort, to keep a horse fed on oats and hay, and every afternoon exercised by one of the Byrnes. I have stated that, because about three days after I had visited Aaron Sherritt, in the interview I mentioned when I went out to the house that Saturday, I heard that at two o'clock in the morning, the horse that had been kept in training, and was supposed to be kept for Joe Byrne, in case a raid was committed, had been removed, at two o'clock one morning, out of the stable, whilst my men were watching.

1516. From whom?—I cannot tell you; it was officially reported to me. I got a copy of the letter yesterday, and I have it here, and my memo. goes thus. Before reading that, I will read the report to which mine was a reply, namely, the following:—

(Copy.)

*Report from Constable Armstrong re Paddy Byrne.*

North-Eastern District,  
Beechworth Police Station, June 23rd, 1880.

I beg to report that at 11.15 p.m., on the 21st inst., Paddy Byrne left his house, riding his grey mare, and keeping off the road, high up the range, going in the direction of Madden's Gap, which is situated in the Beechworth side of Mrs. Byrne's house.

The other constables and I, who were watching the house, did not consider it advisable to follow him, as he was riding at a half-trotting pace, and the night was so light we could be seen for several hundred yards off; besides, being confident that it was Paddy, we thought it better to let him pass on than run the risk of being found out. We remained watching the house until 3.30 a.m., at which time he had not returned home. I may further add that the dog kept barking for the greater part of the night, so we were obliged to take our position almost at the foot of the range, far away from the house.

On my return to camp, I came into Beechworth to report the matter, prior to which I requested Moses to keep a sharp look-out, and obtain all the information he could in the meantime.

(Sgd.)

HENRY ARMSTRONG  
Const. 2475.

F. Hare, Esq., Benalla.

Beechworth, 23rd June 1880.

I beg to report, for the information of the Superintendent, with reference to Constable Armstrong's report, according to instructions, I proceeded to the Woolshed on yesterday afternoon. Moses (that is Aaron Sherritt) was absent on my arrival there. He returned at about 5.30 p.m.; he said he was watching to see if Paddy Byrne returned, but he could not see either Paddy or the horse; he also said he could find no tracks where they saw him riding. In my opinion Paddy must return between the hours of 3.30 a.m. and 12 o'clock noon, when Moses left to search for tracks. From the direction in which Paddy was seen riding, and from previous reports from Mrs. Sherritt, as to horsemen being heard passing by her place at night or early in the morning, Paddy must be spying about Sherritt's house, for what purpose I cannot say. I will go down to Mrs. Sherritt's to-day, and ascertain if they heard any noise during the night of Monday, or the morning of Tuesday.

(Sgd.)

M. E. WARD,

F. A. Hare,  
*continued.*  
5th April 1881.

My memo. was as follows:—

Police Department Benalla, Superintendent's Office, June 1880.

MEMO. :

Nothing is said in this report whether "Tommy" was on watch with the men. If he was I can't understand why he could not have followed Paddy to see the direction he had taken, or the gap in the mountain he had passed through.

I am aware our men might have been seen if they had attempted to do this, but I am sure "Tommy" could have done so without the slightest fear of being detected. In future, should anything of this kind occur, I would suggest that the following plan be adopted. That when any one takes the horse out of the stable at an unusual hour, he should be followed a short distance to see the direction he is going, and, when he has turned up any of the gaps, that the spot be marked and the man return to the watch party. At daylight "Tommy" (that is, Aaron Sherritt) should be made follow the tracks for a certain distance, to see the direction the horse is heading for, and by that means he will be able to tell whether it would be advisable to get the trackers to follow them; the man in charge of the watch party should accompany "Tommy," and not throw the whole responsibility on him, and whilst "Tommy" is tracking he could look out and see if any person is moving about. One of the watch party should be sent on the hill to keep a look-out to see if the horseman returns, so that the direction he came from would be known.

In a matter of this kind it would be impossible to give definite instructions, for circumstances alter cases, therefore I must leave a great deal to the discretion of the man in charge. What I wish him particularly to remember is not to leave the responsibility of the affair to "Tommy;" he is an irresponsible man, and should be, in a matter of this kind, assisted by the senior man of the party. Shortly I hope to have two trackers stationed at Beechworth, so that there may be no delay in following the tracks.

What I particularly wish to impress on Detective Ward and Senior-constable Mullane is not to take a body of men near Mrs. B——'s should there be any tracking to be done; and that is my reason of wishing "Tommy" to run the tracks some distance, say a mile or so, and then, if nothing comes of it, the fact of the men watching would not be discovered.

On the 21st the whole responsibility was thrown upon "Tommy." He was left to do the whole thing, and Constable Armstrong goes to Beechworth, instead of sending any one of his men and he remain to take the management of affairs.

I trust that on the next occasion, when anything of the kind occurs, a little better management will be shown.

(Sgd.) FRANCIS HARE,  
Superintendent.

Those are the instructions I issued, and that may be taken as showing the tenor of the instructions I usually issued. In my evidence this morning I said, on my return to Benalla on the 2nd of June, I saw all the agents. I wrote to a man known as "Diseased Stock," and requested him to come to Benalla to see me. He came in about four or five days after I wrote the letter, and I had an interview with him in the office, in the presence of Mr. Sadleir. I had known him previous to my removal from the district, and I said, "Well, so-and-so, how have you been getting on?" He said, "All right." I said, "Have you

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got any news?" He said, "There is no doubt that they are going to make a raid very shortly on some bank." I said, "How do you know?" He said, "I know it for various reasons." Mr. Sadleir said then, "But have you not been telling us this for the last six or seven months?" He said, "Yes, I have, I thought they would have stuck up a bank long ago." I said, "I hear they are going to appear in armour?" He said, "Yes, no doubt of it." I said, "How is it to be used?" His reply was, "They will wear it when they are robbing the bank." I said, "Is it bullet proof?" He said, "Yes, at ten yards." I said, "I do not believe that any armour ever made that man could carry would stand a Martini-Henry bullet at ten yards;" and he said, "Well, this is proof." I asked if he had any reason to believe the direction, or position, or what bank they intended sticking up. He said, "No, he could not say anything on the subject." I had a lot of other conversation, which I do not remember.

1517. Was he a supposed supporter of the Kellys?—Not in any way.

1518. Not by them?—Not in any way. He was not a supporter; he was, I think, one of the most respectable and reliable men that had ever been engaged in that capacity during the Kelly search. He was a little too sanguine, and after he left the office I said to Mr. Sadleir, "Well, this looks rather black for me, that these men are going to commit some outrage at once." He said, "Oh, that man has been giving us this information for months;" besides he said, "He is the most sanguine and tantalizing man I ever saw."

1519. Had Mr. Sadleir faith in him?—Yes, all of us had; no one doubted he was doing his best. Mr. Sadleir said on one occasion, some months ago, he wrote to Mr. Nicolson a letter not giving much information—the old thing that they were about, and he could not get any definite information; and after writing the letter and signing his name, he added a postscript, that since he had written the letter most important information had been received, and to be ready to start at a moment's notice. He said, "We heard nothing of him for three or four weeks, and we were kept in the highest pitch of excitement, and then it turned out to be all a mistake, or the information not so good as he expected." I think I have stated I mentioned this man's name to Mr. Nicolson when he relieved me on the first occasion.

1520. Did you state he had been in your pay?—I do not remember whether I had paid him anything ever; at any rate he was not a paid agent on day wages.

1521. During Mr. Nicolson's time?—I do not know. I was at his house on three occasions, and have met him.

1522. Was he following any other occupation besides acting as agent?—Yes, he was following his

ordinary occupation in life. I state it for the reason to show that I did not put my faith in working by agents alone; but I formed parties, that is to say these watch parties, and also men at Benalla, Wangaratta, and Beechworth. I shifted one of Mr. Nicolson's agents from one place to another. I believe he intended doing it himself when I relieved him. It was suggested to me by Mr. Sadleir to do so, and it was a very good move, I think. I had no increase of constables in the district when I went there (that is the second time); but in forming those parties I merely shifted the men from less important stations, so that in the event of the Kellys being seen at Beechworth or in that district, the Beechworth men could at once proceed without taking up a special train with a large body of men, and its becoming known all over the country, because I might tell you those outlaws used to use the telegraph in their way as well as we did. I will give you an instance. When the sympathizers were arrested, amongst others there was a man, Tom Lloyd you have heard of over and over again. He asked the gaoler if he could send the telegram away, and one of the warders said yes, and he sent a telegram to the following effect to somebody at Greta:—"Turn the four bullocks out of the paddock." This was not reported to us for some weeks afterwards, and then it was reported to us. Undoubtedly it meant, turn the four outlaws out of the paddock in which they were in. Therefore, I say they were well able to tell their friends when special trains left with police along the line of railway.

1523. Had you your own, the Bourke men, with you on the second occasion?—No; I had just men that I found at Benalla. I had one man, Canny, and another of the name of Barry, who had been out with me on two trips. I wish to state the Commission that I cannot speak too highly of the assistance rendered to me by Mr. Sadleir, although he was opposed to my relieving Mr. Nicolson; and wrote and begged me not to come up. Still, when I did go up, he afforded me all the information in his power.

1524. Have you got that letter?—It is a private one. He said that it was a fatal mistake in my coming up.

1525. Did he assign any reason, that it would not be fair to Mr. Nicolson, or any reason?—Both, I think. The purport of the letter was that it was a fatal mistake of Captain Standish to relieve Mr. Nicolson, and send me up in his place; and he added that many mistakes had been made, and this was the greatest mistake of the lot in his opinion.

1526. Did he give you any reason for that?—No, he gave no reason beyond saying it was a mistake. He said—"We have gained some information during the past eleven months." I may state to the Board that on my relieving Mr. Nicolson I was thrown into a position, and the most difficult task imposed upon me, with a fair greater amount of responsibility than I can possibly explain to you. The whole affair rested on my shoulders.

1527. The whole of the responsibility of the Kelly capture?—Yes, the whole of the responsibility of the Kelly business; and one false move, I might commit the most fatal mistake, and it might end in everlasting disgrace to me. I think it right to say this, because of certain statements that I was afraid to go there, and different reasons given why I did not go, or objected to go there. My reasons were—I felt that there being other officers senior to me, it was unfair to impose such a responsibility on me when I had not the rank that entitled me to be put into such a position.

1528. What you mean by rank is that there were seniors in the service?—Yes.

1529. Two?—Four.

1530. Not subordinate in position?—No, I was their subordinate; that is to say, there is a certain way in which officers come up the list, which has not yet been explained to the Board. You see how the list stands there—[*handing in a paper*].

1531. Superintendents Winch, Chomley, and Chambers are senior to you?—Yes, and Mr. Nicolson, he was senior to me. I need hardly say, for my past career in the police force, that I did not object to going up on this particular duty from any fear, or disinclination for the duty itself—in fact, the duty was of

the kind which I much preferred to any other—but, as I pointed out to the then Chief Secretary Ramsay, I had on a previous occasion, namely, the capture of Power, been encouraged to undertake the duty, which would naturally have fallen on those senior to me; but he answered me that not only should I have *carte blanche* in regard to expenditure and the conduct of affairs generally, but in the event of the capture of the gang, I should receive some substantial recognition of my services, and I then expressed my readiness to proceed at once. Power was captured; and although I was organizer, at least in my opinion, of the party by whom he was captured, and placed by the Government in that position, I personally received no benefit from his capture; on the contrary, the benefit was received by the very officer whom I was now ordered to go up to relieve (Mr. Nicolson), and I was naturally anxious to protect myself against a recurrence of my former experience. I frequently told Captain Standish that I held a rank which entitled me to be selected on all important occasions to be sent on such duty; that I should be only too glad to carry out my orders, but that I felt it was unfair to pick me and never reward me in any way; besides which, I was not sent in the first distance, but when others failed, I was ordered up, as in the case of Power.

1532. Who was superintending officer in charge of that district when Power was captured, was it Mr. Barkly?—Mr. Wilson.

1533. He was captured in the Beechworth district?—I think it was. It was at the head of the King

River. The late Mr. Lyttleton was the inspecting superintendent at the time Power was captured; and, besides Mr. Littleton, there was Mr. Furnell, Mr. Disney, and Mr. Wilson. They were all in search of Power when I was ordered up to visit the district. I will now state to the Commission the facts, as it has been mentioned from time to time, about the capture of Power.

1534. Before that I want to ask a question as to a matter which made a considerable sensation at the time: Had you any information as to what arms the bushrangers were using, so that, if you met them, you knew you would be met by men armed in a particular way?—No, I had no idea.

1535. Did you know whether they had Webley revolvers?—I knew that they had taken Webley revolvers from Sergeant Kennedy's party. They had also a Spencer rifle.

1536. Was it the one taken from Scanlan?—They had double-barrelled guns taken from Lonigan, and they had the New South Wales police rifles.

1537. What rifles are those?—I think they were new rifles and breech-loaders.

1538. All those weapons required special ammunition not obtainable in townships such as Benalla and Beechworth?—Certainly.

1539. Is there any truth, within your knowledge, that they bought ammunition during the time they were out—at any particular place?—I heard of no ammunition being bought in the district; but on two occasions, perhaps more, ammunition was bought from Rosier, in Melbourne.

1540. Did you hear of any being bought of anybody but Rosier?—I did not.

1541. Did you hear who got that ammunition?—Yes; it was got by young Tom Lloyd, I think.

1542. Bought in Melbourne?—Yes, bought in Melbourne from Rosier. Information came up they were to return next day to get more.

1543. Who?—Tom Lloyd and Kate Kelly were the party who had gone into Rosier's shop to buy some ammunition.

1544. What ammunition?—I think for Spencer rifles and Webley's revolvers, and I think some ammunition that was wanted for the rifles taken from New South Wales.

1545. Do you believe that that ammunition was taken up there?—Undoubtedly it was. I have not the smallest doubt in the world it was taken to Benalla.

1546. *By Mr. O'Connor.*—What was your exact position when you received the wound referred to at the house?—As far as I can recollect, that was the house—the railway station is here—*[Mr. O'Connor handed a plan to the witness]*.

1547. *By the Commission.*—Have you been there since?—Never, and except in going through in the train, was I there previously. I was at the Benalla side of Jones's hotel at, I fancy, about that line *[pointing to the plan]*.

1548. *By Mr. O'Connor.*—Will you state to the Commission the direction you came back?—I cannot, I am so firmly impressed that I am right with regard to that—that the man fired from my right front, and of course the bullet naturally—he standing on the verandah—would enter there and come out there—*[pointing to his wrist]*.

1549. Can you remember the direction you came back—started back to the station?—I fancy so; I am under that impression, but I will not be certain about it, that I returned the same way as I went. I will not swear to it. I did not get over a fence.—*[The Commission directed that a plan of Glenrowan should be obtained.]*

1550. Would you state to the Commission where the reporters were at the commencement?—Do you mean when I left the train?

1551. Yes?—On the platform of the station.

1552. Are you not aware they were in the carriage of the train in the windows barricaded with cushions?—I feel confident they were on the platform when I left.

1553. If any person in the train were on the platform, could he have seen me in the drain where you saw me coming back?—No, I do not think anybody could. The position, I may mention, there was a depression in the ground, and Mr. O'Connor was running with his head down and with his rifle in the direction I was coming from.

1554. Where was this, nearer the station or the platform?—As far as my memory serves me, about midway between the two.

1555. Not near where you were wounded?—Not within twenty or thirty yards. As I passed you, I called out, "The beggars have shot me in the arm," and you continued running.

1556. In your opinion, that was a considerable time after you were wounded?—I fancy the men were firing five minutes, and I might have remained two minutes after speaking to Kelly from the time we started.

1557. *By the Commission.*—Did the police receive the information on the first occasion when this young fellow purchased ammunition?—Yes, the detectives did in Melbourne, and we received it up the country.

1558. Was there any action taken then?—Yes, we searched. I was out on the search party, but Mr. Sadleir went himself to the railway station on that night, and there were two or three very strong sympathizers in the train, and he searched some of them in first-class carriages, one particular person and all her goods, and she was most indignant at it. She was a well known sympathizer of the Kellys; and they searched every other carriage along the line, and no other trace was found.

1559. She is a person in business up there?—She was at that time.

1560. That was the first occasion on which this ammunition was obtained?—As far as my knowledge goes.

1561. Did the police give any information to the party who sold the ammunition as to how he was to act if those parties again visited him for the same purpose?—I cannot tell you; I was up the country at the time, and the information was given to the detective at the time.

1562. Did they buy on more than one occasion at Rosier's?—I remember particularly, and I have an idea that there was information of a second occasion. I may say Rosier, from whom they bought the ammunition, gave information at once, as he had received instructions from the police to give information at once.

1563. Without that ammunition those weapons were valueless?—Yes.

1564. It struck me, if they did make second visit, they might have been kept confined?—Even then we could not do anything. Tom Lloyd could go and buy ammunition as well as we could. The detectives were informed half-an-hour after it occurred, but they were outwitted in some way, and found nothing.

1565. You are aware that a large quantity of New South Wales notes were taken from Jerilderie bank at Jerilderie?—Yes.

1566. When you were on duty, from December to July, had you any information on notes being passed in large quantities that were in your opinion the stolen notes?—Yes, I am quite positive a bundle of notes to the amount, I think, £30 or £40 was paid into the Wangaratta bank.

1567. Which bank?—I am not quite certain about that.

1568. Would you know it was the Bank of New South Wales?—I think it was. We got information of it—the police did—and we telegraphed over to Sydney to ascertain whether notes of the numbers of those that were paid into the New South Wales Bank had been sent from Sydney to Jerilderie. The reply was “Yes.” We then telegraphed to Jerilderie asking them whether they could say if notes of certain numbers had been paid out of the bank at Jerilderie, or were they portion of the stolen property. The reply was, “We cannot identify them. We cannot say whether we paid them over the counter or whether they were stolen.” About a fortnight after this, I happened to go to try to get some information of the very man who paid them in. I said, “Where did you get those notes?” and he said, “Between ourselves. They accuse me of getting them from you.” I said, “What do you mean?” He said, “They think I am giving you information, and that you give me notes, and the general opinion about the district is that you gave them to me.” It knocked me over, and I said, “You know yourself I did not give them to you,” and he said, “You know.” The man had them, and he would give no other information.

1569. Did you get information, from Mr. Sadleir, that on a certain day, of notes bearing those consecutive numbers, and that those offered in Wangaratta were the very notes bearing consecutive numbers—do you remember hearing that?—I do not remember. Yes, I think I did, that they were all consecutive notes. I am somewhat mixed up in my recollection of that, I was out so much, but all those things were told me.

1570. Are you aware whether any action was taken for convincing those persons for having such notes in their possession?—No, because we could not prove that they did not pay them over the counter.

1571. Would you say the bank was desirous to go on with it, or that the police dropped it?—I most certainly think that the bank did not care about going on with it; but I think Mr. Sadleir will know more about that.

1572. As a matter of fact, do you know that — paid in Bank of New South Wales notes, similar to those of Jerilderie?—Yes.

1573. Do you know that provisions were bought to any extent, when you were on duty at Benalla, such as the Kellys would be likely to require?—Yes, from time to time, by Kate Kelly, tobacco and such things.

1574. They would be things such as would suit the outlaws?—Yes, in large quantities; and when a load of things was taken out from Benalla, we used to send a party of men, at night, to watch Mrs. Skillion's house; and, whilst watching, they were invariably discovered by Mrs. Skillion, with the dogs. She used to take a circuit round, extending about a quarter of a mile, working round to see if there were any police secreted near the house; and many and many a night have the police been found by her. That was a frequent occurrence.

1575. Have you been to Kelly's house?—Yes.

1576. Have you any information how many people were resident in the house?—I do not know—principally Tom Lloyd.

1577. Lloyd had a house of his own?—Not young Tom. Old Lloyd had. Young Lloyd is, I believe, living now with the Skillions.

1578. There was Mrs. Skillion, Kate Kelly, and another sister—Grace Kelly?—I have not seen Grace Kelly.

1579. And some children?—I have not seen children.

1580. Any men?—I have not seen any men of the Kelly breed.

1581. In your opinion, have you any doubt in your mind that the quantity of provisions taken from Benalla was for any other purpose than for the outlaws?—I think they got a great deal of their supplies from Benalla for the outlaws. There was one morning, this woman Skillion happened to know that the constables were watching her house, and they were not aware of it. In the morning, about daybreak, she got upon a horse, and rode up a steep gully at a walking pace. It was a great ascent, at the back of the house, and those men on foot followed, thinking they had a splendid clue. She had a bundle in front of her. When they got to the top, there was Mrs. Skillion, sitting on a log, with her fingers to her nose, making fun of them. On another occasion, something of this sort came out. They followed her, and when they got there, she was behind a rock, with one leg sticking up, and she drinking water. The great

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difficulty, we had to contend with, throughout the whole thing, was planting our men by day. It was all very well, we would put them on the hills by night, but of a day-time, what were we to do with the men? People were scouring the whole country, and they would look for tracks; and I really think a policeman makes a different track from any other man, for they were always found, and the men could not return to Benalla without that, it was too far. On a second occasion, I put men to watch Mrs. Skillion's, by putting them into the police station which Mr. Nicolson had formed in the interval between then and my return.

1582. You stated at the closing scene of the tragedy you heard the cries of persons in the house?—Yes, while the men were shooting at us.

1583. Did you give orders at that time to cease firing?—Certainly not; as long as the men fired at us on the verandah we dared not move from our position; we had to return the firing, but directly the firing ceased. I called out "Stop firing."

1584. Did you hear Mr. O'Connor call out?—No; I do not say he did not; I do not pretend to say Mr. O'Connor was not there; all I say is, I did not see him there. Of the party of men that were there I have seen four out of the seven; they also say they did not see Mr. O'Connor there, in that advanced party. Now, in reference to Power's case, unfortunately for me there are no documents I can find in Captain Standish's office to bear out my statement, because most of my communication of this nature, that is to say of an important nature. Captain Standish used to send up to me to come to his office and he would give me verbal instructions.

1585. Up to what time?—That was all along, up to the present time—it was so with the Kellys also. I had a good deal to do with the search for Power, previous to my being sent up there. I sent a great many of my Bourke men in search of him.

1586. You were then in charge of the Bourke district?—Yes, at the time. I was sending out parties, and I was constantly communicating with them, and after Power had been out about eighteen months, Captain Standish sent for me one day. He told me that Sir James McCulloch had decided that I was to be sent up to take charge of the Power business. I told him that there were officers senior to me in that district, two of them—they have gone now—one left the force, and the other dead; and he told me it was no use protesting against it, his orders were to send me up. He said, "I will give you *carte blanche* to do as you please and to take whom you please, and to spend what money you wish." After I had left his office and received those instructions I met Mr. Nicolson. He was then superintendent of police in charge of the Kyneton district.

1587. Is that called still the Kyneton district?—No; it is the Bourke district now. Mr. Nicolson asked me if I would take him with me. He said Captain Standish told him that the Government had ordered me up there. I said, "Certainly, Mr. Nicolson, I shall only be too glad to avail myself of your services, but do not you think we will have to undergo some very great hardships in this matter, and that your health is not strong enough to carry you through them?" He said, "I will go and see Dr. Ford, and ask him whether he will let me go up." I said, "Very well." That afternoon he informed me that Dr. Ford had said he might go under certain conditions. At this time Sergeant Montford was a clerk in my office. I had sent him to Wangaratta some week or the days previously, to make some enquiry on the Power business, and I sent a cipher telegram to him to meet us (Mr. Nicolson and myself) at a certain spot on the following Sunday. The instructions, I think, were given me about Monday or Tuesday; I think Tuesday. I picked out five of the best men I had in my district, who had not been previously sent to the Benalla district, as it was termed then. I told two of them to go to Wangaratta and three to Benalla, and remain there until they heard from us.

1588. Who is "us"?—Mr. Nicolson and myself. On Friday, that was the 28th of May 1870—Mr. Nicolson and I started away from Benalla. It was before the railway was opened. I drove Mr. Nicolson up in my buggy, and we got to the appointed spot on Saturday night.

1589. Did you relieve any officer?—Nobody. At the spot where we met Mr. Montford the following day, Sunday, we obtained a blackfellow from Benalla—there were some black stationed there then—and we consulted and made our plans. On the morning of the Sunday following we captured Power. The capture was this way: We were looking for a hollow tree with a bed in it, and we came across it about seven o'clock in the morning. There was a narrow track from this tree up to a hill on which we were told that Power would be found. Mr. Nicolson stated the previous evening, "Mind you, I am senior officer of the party, I must run up

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and take the lead." We had some discussion about it, and I said, "All right." I do not mean to say I questioned as to his leadership, I said, "All right." We got to this tree, and there was a narrow track leading up to hill, the blackfellow was standing by the tree. He said, "Smoke up along that hill there." I did not see it, and I do not think the other two saw it, but we all started off immediately, and rushed up this narrow track in the mountain, Mr. Nicolson first, I second, and Mr. Montford behind me. I suppose we did not cover a space of more than six feet altogether, we were so close. When we approached we saw the fire and a kind of gunyah among the trees. Just as Mr. Nicolson got within ten yards of the hut he beckoned with his hand to me to go round the back. I thought that he meant so that Power might not escape from the back, and I fixed my eyes upon the feet of the person I saw in the gunyah. We all rushed up together, and simultaneously laid hold of this man. I put my hand on his leg, and he bawled out at the top of his voice; he was asleep at the time. We handcuffed him, and took him into Wangaratta that day, I think a distance of fifty miles, and on our arrival at Wangaratta we sent a telegram to town announcing the capture of Power, Mr. Nicolson signing the telegram. That is all I wish to say in reference to that. I merely now state that I considered myself organizer of the party. I reckoned that, in case of failure or mishap, the Government would have held me responsible and no one else.

1590. Did you on that occasion believe that you superseded any officer?—I had orders from Captain Standish to do what I liked in the district. I pointed out to him that officers senior to me were there, and he wrote up to those officers to tell them the position which I held there;—this was the first conversation.

1591. Because the documents are all here?—I had never seen them from that date.

1592. Here is a letter from Captain Standish to Superintendent Nicolas; the purport of that is that he informs Mr. Nicolas that Mr. Nicolson and Mr. Hare would take charge. That he (Mr. Nicolas) remonstrates against the course taken, and writes as follows to Captain Standish:—"Having been superseded in the charge of this district by the officers named in margin (Superintendents Nicolson and Hare)

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in consequence of the alleged prevalence of bushranging (*vide* memo, 25th ult., attached), I have the honor most respectfully to point out that I do not consider any blame can be attributed to me as officer in charge of the district." The date of that is 2nd June 1870; and Captain Standish's letter is attached virtually superseding him. Attached to that again is a document giving all the account in detail which you have given commencing in this way:—"From the Police Department, Wangaratta, 6th June 1870. Sir—We have the honor to report that in accordance with your instructions we proceeded to Benalla and arrived there on Sunday, the 29th of May," and so on, through several pages of foolscap, giving full particulars, and signed at the end C.H. Nicolson, Supt., and Francis Hare, Supt. Now in giving your evidence, you made use of a remarkable word, you said "we" did this and that, so that it would appear by the document which I have now referred to that you yourself when you wrote that considered you were equally acting with Mr. Nicolson?—Undoubtedly.

*The witness withdrew.*

*Adjourned till to-morrow at eleven o'clock.*

## WEDNESDAY, 6TH APRIL 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;	
J. Gibb, Esq., M.L.A.,	W. Anderson, Esq., M.L.A.,
G. R. Fincham, Esq., M.L.A.,	G. W. Hall, Esq., M.L.A.,
E. J. Dixon, Esq., J.P.	

F. A. HARE further examined.

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1593. *By the Commission.*—Will you proceed with your narrative?—Mr. Nicolson, in his evidence stated, in regard to Power, that he reaped no benefit from the capture of Power. As I stated before, he was at the time in charge of the Kyneton district, and, immediately after the capture, was transferred to Melbourne, and he received an extra hundred a year as officer in charge of the detectives. At the time we went together in the Power case I was a second-class superintendent.

1594. What was Mr. Nicolson?—At that time he was a first-class superintendent. He was receiving £375 a year, and I £350. When I have reached the top of the second-class superintendents, and was about to be promoted to the first class, the whole of the classes were amalgamated. But I was next for promotion, and a vacancy had occurred at the time. Mr. Nicolson's pay, as inspecting superintendent, was £350 a year, and, subsequently, he was Acting Chief Commissioner, for which, I believe, he received £150 a year extra, according to the Estimates.

*Mr. Nicolson.*—The amount is down in the last Estimates, but I have never received it. I have never asked for it.

*The Witness.*—When Mr. Nicolson gave up the city police, his successor, Mr. Winch, did not receive that £100 a year as officer in charge of the detectives, but a separate officer was put to perform the duty of officer in charge. I have looked over the *Police Gazette*, and I find Mr. Nicolson's position in the *Gazette* of 1869 that he was alone superintendent and officer in charge of detectives. In 1870 his name appears under that of Mr. Winch's; in 1871 there is no list of officers published, that I can find; and in 1872 Mr. Nicolson's name appears above that of Mr. Winch. That is all I have to say on that subject. Mr. O'Connor, in his statement, has claimed the credit of capturing, or being instrumental of the capture of the Lancefield bank robbers. He made his statement, and I just wish to make mine, as it occurred in my (Bourke) district, and was away from the Kelly country altogether. I will state exactly what occurred. On the 8th of August 1879, I was walking down Collins street, Melbourne, when Mr. Gilles stopped me and said, "Did you hear that the Lancefield bank has been stuck up by the Kellys?" I said, no, I had not; and I immediately jumped into a cab and went up to Captain Standish's office, and found he was at the telegraph office in Melbourne. I drove down there as rapidly as possible, and met Captain Standish, who decided that Mr. O'Connor and his "boys" should be telegraphed for at once to proceed to Lancefield by special train, the train taking them as far as Kilmore. This was exactly one o'clock in the day. I took a special train myself at two o'clock, and went up to the Lancefield Road station, got my buggy and horses out of the train, and drove off to Lancefield, with some men, as quickly as I could. I arrived there between four and five o'clock in the afternoon; I had to go sixteen miles by road. Immediately I got there I made all kinds of enquiries, and found that, beyond a doubt, it was not the Kellys that stuck up the bank. I took the necessary steps under the circumstances. Waiting patiently for Mr. O'Connor, I ordered food for his "boys" to be prepared, and at nine o'clock at night I sent a telegram to Kilmore, asking at what hour Mr. O'Connor left Kilmore. The reply was, "He has not left yet, and will not start before morning, staying the night at Kilmore." The next morning, about eight o'clock, one of the men whom I had sent out returned to Lancefield with the information that the offenders had called at a hotel between Lancefield and Pyalong, had got provisions there, and had a large parcel with them, beyond a doubt the money that had been stolen from the bank. About an hour afterwards Mr. O'Connor arrived at Lancefield, and I told him the information I had received, and asked him why he had not come over the previous evening. I do not remember what his reply was, but I said, "I have got information where those men were late last night; you had better proceed at once with the man who brought me in the information." He lost no time in going; he started off immediately, without dismounting. After a consultation in the office of ten minutes or a quarter of an hour, he started off at a rapid pace in the direction indicated. Mr. O'Connor picked up the tracks of those men from this roadside inn, and continued them till he got to Pyalong. At Pyalong, just as he approached the township, a terrific storm of rain came on, and obliterated all the tracks, and he remained that night in Pyalong with his men. The next day he proceeded towards Heathcote, but got no tracks whatever. That very day (that would be two days after the bank robbery) a constable at Kangaroo Flat, near Sandhurst—I think his name is Sainsbury—obtained information that two men answering the

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description of the robbers had come from the direction of Wild Duck Creek, which is a place near Heathcote. They had got out of a cart when they neared Sandhurst; the cart was sent back, and those men walked in to Sandhurst. The information was given that night to the police in Sandhurst (that would be on the Sunday). The police made enquiries; found that on Saturday men answering the description of the robbers had purchased a large quantity of supplies, clothing, &c., and the whole of the police set to work to find out where these men were. One man was seen with a bag walking across the square in Sandhurst, and the other was taken up in Eaglehawk, asleep in bed, drunk, with the notes all lying about the bed. Those are the true facts of the case.

*Mr. O'Connor.*—The Commission can get the full facts from Sub-Inspector Baber, who can give evidence on this matter. Mr. Hare's evidence is only hearsay. We were told the men had gone to Melbourne, and if we had not stuck to the tracks the men might have escaped.

*The Witness.*—Mr. O'Connor has stated that, through jealousy, the Victorian authorities did not want him to capture the Kellys. I merely mention this to point out that on the two tangible occasions when Captain Standish and I had information, or thought we had, of where the Kellys were likely to be, we at once sent for Mr. O'Connor, namely at Lancefield and in the Kelly case at Glenrowan.

1595. You did it under the impression in both instances that they were the Kellys?—Yes.

1596. And therefore the effect was the same?—The effect was the same. We had only one object in view—to capture the Kellys. We threw away no chance. When I relieved Mr. Nicolson, on the 2nd of June 1880, he gave me no information whatever concerning the Kelly armour, and it was only in conversation with different people—Mr. Sadleir especially—that I picked up that, and found that it was supposed that when the Kellys next appeared it would be in armour.

1597. Were all the men acquainted with that?—No; not one, except Sergeant Steele, at Wangaratta; he is the only one I have heard of that knew anything at all about the armour. Mr. Nicolson first got the information about the armour on that 26th of March 1880; that is as far as I am aware.

1598. You went up in June 1880?—Yes. On one occasion, about a month before I was ordered to Benalla, a constable named Phillips came to me at the Richmond dépôt. He was a horse-clipper, and came to

F. A. Hare,  
continued,  
6th April 1881.

the depôt for the purpose of clipping the horses there. He is one of the men alluded to by Mr. Nicolson as never having fired a gun in his life. I said to him, "Well, Phillips, you have not caught the Kellys yet," just in conversation, whilst I was looking at him clipping the horses. He looked up and said, "No; the Kellys have never been into the Benalla police station yet." I said, "What do you mean?" He said, "Well, I have been up there about twelve or thirteen months, and I have never yet been two miles out of Benalla; there has not been a party out searching for the Kellys since you left." I will not relate to you the circumstances in connection with Jack Sherritt and William Sherritt being taken into the police force. I naturally wished to do something for the Sherritt family, after all that Aaron had done for us, and I thought unless we showed some consideration for the families of those who had assisted us, that on any future occasion we would have the greatest difficulty in getting men to work for us. I had never seen Jack or Willie Sherritt in my life (when my narrative commences), and after I was convalescent about a month after I was shot, I was in my own house in the depôt, when Mr. Ramsay, then the Chief Secretary, came to see me. He said to me, "We have the two young Sherritts on our hands." I said, "What are you going to do with them?" He said, "We intend giving them a selection of land and allowing them to settle on it." I said to him, "Those men have no money, and it will be a great difficulty regarding them; would it not be better to let them join the force, if they behaved themselves. They can remain in the force, and if they do behave themselves they will make excellent constables." I knew nothing about them myself, except what Aaron Sherritt used to tell me. He said that they were not like him; that they had never committed any offence, and I was to be careful not to be seen by them, as they did not wish to mix themselves up with the Kelly business at all, because he looked upon them just the same as the public, that they could not assist me or the outlaws in any way. Mr. Ramsay said, "I think it is a very good idea; will you speak to Captain Standish on the subject?" This was on Saturday night. I think on Monday I saw Captain Standish, and he told me Mr. Ramsay had been speaking to him about the Sherritts, and he (Captain Standish) thought it was a very good idea, taking them on in the force. He then wrote, and told these men to report themselves at the depôt. They were then living at Oakleigh.

1599. Where they then in the employment of the police?—No, they were paid by the Government, receiving 6s. a day. I do not know who sent them to Melbourne, or how they ever came to Melbourne. They came to the depôt and they remained there, I think, about ten days before they were sworn in. During those ten days Captain Standish communicated with different people as to whether they knew anything about these two young men. I instituted enquiries, by Captain Standish's discretion, and the worst thing I found against Jack Sherritt was that a constable, whilst he was watching in the cave alluded to by Mr. Nicolson, had seen Sherritt killing a sheep; that would be between daylight and sunrise in the morning. I said to the man that saw him killing the sheep, "Did you examine that sheep?" He said, "No." I said, "Whose sheep was it?" He said, "I do not know, but the squatter who lives on the run said he suspected the Sherritts of stealing his sheep," and he naturally concluded this was one of them. I reported to Captain Standish about Willie Sherritt. We never heard a word against him; he had never mixed himself up with the Kelly business, as far as I know. Upon that Captain Standish swore them in as constables. Those two men remained at the depôt I think about six weeks, and during the period no two men I have never seen—and I have been fifteen years at the depôt—worked so hard, or showed such an inclination to become good constables. The two sergeants over them, mounted and foot, gave them most excellent characters, and there was not anything during the time they were at the depôt that could be said against them. There was once Jack Sherritt went into Melbourne when he went and applied to the detective office for a warrant against a person; his statement was not clear, and I referred it to the head of the department, Mr. Nicolson, recommending that no further steps should be taken in the matter, as I fancied that Jack Sherritt had not given the full facts of the case; and he approved of my suggestion and said nothing more was to be done in the matter. Shortly after thus I called at Mr. Nicolson's office and said to him, "I am going to take Jack Sherritt into my district; there is a vacancy now under a very excellent constable, who will teach him his duty, and if he misbehaves himself he will be reported

immediately." Mr. Nicolson said to me, "It is no use your taking any steps in the matter; to tell you the truth I have recommended their discharge from the service." I said, "All right, Mr. Nicolson," and I left his office.

1600. Did he say upon what grounds?—He did not. Subsequently I was taken ill again, and Mr. Nicolson came up to the depôt and told those men that they were discharged from the service forthwith. About three or four days after their discharge the Inspector-General of Police in New South Wales called upon me, and sated that Mr. Nicolson had requested him to take those two young men into his force. He said he declined to do so, as he did not care having our leavings. Subsequently Willie Sherritt went to Queensland, and I am informed took letters of recommendation from Mr. Nicolson to the authorities there, but they would not take him into the force there either. That is all on the subject.

1601. There was no cause given for their discharge?—No; I believe the Government gave them a gratuity, because they have purchased their uniform. I think about £50; I do not know exactly the amount, but about that sum. I will now just give a short record of the special services I have rendered the country since I joined the service. Mr. Nicolson was called upon to produce a return to the effect, and I think I may be allowed to do the same.

*Mr. Nicolson.*—That has not been done in my case; at the same time, I do not object to what Mr. Hare

is about to do.

*The Witness.*—Here is a letter I received addressed to the Acting Commissioner of Police, dated 18th July 1855, the year after I joined the force:—

G.B. 55/8861—1423.

SIR,

Colonial Secretary's Office, Melbourne, 13th July 1855.

I have the honor to acknowledge the receipt of your letter of the 6th instant, transmitting one addressed to you by the inspector of police for the Ovens district, enclosing a communication from Dr. Mackay relative to the conduct of Lieutenant Hare, on the occasion of Dr. Mackay's having been attempted to be broken into on the night of the 23rd ultimo. The letters referred to having been submitted to the Governor, I am commanded by His Excellency to convey to you his direction that Lieutenant Hare be promoted on the first vacancy occurring.

You will also inform him that His Excellency has great pleasure in testifying the high sense he entertains of the gallant conduct evinced by him on the occasion alluded to; and I am to add that it will ever be His Excellency's desire to mark his appreciation of the service of such officers in the force as may render themselves conspicuous by their gallantry.

I have the honor to be, Sir,

Your most obedient servant,

J. MOORE,

Acting Chief Secretary.

The Acting Chief Commissioner of Police, Melbourne.

There was the following:—

GENERAL ORDER.

Police Department, Chief Commissioner's Office,  
Melbourne, 23rd July 1855.

No.46.

His Excellency has been pleased to direct that, in consequence of the gallant conduct of Lieutenant Hare, of the Beechworth district, in having, unarmed and without assistance during the middle of the night on the 23rd ultimo, captured, after a deadly struggle, an armed burglar who was breaking into the house of Dr. Mackay, near Wangaratta, that officer shall be promoted on the first vacancy occurring.

(Signed)

C. MAC MAHON,  
Acting Chief Commissioner.

Also the following letter:—

No. 1339/55.

SIR,

Police Department, Chief Commissioner's Office,  
Melbourne, 14th August 1855.

I have the honor to inform you that, in consequence of your meritorious conduct, His Excellency has been pleased to approve of your promotion to the rank of sub-inspector, and your name has accordingly been placed at the bottom of the list of officers of that rank.

I regret, however, that the promotion will not at present carry with it any increase of pay, as on account of the number of officers of that grade being greater than that for which provision is made, several of the officers of the next lower rank.

I have the honor to be, Sir,

Your most obedient servant,

C. MAC MAHON,

Acting Chief Commissioner of Police, Melbourne.

I also now read you a letter that I received from Captain Standish many years ago, before I was acquainted with him on the intimate terms I am now, and have been for some years; I had not met him twice in my life then, but have been under him for some months:—

Police Department, Chief Commissioner's Office,  
Melbourne, 27th April 1860.

MY DEAR SIR,

As Williamstown is vacant by the death of poor Taylor, I should like to know if you would like to be stationed there. The duties consist in having charge of the water police, Sandridge and Williamstown, and two county Bourke stations on the line of the Geelong railway. The long and arduous service which you have performed with such credit to yourself and advantage to the service induce to give you the refusal of this station, where the duties, though not unimportant, are, I may say, of more pleasant a nature than the roughing you have had on the gold-fields.

The officer's quarters at Williamstown are very comfortable, and the sea-air (that apparently universal panacea for the ailments of up-country constables) will, no doubt, be a pleasant change to you and Mrs. Hare.

I certainly have my misgivings about seeing you removed from a locality sacred to new rushes, especially to highly creditable rapidity with which you formed the police camp in Babylon, Mr. Lidiard having informed me that to your assistance and energy in the matter he was indebted for this. I cannot, however, allow you to suffer for your zeal, and if the charge I propose is agreeable, pray let me know with as little delay as possible.

With kind regards to Mrs. Hare, I am,

Yours very truly,

Francis Hare, Esq., Inspector of Police, Bark Creek.

(Signed)

FREDK. C. STANDISH.

1602. Did you accept that?—Yes. I will read the telegram from Mr. Fosbery, Inspector-General of the New South Wales Police:—

[TRUE COPY]

*Telegram from E. Fosbery to F.C. Standish, 6th February 1863.*

I think Hare could now obtain appointment at Maitland. I know you would not stand in his way, unless his Melbourne prospects are better. Would you confer further obligation on me by speaking to Hare on the subject, and reply by telegraph if Hare could and would come by first steamer on leave for a week.

(Signed)

E. FOSBERY.

and told him that I felt inclined to accept the appointment as it was better that the one I held. He said to me, "I do not want to stay in your way, but I think you are foolish to leave this colony after the services you have rendered. The Government have a good opinion of you, and I feel sure that if anything happens to me you will get my appointment." I consulted others on the subject and they advised me to remain as I was. About July of the year 1864, just at the time the Echuca railway was being opened (I was at the time the inspector of police in Melbourne), I was sent for by Colonel Mair, who was acting for Captain Standish as chief commissioner, Captain Standish being in Sydney on leave. He directed me to proceed with a party of fifteen or twenty armed men to Echuca. I was to go to Sandhurst by train, and from thence get on by ballast wagon or any other way I could with my men. There was a dispute between the Victorian and New South Wales Governments at the time about the Customs arrangements, and the latter Government had issued a proclamation that they would seize all boats and goods on the river Murray, that they claimed the Murray as theirs. I received no instructions, but I was told to go up; and I was given a placard written by Sir James McCulloch, the then Chief Secretary, and if necessary I was to post those notices on the trees in opposition to the New South Wales Government's notices. When I got to Echuca I found the place in a state of great excitement, persons all expecting to have their boats seized on the following day, and I at once had those notices published that I have referred to, and considered the best plan to adopt to bring the matter to a termination at once. About three o'clock in the afternoon I told the Custom-house officer belonging to New South Wales that I intended putting dutiable articles on the river in a boat that afternoon, such as tobacco and sugar, and told him if he chose that he might come with me in the cab I had employed for the purpose, and he agreed to do so. I put the articles in the boat, and immediately I did so, the Custom-house officer came down and said, "I seize those in the name of the New South Wales Government." I said, "You will not put your foot in this boat. If you do you must take the consequences." He said, "Do you mean that?" and I said: "Yes," and he left the bank. I sent those articles down the middle of the Murray, and landed them at Echuca, having put them on at Moama, that is, landed them on our side of the river. I sent a sergeant with them in the boat, and I returned to the telegraph office with the New South Wales Custom-house officer. I remained at Echuca for a fortnight longer. Nothing transpired, and then I was ordered down to town. Sir James McCulloch sent for me and expressed his approbation of the matter in which I had acted thorough the whole matter, and subsequently Mr. Tyler did the same for the Commissioner of Customs. I went back to Melbourne to my duties.

*continued,*  
6th April 1881.

1603. What was the nature of your instructions?—I had hardly any. Colonel Mair said there was a dispute between the two colonies. I was to protect the boats, and see that the New South Wales people did not take away the boats from the Victorian people. To go and protect the boats against being seized by the New South Wales Government.

1604. If the Customs officer had come on your boat, what would you have done?—I would have pitched him into the river. Then came the Power affair, which I have already explained to you. Here is the letter I received at that time.

No. 1526.

(Copy)

SIR,

Chief Secretary's Office, Melbourne, 22 June, 1870.

I have the honor to acknowledge the receipt of your letters, noted in the margin, \* reporting the capture of "Power," the bushranger, in the ranges at the head of the King River, by a small party of police, consisting of Superintendents Nicolson and Hare and Sergt. Montford, assisted by a tracker.

I need not say that this intelligence has been received by the Government with very great satisfaction.

It will afford me much pleasure to comply with your recommendation, that Sergt. Montford should be at once promoted to the rank of sub-inspector, and I shall take care, when an opportunity offers, that the services of the superintendents are suitably acknowledged.

In the meantime I have to request that you will convey to these two officers that the Government highly appreciates the perseverance they exhibited under very trying circumstances, their tact and personal courage, as well as the honorable feeling that has prompted them to decline receiving any portion of the reward offered for Power's arrest; and that I desire to thank them for having effected the capture of a desperate criminal, whose prolonged resistance to the law and successful evasion of justice, for a period extending over many months, has become reproach to the colony.

I have the honor to be, Sir,

The Chief Commissioner of Police,  
Melbourne.

Your most obedient servant

JAMES McCULLOCH.

Shortly after that letter was received, the matter was brought before Parliament, and Sir James McCulloch stated that he intended to promote the officers, when a suitable vacancy occurred. I am at this present moment the same rank as I was then. Then I received these letters in the Kelly business:—

80/617

SIR,

Police Department, Chief Commissioner's Office,  
Melbourne, 2nd July 1880.

I have the honor to enclose, for your information, a copy of a letter I have received from the private secretary to His Excellency the Governor.

It gives me great pleasure to have this opportunity of conveying to you this expression of His Excellency's appreciation of the important services you recently rendered to the Police Department and the community generally in connection with the destruction of the Kelly band of outlaws.

I have the honor to be, Sir,

Your obedient servant,

Francis Hare, Esq.,  
Superintendent of Police, Police Depot.

F. C. STANDISH,  
Chief Commissioner of Police.

SIR,

Government House, Melbourne, 30th June 1880.

Although the Governor has already communicated to you, by telegraph, his congratulations to the police and their successful overthrow of the Kelly gang, he was not, at the time, fully aware of all the circumstances of the case; and I am now directed by His Excellency to request that you will convey to Mr. Superintendent Hare, Mr. Superintendent Sadleir, Mr. O'Connor, and the members of the police force engaged on that occasion, his thanks and congratulation upon the very proper prudence and caution exercised, by which, no doubt, several valuable lives which might otherwise have been sacrificed were saved.

I have the honor to be, Sir,  
Your obedient servant,  
FREDK. LE PATOUREL,  
Private Secretary.

Captain Standish,  
Chief Commissioner of Police, Melbourne.

(Sgd.)

\* Telegram 5th and 20th June.  
N

POLICE.

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F. A. Hare,  
*continued,*  
6th April 1881.

This is a private letter I received from a gentleman up at the Kelly capture—Mr. Carrington—whom I never saw before that day, and have never seen since. I wrote to him thanking him for his kindness to me on the morning when my arm was wounded, and expressed regret that the papers should have found fault with the way he did it. His answer was:—

Yorick Club, Melbourne, 19th July, 1880.

My dear sir,—Pardon me for not answering you letter before this, but I have been so very busy that I really have not had time. Looking back on the past, I sincerely regret that you were wounded so early in the fray, as from that moment the police were virtually without a leader, and Mr. Sadleir did not take any active part outside to my knowledge.

People seem to forget that you rushed the house at night with the four outlaws inside, and, had you not been wounded, I feel certain that the end would have come short, sharp, and decisive.

The house was never rushed but the once, and in the broad daylight, with Byrne dead and Ned a prisoner. Why did not the police go for it again? Because they had no leader.

I was in that first rush that Ned was wounded, and I feel certain that had he not been wounded, he would have escaped, and Sergeant Steele would not have shot him. The pool of blood on the ranges was where Ned had fainted in the night. He could not have got away then even if he had wished. With his weight of armour, and loss of blood, he could not have mounted his horse again.

I speak impartially, and I consider it is due chiefly to you, secondly to Curnow, and thirdly to Bracken, that the Kelly gang owes its demolition. If there is any enquiry, I shall be glad to give evidence to that effect.

Mr. Webb, I should think, ought to know that a man who had fainted from loss of blood was not in a very fit state to look after ladies. I never saw any one bleed as you did.

Yours truly,  
THOMAS CARRINGTON.

The next paragraph is about the ladies. Some fault was found about my leaving the ladies at the time I was wounded, but it is a matter of no importance, and I need not read it.

1605. Was he one of the reporters?—Yes; for the *Sketcher*.

1606. He went up with you and Mr. O'Connor in the train?—Yes. He was no friend of mine. I did not know any of them except Mr. Melvin. As to being in league with the reporters, I never spoke to them before the affair or since, except to the one who came in to me when I was wounded.

1607. He went from Melbourne in the same train with you?—Yes, and was on the scene the whole day. There were four reporters, and this was one of them.

1608. *Mr. Nicolson*.—Who insinuated that Mr. Hare was in league with the reporters?—

*The Witness*.—Mr. O'Connor said, after the report came out the next morning in the *Age* and *Argus*, that my name was given as if I had everything, and he, who was in the front of the hotel all day, had not been mentioned officially. That is why I thought it necessary to make that statement. I sent but one telegram that morning, and that was published. I was receiving telegrams of congratulation from Sydney and Victoria, and I do not think I sent but that one telegram that day. I remember saying to Captain Standish, "Here are a number of telegrams of congratulation; will you answer them for me;" for which I sent up 19s. afterwards. But if Mr. O'Connor or Mr. Nicolson is under the impression that I gave any version to any paper they are entirely mistaken.

1608a. *By the Commission*.—Did you inspire either of the reporters of the daily papers for the next morning?—Not in any way.

1609. As a matter of fact were not the representatives of the Press the most capable of seeing the whole proceedings, not being themselves engaged in the affray, but merely observers?—I should think the Commission can easily judge of that.

*Mr. O'Connor*.—It was in the dark and the reporters did not leave the platform, I believe.

*The Witness*.—They were on the platform when I left.

1609a. *By the Commission*.—Is it within your knowledge that the representatives of the Press started at the time with you to go to Jones's house?—No; I do not know what they did. When I went away they were on the platform, and when I return they were on the platform.

1610. To the best of your knowledge and belief do you think the accounts which were written by the representatives of the Press were the results of what they saw or from communication from the officers engaged?—I fancy from information obtained on the spot at the time. I cannot say from whom or what they saw.

1611. Would that information be from personal observation, or was it conveyed to them?—I should

fancy from personal observation. Reporters are not generally backward, they generally push themselves pretty well forward.

1612. How could they get it from personal observation on a very dark night?—In the same way as we did. There was a moon and they saw that we left the platform, and that we returned, and the circumstances that came on, and the order in which they came.

1613. Was it moonlight?—Yes. I judge specially by the fact of being on the engine, and being able to see about twenty yards ahead of the engine on the line.

1614. Would not that be from the lamps?—No; all lights were put out from the time we started. If Mr. O'Connor thinks I sent any telegrams of the progress of affairs except the one I have alluded to, I now wish to go over a few of the remarks in Mr. Nicolson's evidence, which I can recall to a certain extent. He states (I am quoting the *Argus* report): "He found a number of the men using hired horses, and some were hiring buggies." That was when he came up on the second occasion. Mr. Nicolson has made a mistake in this. When I left the district I feel certain that there was not a hired horse in the district; but when I reached the district on the first occasion, in December, I found several men riding hired horses, and that was, of course, by his instructions. He was in charge at the time; and I found that the hire had gone beyond their value, and when I left the district there was not a hired horse being ridden by the police. Again, he states, "There was beautiful grass that season, and I had the horses turned into a paddock with an allowance of food besides of grass." This was done at least three months before Mr. Nicolson relieved Captain Standish and myself. I hired a paddock from Mr. McBean, and also a small paddock in the town, so that the horses could be put in there when they were not being used and brought out at a moment's notice. Again, he says, "Have a return of police expenditure in connection of the pursuit of the Kellys." When Captain Standish and myself arrived at Benalla in December, we found that none of the men had received any travelling allowance since they had commenced the pursuit, and they then began to send in their vouchers, and, of course, all the expenditure incurred before we came up there was paid during the time we were there.

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1615. And appeared as a charge against the time you were in command?—Yes, certainly. Again, he gave in his evidence the estimates of the cost of the three different periods. And then again, the period he was in charge was paid some time during the time I was in charge, but I incurred no expense whatever, beyond a few pounds for secret service money. Continuing the system that had been in vogue prior to my going there, I had employed, I think, one new agent two or three days before the Kellys were destroyed, and if there was any expense during my time it must have been for special trains during the day of the capture of the Kellys—a good number were used on that occasion. Again, Mr. Nicolson says, "He was determined to prevent them making any raid and felt quite capable of doing so. Succeeded in that." I now say I was most anxious that the outlaws should make a raid, because we knew they would go to townships where there were banks, and I looked upon a bank as a trap to catch the outlaws, either going in or coming away; it would give us an opportunity of finding out something about their whereabouts, which we were much in want of. Mr. Nicolson again says, "The principal and most active of these sympathizers told the outlaws they must get some more money, that they must go and 'do a bank.' " Previous to my being removed, I suppose about three or four months after the Jerilderie robbery, every full moon we used to hear reports from the sympathizers. All their depredations were committed at full moon, because they had to ride through the night—generally two days after the full moon, and also generally about Saturday and Sunday and Monday—those were their lucky days. Then he says, "Soon after I heard of Dan Kelly and Steve Hart calling at a man's house at Chiltern. They were described to me as being in a very emaciated state and asking for food." Now Bracken says, when he saw the outlaws at Glenrowan hotel, the night he was captured there, he said they were stout and well, and that Dan Kelly had grown into a stout man since he last saw him. Ned Kelly was described by the doctors in Melbourne as being in magnificent condition, and as one said, "Fit to run for the Melbourne Cup." Again, Mr. Nicolson says, "When I reported this to Captain Standish he instructed me to remove the party at once. He told me that the organization of the secret cave party was known in the Richmond Police Depot and was no secret at all." I told Captain Standish that I had been told that the men were living in the cave, by a constable stationed sixty miles from Beechworth, and than this man who knew it had been conversing about it at the depot.

1616. How did he gain that information?—I did not ask him.

1617. *By Mr. Nicolson.*—Give the name of the constable?—I do not wish to give the name. He is in the position that he may be found fault with and something done to him. Of course, I will give the name if the Commission wish me to do so; but I ask for the name not to be divulged. The men were in the cave for five months, and I defy Mr. Nicolson to have parties of four men on and four off, under such circumstances, and not get it known to the police generally.

1618. *By the Commission.*—After the constable told you, you communicated that you had been told by him, to Captain Standish?—Yes. I said, "If Mr. Nicolson is under the impression that the cave affair is secret, he is mistaken. I heard it from the constable here, and it is talked about in the barracks; and, on that, Captain Standish wrote to Mr. Nicolson, and told him it was known all about the barracks. I did not ask the constable where he got it or when. I may explain a little more. A short time ago a constable, mentioned a fact to me regarding the occupation of this cave. He said to me, when we were removed from that cave, we were

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told to be careful what we said as to the public knowing that we were there. He said, "After I sent in my report, it was returned to me with a memo., saying that was not what they wanted. He was let to believe further (not through the memo.) that Mr. Nicolson would be much annoyed if such a report was sent, and they were ordered by the senior constable at Beechworth to send in other reports." He said that Ward came to him and said, "I beg of you and pray that you will not state in your report that the public knew of your being at the cave some time ago, because if Mr. Nicolson hears that he will be awfully annoyed with me." Now, I will give the names of the constables who sent in reports that were returned to them; one was Falkner and the other—no, I am at loss, but Falkner can tell you the name.

1619. Detective Ward can give the full information about that?—No doubt he can. Falkner said to me, "Of course, if I am called upon to produce the document, I have the document in my possession, and can show it to the Commission with the minute upon it." I did not look at it, but I said, if the Commission want it you will have to produce it.

1620. This has reference to the charge of interference with him made by Mr. Nicolson against Captain Standish?—Yes.

1621. Those constables will be able to prove that that information about the cave was known generally amongst the police?—Yes, and that Falkner told me he had a letter in his pocket which was returned to him by Mullane, and subsequently seen by Detective Ward.

1622. *To Mr. Nicolson.*—Will you hand in a list of the names of the eight men who were engaged in the cave?—I will do so.

*The Witness.*—I might throw a little further light on the subject. I wish to make one remark for the purpose; that is, that there were others besides those eight men engaged in the matter; there were men carrying food, and the whole of the Sherritt family, consisting of seven or eight daughters—Sherritt himself and the whole family knew it, and they were in constant communication with Mrs. Byrne. They used to convey the provisions up to the cave, and with seven or eight girls, ranging from eighteen to six years old in constant communication with the Byrne family, how is it possible to know who it was divulged by? Again, Mr. Nicolson says, "I kept Sherritt on my own responsibility, paying him out of my own pocket, trusting that the Government would reimburse me." I was in the same position as Mr. Nicolson; I paid for secret service out of my own pocket; but on the second occasion I went up I told the accountant in the pay-office that I had no money and could not afford it, and he then gave me a credit of £40.

1623. I suppose when you or Mr. Nicolson advanced money you knew you would be recouped?

*Mr. Nicolson.*—I knew I would be recouped, except in Sherritt's case, where I was acting in disobedience to orders, and on my own responsibility.

*The Witness.*—In giving secret service money I never consulted Captain Standish. I would give a man £2 at night, or £5 out in the bush, as I did on different occasions.

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1624. *By the Commission.*—Did you ever have as an agent who received money in your service a state school teacher?—I had nothing to do with him.

1625. Do you know anybody that had?—I know Captain Standish and Mr. Nicolson had.

1626. With a state school teacher?—Yes.

1627. You know that of your own knowledge?—I swear that on my oath. A desire has been expressed by Mr. Graves and by Mr. Nicolson that the names of informers should not be mentioned; I have seen numbers of letters from the one you refer to.

1628. Did you know that afterwards it was found he was a sympathizer with the Kellys?—I hope this will not be pressed. I would ask for other reason that the Press should not put down about the state school teacher, because on the next occasion we shall have nowhere to get out agent from. I am prepared to answer the questions, but I have other reasons in my mind of not giving this information.

1629. Have you any idea of the dare of this transaction?—It extended over six months, with a large amount of correspondence. The commencement of it was about the Jerilderie robbery; that was in Captain Standish's time, and it continued in Mr. Nicolson's time. I should think six or seven months.

1630. Is this person still in the employment of the Public Service as a state school teacher?—He is, but he is not in that district. To prevent misapprehension, I had better mention that this schoolmaster who has been referred to was a schoolfellow and intimate acquaintance of Joe Byrne's. Mr. Nicolson, in his report, has said, "I found some of the police very ignorant of how to use their rifles, and short of ramrods. Some of them told me they had never fired a gun in their lives." All I can say is that our men at Benalla were constantly practising while I was stationed there, and as to the case he alluded to of one constable having shot another, the particulars are the following:—There was a party going out for practice, and they were sitting on a cart, and they began pointing their Martini-Henry rifles at the man who fired the shot at the other. He picked up a rifle, which was a Spencer rifle (there were only about seven of them in the district), and, not knowing the action of it, the fact of his opening to see if there was a cartridge in it loaded it. He then put up gun to his shoulder, and it went off, and shot the man in the arm. I most distinctly state that the men were constantly practised in firing whilst I was there, and there were many of them most excellent shots. There is one remark I wish to make with reference to my former evidence. The newspapers reported it that I said there were only three good bushmen in the district; what I said was I had three good bushmen in my party. Of course, all

those men coming from flat countries—Sandhurst, Castlemaine, Belfast, and the whole colony sent men there—they came into a strange country, and would be at a loss to know where to go. Mr. Nicolson has also stated he “received a communication from the Chief Commissioner of Police that Superintendent Hare stated we were wasting ammunition, and was ordered to stop.” The circumstances were:—I, of course, being in charge of the depot, had the stores under my command there; and a requisition was one day sent up to me at the depot, approved of by Captain Standish, for a large supply of ammunition. When he was inspecting the depot I said, “I have got a requisition here for a large supply of ammunition. Are you aware that so many rounds have been expended since such and such time?” He said, “No, I was not aware of that;” and he took the requisition away. Upon that, I believe, he wrote to Mr. Nicolson to say that I complained there was no more ammunition to be supplied, or words to that effect. But I had nothing to do with it; I merely brought the matter under his notice as the head of the department. I had no control over the district at all. That is all I have to say.

1631. Your evidence is complete?—Yes; I know of nothing else I have to tell you.

1632. Did you on many occasions, with your search party, go back to the Wombat, the scene of the murders of the constables?—I never went back once; my party never did; I never saw it. I was once within three miles of it.

*The Witness withdrew.*

Henry Moors sworn and examined.

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1633. *By the Commission.*—What is your position in the Police Department?—Chief clerk.

1634. We have called you for a particular purpose. It has been given in evidence here by Captain Standish that when he came back from Benalla, he found the office in a very unsatisfactory state—in a state of muddle; is it your work to have all the minutes that come into the office laid before you as well as the book-keeping?—I have the general management of the office.

1635. And you would be aware whether the office was in good order or out of order at any given time?—Yes.

1636. Do you remember the time that Mr. Nicolson had charge of all the office?—Yes.

1637. While Captain Standish was up in the North-Eastern district?—Yes.

1638. Will you tell the Commission what state Mr. Nicolson left the office in when Captain Standish came back to Benalla and took charge?—I have read Captain Standish’s evidence in the papers, and I think that he has inadvertently used words which implied a great deal more than he meant to say. The office was never in a state of confusion that I am aware of; but there was certainly a delay in getting papers off at times, arising from the difference between the two men—the two heads of the department—Captain Standish and Superintendent Nicolson.

1639. Captain Standish says (question 52)—“About the end of June, after having been upwards of six months at Benalla, finding that all the business in my office was being frightfully muddled, and that things were going wrong both in the Melbourne and the country districts, I obtained the authority of the Chief Secretary for my return to Melbourne.” Can you say whether the office was in that state or not?—There was naturally a great pressure on the office during the whole time the Kellys were at large. Under Captain Standish of course the work took a considerable time to perform, it could not be otherwise; but Captain Standish is a man very prompt in action, quick in judgment, and remarkably ready with the pen, and papers were always got away with considerable celerity. Mr. Nicolson is slower and more careful in going through papers. I may put it that under him the machinery moves more slowly than under Captain Standish. Then again he had not the long experience that Captain Standish had, he is not so good an office man; the consequence was that there would be very generally a delay at night in getting the papers off. There would be a longer time taken between the preparation of the documents and their despatch from the office.

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1640. Under Mr. Nicolson?—Under Mr. Nicolson. The clerks complained very bitterly at times about the length of time they were kept in the office; and I dare say when Captain Standish came back I mentioned that the clerks did complain; but beyond that pressure and that delay, I could not admit that the office was in a muddle or in a disorganized state. I do not think it has been so under any head of the department since I had been connected with it. I do not think Captain Standish meant to imply that it has.

1641. That is an opinion of your own?—Yes; I can only say that from knowing the state the office was in.

1642. Was the office in such a state at that time that it required an active man like Captain Standish to bring it into a proper state of working?—No, it was not in that state.

1643. Were there many papers unattended to when he came back?—No.

1644. Were there many more than the usual number?—No; some few were held over designedly. I myself suggested that one or two papers should be held over, and they were.

1645. Were they of any consequence in dealing with the Kelly outrages?—Not that I am aware of.

1646. Are you aware that the office was in its usual state, except for the keeping over of a few papers?—There was a delay in the getting off of the papers. Captain Standish, from long experience in the office, would see at a glance what a file of papers contained. Mr. Nicolson had not the same familiarity with

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the work of the office; hence when papers went before him he necessarily took longer; he seemed painfully conscientious at times in looking into matters, and took a great deal more time. Consequently the office was kept open to a later hour at night and the clerks would have to remain to six at night; but I could not say that was confusion or being in a muddled state. The work was done and done very well.

1647. Then in reality what you say is simply that there was a longer time spent each day over the papers?—Yes.

1648. But that the papers were cleared off each day usually?—Not each day; under no head of the department would that be.

1649. But as much as they usually were?—Yes.

1650. They were not allowed to accumulate?—No, certainly not. Occasionally files, as at the present moment, are held over for days and require a great deal of consideration, and it would be folly to deal with them off-hand. A great many required consideration, but if there was any undue accumulation of that kind I was not aware of it.

1651. Then in your opinion Captain Standish was incorrect in stating that the office was in state of muddle?—Unquestionably.

1652. In question 52 he states, “About the end of June, after having been upwards of six months at Benalla, finding that all the business in my office was being frightfully muddled, and that things were going wrong both in Melbourne and the country districts, I obtained the authority of the Chief Secretary for my return to Melbourne.” You say from your own knowledge that that could not possibly be?—I do not believe Captain Standish ever meant to imply that.

1653. In the way that reads?—No, I do not.

1654. If you as chief clerk at any time on or before June communicate to Captain Standish complaining that the work in the office was delayed in consequence of Mr. Nicolson?—Nothing more than I have stated.

1655. Nothing to lead him to believe that it was necessary for him to return. By this statement one would think he received information from some other source except his own personal observation to lead him to make that statement. Have you implied to him in any way, without calling it a state of muddle, that it was necessary for some one to come on account of the delay?—No, never.

1656. You know of no circumstances through which Captain Standish could have got that information?—No, I do not. He was backwards and forwards repeatedly, and when he would come back he would naturally ask, “How have affairs been going on in the office?” and I would say, “Well, papers are not so promptly out of the office as they should be, and the clerks have complained.” I said on one occasion, “The clerks will be very glad when you come back.” That was not on personal grounds, but because of their getting away at a reasonable hour. They did not like stopping till six o’clock as they had to.

1657. With the exception of the inconvenience to the clerks, did the public interest suffer by the slower method of Mr. Nicolson as compared with Captain Standish’s method?—Not that I am aware of.

1658. Have you charge of the accounts of the department?—No.

1659. Did it appear at the office that there was a serious dispute between Captain Standish and Mr. Nicolson?—No. It was obvious to me—not from anything specially that passed between them, but simply what I could see—that there was a want of sympathy between them. But any dispute between them must have taken place in Captain Standish’s room; I know nothing about it.

1660. Was that appearance of long standing?—I think I could trace it back for about a twelve-month, but it is impossible to say; you often fancy a thing, and at other times fancy you are mistaken. But that was my impression, that there was a want of sympathy for about twelve months before the capture of the Kellys; but I do not say that there was that state of things, I am merely giving an impression.

1661. Captain Standish had stated there, referring to May 1880—“I only had time to hand him the telegram and to give him a bit of my mind. In fact I may say that on that occasion, and subsequently when he was relieved, he behave to me in the most discourteous, insolent, and ungentlemanly manner; and if I had not been a man who is gifted with not a very bad temper, I should not only have given him a bit of my mind, but I would have suspended him from duty; but I had no animosity against anybody in the department. Though I had a great contempt for the man, I had no ill-feeling against him.” Did any of those outbursts of bad feeling take place within the office?—Not that I am aware of. Of course, when you say in the office, it must have been in Captain Standish’s own office, not in the presence of the clerks, any of the office staff.

1662. You were never personally present when a misunderstanding arose between the two?—No.

1663. Did you see many of the letters, the correspondence, passing during that time from the head here to the up-country stations in the North-Eastern district?—I saw them all, except private letters and occasionally a confidential letter, which might have been hurried away. I may say that I saw nearly everything that passed, except private letters—all the official letters.

1665. At the time of that particular letter about the cave party were you then under the impression at the time that it was an unfair interference on the part of Captain Standish with Mr. Nicolson in his duties—I mean your own impression at the time you saw that?—No, I should say not. I do not think Captain Standish ordered the discontinuance of that party, but he had a strong opinion that it was an useless party. Mr. Nicolson, who was on the spot, thought it was a necessary party; there was the difference of opinion. Captain Standish, I believe, expressed himself strongly that it was a useless measure, but he said nothing more than anyone holding an opinion as he did would say.

1666. Did any letters come under your notice whereby you could observe that the fact of this secret party in the cave was known at the time?—No, what I am saying now is the result of what came to my knowledge afterwards. I cannot be certain when that was going on that I knew anything about it. The object of having an officer of high standing in the force at Benalla was expressly to enable him to act promptly, and that relieved me of a great deal of correspondence that would have passed through the office otherwise. A great deal done in Benalla we did not know about till afterwards.

1667. Do you know of your own knowledge whether any communication was sent to your department conveying the information that the fact of the cave party under Mr. Nicolson was well known in the barracks in Richmond?—No, I think not. In the absence of papers I would not be absolutely certain, but I feel quite confident in my own mind as to its not being so.

1668. Did Captain Standish at any time complain to you of the reticence of Mr. Nicolson?—Yes; not in the way exactly of complaint, but when Mr. Nicolson was at Benalla Captain Standish would sometimes show a degree of impatience; he would say he could not make out what was going on at Benalla.

1669. Would he state any reason why he would not tell what was going on?—Because he did not hear, he could not get information.

1670. Because Mr. Nicolson had not forwarded information to him?—Yes, he seemed to be dissatisfied at not receiving fuller particulars from Benalla.

1671. Had you any correspondence with the head of the department in reference to a state school teacher in the employ of the police in the North-Eastern district?—I do not know, I might have had, but I am not quite certain; there was correspondence, I think, about the man you refer to. I think I know the matter referred to, but whether it passed through the books or not I am not certain.

1672. That correspondence is obtainable?—It is now in the hands of the Secretary of the Commission, if it is the case I refer to—if it is the case of a letter which was furnished to the department, an unsigned letter furnished by Mr. Graves.

1673. We have it in evidence that this teacher had written many letters?—They did not come through the office.

1674. A state school teacher employed by the police?—It did not come through our office. Under the circumstances, it is a kind of correspondence that would not come through.

1675. Which is the other case you refer through?—A letter referring to the information given by a state school teacher.

1676. The statement of the teacher who was there at the time of the finish-up?—Yes, I refer to that, because you said the correspondence with the Education Department.

1677. I do not mean Mr. Curnow.—No.

1678. Was it before the capture of the Kellys?—Yes, but my recollection of the whole of the affair is very vague. You could not rely on my mere impression.

1679. You have all the correspondence, if there is any?—Not that. The particular file has been furnished to the Secretary of the Commission.

1680. It is not intended by the Commission to name any names. That is why we are particular in not mentioning the names?—Yes.

1681. Do you know of your own knowledge of the papers of the office whether any sums of money have been paid to any school teacher for information?—I do not of my own knowledge.

*The Chairman.*—As this is a matter strictly connected with the office, and as Mr. Hare and Mr. Nicolson have both been connected with the office to some extent, the Commission will give them liberty to put any questions if they feel fit. Do you desire to do so Mr. Nicolson?

1682. *By Mr. Nicolson (to the witness).*—You alluded to the clerks being detained in the office during the period that I was in charge in Captain Sandish's absence up country. Has any other Acting Commissioner of Police detained them late?—There has been no other Acting Commissioner.

1683. Any Chief Commissioner?—Nor Chief Commissioner of upwards of twenty years. In the earliest days, of course, under Captain MacMahon, when the force was being brought from a chaotic state into a state of some order, it was a common thing for us to stay till seven o'clock. I have been repeatedly detained until seven o'clock with the work of the office; but you cannot compare the present time with that.

1684. Are you not aware that, at the time I was in the office, there was good reason to be careful. You said I was very careful in looking over papers; had I not good reason to be, as the circumstances were very peculiar?—Yes; I did not imply the contrary at all. The only is I drew the contrast between you and Captain Standish, that you would take the longer time—constitutionally you would take a longer time in going through a file than Captain Standish would. That was the only thing I spoke of.

1685. I do not like to make invidious comparisons, but did you find any of Captain Standish's reports about that time sent back because they were contrary to evidence or did not meet with satisfaction?—No, I think not, because who was there to send them back? He was the head of the department, and the officers at Benalla were under him.

1686. There were letters to other departments as well?—I could not say that Captain Standish's correspondence was in any way inaccurate further than would be the case with any man at a distance from the scene of operations.

1687. Have Captain Standish's reports been sent back from other Government offices, the Chief Secretary's, for instance, because the memoranda did not comprehend the case exactly, or did not represent the case so well as if he had given it more attention?—No, I cannot recall any case of the kind.

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1688. Did the reports sent away in my time to other departments meet the situation?—Certainly they did, so far as I could judge. In regard to the report from both there was always considerable care taken in the office; everything was sent off after scrutiny. We have a thoroughly confidential and careful staff, and if there had been any oversight we have the confidence in them that any clerk seeing anything wrong would have pointed it out. The reports in the one case as well as the other were careful, accurate, and satisfactory.

1689. In addition to the usual correspondence of the office, was there not a great addition connected with the Kelly business?—A very great addition, as everyone in the office felt.

1690. *By the Commission.*—Was there more correspondence and work during Mr. Nicolson's time than during Captain Standish's?—I think not.

1691. At the particular period at which Captain Standish complains of the muddle in the office?—No. Well, during the Kelly affair, whether Captain Standish was at the office or Mr. Nicolson, the average was much about the same.

1692. The only thing was that Mr. Nicolson took a little longer time in passing it through?—Yes.

1693. And you do not acknowledge that the office was in any state of muddle whatever?—No, further than this, if you find clerks with a heap of papers and they find they have to stay late hours, some would call that a state of muddle, but I do not.

1694. It was delay on pressure of business?—Yes.

1695. But the business was cleared up as Mr. Nicolson went along; there was no undue accumulation?—No.

1696. *By Mr. Nicolson.*—On other occasion when I acted for Captain Standish, which was very frequent, was there any bother of difficulty about papers, or any delay previous to the Kelly outbreak?—No, I cannot recall anything of the kind.

1697. *By Mr. Hare.*—Have you any account of documents that have been removed from the office by Mr. Nicolson since he has been Acting Commissioner with reference to the Kelly affair?—No.

1698. You have not kept an account of them?—No. When he called for papers, when he was in the office, of course they were brought before him; and naturally I did not think it necessary to keep a record of what were taken.

1699. You do not know what papers have been taken or what he has in his possession?—No.

1700. No record kept?—No.

1701. Have many papers been given him?—Not very many.

1702. *By the Commission.*—Have you got a registry?—Yes.

1703. Would not your registry book show where a paper had gone to, whether to the Acting Chief Commissioner or any other?—Not after they are filed. You see this is with reference to papers that have been done with and filed in the office. A paper or file of that kind is called for; it is turned up, and put before the Chief Commissioner. I have never thought it necessary, naturally, to keep a record against him of files he takes in that way. If a file of that kind has not been returned the matter would be lost sight of, and it would be the same with Captain Standish when he was in the office and papers were put before him.

1704. Then the Chief Commissioner of Police could take any of those papers, and you would have no record against him?—No; we have never felt the necessity for a record of that kind.

1705. That is done in the Lands Department?—Yes, but I may say that our office is a small and compact office, and there never has been felt a necessity for the record that is spoken of. In a large office like the Lands Department, with a great many subordinate heads of departments it would be absolutely necessary; but with us if that plan were adopted, or what is called the In Register, it would be absolutely necessary; but with us if that plan were, or what is called the In Register, it would lead to an increase of the staff.

1706. How many clerks have you?—Nine.

1707. Would not one clerk of papers be sufficient to give out, and take in, and keep a record?—One clerk might do it, but then the time of any clerk is fully occupied.

1708. Then you have not got a register of papers in the office?—No.

1709. Previous to the Kelly business there was not much necessity to turn up files?—Very seldom. Once a year perhaps.

1710. *By Mr. Nicolson.*—Could you not almost recollect the number of papers I had in this case – by considering?—Some six, or eight, or ten. I could not speak nearer than that. You asked for the papers connected with the Power capture, and those were all returned. I have got the impression that all the papers that were asked for have been returned.

1711. *By Mr. Hare.*—Could not one of your clerks state whether the papers have been received back

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for filing?—I do not think they could. During the last three weeks the clerks have been so occupied with hunting up records and papers, and arranging matters, and so on, that their recollection would not be reliable in such a matter. They could not possibly do it.

1712. I mean previous to Mr. Nicolson being relieved of the position of Acting Commissioner?—Before the present pressure of course we would. In that case of course the old file of papers was turned up. The rule is when they go into the strongroom and open up an old file they leave it roughly tied up, and it is not put away again till the paper taken out is returned.

1713. Then they could tell whether they had got all the papers up to the time of Mr. Nicolson being relieved?—

1714. *By Mr. Nicolson.*—If I state to you that I had only two files, that one and one the file of Mr. Winch, my name appearing under Mr. Winch's—do you remember any other files?—No.

1715. What is your impression about the files that I ever received?—My impression is that they were returned. I am not aware that you have taken any papers away.

1716. *By Mr. Hare.*—Still they might be taken away without your knowledge?—They might be.

*The Chairman.*—I think that is the fault of the system, not the fault of anybody.

*Mr. Hare.*—My object in putting this questions is in reference to the files produced by Mr. Nicolson, in the case of Constable Redding, where there were two different subjects at different dates attached together on the same file in an improper way.

*The witness withdrew.*

*Adjourned to next day at Eleven o'clock.*

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THURSDAY, 7<sup>TH</sup> APRIL, 1881.

*Present:*

W. ANDERSON, Esq., M.L.A., in the Chair;	
J. H. Graves, Esq., M.L.A.,	J. Gibb, Esq., M.L.A.,
E. J. Dixon, Esq., J.P.	G. R. Fincham, Esq., M.L.A.,
G. W. Hall, Esq., M.L.A.	

*The Chairman* read the following telegram, giving the names of the constables engaged in the cave party:—

“Beechworth, 6th April 1881.

“Telegram for the Secretary Police Commission.

“*Re* names of Constables—cave party:—Alexander, 1649; Barry, 2710; Cox, 2810; Armstrong, 2475; Canny (probationer); Falkiner, 2784; McColl, 3033; McHugh, 2551; Hagger, 1979; Dixon, 3039; Alexander, 2755.—”

(Signature) P. MULLANE, S.C.”

John Sadleir sworn and examined.

John Sadleir,  
7th April 1881.

1717. *By the Commission.*—What is your position?—Superintendent of Police, stationed at Benalla. I joined the service as a cadet in 1852, I was promoted to the rank of superintendent in 1874, and then took charge of the Mansfield district. The Mansfield district joined the present North-Eastern district, that is the Benalla district on the south.

1718. Is it a part of the district in the police management?—By the new arrangement of 1878 it is part. The present North-Eastern district (I will define the district exactly) is bounded from a line starting, say, from Wood's Point north-east to Tintaldra, 144 miles; thence west along the course of the Murray to Barmah, 160 miles; thence south to Whroo, 56 miles, and thence south-east to Wood's Point, the starting point, 10 miles. There are some 11,000 square miles altogether.

1719. Where is the crossing-place on the line?—I am talking the line across on from Whroo to Wood's Point.

1720. Where does it cross the North-Eastern line?—Between Longwood and Avenel, so as to include Alexandra.

1721. Avenel is out of your district?—Yes, Wood's Point is my most southern station. I have stated there are about 11,000 square miles; more than half of that is high mountain range. There are 49 police stations in the district and 100 police. While I was in charge of the Mansfield district the Kellys have committed an outrage upon Fitzpatrick before I left that district, and they were then in the bush. In July 1878 the Beechworth district and the Mansfield district, and part of the Kilmore district—that is, within the limits I described just now—were all run into one, and I was placed in charge, and my headquarters changed from Mansfield to Benalla.

1722. Will you fix the date?—As nearly as possible the 1st July 1878. I relieved Mr. Chomley, who had been for a short time in charge of the Beechworth district which included Benalla up to that time. Shortly after I got things straight at Benalla this Kelly business had to be attended to.

1723. Is that the Fitzpatrick portion of it?—Yes. The two Kellys were out; they were the only persons against whom there was any charge at this time. In going amongst the stations in the neighborhood I found that there was no real satisfactory evidence to be had. About August or September I proposed to the Chief Commissioner to send a detective through the district to get information.

1724. Of the same year?—Yes; Detective Ward was sent about the middle, I think it was, of September. I was instructed by Captain Standish not to let any of the district police know he was there. I was anxious to let one or two of the men mostly concerned know, but he forbade it. There is some correspondence that I can put before the Commission while I speak—[*producing a large thin box containing papers*].

1725. What are those papers?—All the papers connected with the Kelly business, telegrams, letters, and so on. They have been in my charge ever since; they have been in my office.

1726. And you have brought them down as custodian of the papers?—Yes; there is a catalogue the Board can have for them. That catalogue includes the full names of several of our agents. I would ask the secretary to remember that, and that they are confidential communications between the Chief Commissioner and myself.

*The Secretary.*—No one else will have access to that, except the Commissioner.

1727. *The Witness.*—The principal business was sending Ward into the district. He was at work for about five or six weeks, and the result was reported by Ward to Mr. Secretan direct, and I was then informed through Mr. Secretan. I was frequently away; and it was more convenient to report through Mr. Secretan, whose first report was on the 8th October 1878:—"I have reliable information that the Kellys have not been in Victoria for a considerable time, but are expected immediately. I believe if they do come that Detective Ward will be in a position to effect their arrest. I think your men are merely guessing that, as the trial of their mother is coming on now, they are likely to be about. I should have written you before, but really had nothing positive until yesterday. Faithfully yours, (Signed) FREDK. SECRETAN." On the 17th October, Mr. Secretan thought it time I should make an organized search, of which I had spoken to him before, "about Greta, Fifteen-mile Creek, and thence to Mansfield, as it is now (on the 17th of October), alleged that one or both of the Kellys are about there, and, if not, this move will cause commotion in their camp." The last letter I got from Mr. Secretan was the 24th of October, in which Mr. Secretan says:—"I have shown your note to the Chief Commissioner, and he directs me to say that he does not see the least use in your making the presence of Ward known to any of the police of the district, neither does he wish it done. I hope the move will be successful, for it begins to look rather doubtful; still, must hope for the best." That is the whole amount of the information which the police had when going out with Sergeant Kennedy, in the 25th of October, to Greta and Mansfield. The party was—Sergeant Kennedy, Constables Lonigan, Scanlan, and McIntyre. On the same day a party of four started from Greta—Senior-constables Shoebridge and Strahan, Constables Thom and Ryan.

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1728. Had Ward information at that time that the Kellys were in the district?—Only the information I had already read. Greta is a large parish of itself, and, on to Mansfield, an uninhabited country, taking forty miles square at least.

John Sadleir,  
*continued,*  
7th April 1881.

1729. Was Kennedy aware that Ward was in the district at that time?—No; I was told not to let him know.

1730. Those men that were of the search party, at Mansfield, were they all police in the district?—Of the district, as I have stated.

1731. Where was Sergeant Kennedy stationed?—Mansfield.

1732. Lonigan?—He was brought from Violet Town; Scanlan from Mooroopna, near Shepparton.

1733. He had been in the district?—Yes. Scanlan was chosen for his knowledge of the Kellys. The next I knew of the matter is the return of McIntyre with the report of the murders. I may say the police were expected to return—Kennedy and his party, and Strahan and his party—to return on the Tuesday in three or four days. The information, I thought, was so poor that there was no chance of seeing the Kellys, and we never heard, from any source whatever, of the other two companions—Hart and Byrne—being out. When I heard of the murders I was at Cashel, twenty-five miles north and west of Benalla. I came into Benalla at once, and then started on to Mansfield, where I got that evening. I found the people all along the roads so scared that they tried to stop me, seeing me ride alone; and the people at Mansfield were very much disturbed, and were under the impression that the Kellys were still in the neighborhood, and, of course, it was very hard to get a party to go out and assist and look for body of Kennedy. The other two bodies had been found, and I was persuaded that it was not likely that the Kellys would stay in the neighborhood. The party started on the Wednesday morning. I returned to Benalla, where I expected most of the others to be, and on my way I heard of the recovery of Kennedy's body. On my return to Benalla, I think Mr. Nicolson was absent on some duty. He had arrived at Benalla, I understood, on the 28th October 1878—that would be Monday. When I returned to Benalla, from Mansfield, on the Wednesday, I found he was away.

1734. Was he there in charge?—He had come to assist on the first report of the murders on the 28th. He had nothing to do with the district before that. I was in charge of the district.

1735. Was he in charge of the district then?—I had been in charge of the district, but on the report of the murders he came up as senior officer. I was in charge of the general district all along, but he took charge of the special operations about the Kellys.

1736. Have you those arrangements in writing?—No, the instructions appear to have been verbal. As far as I understand, he was simply sent up the country with what men he could collect, and his rank gave him authority over me without any instructions. Before leaving Mansfield, I found Wild Wright, in the lock-up there. I promised him £30 if he would go and find the body of Kennedy, or bring him in alive. I put some conditions to this, which I need not explain, to prevent any mischief happening to Kennedy; but as I said, before he could do anything, the body was recovered by the search party.

1737. Was that search party a police party?—One or two police and several of the citizens of the town.

1738. Then Wild Wright really did not start?—Yes, he started. His intention was to see Ned Kelly's sister, and try and get through her any information he could as to Kennedy's whereabouts. Of course we had to consider the point that they were ruffians enough; that if they could earn £30, even by shooting him after they got the information, they might do it, so we provided against that. I took a doctor's opinion, and he said he could tell if a wound was inflicted after death or before, and the age of it; of course in any case it was a ticklish business. Mr. Nicolson was away, I think at Chiltern at this time. I will put in the instructions on which Sergeant Kennedy acted when he went out. I first wrote to him on the 10th of August 1878, as follows:—"It seems to be certain that 'Ned Kelly' is in the neighborhood of Greta, or from thence to Conolly's and the bogs near the Wombat. I am very anxious to make some special efforts to have the matter set at rest, and his apprehension effected, if possible. I have consulted with the senior-constable in charge at Greta, and it appears that there is not much likelihood of him and the constable with him there doing much towards arresting Kelly, or even disturbing him from the neighborhood. It has been proposed to collect, for the purposes of a thorough search, what constables are in the district who know Kelly personally, sending say two of them to Mansfield to act with Sergeant Kennedy from that end, and the others to act with the Greta police, and to search simultaneously up and down the King River and neighboring places. I shall be glad to receive any suggestions that Sergeant Kennedy may have to offer on the subject, and whether he is of opinion that anything might be gained by his coming here for a day or so to consult with the sub-officer taking charge of the party starting from the Greta end—that is supposing this expedition should be determined on." I may say that Sergeant Kennedy did afterwards come and consult with the sub-officer.

1739. Before he organized his party?—Yes, a day or two before he started.

1740. Upon what charge were they seeking to arrest the Kellys at this time?—Warrants were out for the shooting of Fitzpatrick; there may have been other charges.

1741. The warrants were out for whom?—I cannot speak from memory. I believe there were warrants out against half-a-dozen, and some of them executed. On the 16th of August 1878, Sergeant Kennedy answered as follows:—"I beg to report, for the Superintendent's information, that I am of opinion that the offender Kelly can be rooted from his hiding place if the arrangements proposed by the Superintendent were properly carried out. The distance from Mansfield to the King River is so great, and the country impenetrable, that a party of men from here would, in my opinion, require to establish a kind of dépôt at some distance beyond the Wombat—say Stringybark Creek—seven miles beyond Monk's. By forming a camp there, it would enable the party to keep up a continuous search between there and the flat country towards the King River, Fifteen-mile Creek, Holland's Creek. While the Mansfield men would be doing the ranges and creeks in that neighborhood, the men forming the Greta party could be operating on the flat country, along the rivers and creeks above mentioned. I feel sure by efficiently carrying out this plan, Kelly would soon be disturbed, if not captured. I believe Kelly has secreted himself in some isolated part of that country, lying between the Wombat and King River, in a similar way to which Power did; and seeing he was a mate of Power, I think it is reasonable to conclude he would imitate his example in this respect, seeing it was the means of keeping Power in comparative safety so long. I am not aware if

Mounted constable Michael Scanlan, 2118, of Mooroopna, is personally acquainted with Kelly, but I am sure there is no man could render more service in the proposed expedition than he could, as he knows every part of that country lying between here and the King River. I am of opinion Constable Scanlan, Constable McIntyre, and myself would be quite sufficient to undertake the working of that country, without any more assistance. I should like to have a personal interview with the sub-officer taking charge of the party starting from Greta." The place where Sergeant Kennedy proposed his camp was where he was murdered—Stringybark Creek. The place he mentioned as the place likely for the Kellys to be hiding was a good deal east of where they were actually found to be, and I was not satisfied with starting three, especially as none of them knew the Kellys to a certainty, and that is why I chose Constable Lonigan. The expedition was delayed through various causes. I think the mother's trial was coming on, Sergeant Kennedy was a witness in some case in Beechworth, and I was looking for more particular information before sending them out, and I delayed it till October.

1742. What part of October?—I then revived the matter on the 18th of October. On the 18th of October I wrote to the officer in charge of Mansfield, Sub-Inspector Pewtress—"It has been decided to carry out the plan proposed by me on 10th of August last, but which has unavoidably been delayed. I wish the party to start work early on Tuesday next from each end, *i.e.*, from Mansfield and Greta. As I have already informed Sergeant Kennedy by telegraph, he will be required here to consult with the other sub-officers in this matter;

let him come by to-morrow's coach, bringing a plain saddle with him, as I wish him to take back a horse specially fitted for this expedition. Constable Scanlan and Constable McIntyre will also form two of the party from the Mansfield end." The rest is immaterial, and then there is a postscript, "This matter must be dealt with by everyone concerned as strictly confidential." That horse that Sergeant Kennedy has to ride was a very remarkable white horse, and I did not think it was suitable for work of this sort, and I gave him another quiet handy horse—that was the horse that McIntyre afterwards escaped on. Then I gave him final instructions on the 21st October:—"A party which will consist of Sergeant Kennedy, Constables McIntyre, Scanlan, and Lonigan, will start from Mansfield on Friday next"—(there was some alteration, and I cannot remember the cause, unless it was for being wanted as witness in cases at Beechworth. I think he was a witness in some case of horse-stealing there)—"commencing the search for offenders Kelly from the Wombat end. Constable Lonigan is ordered to report at Mansfield on Wednesday next, but should he not arrive in time the party must start without him. Both Constables Scanlan and Lonigan can recognize Kelly should they be so successful as to come upon him. The other party start from this end on Friday morning; the men forming it are Sergeant Steele"—(that is a clerical error, it should have been Senior-constable Shoebridge)—"Senior-constable Strahan, Constables Baird, Thom, and Ryan." Baird's name is also inserted by mistake.

1743. Is that the original document?—Yes. I suppose I had given the clerk instructions to repeat finally previous instructions.

1744. How would those mistakes read when Sergeant Kennedy got it?—I do not know what he could have made of it; however, it did not affect him. It was merely the list of men who started from the other end, he would not concern himself about that. There was no mistake in the instructions to the men at the other side, for they went just as they were told.

1745. Was there any instruction as to how they were to act when they were out?—I had several conversations with them. Of course you could only deal with that, leaving it to their own discretion—every one was a good bushman, whom you could rely on to do his best—to do his duty.

1746. Good horsemen?—Yes.

1747. Well provided with arms and ammunition?—As Captain Standish said, the regulation weapon was a revolver, but this (Sergeant Kennedy's) party had beside that a Spencer repeating rifle, and a double shot gun.

1748. Were there any special instructions about fires?—You talk with the men for an hour or two, perhaps longer or shorter, and every one of the necessary circumstances is put before them. They had no written instructions but those I am reading now. Of course every man concerned had his own life to look after, and if I tied them down strictly to any particular line I might be responsible for the circumstances if anything happened to them in consequence.

1749. They were not cautioned about the danger of separating, knowing the character of the men?—No, for often they must separate. I would not do that.

1750. They were sent out on a special mission, and after the conversation it was left to their discretion?—Yes; if they came to a narrow defile and all tried to go together all might be shot together I left it to their discretion entirely.

1751. In both cases the officers in charge were good and reliable officers?—Yes, and every man was a good and reliable man. Perhaps there was a little difference, but they were all perfectly satisfactory. I have said also that Constables Thom and Ryan well knew the offenders. I suggested Hedi as the place where they might meet, and I will finish by reading what I said:—"I am relying on the zeal and discretion of the members of the force forming these search parties to do what is possible in the matter to effect the arrest of the offenders, and when they have satisfied themselves there is no further use for the services in this respect they should return to their respective stations, Sergeant Kennedy reporting to me the particulars of their labours. A horse for Sergeant Kennedy's use will be sent up by Constable Scanlan for this expedition. Enclosed are photos of Kellys." This file was found afterwards, after Sergeant Kennedy's death, among his papers, and sent to me. That last memo. is not marked by him, but it was Mr. Pewtress, who says, "I forward herewith a file of papers found in the iron safe this morning, no doubt placed there by the late Sergeant Kennedy."

1752. Had Constable McIntyre proved himself a courageous man before this?—He was a very respectable man; I do not think I ever saw him put to the test.

1753. He was taken at the suggestion of Sergeant Kennedy?—Yes, specially chosen by him. He was a zealous, conscientious man, and I could see no difference between them as to bravery and so on.

1754. Sergeant Kennedy must have had confidence in his courage?—Yes.

1755. Is your opinion that they acted judiciously and courageously?—I do think it; I think he (McIntyre) acted as a brave man, and as I should have acted myself, but that is only an opinion. Here are some further papers preliminary to the search, also semi-official correspondence between myself and Captain Standish. On the 16<sup>th</sup> September I wrote to Captain Standish. "Dear Captain Standish,—

chance of visiting Mansfield again. This is perhaps as well, as Detective Ward is now in the neighborhood, and my plans might interfere with his. I shall not lose sight of the matter." I proposed to Captain Standish (I find I have the letter), on the 29th August, to send a private agent into that country, and he approved of it—his approval came accidentally too late, and I was not able to deal with it. This is the letter I wrote—*[handling in the same, which is as follows:—]*

DEAR CAPTAIN STANDISH,

Benalla, 29/8/78.

I am in good deal exercised in mind at hearing, as I often do, of Ned Kelly being about. He is not likely to fall into our hands by ordinary means, and I think of proposing to a young acquaintance of mine, the criminal class, to spend a few weeks in the places where he is supposed to haunt, and endeavor to lay us on to him. I am sure if this trap were known to Kelly or his associates, the young fellow's life would not be worth much. They would not be any the wiser unless the young fellow himself talks about it. It would require a few pounds to give the young fellow a start. I can only say he is bad enough, I believe, to do anything in the prospect of the reward. I should be glad to learn from you if you would like the proposition. By letter posted on Saturday, or a telegram till Monday, will find me at Mansfield, where my protégé lives.

Yrs, &c.,

(Sgd.)

J. SADLEIR.

1756. By a private agent do you mean one of the detectives?—No. As I have said, on returning to Benalla on the 30th, I found Mr. Nicolson, I think absent at Chiltern. About this time, the 1st November, the first information that I heard of them came in about the Kellys. The purport of it was that a man residing near the Murray reported that he had been stuck up by four armed men answering the description of the Kellys and their companions.

1757. What time does all this refer to?—This is the report of the 1st November, four or five days after the murders.

1758. How long was this after the murders?—The murders were on the 26th October, and this report is dated Barnawartha, which is near the Murray, on the 1st November.

1759. What steps did you take in the meantime?—I think that Mr. Nicolson stated all that was necessary about that, but I can go over the same ground if you wish.

1760. It will be necessary to have your full account of all matters?—I do not know, except from reports of Mr. Nicolson, what action he took in this matter; I know that he took action.

1761. Were you sent down to enquire into it before Mr. Nicolson went?—No, Mr. Nicolson had probably heard it while I was away, but I am not sure.

1762. Then Mr. Nicolson said there was some delay before he followed them up?—I know that Detective Kennedy went down about that report when it was first received, and Mr. Nicolson, not being satisfied as to the result, went himself.

1763. Detective Kennedy was the man sent down first?—Yes, I think he was the first. On the 6th November, that would be the Wednesday, I went to Everton and thence on to Taylor's Gap. I met there by appointment two parties of police, and instructing them, according to arrangement with Mr. Nicolson about some further duties they had.

1764. Were those the same two parties?—No, two search parties that were out after the murderers; and, after doing my business with them, I went on to Beechworth with Senior-Constable James. We got into Beechworth about half-past ten, and found the place overrun with armed men—the camp overrun with armed men. I found there was a search party being got up by Constables Keating and Keen on some information they had.

1765. Found the place overrun with armed men; were the men constables?—No, private citizens. I think there were seven or eight men with guns and weapons of various sorts. I found a man there who said he had seen the Kellys two evenings before in the neighborhood, and though I knew the information was stale, two days old, I thought it could not be passed over.

1766. Was this man stating what he said to you privately?—No, he had observed it himself; he had seen the men himself.

1767. Was he stating that to the armed people or to you confidentially?—He was in the lock-up when I saw him; I put him in there for safety. His information was, beside seeing them two days before, that if they were not found in the place where he saw them, they would be found in some other. I forget his expression; somewhere in the rocks where it would take fifty men to get them out. He was very particular about that.

1768. Is that the matter referred to in Captain Standish's evidence—"On 6th November 1878, I proceeded to Benalla to confer with Mr. Nicolson, arriving there about 8 p.m. While we were talking, we received an urgent dispatch from Mr. Sadleir, then at Beechworth, that the Kellys had been at Sebastopol, and that he believed that they were there then. I immediately ordered a special train, and proceeded with Mr. Nicolson, nine mounted constables, and one black tracker, to Beechworth, arriving there soon after 3 a.m. At 4 a.m. we started—" Is that the same that you refer to?—Yes, it is. I find a telegram dated 6th November 1878. "Very positive information that Kellys are concealed in range near here. My informant is not quite sober, and has been talking rather openly, but I am convinced his information is genuine; but it may be to late a day or two. I have but two constables here, and the hiding place is most difficult to approach. I have endeavored with Steele's party of thirteen men, six of which I can be sure of coming, but I think you should send all you can by special to reach here before day; mounted, and of course armed, and bring tracker. Reply." The answer is—"We are coming as desired by special train. We shall leave about midnight. Meet us. Standish accompanies me." That is from Mr. Nicolson. About daybreak next morning Captain Standish and Mr. Nicolson arrived with about nine men.

1769. Would that be Thursday?—Yes, Thursday morning, and I think there were two or three

gentlemen of the Melbourne press with them. Not only the six men that I expected from Sergeant Steele, but all his party turned up.

1770. How many would his party consist of?—Thirteen; they met us on the road as we went out, about two miles out of Beechworth, and I think the rest is described by Mr. Nicolson in his evidence,

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John Sadleir,  
*continued,*  
7th April 1881.

except this, as when we approached the place where we had to search, we halted the whole party a good distance away from the place. Mr. Nicolson and myself selected any men near us that we liked for the rush, asking Captain Standish to hold the others back, because they were very anxious about it, until at last we could get quietly near the place and start into a gallop. We searched the house and found no Kellys there, found a family, and they were fast asleep when Mr. Nicolson, who was first in, arrived, so they did not hear us. We searched another place and found nothing.

1771. Will you define more clearly the places searched?—The first hut we searched was Sherritt senior's hut. The next hut we searched, a little further on, was supposed to be Aaron Sherritt's, but I think there was some mistake about that—at any rate, it was not the hut we expected.

1772. Did the whole of the party proceed to search the second hut?—I think we went in much the same way, cautiously. It was not of much moment—it was a mere thing done by the way.

1773. You found them asleep in the hut?—Yes; Mr. Nicolson told me so. He was the first to enter; my horse would not jump a fence that was in the way—I had to knock it down first. He was twenty-five yards away of me; he put his shoulder to the door and went in head foremost. On that day Aaron Sherritt (it was the first I saw him)—

1774. Before going to that, perhaps it would be as well for you to clear up the statement made by Mr. Nicolson as to when you met Captain Standish and Mr. Nicolson at Beechworth—was Mr. Nicolson made aware of the information that you had obtained and of the mode you intended to adopt?—Well, I thought so at the time, but I found out afterwards he was not—he was away searching about a horse—there was some mistake.

1775. Will you look at Mr. Nicolson's evidence on from question 361. He speaks about a great noise because of the great party, and so on?—You cannot take a party over a rocky hill like that without that.

1776. Who was responsible for bringing the large party together?—It was an accident. When the information was received by me, I did not know really what police there was at Benalla, and I did not know how many I could get from Taylor's Gap. Six was what I expected, and as I thought I could make sure of six, and I thought with what they could bring from Benalla, we should have had just enough. It turned out that we got the whole of those at Taylor's Gap.

1777. How many?—Thirteen. I think there were some more somehow. There was no account taken that morning—the men met us as we travelled—we could not stop them. We did not know of their presence till we met them in the bush.

1778. How many would there be altogether?—I think our whole party would be about thirty-five, including reporters.

1779. You do not agree with the statement that there were fifty?—No; yet it might be correct. I could find out exactly, but these things are very troublesome to find out exactly.

1780. You and Captain Standish and Mr. Nicolson were with this particular party, and Mr. Nicolson states that, after starting from Beechworth, you and Captain Standish travelled on the way together, and he knew nothing about what you were going out for; and that there was a confidential conversation between you two in which he was not included until the party arrived in the front of the first hut?—I do not think Mr. Nicolson meant that.

1781. Is it a fact that Mr. Nicolson had received no information from you, who, he says, was in charge of that particular party until you arrived in sight of the first hut?—Well, in the first place, Mr. Nicolson had received a telegram. That is the foundation, and when explaining matters more fully on their arrival at the platform, I thought Mr. Nicolson was standing by—my impression was that he was standing by, and naturally would catch up what was said, and I took it for granted that he heard, as well as Captain Standish, what I said, which was simply an enlargement of the telegram I sent.

1782. If Mr. Nicolson is under the impression that he was designedly excluded from the conversation, he is mistaken?—Yes, he is. I was saying that that was the first time I met Aaron Sherritt, going down to Mrs. Byrne's house from Sherritt's house. Sherritt's house is on the table-land, and we got down the gully, and at the foot of it a little way off is Mrs. Byrne's, and there we met Aaron Sherritt for the first time.

1783. Did any of the officers in charge of that party have any conversation with Aaron Sherritt at that time?—Yes, we all had.

1784. Was Aaron Sherritt at that time asked to assist the police in the capture of the Kelly gang?—I will state what I know about it and that will cover that. I was informed who he was by one of the police, and that he was a likely man to know about the Kellys. I spoke to him and asked him just to do what he could to assist us, and made certain promises which I forget. I was a stranger to him and he was not satisfied with my authority. I then called, I think, first to Mr. Nicolson and asked him to come and speak with him, and I think he was still uncertain about whether we had any authority. I then told him of Captain Standish, and I asked

captain Standish to speak with him. I think we were out of hearing of the police standing around us, but they could see all that we were doing. He seemed to promise, I expected that he would do something, in fact there was a promise to that effect from him.

1785. Did you agree on the terms then?—We came to an understanding. I do not know what the terms were.

1786. You were present and the first to speak to Aaron Sherritt?—I think I was—I am pretty sure of it.

1787. Was the conversation in the hearing of the other men?—I cannot be certain about it. I cannot understand myself talking to a man in that strain in the hearing of the men; but I cannot say for certain.

1788. You have been a long time in charge of the district, the responsible officer, and you ought to be able to say whether you would ask a man, a perfect stranger, in the hearing of others, to assist you?—I say that, from my experience, I do not think I would do such a thing; I should instinctively refrain from so doing.

1789. To the best of your recollection, you did?—To the best of my recollection, there was no person within hearing who ought not to have been.

1790. In question 405*a* this is the statement made by Mr. Nicolson:—"I then went and remonstrated with Captain Standish for making such proposals to a man like that in the hearing of others, of any person whatever." Do you remember any one remonstrating with Captain Standish for making proposals to Aaron Sherritt, asking him to assist the police?—I do not recollect.

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1791. Was it possible for any one to do so without your being aware of it?—Yes, quite possible.

1792. Then you had left Aaron Sherritt?—No, I did not say that.

1793. You say you, under ordinary circumstances, would not have spoken in the hearing of others; did you leave Captain Standish in conversation by himself?—No, I cannot say that.

1794. You are not in a position to say whether any one present remonstrated with him for making such proposals to a man like that in the hearing of others?—Twenty people might have done it without my hearing it, because I remember my agent was in the scrub above the house, and once or twice I had to go to him.

1795. You were not present during the whole interview?—No.

1796. Do you remember Detective Ward?—I do not remember his being there that day.

1797. Mr. Nicolson says he was?—I do not say he was not; I only speak of what I remember. We stayed at the hut where the proposal was made perhaps an hour and half. We started without our breakfast; it would be then about half-past six or seven.

1798. Did Aaron Sherritt accompany you from the time you met him to Byrne's house?—No, we had searched Mrs. Byrne's when he turned up. We searched to see whether any of the property of the murdered men was there; and when the whole thing was over, a light-looking high-shouldered man walked in, and Strahan said, "Here is a man that knows the Kellys well, and will be of use to you; he knows all that is going on." And then I went and spoke to Sherritt; and as I have explained, the matter went on to the end.

1799. Then you left him with Captain Standish?—No, I did not say that.

1800. What became of this man?—He kept moving backwards and forwards. You must remember there were 35 police there, and reporters and some diggers from the flat near, and that they were scattered perhaps over two or three acres, one man had tied up his horse here and sat beside it, and another was by his horse perhaps a hundred yards off, and so the work was done.

1801. You do not think it necessary to keep anything secret about Aaron Sherritt?—No; he is dead. When you come to talk to a criminal, you have to put things wrapt up according to their disposition. Some men you may speak plainly with. Sherritt said always he would have nothing to do with Joe Byrne, and I think we said we will save Joe Byrne; we will guarantee to save Joe Byrne. That was the promise that he wanted, and he was not satisfied with my authority. Then I called the other officers one by one, and he was at last satisfied. His bargain was if we would save Joe Byrne and guarantee his life, and Captain Standish said, "No doubt the Government would set upon his recommendation in the matter." That was about the size of what was said.

1802. Was he to go with a party of police?—No; to take his own course.

1803. Then these arrangements were then and there made by Sherritt?—Yes.

1804. Was that in the presence of more than yourself, Captain Standish, and Mr. Nicolson?—It was within sight of more, no doubt.

1805. After having had time during the adjournment of the Commission to think on this matter, are you now in a position to say whether that arrangement made with Aaron Sherritt was made in the presence of and with the personal knowledge of more than yourself and the other two officers in charge of that party?—I have not been thinking of this thing.

1806. I am determined to have your straight convictions on this subject. Can you state now whether there was any other person that yourself and the other two officers within hearing and within your knowledge?—I do not think we would have spoken in the hearing of any person else but us three and Sherritt.

1807. And if any one made a statement that this was done openly before the whole body, you would be inclined to deny it, I suppose?—It was done openly before the whole body, but not within their hearing. I wish to be very exact about that.

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1808. Well, it was done within the sight of others.—Yes.

1809. You believe it was not done within the knowledge of others?—I believe it was not done within the knowledge of others.

1810. If done within the knowledge of any, will you be kind enough to indicate what member of the police force, except of the three officers?—I have a recollection of seeing Senior-constable Strahan standing, perhaps, eight or ten yards away.

1811. Was he the nearest?—According to my recollection I believe he was the nearest, and I am under the impression that his opinion was asked about it in some way afterwards.

1812. Probably he was the man likeliest outside the three who have been consulted?—I think he was the most likely. I think Sergeant Steele, a well-known man in the district, possibly may have been spoken about it.

1813. Do you think any other members of the police were likely to have been consulted, or made acquainted with the arrangements with Aaron Sherritt?—I do not think it. It was our practice at all times, when there was a confidential man near us, no matter what his rank was, to take his view of the matter, as I did with Sergeant Kennedy in the first case.

1814. You started from Beechworth at what time on this occasion?—Before daylight on the 7th November.

1815. Will you state who you took from Beechworth?—That I cannot tell.

1816. Have you got the number?—The number was 35, as near as I can remember.

1817. No, I mean only starting from Beechworth?—Three reporters, I think, and three officers, nine men from Benalla making fifteen, and probably the two men on the station. I think that was all.

1818. Then before reaching Sherritt's hut you had the number of about 35, according to your statement?—About 35.

1819. Will you inform us under what circumstances those men were gathered together at that particular time and that particular spot?—Yes. On the evening before (the 6th), it was a quarter or twenty minutes to eleven p.m. when I telegraphed to Mr. Nicolson. The men whom I had left at Taylor's Gap, about twelve miles from Beechworth, I knew that some of them were still there. Knowing how late it was running with the telegraph hours, and there was very little time and no one to advise with, I despatched Constable Keating, to the best of my recollection, to Taylor's Gap, to bring in the men that were there, and if the others were there still to also bring them. The party combined would be thirteen, if they had gone

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it would be six. I expected six. I gave them instructions to meet the party leaving Beechworth in the morning at the Springs. That is about a mile or two miles out of Beechworth to the road we were going. My message reached the whole party at Taylor's Gap. The combined party was thirteen, so the thirteen came; and the thirteen met us, as well as I remember, at the Springs. I remember meeting them there, and I remember their giving the signal we had agreed on. The collection of those men I am responsible for.

1820. That accounts for thirty. What other station or outlying post did you request to meet you between you between Beechworth and Sherritt's?—There was no other.

1821. No other party of police that were likely to join you?—No, I do not think it possible; but this matter can be set right by reference to the records of the day. I would rather wait till then.

1822. You took the responsibility in the first place of communicating to Benalla from Beechworth; you then arranged with the police in the outlying districts to meet you at a certain point?—Only those I have mentioned.

1823. That was two for Beechworth, thirteen from Taylor's Gap, and the rest from Benalla?—Yes.

1824. Were there any other police requested to meet you on that expedition?—I do not think so. I do not think there were any others within reach.

1825. So that the number of police and reporters?—I am not responsible for them.

1826. There were thirty altogether. Were there any others except the police and reporters present with you when you came in sight of Sherritt's hut?—Of course, the informant was there—came up with us and showed us the way.

1827. That made thirty-one. Then at what time of the day or morning was your company increased by the diggers and others?—After the whole affair was over.

1828. What time of the day?—I think about half-past seven. It might have been six or eight. I cannot tell for certain. Starting at daybreak, you fancy the day is more advanced than it really is.

1829. How long did you remain at Byrne's place till you returned again to Beechworth?—We did not all return to Beechworth. I said only an hour and a half or two hour. We had to send right across the whole flat for refreshments, and there was some difficulty in getting them then.

1830. At the time you left after you abandoned the idea of capturing the gang in this hut, how many were present then, including the police, reporters, and those from other quarters—how many?—Very roughly guessing, forty of fifty perhaps.

1831. Not more than forty?—I do not think more than forty. I am merely guessing roughly after this lapse of time. I remember seeing several diggers. After we camped at Mrs. Byrne's house we saw the game was up, and she and her children were about; and the diggers and different people about came down, seeing

the crowd of men, and sat down, some of them amongst the police.

1832. Was the arrangement with Sherritt made before the general outside public were present or after?—Well, upon my word, I cannot tell you that. It was made the moment as soon as I heard who he was.

1833. About what time did you arrive at Sherritt's hut?—I would have to look and see what hour daylight was on that day. The sun had not risen though there was an early dawn.

1834. Then in all probability the arrangement made with Aaron Sherritt was made before seven in the morning?—I fancy that it would be before that.

1835. Had the general public arrived before that?—The "general public" would include two women and children and perhaps three of four men.

1836. Would they be all?—I think they would be.

1837. A portion of the Byrne family would have been likely to have been amongst the spectators when you were talking to Aaron Sherritt?—It is likely they may have observed him; they were observing what the men were doing. I do not suppose Mrs. Byrne knew Captain Standish from any of the other officers.

1838. She knew Aaron Sherritt?—Yes; but he was not the only man spoken to by the police. Aaron Sherritt was not seen till we got to Mrs. Byrne's.

1839. Were there any of the public present except the police at the time when Captain Standish and Mr. Nicolson and yourself were in conversation with Aaron Sherritt?—Mrs. Byrne.

1840. And who else did you see?—Some reporters and some diggers.

1841. Would this arrangement made with Aaron Sherritt be known to the public, that is, Mrs. Byrne and the miners who were there?—No. How could they, unless they had ears to hear a long way off? Certainly not.

1842. Did you or Captain Standish to your knowledge endeavor to make any arrangements with any other individual except Aaron Sherritt?—Yes.

1843. Would it be a breach of faith to mention it?—No; I am at liberty to do so. We tried Mrs. Byrne. Whether I was the principal speaker or not, I was there when it was done. We pointed out to her that here her son had got his neck into a halter, and that she could save him if she liked; and her answer was—"He had made his own bed, let him lie on it;" and there was a good deal of persuasion of that sort used with her.

1844. Were there any of the diggers about?—I do not think so; but I would have spoken to her in that way before fifty people.

1845. Because you knew she was the mother of Byrne?—Yes; and I tried to work on her mother's feelings.

1846. Would you have spoken so to any other person not connected with Byrne "before fifty people"?—No; certainly not.

1847. They were not outlaws then?—No; they were not proclaimed. That was not, I think, until December.

1848. Since you have given part of the arrangements entered into with this man Sherritt, I would like to know the remainder?—The substance of the understanding was this: it was proposed that he should have an understanding that Captain Standish would recommend to the Government that Joe Byrne's life should be saved, not his liberty, and that he should be tempted through Aaron Sherritt to lead the police on to the other three.

1849. What were the terms?—Only Joseph Byrne's life.

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1850. Was there no agreement made as to his reward and so forth?—I cannot say. Of course if there was any reward out he would have got it. I believe there was at the time.

1851. Was Sherritt to be engaged as the servant of the police at any stipulated pay?—No; not at that time. I do not think he had a farthing from us at that time.

1852. Will you go on with your narrative?—Yes. There was information coming in about that time of such a confused sort that my papers would show that it was impossible to make anything of it. I see [*looking at a paper*]*—that we had had information that the Kellys were seen about that time at Kerang, near Echuca; that they were seen at Gaffney's Creek; that they were seen on the Strathbogie; that they were seen at Oxley, Myrtleford, Hedi; and it is impossible to say where not.*

1853. Were all those places in your district?—No, Kerang is a long way out of it.

1854. All except Kerang?—Yes; and there was a report in that they were going to South Australia somehow.

1855. Were those rumors or confidential communications?—No; those are through the police; there is no secret about them.

1856. Only general rumor?—Some of them were given in the most circumstantial manner. I cannot describe them without putting in a great many papers.

1857. It was quite impossible they could all have been reliable?—Yes; I remember also at Mount Look-out, Gippsland, it was reported they were there. It is information picked up by different police at those places.

1858. Did you act on any of these information?—We had this particular Beechworth business in hand at the time, and we had to see that through. After that, later information came in about that time that

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they were seen at Moon's Pioneer Hotel, but we did not get that till it was eight days old.

1859. Where is that?—Everton. To sum it up, it was after we searched where we could, we found from information that the course that the Kellys had taken after the murders, which were committed on the 26th in the evening, was they stayed most of that night in the hut called Kelly's stronghold; that they started that morning, the Sunday morning, and that they had gone to Greta, and hung about there part of that day, Sunday; that they had gone to Moon's on Monday night, and one of them, or their friends, got a bottle of grog there. I believe it was Joe Byrne himself got it. On the 30th October they were seen at Marjery's on the Murray. They were seen on the 3rd November by our informant, the bark-stripper I spoke of, and that night or next morning at Wangaratta. On the morning on the 4th or 5th—I do not think it is quite clear which—they crossed through Wangaratta in the night, and went under the One-mile bridge, the railway, and went into the Warby Ranges; but all this information came in to us too late to be of any use.

1860. That hut is in the immediate vicinity of the scene of the murders?—Yes.

1861. Then they went out to their own place, Greta?—Yes.

1862. And then their course would take them to Mrs. Byrne's?—No, to Everton.

1863. And then they would come to the locality where the Kellys originally were?—Mr. Nicolson tracked them to Barnawartha, and from Barnawartha to Sherritt's, where we lose sight of them until this man's account.

1864. And then they came back to nearly their own place?—Yes, the Warby Ranges; and there our horses were got. I think the marks of the saddle showed the horses had not been worked for, perhaps, a week.

1865. Can you state, with that information, why they did not cross into New South Wales—did they not attempt it?—They certainly attempted it. They went to the Bungowanah wharf, and found the punt sunk, and the river unapproachable. The back waters were out, and it was said they were under water—that was the rumor amongst the police; I do not know whether there is any authority for it. Amongst the rumors that came in was one—it is only a matter of curiosity, perhaps not worth mentioning—that the reports of murders were received twenty miles away from the scene of the murders before McIntyre came in. I do not think the men—very respectable men—were mistaken, because I looked into the business as far as the press of business would permit. I asked an agent to look into it, and his report was that, on Saturday, the report was received at Strathbogie.

1866. Before the thing had taken place?—Yes; but as far as I could make out, the report was really received on the Sunday, when McIntyre was making his way into Mansfield. It was an ordinary traveller brought the report, passing by the place, in the neighborhood. He said, "There are two or three police shot in the country," indicating where they were shot. It is a proof, if anything, that some person was standing by, and saw it—some person besides the police and the Kellys.

1867. Would it be possible that the Kellys could have given the information?—It does not agree with our later information. The Kellys only went to their hut, and the young man Lloyd happened to arrive at the hut knowing they were there, and he kept guard till morning while they were having a few hours' sleep. They went straight away through the country to Greta.

1868. Do you recollect reading in the Mansfield paper at that time particulars about how Kennedy was shot, and all about the statement of his shooting?—There were a lot of details given at that time, very early.

1869. Appeared in the paper?—I remember seeing it.

1870. Have you endeavored to ascertain whether that statement in the paper about Kennedy's being shot, and all about it, was correct. Was that from the same source as the other?—No, I think that the details of their treatment of Kennedy came to my ears very early.

1871. Did they come from the murderers' own information?—Yes, through their family. I could trace it to that, and it came partly through Aaron Sherritt.

1872. They might have met somebody after the murders and told about it, as they did tell about how Kennedy died, otherwise it could not be known?—The information did not come in before McIntyre's statement.

1873. Was this man a common traveller along the road?—Yes, and he has never been traced. He was a stranger to my informant who gave the information, and it was said in an indifferent sort of way. The tracks from the One-mile Creek where they crossed into the Warby Ranges were followed up by Mr. Brooke Smith and some other police, and the horses found—the police horses—first one and then another.

1874. What was the name of the constable next in command under Mr. Brooke Smith?—Probably Senior-constable Johnson.

tracks. Of course, we were entirely in their hands, but I am speaking now of the judgment formed afterwards. They took us off those tracks and took us to the swampy ground, where there were thousands of tracks, where all the cattle of the neighborhood came to water, and we could not get the trackers back again to take the tracks where they left them. I am perfectly satisfied that they were simply misleading us.

1876. Who, the trackers?—Yes.

1877. The black trackers?—Yes. They were civilized blacks, some Coranderrk men. The grass was probably two feet long. We were in their hands. We were not awake to what I afterwards supposed to be their trick. They just took us in the tracks into within a short distance of cover, where an ambush might be, and led us clean away from that.

1878. Do you mean to lead the Commission to suppose that they did not care to go into danger?—Certainly, most assuredly not, and I do not blame them. It is just what you would expect.

1879. From fear?—From cunning and fear.

1880. Were they actuated by the spirit of fear or sympathy?—They were actuated of the spirit of self-preservation, because they knew they would be the first to be shot. In fact, it was too much to ask them to lead you into a place where an ambush might be and ask them to go first. Our police could not go first because they would interfere with the tracks and obliterate everything, but those men would not show us—would not follow the tracks any further. We then had to strike out for ourselves independently of the blacks, and while waiting for luncheon a small party under Sergeant Steele, through some mistake of orders, got out of sight, and we could not to pick them up again. I heard it reported afterwards as coming from Ned Kelly, that he saw us, and could have shot Mr. Nicolson and myself if he liked, of which I do not believe one word; but he must have heard we were there, for he described that we sat in a little open place where there was water; and he stated he could have shot us, that he saw the brands on the horses—recognized different men in the party. With a good party of blacks I think we would have had a very fair show. There were several search parties still going out without information. We always hoped against hope; and with many of them Mr. Nicolson himself went out. I had not quite recovered myself from rheumatic fever, and my doctor—Dr. Reynolds—told me that I dare not go out. This continued up till the beginning of December.

1881. When you said you dared not go out, do you mean you could not camp out in damp places?—Yes, not except at the risk of my life.

1882. It did not prevent your doing your ordinary duty?—No. I was told I was not fit for the other, but I found afterwards I was. While the search parties were out we had one or two very good agents at work. I am not at liberty to make public who they were, or indicate them in any way. I will put the paper before the Commission.

1883. You had an agent “diseased stock” man?—I would rather not say anything about that man.

1884. He has been referred to over and over again, and the evidence has been made public, so that it cannot matter?—The same gentleman appealed to me last evening to stop any further reference. I did not know that person at that time. We had one or two agents employed.

1885. You stated in your evidence just now that you entered the service, I think, in 1852?—Yes.

1886. Is it the fact that you and Mr. Nicolson were entering the same day?—I am not aware of it.

1887. Mr. Nicolson, I see, entered on the 1st December 1852, and I see that Mr. John Sadleir entered on the 1st December 1852?—Yes, I received pay from that day. We had an agent, his name is immaterial—we had two agents—two men who promised to work for us, and who were very near the friends of Kellys at this time, and the substance of that information was that the Kellys were near, and that the sisters were conveying provisions for them.

1888. About what date?—That was as early as the middle of November, the 11th November. The first agent kept us well informed of what was going on about the Kelly’s hold. The only information was that the provisions were being prepared in Mrs. Skillion’s house, and being conveyed by her during the night.

1889. Did you ever take steps to trace the provisions?—Yes, we did, and it is impossible to do it.

1890. When you say provisions prepared, do you mean meat cooked and bread baked?—Bread baked in such quantities that it could not have been for the ordinary family.

1891. The inference would be that the outlaws were frightened to light fires?—That is a very probable inference.

1892. Or the delay there would be in baking bread?—I do not know the object in doing it, but it was done. We tried to follow them, but any person accustomed to bush will know you cannot follow them if they are on horseback, because you have to follow on horseback, and if you let them out of sight, unless you have trackers, you have to gallop up, and the chances are you come out right on before them, and they discover you before you are aware of them. Mr. Hare described about Mrs. Skillion being discovered sitting on a log by the police. I believe that is quite true.

1893. We want to know what steps were taken to see, at that time, if the operations of Mrs. Skillion were in any way checked?—We did try, I cannot recall the particulars. I think it was only by trying to follow her that it was done, and that was found impossible. I cannot tell what steps were taken at the time. I know we expected better information of this man every day, and he did himself.

1894. Mr. Nicolson was then in the Benalla district?—Yes.

1895. I understand he took special charge of the Kelly business?—Yes.

1896. While you attended more to the general business?—Yes, and I gave them my best assistance in all matters.

1897. If you received reliable information and you now forget what steps were taken, was it in consequence of Mr. Nicolson taking a greater responsibility of the Kelly business than yourself?—No; I do

not forget anything important I am sure.

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1898. This seems important. Provisions prepared at the hut and conveyed at night?—If my memory serves me, the man was so confident of getting us better information that we, after an effort or two, did not try to follow Mrs. Skillion.

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1899. What were those efforts?—I think it was we tried with our police in the neighborhood if they could make anything out by following her; we did it more than once; Mr. Hare described it.

1900. That was a long time after; this is within sixteen days after the outrages at Wombat Ranges that you had this information about the provisions?—Like Mr. Nicolson, I was a great deal away, and things may have happened without my knowledge. I know Mr. Nicolson kept better notes than I did at the time.

1901. Did you give any specific instructions as to what was to be done?—I cannot remember; we did what best to be done according to our judgment.

1902. What was the nearest station?—I think Greta was broken up; it would be about an equal distance between Wangaratta and Benalla—no, nearer to Benalla.

1903. The house where the provisions were cooked—eleven miles from Benalla and fourteen from Wangaratta, those being the nearest stations?—Yes, if Greta was broken up at that time.

*Mr. Nicolson.*—It was not broken up at that time.

1904. *By the Commission.*—Was that where Thom was?—He was not there then. I have no record that any steps were taken. I am entirely speaking from memory when I say they were.

1905. Would you not keep a diary of all the events of the slightest importance that transpired at this time?—The agreement between Mr. Nicolson and myself was that he would keep a diary of details at the first. He was a very accurate man in keeping details of particulars, more so than I was, and he has kept most of the records of that time. My records are very few.

1906. But still you tell us that you had documentary evidence, which you laid upon the table, from a reliable informant, that told you from day to day this thing was being done; did you take any steps, as far as you remember, to ascertain and track the people conveying those provisions?—We did take steps, but I said I have no record of them. The man's information was that she travelled every night so far as to bring her horse in knocked up when she returned. She had constantly to take a fresh horse, and that made any action more difficult.

1907. Did he state what time she started in the evening and what time she returned?—I have not got the record and cannot say. I think she used to start at night and came in a couple of hours after daybreak.

1908. I understood you to say it was within the knowledge of the police that those people were preparing an unusually large quantity of provisions?—Yes.

1909. For purposes other than to supply of their own families, would not the police have been justified in preventing this food being taken?—Certainly not.

1910. They were not outlaws then?—In any case we had no right without evidence; we only see a large quantity of bread baked. That is not proof of their guilt; that evidence is all guesswork.

1911. Do the police always wait for proof before they take action in any general matter which may arise which gives even the colourable shadow of evidence that it is for an unlawful purpose?—If they do anything else, they do it at their risk.

1912. Do they not in less important cases take such action, although it be at their own risk?—It is not the practice of the police force to act without evidence.

1913. Was the reason you did not because you expected the informant to give definite information?—We had every reason for cautiousness—the distance she went; the character of the people about, who would have denied anything coming from us—and we hoped daily to be in a better position. This man was very very confident that he must drop across something better, and we had to keep ourselves in readiness for that, and it would have been a pity for us to spoil, by any immature steps, what would be a better opportunity. We had that feeling guiding us through.

1914. Were you not acting under the outlawry Act at this time?—They were not outlaws at this time, I think.

1915. *By Mr. Nicolson.*—I think if the Commission like, I can recall it to Mr. Sadleir's mind.—(*To the witness*)—Do you remember some information about a horse called White-foot?—Yes.

1916. Mrs. Skillion used to ride it?—Yes.

1917. Do you remember information coming up to Melbourne about a large hollow tree?—Yes.

1918. Do you remember the action taken about that?—Yes.

1919. The hollow tree was used for planting provisions in—that was one statement?—Yes, I have the details of that, and a drawing of the locality—those are parts of the case I refer to.

1920. *By the Commission.*—What did you mean by “right through” in a previous answer?—Right up to the capture of the Kellys.

1921. You were saying you were waiting for fuller information—will you follow up the narrative?—What followed was, as we supposed, he began to be suspected and could do no more.

1922. *By the Kellys' friends?*—Yes. His own feeling was he began to be suspected and could do no more, and could not risk his life any more.

1923. Can you tell the date?—No.  
 1924. I think you ought to tax your memory for that?—I cannot. I had too much to think of.  
 1925. I suppose you had to think about the capture of the Kellys, if possible?—Yes.  
 1926. And this appears to have been valuable information, and one would suppose that your whole energy would be concentrated on the further development of that evidence from that one informant?—When we had reports coming from Kerang and a number of other places?  
 1927. Yes?—How many minds would a man require to do that?  
 1928. After waiting for two or three days, did you follow those traces?—Mr. Nicolson has reminded me of some things we did at the time, and I am endeavoring to find those things in the papers, if I can,—[*The witness searched amongst his papers.*]—Here is the document put in our hands, but this is one of those private documents which must not be published—I beg the Commission to insist upon that. It was from a person who had a very good knowledge of what they were about, and he gives a long account of what he thinks their haunts would be. The document reached us almost immediately after the murders—the 30th of October—and with it a drawing showing the probable places where we would find plant or indication of where their provisions were left.

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1929. From our own knowledge there were no further steps taken as to this cooking business?—That brings further matter within my recollection. All this was tested and tried in connection with what I have been just speaking of, everything that this man suggested.

1930. Mr. Nicolson has refreshed your memory about the hollow log?—That is it.

1931. Did you get information subsequently of provisions being taken to the hollow tree Mr. Nicolson has mentioned?—This informant, I think, speaks about it.

1932. Did you get information that provisions were taken to any particular place?—Yes; we were told of a place where it was very likely provisions would be brought, and it is my impression we never found the hollow tree.

1933. Did you take steps to find it?—We took steps time after time to find it, and never succeeded, and that on the information of the informant I am speaking of just now.

1934. The reference to the hollow tree has nothing to do with the information given you about the 11th and the 12th of November?—We supposed the information I gave then about the 11th and 12th would all agree with this; the two things do touch.

1935. Did you take any steps between the 30th of October or 11th of November to ascertain whether there was a hollow tree in or about the locality indicated there?—I have not the slightest doubt we did. I am perfectly certain we took steps, and I am quite certain those steps would be taken as soon as it was convenient to do it, until we satisfied ourselves that it was no use carrying it further.

1936. Then on the 11th of November you got the information of the certain party about the hollow tree?—Yes.

1937. And you then took steps, you think, to ascertain the facts?—Yes; I am sure of that.

1938. Then about the 11th or 12th of November you received information from a distinct party about the cooking and conveying of provisions?—I am coming to documentary evidence of that. Of the 11th of November this informant writes:—"I have the honor to inform you that I arrived (at a certain house) at 8.45 on Saturday night, and found Mrs. Skillian absent; returned to bed at 11 p.m.; heard a slight noise at 4 a.m." I cannot read any more without compromising the writer.

1939. That is the second information?—Yes; but evidently of this he had been employed by me from the early part of the month.

1940. I have now discovered that the Outlawry Act was in existence at the time; had you not power, under that Act, in a case of that sort to have prevented those provisions being taken, you having just suspicion that they were being prepared to keep those outlaws in existence?—We could have arrested the woman, but what would have been gained by that?

1941. Would not the fact of your cutting off their sources of supplies have facilitated your chance of capturing them?—I do not think it, not taking one isolated case.

1942. Did not their very existence depend upon their being supplied with provisions?—We had this knowledge after—that there were a hundred families, or heads of families, ready to supply them. If it had been like a seaport, which we could blockade, it would have been different.

1943. But at this time you did not know of any other source of supply?—We did; we knew it before that; it is not probable they were depending on this as their sole source of supply.

1944. There were only four men to be supplied?—Yes.

1945. I understood you to say that the quantity of provisions you mention would have been more than the daily recurring wants of those men?—No; I said there were four outlaws to be supplied, and I said that what she cooked was more enough for her and her children.

1946. Well, you were more impressed with the information supplied about the cooking of provisions at the Skillian's place?—I was more impressed with the immediate necessity of action in the bark-stripper's case.

1947. But you treated your informant as of very little reliable value, when you did not take the

steps?—No; the bark stripper's information was that he would point out where we might get the Kellys; the other man only pointed out where a person was supposed to be bringing them provisions—the direction towards where provisions, he believed, to be going—totally different information. One man brought us to a hut and we went—we could not let that get stale. The other information was daily expected to develop into something that would bring us into contact with the Kellys.

1948. Was Mrs. Skillian supposed to be taking the provisions to the hollow log?—To some place—where we could not find.

1949. Did you take steps to find the hollow log?—Yes; we could not find it.

1950. Will you tell us what steps you took to ascertain that the hollow log was in existence, and whether provisions were being conveyed there from the Skillian's house?—The police at Greta, I suppose, were put in possession of that information.

1951. Will you name the police officer in charge at Greta?—I cannot, for they were constantly changed. As they came in fagged other men were sent out. I think Senior-Constable Strahan may probably know about it. If he was the man he was put in possession of that information and directed to go and search (he knew the place) and endeavor to find out, and to do it quietly. It was necessary to be done without any person observing, and if he had found it we could have taken further steps. He did not find it.

1952. Was he informed verbally or by letter?—I cannot say.

1953. Why?—It would depend on who was the responsible officer at that time at Benalla.

1954. He would have been informed by the responsible officer there?—Yes.

1955. I would like to know the ordinary practice of the police regulations when any party of men is selected for any mission whatever. Is any notice taken in writing of the purpose for which they are sent and the mission they are on?—Yes, in ordinary cases every detail of a man's duty is given—the hour, the places he goes to, the time he is out, and so on.

1956. If so, in every instance it would be convenient to refer to the books?—No doubt that is the proper way of doing.

1957. Was that carried out in this case?—I would have to take the books of forty-nine stations perhaps, and I would have to get information from New South Wales and other places. Unless I knew what you wanted I should fill this room with books.

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1958. All diaries containing information given by yourself are important to have on the table?—There is a diary kept at every station, and I should have to get every book. It is a book 24 inches square, and it is impossible to know beforehand what book would be required.

1959. In these cases is not information given verbally?—Yes.

1960. You would have a daily notebook, would you not, in every attempt you made. Every expedition you were on you would take a note-book and jot down the most important events?—Not unless they were of special importance.

1961. Not so important an expedition as that?—No. Of course I can tell for the last twenty-eight years where I was and what I did.

1962. And what men were under you and the service they were in?—Yes.

1963. Several questions of that sort have been asked you, and you said you did not know?—I have been asked on memory. The records are very, very extensive, and I am only prepared with matters connected with the Kelly search—documents put under my care at the office, besides those there are minute books and diaries without number. If I bring them here, I will answer for it they will take twelve months to explain.

1964. Will you, between this and the next day of meeting, look through the papers and see if any instructions were given to the police at Greta respecting the food planted in the hollow log?—My papers will not show me that. I will have to consult the man.

1965. Is this the nature of your evidence—that after the murders, about the 30th of October, you got private information, which is here, from some person who told you the probable movements and action of the outlaws—certain things connected with their movements and intentions?—Yes.

1966. Then about the 11th of November information was received from a reliable agent that Mrs. Skillian, the sister of the Kellys, was preparing provisions in excess of what were the requirements of her own establishment, and that you were under the impression, from the information received from this agent, that those were cooked for and conveyed to the outlaws?—That was our supposition.

1967. And that was further confirmed by your agent informing you that Mrs. Skillian went out early in the night, returning in the morning, and your agent was under the impression that they were conveyed to or left for the outlaws in that way; can you tax your memory to say if any and what action was taken to trace those provisions or stop the supply, because, at the time, the Outlawry Act was in operation, and the 5th section provides that it is a punishable offence supplying them with provisions. I think you went on to say you did not think you went on to say you did not think there was special action taken, because you daily expected more reliable information or something more important. Is that the fact?—I amended my first statement by saying that this document (*previously handed in by the witness*) shows there was action taken. We searched for that log by the means I have mentioned, and this man's presence as our agent shows there was action taken on that also. This is the way we took such action. We put an agent into a likely place. We

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get him in as near as we can to it. That is part of our action, and perhaps our principal action. One is the result of the other, and bears on the other. All these things act and re-act.

1968. The 11th November appears to be the date of the final work done by that agent, so that that man could not act in that other matter. You employed another man to see about it?—Yes. I see by the agent's last letter of the 11th, he was finishing his employment with us then, so that he must have been employed during the early part of the month of November 1878.

1969. Is that the letter you received?—That is the only written communication I had from him.

1970. All the others were verbal?—Yes. The man would see me at my stable or buggy shed or any other place.

1971. That is the last letter?—Yes; That shows his work was ended then. He says he is to give up his occupation.

1972. Did he assign any reason?—Yes, he gave his reasons. His own belief was that he was suspected; the ostensible reason given by him to another on whom he was depending on was that he was not wanted by the same person any longer. About the 7th or 6th December, in the absence of Mr. Nicolson, I received the communication. This is another of those documents in which private interests are involved, but if you will allow me to alter the localities, I can read it. This letter was received, and I am not at liberty to say how it came into the possession of the police. It was forwarded to me by a member of the police force. It was to this effect. It was to a near blood relation of the Kellys and one of their most thorough assistants.—“Sir, I have been requested by E. and D. Kelly to do what I could to assist them in crossing here.” There was no date and no other particulars about them. “I am to write to you to let you know the arrangements. They are to be at a time to be named at the junction of Indigo Creek and Murray, and there is to be a password, it is this—‘Any work to be had?’ ‘Yes.’ ‘Where?’ On the New South Wales side one shall meet you. I will have a boat ready. There must not be any horses come to the river, if you should have horses they must be led by the bridge to a safe place already prepared for them. I will have four on each side of the river to watch upper and lower side. I have a place fixed where you will be safe. If you should want horses there will some be got for you. There are two says they will join you if requested. You must mind it will want money and I have got none. When you write direct to Howlong for —— (the signer).” It is not out of sympathy I do not mention the name, but it is sent by a person well known and suspected at that neighborhood. I made a note on it at the time to this effect, amongst other matters. “The envelope showed the Bungowannah and Albury postmarks of the 3rd instant.”

1973. Howlong is the township below Bungawannah and Albury?—Yes, and the junction of the Indigo River. The place of meeting is near to Howlong. “There is no fear of any action being taken by —— (the writer) or his confederates for some days unless this a blind to cover movements already taken.” This is sent by me, dated on the 6th December 1878.

1974. Then you had not faith in that document?—I had half faith in it, and we had faith in the officer to carry it out. I was sending this to the sergeant of police near the locality. I ascertained from him that there was a person of the name of the writer there, and that he was to report about other matters, to facilitate further movements.

1975. That is the letter you received prior to the bank robbery of Euroa?—Yes.

1976. And shows why you went north about that time?—Yes.

1977. What is the post-mark of Bungowannah?—Third December.

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1978. You have been continually in Benalla for how many days prior to the 10th?—I will find out that between this and next meeting.

1979. Also as to what action was taken by the police on the information you received on the 30th October and the 14th November?—Yes.

*Mr. Nicolson* handed in a document with reference to the comparative statement made by *Mr. Hare* of the expenses.

*The witness withdrew.*

*Adjourned to Tuesday next at Eleven o'clock*

TUESDAY, 12TH APRIL, 1881.

*Present:*

E. J. Dixon, Esq., J.P.,  
Wm. Anderson, Esq., M.L.A.,  
J. H. Graves, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.,  
G. W. Hall, Esq., M.L.A.,  
J. Gibb, Esq., M.L.A.

*Captain Standish.*—I wish to mention that I have some business engagements that will take me away from Melbourne for twelve or fourteen days—a long-standing engagement—and I wish to ask whether the Board will require my attendance. After my return I shall be available.

*The Chairman.*—The Commission can arrange conveniently in regard to that; you will not need to stay.

*Mr. Nicolson.*—The Acting Chief Commissioner of Police received the note from the Secretary of the Commission asking, amongst other things, for the key of the anonymous names of the outlaws. This is the letter—[*handing in the same.*] Without wishing to appear to throw any obstacle in the way of the Commission by withholding any information they may require, I would remind you of what was stated before of the danger of the real names of the witnesses getting out.

*The Chairman.*—We will keep that altogether private; it will be merely for the guidance of the members of the Commission.

John Sadleir further examined.

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1980. Will you continue your statement?—At the close of my evidence last Thursday, in regard to the question asked then. I telegraphed as to the search made for the hollow log which was mentioned in the evidence, I have reports from the three constables who were in search of the log. They found it, but found no sign of provisions whatever.

1981. Will you give the names of the three?—Senior-constables Strahan, Flood, and Mullane.

1982. Can you say where they found it?—They failed to answer that.

1983. You said before the log could not be found?—Yes; I was speaking from memory then, and was mistaken in regard to that.

1984. What I asked for was the instructions given by you as to watching this particular log; do you remember whether you gave any special instructions?—I can see they got special instructions to examine this place.

1985. They examined this at the time you got the information?—Yes; the Commission's instructions were to ascertain what steps were taken by the police from the 31st October to say the 14th November in the matter of the information about the log and provisions being hid there.

1986. Yes. The question was whether you had given precise instructions, and you said you were not sure, and I think your evidence will show you made rather contradictory statements; and I want you to say whether you gave any special instructions to the police, and whether you could remember what they were of your own knowledge. Who was in charge specially of the correspondence, confidential and other, from the 28th October to the 14th November?—Whatever senior officer was on the spot during those days.

1987. Who was?—Mr. Nicolson, he was senior to me; where he was not there of course I was responsible.

1988. Where was Mr. Nicolson between the 28th of October and the 14th of November?—I cannot tell you. I have no record.

1989. Was Mr. Nicolson made acquainted with the contents of the private information dated 30th October, and the letter received by you, submitted to the Board last Thursday, dated 11th of November?—I have not the slightest doubt he was. I can only give my own duties on the date you speak of from the 28th October to the 10th November 1878.

*The Chairman.*—We have the tabulated statement here. Mr. Nicolson was there from the 28th October to the 13th December in the district. Mr. Sadleir was there the whole time in charge of the district.

*The Witness.*—I was constantly away.

1990. Can you remember who was really in the office to know what correspondence was in the office during those dates—had you any clerk in the office who would file the correspondence?—I can only speak of my own, and there would be no record made of Mr. Nicolson's attendance at the office.

1991. Would he have all the letters coming to the office, both private information, similar to the letter of the 11th?—Yes; most decidedly. I am quite sure Mr. Nicolson knew it. I remember discussing the whole subject with him.

*Mr. Nicolson.*—I must have been aware of it. I recollect hearing about the information, and I remember the incident. Allow me just to say this, to ask Mr. Sadleir, with reference to that agent that gave him that information, who was alluded to on the last occasion when I first saw him. Mr. Sadleir will recollect that I first saw him on that occasion he speaks of near Mr. Sadleir's own house. Mr. Sadleir will remember that, no doubt; and it was the first time I knew he was in communication with that man, and the first time I saw him; but I admit I saw those communications. Mr. Sadleir will tell you that he

was in correspondence with that agent without my knowledge until my return, when I met that agent for the first time.

1992. *By the Commission (to the witness).*—Will you proceed now?—Do you require a statement of my own duties from the 28th of October to 10th November?

1993. No?—I thought that was wanted.

1994. Individually we must leave it to your discretion to make what statement you choose, but afterwards I shall want to ask who was in the responsible position there. Were you solely responsible; and if any responsible act of yours took place I should ask you not to pass it over?—Certainly not, if I can

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remember it. I come to speak now of the 9th or 10th of November 1878. Mr. Nicolson was absent at Fern Hills with a search party. During his absence—

1995. What date?—About the 9th or 10th of November.

1996. Fern Hill is in the direction where the police were murdered from Benalla?—Yes, a little north. During his absence I received information that the gang were likely to cross the Murray. I communicated with the police at Wodonga and at Albury, and determined myself to go and see the particular place that was indicated. I thought it necessary to see this place by daylight so that we could make better arrangements for watching it at night. As I say, before the time came for my departure, Mr. Nicolson returned. I showed him the papers with the information I had got, and he determined too to come with me to Wodonga and Albury.

1997. Was that information a written communication to you?—It was.

1998. You handed it in the other day?—I think so. Mr. Nicolson telegraphed to the officer in charge at Albury asking him to meet him that evening at Albury, that was on the 10th December. He also informed the Chief Commissioner that he and I were leaving. We got to the Benalla railway station at about 8 o'clock in the evening, and were getting our tickets when Mr. Wyatt, the police magistrate, came by us in a very excited manner. I saw something under his coat. He came and spoke to Mr. Nicolson, and then rushed into the ladies' waiting-room, taking Mr. Nicolson with him. I saw something was the matter, though I could not tell what. I tried to follow into the room; Mr. Wyatt pushed the door in my face and shut me out.

1999. Prevented you?—Yes, pushed the door against me and prevented my going in. I waited outside a few minutes to get any opportunity of going in, but could not get in. However, other travellers, lady travellers, found their way in, and he came out again, and I heard his story then.

2000. He came out and related it to you?—He related it to Mr. Nicolson, still, I think, in my hearing. His manner was exceedingly excited, and did not impress me somehow on that account, I think, with any weight; certainly not with the weight that a sober-spoken man would have impressed me. However, I went up and down the platform. I knew several people there, and enquired if anything was known to be wrong along the line—that is the railway line. I found passengers who had come all the way from Melbourne. At most of the stations they had seen the police, and they told me that there was no alarm whatever along the line. We had a very short time, but a few minutes, to decide what we should do, and we went into the train and travelled on, starting towards Albury.

2001. You decided to proceed with your journey?—Yes.

2002. Would Mr. Wyatt on that occasion have come up by the train you were going by?—Yes.

2003. Coming up from Euroa by the same train by which you would proceed on to Wodonga?—Yes, he had just come from Euroa. In the short time we had to think it appeared to us impossible that anything of mischief could have happened as clearly as two o'clock that day, and nothing more be known of it at eight o'clock, when we met Mr. Wyatt. During the day we dispatched seven telegrams, and we had heard nothing about the break in the wire.

2004. From where?—From Benalla, some towards Melbourne, two to Melbourne.

2005. Along the line?—Yes.

2006. And heard nothing whatever of the break of the wires?—And heard nothing whatever of the break of the wires.

2007. What time was the last telegram sent?—I am afraid I cannot tell, but I can easily find out.

2008. Was it before you started to Albury?—Yes.

2009. How long?—I can ascertain.

2010. If the statement in the papers is correct, they broke the wires early in the day?—Yes, half-past two.

2011. Had you any information of the wires being intact from two o'clock up to the time of your starting to Albury?—I cannot say; I will find out. I may say that Mr. Nicolson was very tired at this time, and lay down and fell asleep, I think almost immediately on getting into the train. I was a little uneasy myself, I confess, on the road, but once the train started we had no chance of getting back. When at Albury about midnight, we got word of the Euroa bank robbery. I started, by Mr. Nicolson's direction, across to Wodonga, and got ready a special train. I think it was about half-past two when we started, and got to Wangaratta very early in the morning. I got out at Wangaratta, leaving Mr. Nicolson to go on. This was in the morning of the 11th December 1878. I got together a party of police and struck across from Wangaratta by Glenrowan, under the Warby ranges to near Lake Rowan. I had one of the trackers with us, and we expected to get any tracks the Kellys might have made on the way from Euroa to some of their old haunts. We did find a track which was quite fresh during the previous night on very early that morning, but the tracker just led us perhaps twenty or thirty yards, and would not or could not follow it any further. I went in with some of the constables into the scrub ahead of where the tracks were dropped, in case there was any ambush there, but there was no use trying to work the tracker; we could get him to go no further. It was our purpose to get to a farm house near Lake Rowan, to a friend of the Kellys, and to watch it during the night. The constable who was leading us could not find it with any certainty.

2012. What was the impression on your mind with reference to the conduct of the black tracker at that time—you said he would not or could not follow the track?—We could not make them out. The tracks were plain before us, and yet he would not follow or could not.

2013. The question is, what was your impression?—That is it; we could not make out how the man could not follow out the tracks that were seen by us.

2014. That he did not wish to?—Yes, that is it, judging by knowledge gained since.

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2015. Those were not Queensland men?—No, Coranderrk or any men we could pick up. On the morning of the 12th we searched this place that we went towards on the previous day, first examining all round for any tracks that might be suspicious.

2016. That was the place you could not find the previous day?—Yes; we found it in the morning at daybreak, but discovered nothing at all. Up to this time I cannot call to mind any rumor of any bank being threatened by the outlaws, or anything at all to that effect.

2017. That is prior to your interview with Mr. Wyatt?—Yes, from the time of the murders up to this time I am speaking of.

2018. Up to the 11th or 12th of October?—Yes.

2019. You want to say that as far as you are concerned that information referred to by Mr. Hare did not reach you?—Yes.

2020. You had not knowledge of it in your district?—No.

2021. Have you read this portion of Captain Standish's evidence (question 19)—"About a fortnight before the Euroa bank was stood up, in December 1878, I received information from Mr. Nicolson that a bank would be probably stuck up in the North-Eastern district"; you gave Captain Standish no information of that?—No; I never heard of that before till I saw the evidence.

2022. Did you receive any orders from Captain Standish to take steps before the 10th November to protect banks in your district?—No; I asked for more police to carry on the work, and he (Captain Standish) refused them. As early as November 4th, I had a telegram from him to say, "Now surely you have enough," and a letter on that or the following day to the same effect.

2023. If you notice below there the 23rd question in Captain Standish's evidence—"That warning was simply conveyed to Superintendent Hare and Inspector Green, believing that Superintendent Nicolson, having given the information, would take the necessary steps himself?—Yes." You knew nothing whatever about that?—I knew nothing whatever about that information, and I am quite sure from Captain Standish's conversation afterwards that that evidence is in error. There were over forty banks in the district, and it would have taken us 80 extra men to put on; and after the Euroa bank was robbed there were over 100 men employed searching for the Kellys.

2024. Did the banks contribute anything, to your knowledge, towards the expenses?—Not a penny that I am aware of. Some of them provided a room here and there. Captain Standish arrived at Benalla on the 12th December, that is two days after the bank robbery, and Mr. Hare on the following day. Even then there were rumors of the Kellys being seen in various different parts of the country, and this gave us no end of trouble.

2025. Before you leave that, did you ever find out whom that information came from that you went to Albury on?—Yes, I know all about that, that is before the Commission. There was a considerable increase to the police at this time, and also I think some forty artillery men. At every bank in the small towns two or three constables were placed on guard; there were three detectives sent up, the best men they could find, and search parties were started from time to time. Now I may speak particularly of my own share in the evidence. Early in December of January I provided a couple of private agents, men who I knew.

2026. Will you hand in those in writing?—Will you allow me to see the key. There is one indicated by the *alias* "Hill." The other is not mentioned, I had Captain Standish's authority.

2027. Those agents you now speak of you had full confidence in?—Yes, I had certainly, or else I should not have used them.

2028. The other one is not here?—No, I can provide it to the Commission if desired. I sent one of the scouts or agents into the upper end of the Strathbogie country, he travelled in amongst the most likely places there; the other took in about the Wombat.

2029. Which Wombat, there is one at Strathbogie and one where the men were murdered?—Where the men were murdered. They also took in the heads of the King River and Devil's River. I paid them 10s. a day, and they provided their own horses, and their own provisions. An agent named on that list, "Sherrington," offered himself to Captain Standish, and was employed. This man returned in about a week with a cock-and-bull story that he had met Ned Kelly and Steve Hart in the Strathbogie ranges, and Ned Kelly was neatly dressed, his boots beautifully brushed, and that he was stuck all over with revolvers; that he compared watches with Sherrington, and assured him that his watch kept excellent time or something to that effect. Well, there were two or three search parties sent out upon this statement, but not the slightest trace of anything could be found. On January 2nd, 1879, Captain Standish issued warrants for the arrest of about twenty of the sympathizers; they were all arrested on the same day and remanded to Beechworth, and they were kept, most of them, in custody there till the 2nd April following.

2030. How long is that?—Two months and half. The next authentic information of the Kellys I remember was on the 10th January. I heard then that the outlaws were near Greta on the 6th and 7th of the same month, three or four days before. It was too stale to make any use of it, but at my suggestion a party of police were put at some crossings on the Kilfera Creek.

2031. Is that Ryan's Creek?—Yes, it is called Ryan's Creek. That was in the hope of getting a chance at the outlaws in the night. There were other points, too, which we watched by night, one in the neighborhood of Samaria, and another place on the line or boundary between Tatong and Kilfera runs.

2032. Is that the place known as Power's crossing, on the top of the hill?—It is one of Power's crossings. We exactly followed in our searches for Kelly what we knew to be Power's different routes. I went out myself with this small party of police, and travelled the whole country from Kilfera to Kane's old stockyard, in Ryan's Creek, with that object in view and cutting tracks; and that search was kept up from time to time. On the 22nd January information was received from a water policeman at Euroa, who was on leave of absence, that he had seen the Kellys some ten or twelve miles out of Euroa. I went down with a party of police.

2033. Will you specify where that is; is it in the Strathbogie direction?—No; between Murchison and Euroa.

2034. That is flat, open country?—That is flat, open country. I found it an idle tale; people had been making fun of the man, I think. On the 30th January we received, at Benalla, information that the Kellys were going to cross one of the rivers, in a night or two, at midnight. Mr. Hare was there then, and we arranged that I should go and see the place in daylight, without attracting attention, and I did so;

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and we watched all night, Mr. Hare, myself, and several police, with the usual result—the Kellys did not turn up. It was at this time that the Tarrawingee wires were being interrupted. This place was close to Tarrawingee, and we heard that the wires were being interrupted—messages being interrupted—and no one could explain how; and this was at the time when dynamite for blowing up the railway was first talked of. On the next day we heard authentic information that, on the night we were watching, the Kellys were seen in Chiltern.

*The Chairman.*—The Commission desire me to interpose at this stage, if it will be convenient for Mr. Wyatt to take his evidence at this stage.

*Mr. Wyatt* said he could remain to-day and the rest of the week, if desired. He could do whichever was most convenient.

2035. *To the Witness.*—Then you can go on?—Two of them were seen in Chiltern. A party of police were sent up to Chiltern, and I went up myself to assist them, but there was no possibility of following the trace. Captain Standish, in his evidence (question 47), alludes to some horses being offered for the use of the gang near the Upper Murray. I was sent up to confer with the officer there, and I gave him what information I had on the subject. This was the day of the Jerilderie bank robbery. Mr. Hare has described various steps taken by the Victorian police after the robbery, and I was under the impression he was not there at the time at Benalla. On the 12th February, two days after the robbery, a man reported at Beechworth that he saw Dan Kelly near Taylor's Gap, but I think the report was very doubtful. Detective Ward and two constables went up, but they could make nothing of it. For weeks after this, two or three weeks, the New South Wales police kept reporting that the Kellys were still in that country, in New South Wales. Mr. Hare was out with his watch party later in this month—I cannot give the date—watching Mrs. Byrne's house, and about this time, or a little later, Captain Standish himself employed four agents in two different parties of two each. I do not know what arrangements he made with them, and I do not know how much he paid them, but they turned out to be worthless. We were at this time entirely dependent upon rumor for information, and we were then driven to fall back upon the Queensland trackers. Mr. Hare proposed this—that we should send for them, and Captain Standish was persuaded then to do it.

2036. Did he object before to employ them?—Yes, he had the offer before that, in December I think it was, immediately after the Euroa bank robbery, an offer of black trackers from the Queensland police.

2037. By the Queensland Government?—By the Queensland Commissioner of Police.

2038. Had you not black trackers in your employment from the first?—We had odds and ends of men, such as we could pick up.

2039. And Captain Standish declined the offer in the first instance?—Yes, he did. Mr. O'Connor and his trackers arrived at Albury on the 6th March 1879, and a party with the trackers was started out on the 11th. I was anxious that they should try this line of country a spoke of a while ago, and what is known to be Power's route. I was with the party, and we examined every place for tracks, and found some tracks and went on them for a day, the whole day until nightfall, following them down to Holland's Creek and past Fern Hill station. All this time we began to see they were not likely to be the outlaws, and we found next morning that they were the tracks of some stockmen searching the ranges for sheep. The tracking was done very well, and it was over a very difficult ground, stony, burnt; and the tracks were pretty old. Mr. Hare returned from the watch party at Mrs. Byrne's while we were away.

2040. After being out twenty-five nights—was that the time he stated?—Yes; I refer to the same party. I cannot give particular dates without looking at my book. Again, on Wednesday, 16th April, I started again with Mr. O'Connor and the trackers, and some white police, on some imagined good information. We left our horses within a couple of miles or more of where we expected to strike the tracks that we heard of. We came cautiously into the ground, found the tracks right enough, and the circumstances were suspicious, looked promising, but in half a mile or so, perhaps a mile, the tracks led us to the house of a man named Morphy, whom I knew, and the tracks were his. He had found himself entangled in some fences with his horse, and rather than go round he tore up the fence; and this was what gave rise to the suspicion principally.

2041. Was he the man who is an overseer there?—I do not know—Mr. John Morphy—he was then a selector on the King. We remained out until the 27th, eleven or twelve days, chiefly exploring the country.

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We went up to the head of the King, both branches, and carefully examined all about, but found nothing whatever about the Kellys. We were called in by special message from Captain Standish. This was the last search party that I went out with; but still the search parties were kept going, and I am not aware that any party had any information about the Kellys, except in the case of the man Nolan, whom Mr. Hare spoke about, Mr. Hare left, and was relieved by Mr. Nicolson on the 3rd July. He was thoroughly done up, and then he confessed himself beaten. Mr. Nicolson took charge then from that date. I remember speaking to Mr. Nicolson almost as soon as he came, and saying to him—"I hope to heaven you are not going to continue this fooling any longer with the search parties."

2042. That is the time Mr. Nicolson relieved Mr. Hare?—Yes, and his answer was that he had had enough of it. The first information after Mr. Nicolson's arrival, I think, was on the 11th July.

2043. I was asking you the other day to describe the way in which Mr. Hare handed over the charge of the department on that occasion?—They were both perfectly satisfied. I do not remember exactly what happened; perhaps I was not present.

2044. On the 3rd July?—On the 3rd July; but Mr. Nicolson was perfectly satisfied that he had all the information he could get from Mr. Hare, no doubt of it. I never heard him express himself to the contrary.

2045. Are you going to pass over where you made the remarkable statement—"I hope to heaven you are not going to continue this fooling any longer; are you going to make any comment as to what the fooling was with search parties?—I will answer any question on the subject.

2046. Were you not going to say anything about that?—I did not mean to say anything. I thought it explained itself, but I am quite willing to explain what I meant.

2047. I think it would be well to explain?—Well, I looked upon sending out search parties—

2048. This had been continued for six months?—Seven or eight months, from the 27th October to the 3rd July. I considered it fooling to send such parties of police without some specific information,

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and I was nearly all the time urging against it. It is very expensive work. It harasses the men very, very much, nothing more so—the men going out without information and coming back without any discovery; and it knock up horses also. I could see no good in it, and I called it fooling.

2049. Then your opinion with reference to that was, that it was not likely to be successful?—That it was not likely to be successful; that it might go on for twenty years and never catch the Kellys. I was very anxious to know what Mr. Nicolson's views were; he was commanding officer, and I would have to follow any plan he adopted.

2050. Had you previous to this advise Mr. Hare to stop it?—Frequently.

2051. Without good information?—I think he stated so in his evidence.

2052. Did you gather that opinion from the men?—No; from the observation of other search parties and my own experience.

2053. Did you gather the reverse from the men—did any sergeants or competent officer of the force even indicate that it would be desirable to keep the Kellys hunted, to keep them on the move?—No. I think, as far as I understood the temper of the police, they were altogether of my way of thinking; that is what I understood of the men. I was going on to say that, on the 11th of July, information was received that the Kellys were seen—two of them—near Sebastopol. I know that Mr. Nicolson consulted with Detective Ward and Senior-Constable Mullane on the subject; and I believe it was not thought prudent to act upon it, but to guard the banks which were being threatened particularly by the outlaws—the banks at Beechworth. On the same date, it was reported positively that Dan Kelly was seen near Doon, that is near Mansfield, nearly 80 miles away from Beechworth; and it was not until the 13th that the police were able to find out that this was without foundation. During the whole of this time reports of various kinds were coming in. They were very puzzling, and gave a great deal of trouble, and nearly all of them were entirely without any foundation whatever; and I think it was in consequence of this unsatisfactory state of things that Mr. Nicolson kept almost exclusively to working by private agents. We both of us did what we could to get hold of suitable men, who knew the Kellys, and who knew the country, and were good bushmen, and who could go in and out among the sympathizers without being suspected. Of course this was a very difficult matter to get such men.

2054. Speaking about the sympathizers, before you pass away from that, had they not a very large connection in the country, near relations?—Very large indeed, near blood relations and intimate friends.

2055. You are aware that Kelly's grandmother, Quin, lives in the Strathbogie ranges, close to Euroa?—Yes.

2056. And that an aunt of theirs lives on the same range, at the saw-mills?—Yes.

2057. And that from Mansfield all about they have first cousins, and uncles and aunts all round the country. Is not Miller their uncle by marriage; he was one of the sympathizers shut up?—Yes.

2058. I want to draw your attention to this fact, that the relations are all through that country; not one but hundreds?—I would fix them at a hundred.

2059. Near relations?—No, but as thick as relations; as loyal to them as relations.

2060. And a large number of relations?—A very large number.

2061. Are not the Farrells on the Broken River nearly related to them?—Yes, and the Quins and

others.

2062. Is it not an immense connection?—Yes, it is an immense connection, they are all over the country, and also in new South Wales. They are at Dookie, at Lake Rowan, and some relations near Mount Look-out; there is a man who claims to be an uncle there. I had forgotten Mrs. Quin.

2063. I wanted to draw your attention to that, because it was in the immediate neighborhood?—Yes; I think Mr. Nicolson had about eight or nine different men off and on working as agents for him, some for pay and some out of goodwill. Their work extended as far as the Upper Murray right down to Benalla, Lake Rowan, Glenrowan, King River, and Beechworth; that is about all.

2064. Did you think it was a wise step to arrest the sympathizers; did you approve of that action?—No, I was always against it from the first.

2065. Did you remonstrate against it?—Yes, I spoke to Captain Standish, and probably to Mr. Hare too; I thought it an unwise step. It would have been a very good step if it had been lawful, and if we could have kept them right enough, but it was both unlawful and we could not keep them; I knew that.

2066. Did you think it would put the outlaws doubly on their guard?—I was more afraid it would breed bad blood with those men.

2067. And you would have so many people against you; and you could not convict them?—Yes, I think it did cause the outlaws trouble, but that is a matter of conjecture; still I was against it from the very first. Those agents that I have referred to had great difficulty in getting information, but what they brought in seemed to be very sure. They satisfied us that the Kellys were still in the neighborhood within an area of say ten miles square.

2068. Is that the neighborhood of Greta?—Greta would be about the centre of it. And that they were shy beyond measure, that they were trusting only a very few. I know that some of the agents were watching sympathizers' houses for week together, but we had no luck in finding anything about them.

1069. Was your informant then, a man who is mentioned as "Foot" on this *alias* list?—It was.

2070. Had you confidence in that man previously?—Well, I knew he was a very slippery man.

2071. He may have been a slippery man, but you had full confidence in him up to that time?—No, I had not; still I was quite confident of the truth of the story told on this day.

2072. Yet you had no confidence in the man who informed you?—I took the man's manner and demeanour on this occasion as giving me confidence. This was on the 29th September 1879—[*reading from a note-book*].

2073. Was that a note you made at the time in that book?—Yes, I made that at the time. I will read my notes of that day:—"To Wangaratta, eleven a.m. to six p.m. Saw 'Foot', who reported seeing the gang on a certain road (named) at eight o'clock on the previous evening. There were five armed men standing together. They were all on foot. Arrangement made for search were altered afterwards." That is the whole of my note at the time. I will enlarge upon that a little further now. At this time it was understood between all the officers that if any informant gave particulars, and could indicate the exact spot that he spoke about, it was not considered necessary that he should come and show the police

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the ground. This man, to my mind, indicated the spot so that we could easily find it. I communicated with Mr. Nicolson, and just before the train started——

2074. *By Mr. Nicolson.*—In what way?—I communicated all of this, word for word, as I have stated.

2075. Where were you?—I was at Wangaratta at the time.

2076. *By the Commission.*—By what means did you communicate?—By telegraph.

2077. Can we obtain the copy of that telegram?—Yes, they are all here.

2078. Will you see that the telegram is handed in; also the one from Mr. Nicolson to you?—Yes. Just before the train that I wanted to go by started for Benalla, I got a message from Mr. Nicolson, asking me to bring the man to the ground, to save delay in finding the tracks.

2079. That is, to bring the informant?—Yes. I had only ten minutes or a quarter of an hour.

2080. What time did the train leave?—About four in the afternoon. I had to start for it about four. I had about ten minutes to spare, to see the man. I saw him, but I could not get to speak with him. He was being shepherded by some people who, I think, suspected him, and I had to come away without bringing him. I arrived at Benalla at about half-past five or six; saw Mr. Nicolson and Mr. O'Connor, and though the same difficulty was started about the man's not coming, still we agreed that a trial should be made of the tracks.

2081. Did you depend on your memory for the place that he indicated where he would meet you, or did you commit it to writing?—I committed it all to writing, and I can show the map or rough pen-and-ink sketch taken at the time. We decided to make a start about 1 o'clock in the night. I went home and had a little rest, and on returning to the barracks at 1 o'clock I found that Mr. Nicolson had changed his mind without consulting me, and of course naturally I felt a little annoyed at the time. I am still of the same opinion I was then, that an attempt ought to have been made. I was able to show Mr. Nicolson on the tracing made from this man's statement the particular place, as I understood, where we should find the spot.

2082. Since then have you ever visited the place?—I have never visited the spot.

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2083. Can you say if the description was of such a character that you would have any difficulty in finding it?—I have no doubt there would have been no trouble to anybody who knew the country well. Constable Ryan, who was called in, said he would have no trouble in finding it.

2084. Was Mr. Nicolson's objection the not being able to find it?—It was one of the objections. He stated various objections.

2085. I think he stated he thought the man who gave the information was thoroughly unreliable?—That was one of the objections.

2086. *By Mr. Nicolson.*—State all of them?—I cannot state all. One was the difficulty and uncertainty as to finding the spot, and another the difficulty of getting there without disturbing the friends, for we had to go right through the place of one; and another was the personal character of the informant.

*Mr. O'Connor.*—There was another great objection. It was necessary to pick up the tracks at daylight, for if we remained in that portion of the district after daylight the people coming to work would have seen my native men, and the report would have spread, and the Kellys would have been able to get a hundred miles off.

*The Witness.*—No doubt there were many objections raised.

*Mr. O'Connor.*—I pointed out the absurdity of going out. I know when a man states a spot within one or two miles, it is impossible to find it unless he is there.

2087. *By the Commission (to the witness).*—When did you arrive at Benalla?—Half-past five or six.

2088. You had a conversation with Mr. Nicolson and Mr. O'Connor?—I met them at the train.

2089. And the arrangement was then made to start?—I think it was seven o'clock before we made the arrangement—after a long conversation.

2090. After that, and showing the sketch, it was decided to leave at one?—Yes.

2091. Did Mr. O'Connor point out the necessity of being there before seven in the morning—before light?—Yes, it was decided to be there before daylight.

2092. All those objections could have been seen between five and seven?—I cannot say they were mentioned.

2093. You arrived at the decision by seven to start at one?—Yes.

2094. And during that time—between five and seven—you had an opportunity of discussing all the probabilities of the information and the difficulties?—Yes.

2095. After that it was decided to start at one?—Yes.

2096. Do you know of your own knowledge whether anything between seven and one came to the knowledge of Mr. Nicolson or Mr. O'Connor to decide them not to start at one?—No; no new facts came in.

2097. You have heard the statement made by Mr. O'Connor. You came down from Wangaratta to Benalla, believing a party would be organized and you would accompany it to try and pick up those tracks?—Yes. When I came down I did not know what was going to be done.

2098. Mr. O'Connor has stated that he considered it was a chance thrown away, and upon his advice Mr. Nicolson did not send out the party?—Yes.

2099. I understood Mr. O'Connor to say that he advised Mr. Nicolson that it would be useless going out in that way, the reason being that if they did not get there at a certain time the tracks would be obliterated—

*Mr. O'Connor.*—I said that the people going to their work would have seen the native police, and as there was a network of friends there, we knew the Kellys would have been at once communicated with. It was also rainy weather at the time, and if we got on the tracks before we have been a day on them, they would have been obliterated. It was necessary to have them pointed out by some person who had seen them.

2100. *By the Commission (to the witness).*—It was September and pretty early light then; if you had started at one, about what time would you have arrived at the place?—We had only about fifteen miles to go.

2101. What time would you have arrived there?—We could go four or five miles an hour—that would be about four in the morning.

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2102. Would that be daylight?—Before daylight.

2103. Then had the outlaws been there, would you have been able to have seen the tracks at that time?—There is no doubt we would have been able to have seen the tracks, if we found the tracks and knew they were the Kellys' tracks. The difficulty would be to know whether we were on their tracks or the tracks of persons who came to see them.

2104. Was it horse or foot tracks you expected?—Foot tracks, with the supposition of picking up horse tracks a little way off—that they were dismounted, away from their horses waiting communication and appointment with some friends.

2105. Will you roughly indicate the place?—You cannot indicate the place without indicating the man. I can give a sketch of it.

2106. Was it any place near a man named Jacob Wilson's place?—No.

2107. Was it near Tom Lloyd's?—Yes.

2108. Wilson joins on to Tom Lloyd?—My recollection of this is that it was on the north side of Tom Lloyd's.

2109. Do you know a man named Jacob Wilson?—Yes.

2110. Did you get information from him about the Kellys that they resorted to the neighborhood of Tom Lloyd's residence?—Yes, we had information from him to that effect.

2111. Did he tell you he had found hobbles in that neighborhood?—Yes, under the range; I think under the Quarry Hill.

2112. Is the Quarry Hill near Tom Lloyd's residence?—Yes.

2113. How far do you think would Lloyd's house be from Wilson's house?—Well, I never saw them.

2114. Would you be surprised to learn that they were adjoining?—No, not at all.

2115. It that is so, how far would that be from the locality indicated by the agent "Foot" from the place you were to meet them?—Not knowing the place, I cannot say exactly; but, taking the descriptions, I should say less than half-a-mile. From Foot's descriptions, I should say that the outlaws were on one side of Tom Lloyd's and Wilson on the other.

2116. Do you know if this place is called Lurg or Kilferan?—I am certain it is Lurg.

2117. It is commonly known as Kilferan, as it is on the Kilferan station?—Yes.

2118. Whatever way you describe it, I want it to be now known to the Commission that the position indicated on the occasion when you gave the information, and Mr. Nicolson did not go out, is about the same locality as where you got information that the Kellys were in the habit of meeting, or between that and Tom Lloyd's house?—I will have to turn to the plan more particularly—in fact I should have had it before me from the first. I purpose putting it before the Commission now, but with the particular request that the press will take no further notice of it than to speak of it as a map.—[*The witness handed in and explained the plan referred to.*]—The point A is the point indicated as where the outlaws were. What is written on that was put down by me at the time from the lips of the informant.

2119. You said in your evidence that you did not visit the place?—I never saw the place, to my knowledge, before or since.

2120. I fancy you have, perhaps without being aware of it?—No; I never was on that line of road at any time. If I was ever, I would be six or seven and twenty years ago, but never since. I can speak assuredly of that.

[*At that stage it was decided by the Commission to hear Mr. Wyatt's evidence, in order to allow him to return to his official duties.*]

*The witness withdrew.*

Alfred Wyatt, P.M., sworn and examined.

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2121. *By the Commission.*—You are a police magistrate?—Yes.

2122. Stationed where?—At Benalla; that is my formal head-quarters, but I am scarcely there as much as at some other places in my district; for instance, at Seymour. If the Commission will permit me, I will read Captain Standish's, evidence, the portions that I first come to. Captain Standish says, at question 26, "Mr. Wyatt informed me that he was returning from Seymour or some town on the line of railway the night the bank was stuck up, and that as the train approached Faithfull's Creek, near Euroa, they pulled up and saw the telegraph lines on both sides of the railway had been smashed up a couple of hundred yards. Question 27. They stopped the train to see that?—Yes; and Mr. Wyatt informed me that he got out and picked out a bundle of broken telegraph wires, and took them up with him. On arriving at the Benalla railway station Mr. Wyatt met Mr. Nicolson and Mr. Sadleir." The statement of facts is this: on the 10th of December 1878, I was proceeding by the luggage train from Violet Town to Euroa, to hold a licensing meeting, which started, I believe, at about three. I will ascertain exactly, if I am allowed to look at a telegram which I have here.—[*The witness did so.*]—This is the telegram I sent to Captain Standish, and it enables me to remember more exactly when I refer to that. The time was 4.40, it seems, by luggage train. Well, the train is still going slowly from Violet Town, when a man came along the foot-plate and spoke to me.

2123. At what position of the line?—Within 10 yards after we had started—while it was still going slowly, and a man came along and addressed me through the open window. His name was Watt, a telegraph repairer, from Benalla, came to me as he had seen me getting into the train, and was now desirous of speaking to me. He came forward and said, "Look here, the lines are down, and the queer feature of it is that the Government telegraph lines cross our railway telegraph line."

2124. This was 4.40 at Violet Town?—Yes, I thought he had made a mistake about the last point, but I said—"All-right, keep a bright look-out on your side, and I will do the same on my side, and we will find where the line is broken."

2125. You mean the ordinary line—the Government block line—was the other the railway line?—Yes; we arranged to watch from different sides of the train, as I thought he would watch on the railway side while I would watch on the Government line, which I could see from where I was sitting. He went back on the foot-plate, and resumed his position whatever it was. I do not know whereabouts on the train, but he was to watch on the other side. When we came within sight of Faithfull's Creek station I

2126. How far was that from Violet Town?—Three miles and three-quarters from Euroa—*[examining the time table]*—and eight miles from Violet Town. I saw in the distance that the line was down. I leant out of the train to telegraph to the fireman or the engine-driver; I cannot tell on which side. Oh! Yes, in Victoria it is the fireman's side, so that it would be the stoker. He saw my look at him, but he had already seen what had happened himself, and was slowing the train. While the train was slowing, the same person Watt came along the foot-plate again to me with a small handful of telegraph splicing wires—slender thin wires, used simply to splice one wire to another. He said to me, "Look here, Mr. Wyatt, I cannot mend this line; what must I do? I wish you would send a message through Mr. Gorman, at Euroa, to Melbourne for me."

2127. Who was Mr. Gorman?—The station-master. "I said, "All right." He said, "I shall want"—I said to him, anticipating his reply, as I had reckoned what he would want for repairs as I went along. I finished his sentence. "Six telegraph posts, thirty-six insulators, and a corresponding quantity of line wire," and he said, "Yes, sir." I said, "Cannot I help you, shall I get down to help you?"

2128. Had the train stopped?—No, it had never stopped. I said, "Cannot I help you?" He said, "No, I cannot repair this, line like this," and I said, "All right then, I will give in your message." The train never stopped but merely slowed, and my question was put to him with the object of getting down when it did stop, as I then expected it would. The fireman was watching him to see whether he would jump off the foot-plate. At the moment I had some misgivings about letting the man get down there, because I did not know there was any place near. I did not know then of the Faithfull's Creek station there or any other place, and did not like to let the man down "nowhere" and did not know where he was to get assistance, but instantly afterwards I saw the Faithfull's Creek station.

2129. What was the Faithfull's Creek station?—Faithfull's Creek station is an out station of Mr. Younghusband's of Faithfull's Creek run, three miles and three-quarters from Euroa, and about 250 yards from the line at right angles to the road running to it. I, looking obliquely across, this being opposite, saw the station there, and saw it for the first time. I said, "Oh, it is all right, you can go, and I will take your message." He telegraphed to the fireman, jumped off, and went down to the line. I found since that this was all inspected by the Kellys, from the place where they had the people stuck up at the time, and it appears that Watt a few minutes after that was walked up to the station in Mr. Joe Byrne's custody, and that was the end of him for the day.

2130. Mr. Joe Byrne, do you mean one of the outlaws?—Yes, he was one of the outlaws. I went on to Euroa and held my licensing meeting. I should state here for the information of the Commission that all Euroa was that day attendant on my licensing meeting and a funeral. Those things occupied the whole community, so there were few persons about, they were all gone to those two occasions.

2131. What position is the court house, where you held your sitting?—The court house is from the station about half-a-mile. The bank that was robbed was about 210 yards from and in sight of the railway station. The court house was not in sight of the railway station.

2132. You said just now, this man jumped out and he was taken charge of by Byrne, the outlaw; was that fact known to you at the time?—No. It will come in and meet another part of my statement by-and-by.

2133. In reading your evidence at this point, any one would imagine you were a witness of the transaction and might wonder whether you fled from the outlaws?—I see, but I have now made it clear I think. Well, in going to the licensing meeting I passed under the windows of the bank while the Kellys were there, as I imagine from what I heard after.

2134. Just specify hours as closely as you can, what time was the licensing meeting?—The meeting was so short, I was not a quarter of an hour at the meeting in the court, the licenses were all granted unopposed.

2135. Was it between four and five?—I should imagine it was just about five. I then started back to the railway station, and when I have got twenty yards on my journey, I began to reflect upon the telegraph wire being down, and I came to the conclusion that it was doubtful whether it was due to whirlwind as I at first thought—and as I heard two other passengers said they thought when they landed first at the station—or whether it was not some other cause that should be inquired into. I resolved to hire a buggy and go and see for myself. I went to the only hotel, Mr. Hart's, who was then, recently, a purchaser of De Boos's hotel, and asked for a buggy and horse.

2136. How far is the De Boos's from the bank?—A good long distance, about a mile I should think.

2137. Are there two De Boos's?—Yes. The hotel to where I went for the horse was a mile distant from the station and the bank, and the old Sydney road. It was the only thing I could do to get a horse and trap. I asked Mr. Hart for a buggy and horse. Mr. Hart said to me, "I have got no horse, our horse is turned out in the paddock and could not be got. I have no horse at all." He then said, "Well, there is an old sort of cart horse that takes the goods out." "Put him in," I said, and they did. I started with this buggy and horse, but soon found that I could not get the old horse into a continuous trot.

2138. What direction were you going?—I went first down, expecting to find a lane parallel with the railway and in sight of it, but came to a house—a farm of the elder Mr. De Boos's abutting upon the railway, and found that there was no access that way.

2139. No thoroughfare?—No thoroughfare. I remember some people were building a chimney there, and they told me there was no way excepting by the old Sydney road. I started for the road, but in going about half-a-mile discovered a lane running parallel with the line at the back of Mr. De Boos's premises.

2140. And in the direction of the Faithfull's Creek Station?—And in the direction of the Faithfull's Creek station. I went along there till at last it struck me to look at my watch. I took my watch out, and pulled

up, and came to the conclusion that, with the horse I have got, it would be absolutely impossible for me to go and come back, and catch the train, and keep an appointment the next day at Avenel, which was essential to be kept. If I had not kept it, all the licenses would have been lost at that place.

2141. Avenel would be away down the line nearer to Melbourne?—Yes, further up the line towards Melbourne.

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2142. And away from Euroa and Faithfull's Creek station?—Yes. I therefore was turning my horse around in this narrow lane when the wheels locked. There was much timber about, and I could not get around that—[*illustrating the position by drawing a curve shaped like an S*—and I then tried another branch of the "S," and was just getting round when the wheels locked again, and I was preparing for an upset and to jump out when a man rode up and said, "Is this the way to Faithfull's Creek station?"

2143. Were you in the habit of carrying firearms?—I was in the habit, but I did not happen to be armed that night. I had, sometime before that thought, in the event of my meeting the Kellys, it would be more politic for me to meet them unarmed. I never looked up, for I was watching the wheel, and I said without looking up, "Cannot tell you," and the man uttered some obscene expressions to me, and I looked up and saw him, but did not recognise him as anybody I knew.

2144. What hour was that?—I cannot tell you except by inferences; you will find presently when I give something else, a datum which will give you probably the hour of this. The man rode towards Faithfull's Creek station, and I resumed my journey back to De Boos's to give up the vehicle.

2145. You got round the curve then?—Yes, and without an upset, and I came back to the railway station. When there, the first question I asked Mr. Gorman was, "Is Watt come back?"

2146. You never told us whether you spoke to Mr. Gorman before you left?—No, I forgot that, and I ought here to state what I omitted to state in its due order, that when I arrived at the Euroa station with Mr. Watt's message I delivered it to Mr. Gorman very fully. I told Mr. Gorman also that the line was down by whirlwind. I said that because I thought so myself, and because I heard two passengers discussing it, and they both agreed that that was the cause of it. I heard one of them say to the other, "No man could have pulled those wires down; it would take a bullock team to do it like that." When I got back to the station from my ineffectual journey, I said to Mr. Gorman, "Has Watt come back?" He said to me "No." I said, "How is that; it is only three miles and three-quarters, and he could not repair the line himself?" and I said, "What could keep him? Has he not come on to report fully to you about it?" I then said, "Mr. Gorman, there is something up; you must give me express permission to ride upon the engine, and stop the train and get down and examine the line. I do not believe it was a whirlwind now, because I recollect there was not a single tree or shrub injured anywhere about."

2147. Will you fix the hour of that conversation?—I will come to that; but you can judge by the facts that at that time the train was nearly due from Longwood to Euroa and Benalla, which I believe started at 6.50 in the evening, that is the hour I have here in my telegram to Captain Standish [*looking at a paper*].—It was still good light. I particularly enjoined Mr. Gorman to tell no one of what I had suspected, and said to him, "To anybody who enquires answer, 'It looks like and whirlwind.'"

2148. What did you suspect—you have not told us?—I suspected the Kellys were there.

2149. You said you only suspected there was something up?—Yes; I meant the Kellys. When I came back, the idea only came into my mind after I left that man in the lane. He never raised any suspicions in my mind at the time, but it occurred to me on my journey home after that man had met me. Afterwards I came to the conclusion, and remained in the conclusion for nearly a year, that the person I had met in the lane was not of the Kelly gang, but was a confederate. I thought it was not one of the gang, because I had an opportunity of seeing the photographs of all four, and concluded it was neither of them, so I felt sure it was a confederate, because I learnt that he never was arrested by the Kelly gang when he got to the Faithfull's Creek station, and I presume he went there as he enquired. Afterwards I learned that no man of that description was arrested by the Kelly gang from Mr. McCauley, the station manager of Faithfull's Creek, and from Mr. Scott, the banker, and others who were in the custody of the gang at Faithfull's Creek at the time.

2150. At what particular time of the evening did it strike you about the Kellys?—I cannot fix the time. I can fix the place. I was on my journey from De Boos's hotel, now Hart's hotel, to the railway station, a journey which I made on foot of about a mile. I ought to explain that there are two De Boos's hotels; one formerly kept by Mr. Boos, senior, now Hart's, on the Sydney road; the other more lately kept by Mr. De Boos, junior, and now kept by Sutherland, opposite the railway station, and nearly next the bank.

2151. Did Hart express any surprise at your anxiety or your asking for a trap?—No; I did not express any surprise myself at that time; I thought it was whirlwind, and it was really rather a matter of scientific curiosity. I was going, I told him, to see the line which was down, to examine it, because it was such an unusual appearance for the line. I have never seen anything like it, though I had often seen wires down.

2152. At this time you had no suspicion?—No, my suspicion occurred when I was walking from De Boos's hotel back to the railway station; and from the moment I found Watt did not come back, then my suspicions were converted into conviction. I said to myself, "It was the Kellys that did this damage," and that is the reason I requested Gorman's specific authority to ride on the engine and stop the train—a most strong and unusual measure—and get down and examine it. I rode on the engine, and when we came to Faithfull's

Creek station there was still good daylight. The engine was slowed and I jumped down. I rode on the fireman's side, and that was the side on which the railway telegraph of one wire is, the Government telegraph of four wires being on the other side of the line. I got down, ran along the bank to where I thought the broken wire would be, picked it up, and saw instantly that it was cut and not broken. I instantly twisted off—that is, as “instantly” as I could with a number of twists of a very ductile and malleable wire—six inches of wire and put it into my pocket. I ran along then—I must explain the situation. There is a culvert there; the place where I found the cut wire was there—[*illustrating his meaning by means of a drawing*—crinkled back by its own recoil. There is a post here, about ten or twelve yards from the culvert. I ran past that post and twenty or thirty yards towards Melbourne before I found the other end of the same wire, leading down the bank into the water that was standing in the cutting which had been made in the formation of the line to give stuff for the line. I took hold of the wire, ran it along, and fished it up to the insulator at the end of it, about twenty yards from the post. Then in a similar manner I twisted off the insulator of the wire on the Melbourne side. It showed the cut in the same way. If I had known that I was going to be examined to-day, I would have brought with me the identical wire.

2153. Those were two clean cuts?—Yes, I put that in my pocket. I then ran across this fence and underneath the culvert to go to the other line under the culvert. I found an enormous tangle of wires some distance under, and there I found the guard of the train who had got down on the other side and was

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come. I said, “Run out the ends of those wires immediately,” and I laid hold of the larger line and ran out four wires separately so as to come to the end. I found every one of the lines cut and not broken. “Look,” I think I said, “it is clear the line is cut. I believe the Kellys are about. Say not a word to the passengers or any one, but say as I told the driver, the fireman, and Gorman, to say that it looks like a whirlwind.” I got on to the train. The passengers looked at me, and enquired, “What is the matter?” and I gave that answer, “The line is down, and it looks like a whirlwind.”

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2154. Was the guard of the train made acquainted with the facts?—It was the guard I met under the culvert.

2155. What did you do when you came to Violet Town?—When I came to Violet Town I spoke to the station-master there, whose name I cannot remember but whose face I can. I said to him instantly, “The line is cut; do not tell anybody, the passengers or anybody else, but send them word to Melbourne.”

2156. How could he?—Very easily, as I did myself afterwards. I am not quite certain whether I told him to send round by way of Deniliquin and Albury, but I knew he could do it. I presume he knew. I do not think I told him that, but I assume he would be able to do it. They had been fiddling about in Melbourne, but never tried that expedient I refer to, to send messages.

2157. That is hearsay?—Yes; I cannot say whether I told him what way to do it, but I told him.

2158. You said, “communicate with Melbourne immediately”?—Yes.

2159. How many miles is it about to Benalla from Violet Town?—16 miles.

2160. How long was the train stopped when you were examining the wires?—Less than five minutes. The train was stopped less than five minutes while we were examining the wires. I ran very quickly indeed. I felt really that much depended on time.

2161. What hour do you fix at that?—As nearly as possible seven.

2162. Was it seven o'clock when you examined those wires on your return to Benalla. From subsequent hearing of the Kellys' movements, where would the Kellys have been when you were examining the wires?—Still at Faithfull's Creek station, looking at and inspecting me while I was inspecting the wires.

2163. Would they have seen you if they left at eight o'clock?—I know they did see us; they saw us, and were very much perturbed, and thought it was “the traps,” they said. I arrived at Benalla. I immediately desired to find the policeman, and while searching about I saw Mr. Nicolson and Mr. Sadleir in the distance standing at the railway carriage door. I went to them and said, as nearly as possible, these words—“Nicolson, the line is cut, all five wires; four of the Government wires and one of the railway line are cut, not broken. The Kellys are about. Now you know as much as I know, and what you know yourself, will it alter your plans?”

2164. How did you know about his plans?—I did not know his plans, but I was desirous he should stop. I saw them starting off, and I was desirous that one or the other should stop. From what Mr. Sadleir has stated—and his evidence is given with such exactness and good tone that where I differ from him I prefer to be corrected by him—he has supplied personal facts, which show there must have been a longer time occupied in the interview than I remember at this date, but what I have stated I am absolutely certain about.

2165. I was impressed with the idea in Captain Standish's evidence that you did all you could to prevent those gentlemen proceeding on their journey?—I would not go so far as that. I was desirous for one of them to stop, but I felt they had more information to form a judgment on than I had, and should be naturally influenced by that, as well as by what I told them; but I expected up to the last moment that one would stay; and when they jumped into the train, and I saw that both had gone——

2166. When you gave the information to Mr. Nicolson, what remark did he make?—In answer to my words to him, he said, after reflecting a few moments—“We know what it means, Mr. Wyatt, it will not

influence our plans;" and they got into the railway train.

2167. He did not say "Pooh, pooh"?—I am glad you have mentioned that; that was a point I wanted very expressly to correct. I wish to state to you that Captain Standish's statement in his evidence that Mr. Nicolson pooh-poohed my communication is very inaccurate. Mr. Nicolson did not at all pooh-pooh, but he seemed to reflect and weigh the facts, and then come to a conclusion upon his knowledge of all the circumstances. I knew that his knowledge was far greater than mine, and I never for a moment——

2168. How did you know that?—His position made him infinitely more so.

2169. Did he tell you?—Not a word.

2170. He did not say he had information?—No, but I knew his information must be far greater than mine of the whole facts, and therefore it would have been ridiculous for me to have sat in judgments as to whether he was going or staying, and I deemed he had further important information.

2171. Did you see Mr. Nicolson go to the railway guard and speak to him before he left?—I did not, but I have no doubt he did, and the reason, why he got no information from the railway guard was possibly this, perhaps he did not know Mr. Nicolson personally, and I had expressly cautioned the railway guard, the driver, and the engineman to give no information as to what they had seen excepting to say—"It looked like a whirlwind."

*Mr Nicolson.*—It was Mr. Sadleir who went to the guard.

*The Witness.*—I wish to make one brief remark with regard to what Mr. Sadleir said about excluding him from the room. I believe what he says is true, but there is this explanation, there was no room available but that, and there were some other persons going to come in, including some ladies from their own room, together with everybody else who may have been coming in, including, it appears, Mr. Sadleir; but I did not see Mr. Sadleir, and was quite unconscious he was amongst those I was excluding. I would, of course, have invited him gladly to give his advice if I had seen him.

2172. You say you invited Mr. Nicolson into the room?—I had forgotten it, but I remember it now, because I remember having to exclude the ladies from their own room.

2173. Then you took Mr. Nicolson into a room at the railway station, for the purpose of conveying this information to him secretly?—I suppose I did.

2174. Then you really felt in your mind that the information you were conveying was of very great importance?—I did feel that it was of very great importance, and when Mr. Nicolson and Mr.

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Sadleir both left in the train. I felt rather nonplussed, because I expected one of them would go back with me to Benalla to my hotel, and receive full details of all the information I had to give, especially the fact so important to them, that Watt had not returned.

2175. What length of time does the train stop there?—Fifteen minutes.

2176. But some little time would relapsed without you noticed Mr. Nicolson?—Yes, I did not find them immediately, I think they could not be found, but I was not looking for them; I was looking for a policeman of some sort and could not see any one for a long time, and I recollect thinking of going off to Benalla proper by a trap, when I by chance saw them both standing by a railway carriage door. Whether they have only arrived just then I do not know, but I did not see them for a long time, and I imagine I was not in conversation with them for more than five minutes altogether.

2177. Did you tell Mr. Nicolson that Watt, the line repairer, had not been seen after?—No, that is one of the facts I would have communicated if I had had the opportunity of seeing him afterwards; I am certain I did not remember to tell him that.

2178. Did not that impress you as one of the most important features of the whole case, the non-return of Watt?—Yes, that was one of the things that let me to come to the conclusion that something was wrong, that was why I said to Gorman "There is something up," when I knew the man was not back, because I knew so many hours, from four to seven, he had been away, and was quite enough opportunity to walk the three and three-quarter miles, there and back to the station master's, where it was his duty to report.

2179. Did you convey to Mr. Nicolson that you would like, if time permitted, to give fuller information?—I cannot give you any further information as to what I said or did, and I would rather trust to Mr. Sadleir for that.

2180. But he cannot state what was in your mind?—I can only say that the interview was too short to admit any information about surrounding circumstances; and I feel sure I did not communicate that Watt had not returned; and I am the more sure of that as I find I did not communicate it to Captain Standish after I went to Benalla proper, to my hotel, a mile and a half from the railway station.

2181. Did you walk?—I think that one thing and another made me miss the cab, and I walked, so I do not think I got to my hotel till past eight considerably; but I cannot be certain as to time just there.

2182. Did you ask the station-master at Benalla to telegraph to Melbourne?—No, I did not there, and I had a reason for that, nor did I send any message to Melbourne for the distinct reason. I at first thought of doing so, but afterwards thought to myself, "Well, Mr. Nicolson and Mr. Sadleir can do what they think right—they have not thought it right to do that, and I do not like to fire a shot over their heads to their superior in a manner that may look like opposing my judgment to theirs." I remember distinctly thinking that, and that was the reason. After I got to the hotel I remained for more than an hour before I took any step; but after

much reflection I at last came to the conclusion that in such a case etiquette must go to—some other place. I felt it was important to communicate the information straight away to Captain Standish, therefore I resolved to do so. I went across to the telegraph station, which was within fifty or sixty yards of my hotel, a mile and a quarter from the railway station, and said to them, “You know the line is down;” and I had a conversation with Mr. Saxe, and said, “You know about it by now, can you send a message to Melbourne; I suppose you can send round by the Sydney side?” and he said, “Yes.” “Well,” I said, “can you call Captain Standish while I go up to the police and find what can be done? That will give you the time to put yourself in communication with Captain Standish in Melbourne, while I go to the police office and find what can be done in the way of sending a special train, or what.”

2183. You went to the police quarters?—Yes.

2184. How near is that?—That will come in the next moment. I therefore, leaving them with that object, went to the police quarters, which are about 30 yards from the telegraph station in old Benalla. I saw Sergeant Whelan then in charge in the absence of Mr. Nicolson and Mr. Sadleir, and told him all the facts, and asked him whether he had power to send a special train. I cannot remember what answer he made to me; but, without remembering his words, I know that I went away with the impression that I could not get a special train for some time, at least for some hours.

2185. You have informed us that you gave Mr. Nicolson and Mr. Sadleir information of the cut wires, and it was probable the Kellys were there?—Yes.

2186. And that by their action you concluded they had made other arrangements, and they went on?—Yes.

2187. Now I want to ask, when you gave the information to Whelan, was he impressed with the accuracy of your belief that the Kellys were there?—Yes, very strongly.

2188. Do you believe the same statement you made to him impressed him that the Kellys were there?—Yes; he believed all that I said, and shared in my impression.

2189. That the Kellys were there?—Not that they were there—at Faithfull’s Creek station—for I did not know that then, but that they had done that to the wires.

2190. Can you fix the hour?—The hour at which I went to the telegraph station, and thence to the police, must have been, as nearly as possible, 9.40 p.m. After the conference with Mr. Whelan I sat down, and wrote on a sheet of paper a message to take down to the railway, of which I now have a copy from the Telegraph Department; if you have not that I will read it:—“9.45 p.m.” That was the moment of its despatch. “Captain Standish, Chief Commissioner of Police, Melbourne. Going from Violet Town to Euroa, at about 4.40 p.m., by luggage train, was informed telegraph lines out of order. Found both lines (Government and railway) down at 97 miles from Melbourne, Faithfull’s Creek road crossing, by bridge under the railway. On return, at 6.50, from Euroa, rode on engine, stopped train, get down and examined. Found all wires (4 of Government line and 1 of railway line) cut through with powerful nippers, and both lines dismantled, one for 300 yards, and the other for 200. Met Nicolson and Sadleir at Benalla station, going to Wangaratta. Informed them, and showed them the cut ends of one wire, which I had twisted off and put in my pocket. Nicolson said, ‘I know what it means; it won’t alter my plans.’ The line cannot be repaired before to-morrow noon.” That was the mistake of mine; the line was repaired by Mr. Gorman soon after daybreak, and very energetically. The reason why I came to the conclusion that the line was cut with nippers, and not with a tomahawk, was this—the two marks on the wires are parallel; the two cuts on the opposite sides of the wire are parallel to each other, but if the blows had been made with a tomahawk, they would not have been parallel, but would

crossed each other. I conclude, from the wires having been cut within six inches of the insulator, that the manner of doing it was this—that the person climbed up the telegraph-post, lifted off the wire, and when it was down swagged against the post—if he cut it with a tomahawk, he cut it in this manner [*explaining his meaning by gesture*—but I think that impossible, and that nippers must have been used.

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2191. Might not a tomahawk cut through in one stroke?—No. The wire showed marks on both sides. Having sent the message at 9.40, I retired to my hotel till I thought Mr. Whelan would get an answer to his communications from Melbourne as to a special train. Mr. Whelan was not authorized to despatch a special train, and therefore sought authority, I cannot tell you whether from Captain Standish or from Mr. Nicolson.

2192. How do you know he did at all?—Because he told me at the time. Mr. Whelan told me he was not authorized, and therefore he had to seek authority.

2193. Then you and he must be consulting as to the desirability of starting a special train?—Yes. I asked him whether he would send a special train down by me. I said I would take one if he could send it. He found he could not, and I waited sometime to learn his answer. He also informed me he would send a message to Mr. Nicolson. After sitting in my hotel until eleven o’clock, I went to the police station again to learn what had been done. I found somewhere between eleven and twelve—I cannot now remember exactly when—that Mr. Whelan had got authority to send a special train, I cannot now remember from whom. I asked him who would go with it, and he said he really did not know one—would I go? I said I would be most happy to go, but I said, “I cannot undertake a pursuit that will last longer than the night, because I must be at Avenel at eleven o’clock, or all the licenses will be forfeited. He said, “Will you go then?” I said, “I

will." I think it was nearer to twelve than eleven, because I have some reason to believe his answers were not received from Captain Standish or Mr. Nicolson till nearly twelve.

2194. It was stated at the time, to help your memory, that accurate information arrived in Benalla by the up train, the train from Euroa, that came after you; do you know whether Sergeant Whelan had that?—A constable came up by that train.

2195. Could Whelan have known that?—I do not know. I think he got his authority and permission from Captain Standish before that.

2196. Do you know of your own knowledge that the police at Benalla got authentic information that night that the Kellys had stuck up Faithfull's Creek?—Whelan told me. The first information he got was by Captain Standish's telegram.

2197. What time?—A little before twelve. Captain Standish also informed me himself a long time ago that he got my message before he got Mr. Gorman's message a few minutes; the message I sent at 9.45. Unfortunately, he was out on some occasion and did not get the message till long after it arrived in Melbourne, and he got Mr. Gorman's message when Scott and the other captives came back, ten minutes after my message. The moment he got these two he telegraphed to Mr. Whelan, he told me, and I remember the words of the telegram, roughly speaking. They were—"Bank at Euroa stuck up. You have now a good case. Go ahead," That was the first information he received officially. I do not know anything about the constable.

2198. Do you know that the police in Benalla did get information?—No.

2199. Did you see the constable?—No.

2200. Did Whelan say the constable came and told him?—I cannot remember that. In regard to the constable I will state this. The constable chanced to be absent on duty from Euroa at the time the robbery went on.

2201. That is hearsay?—I have learned it, not from the constable, for I never saw him, but I cannot remember from whom; but I am certain of that, that is the fact. I heard it from so many quarters.

2202. Did Whelan inform you that he had orders to despatch a special train and ask you to go by it, before or after he received the word from Captain Standish of the bank being stuck up?—After the sticking up the bank. My impression is that Whelan received the authority to send the special train somewhere about the same time, within a few minutes of the other message that I have referred to, from Captain Standish.

2203. That did not come in the same message?—No.

2204. We may suppose that Whelan's being instructed to send a special train was in consequence of the information conveyed to Captain Standish?—By him he sought liberty to send it.

2205. Did Whelan obtain the order in consequence of the information that you had conveyed to him that he had sent to Captain Standish?—Yes, undoubtedly, and that only. I am positive of that.

2206. And it was not in consequence of the bank robbery at Euroa?—No, it was not. Perhaps it is rather too much to say that, but I feel absolutely certain in my own mind that the only thing that induced him to send that was my other information, and my own consent to go with it.

2207. At all events, he asked for the permission before he heard of the robbery?—Long before. With regard to his message to Mr. Nicolson, I should state this, that Whelan informed me that he delayed the sending of that message till nearly twelve o'clock for this reason; Mr. Nicolson could not possibly get the message till he was at Albury, and could not arrive there to get it; therefore he kept it back, after I told him, till a reasonably short time before the time when Mr. Nicolson could get to Albury. I then went back and prepared myself to go with this special train.

2208. Did you arm yourself?—I did. I then meant business, whatever it was. I went back and made all preparations, and came back with the man on to the station. I should state we were delayed a time, that provoked my indignation very much indeed, by two or three accidents. One was, as I considered, a want of rehearsal in the task of putting horses into the trucks; the other was a blunder of the part of the railway authorities. They brought up the trucks in such a manner that it made it exceedingly difficult to put horses in. It was an old-fashioned truck with a convex roof, very low indeed. The eaves of the carriages so low that there was only just space to go in, and the roof was half cutaway to let them go in—*[explaining the same]*.—There were two horses of the party that could not be got in any way at all, by pushing, hauling, or enticing, till at last this device was resorted to—Constable Johnson, a very energetic and keen man, took of the saddle, jumped on the horse's bare back, and rode him at the thing, and lay

down on its back like an acrobat, and rushed him at it, and that was the only way he was got in—we were delayed at least half-an-hour that way. I rode outside the engine, on one side.

2209. At what time did you start from Benalla?—I have a memorandum of the time [*looking at a book.*] No, I have no memorandum of the hour at which we started, but I can recollect as a matter of fact we did not start till half-past one. It was bright moonlight. I rode on the frame of the engine outside, with a very powerful field-glass, to keep a watch at the driver's side that the line was not taken up, about which I had some little apprehension.

2210. Do you remember who was with you?—No one on the engine.

2211. Who were the party?—Sergeant or Constable Johnson, Detective Ward, and number of troopers—I cannot remember how many. They took a load in a large van like a goods van, or like an open horse track. When we were coming in the spot—the Faithfull’s Creek station—I changed my side, and went round the end of the engine and watched the wires. It was then becoming an imperfect light from the great haze that spread over the moon. That had made me anxious.

2212. You had travelled slowly?—No, at a very high rate. I had never travelled so high before—sixty miles an hour at some parts. I have no doubt that when we came to the spot I told the driver to slow.

2213. Let me call your attention to what you have not mentioned—did you pass Violet Town again?—Yes.

2214. Did you get any information there?—No, we did not stop for any; we went straight through. I got off the engine, and went to where I found Detective Ward, and said to him, “Get down here, Ward, and take note of the exact spot to which you will have to return to on the line with the horses,” because we could not put down horses here. He did so, and I got up into the carriage again, expecting him after me, but there was some little delay of a minute or two, and then somebody came to me and said, “There is somebody coming across the paddock, and they are singing out.” I looked out and saw two men coming, and I thought they were in their shirts, and that they had been stripped naked, and had no other clothing; but when they came near I discovered they had white silk coats on. The light was imperfect then. I then was told it was Mr. McCauley, the manager of the station, and some other person, and that they wished me to get down. I got down and went with him up to the station with Detective Ward. I found from the time at which we arrived there and the time at which it will be daylight there would be plenty of time to take short depositions, and get back to Euroa and send the men back before daylight.

2215. You would be down by daylight?—Yes; I concluded there would be good room to take some short depositions.

2216. About what?—About the men that had been there—the Kellys. I, therefore, took the depositions of Mr. McCauley and another person, I do not know whom, to be forwarded to Captain Standish for his use.

2217. Did the train stop all this time?—The train waited; and as soon as that was done, which did not occupy more than twenty-five minutes or half-an-hour. I got back to the train, went rapidly to Euroa and put the horses out there. While that was being accomplished, something occurred which made me remember that I had noticed on the way down that it was not improbable that there might be a difficulty about the commanders of the expedition—Detective Ward and Senior-constable Johnson. What I have noticed was this, that Sergeant Johnson was very eager, and so positive in his notions of what should be done, that I feared, if Ward should not agree with him, he would not be quite subordinate.

2218. What were Johnson’s opinions?—I cannot remember what they were now.

2219. What was the eagerness—eagerness to get away and attack the Kellys or what?—I cannot say. He is a forward eager man rather.

2220. Was he eager to get away?—That would not constitute him a forward man—a difficult man to control.

2221. You are leaving us to form our own opinion?—I must do so; it is only my own opinion, for I cannot recall the facts that led me to form that opinion.

2222. Did you ever in your whole experiences find the constables or sergeants or subordinates reluctant to pursue the Kellys?—Never at any moment. I am glad that question has been asked—not one of them.

2223. Was it your opinion that Johnson was only too anxious to get at the Kellys?—Yes, too anxious.

2224. And Ward equally so?—Ward equally so; and every man I have ever met in the police has manifested the greatest eagerness to get at the Kellys, or to get in close quarters with them. I thought, from Johnson’s strength of will, he might prove difficult to control.

2225. Had you either of the Victorian black trackers in your party?—I am told so; I do not remember seeing either of them. I believe he was there; but I do not remember noticing or speaking to him till a later stage. I remember the question arose in my mind.

2226. I will have to ask the question distinctly:—From the moment that you told them, and they had authentic information in Benalla, by the telegram of Captain Standish, of the Euroa bank robbery, up to the time you saw them, and had to do with them, did the police show the greatest amount of eager desire to get at them in the speediest time?—They showed the greatest possible eagerness.

2227. Did the eagerness exist in the minds of the police from the time you informed Whelan of what you had seen between Benalla and Euroa?—It always existed.

2228. At all times?—At all times. I have been a great deal with the police. I have had a great deal of confidential communication with them; but the only person I was in contact with that evening was Whelan.

2229. Mr. Whelan also showed the same desire to capture the Kellys?—Yes; certainly.

2230. Did he show an extraordinary desire to take steps on that immediate information?—He did.

2231. You brought us to the time you got out the horses at Euroa?—While they were getting those horses out, Detective Ward came to me and said something to me of a guarded nature, the exact words of which I cannot now remember, but, after some remarks, he asked me the question whether I thought it would be judicious of him to start immediately they got on the tracks, or to wait for Superintendent Nicolson. The question, put to me by Detective Ward was the first intimation to me that Mr.

Nicolson knew of our being there, and could at all be on the spot. In that manner I was struck with the development of the same impression that had arisen in my mind on the way down; that there might be some conflict between the two heads of the expedition—Ward and Johnson. At that time I did not know which was the superior authority under whose charge it might be; I thought under Ward's charge, but I did not know; but I did know that frequently between the detective service and the other active service there is sometimes a little jealousy as to control. After reflecting, I said words of this sort to Ward—Well, it depends upon how soon you expect Mr. Nicolson down." He said to me—"Oh, he is coming down; he has had a telegram," and he is on the way down." And I said—"Well, it depends upon how many hours he will delay your going in pursuit." Ward said—"Well, I cannot tell how many hours." Then I said—"I must put it thus: if he will delay you only a few hours, say two, perhaps only three, I think you would be wise to stay for these reasons, viz., three of those men (meaning the Kellys) are upon grass-fed horses"—I had learned that from the people of the station—"and only one of them is shod; on the other hand, your horses are all corn-fed, and in fine stable condition, and they are all shod, and in a twelve or twenty-four hours' pursuit, I do not think it signifies much, if you get well on the tracks, if you are two or three hours behind, compared with having your superior officer with you." Also looking to what I felt, fearing there might be jars between the two men.

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2232. At what time did you get back to Euroa?—I can give you the means of finding it; it was before daylight, because my object was, and I remember feeling very pleased indeed that I had got down before daylight, while it was only a hazy moon, so that the men would be able to get on the tracks the moment they could see them. I remember it was before daylight from that. I think we stayed at Faithfull's Creek station about twenty-five minutes or half-an-hour. I do not think more than ten or twelve minutes in running from Faithfull's Creek to Euroa.

2233. Then you would be there at three in the morning?—That is just about where we were, I think, and I imagine that is when it began daylight. That is the advice I gave Ward, and feeling it was rather grave advice to give, I then said—"Whatever you resolve, I will now go back by this train to Benalla, wait there for Mr. Nicolson, come with him in our special, and possess him of all the information that I have to enable him to get straight on to the horse that you must have waiting at the fence of the Faithfull's Creek station and join in the pursuit the moment he comes down." My impression was we should have him there between five and six.

2234. You stated when you got to Faithfull's Creek you took depositions which did not occupy more than half-an-hour. In those depositions did you take down in writing, or were you told how long prior to that the Kellys had gone?—Yes, I was told that, but I forgot now; those depositions are in Captain Standish's department.

2235. How many hours before you got there were the Kellys gone?—My impression is that I was told what harmonized with what was in the papers after that, that they left about seven or eight o'clock, but my impression is not clear.

2236. That would be four or five hours?—From seven or eight o'clock to twelve o'clock, and on to three o'clock. Having given that advice, I started back, I believe, immediately by the special train to Benalla. At Benalla I found, in some way I now cannot remember, I suppose from some enquiry at the station, the telegraph office, that Mr. Nicolson would not be down as soon as I expected. I found I would have an hour and half to go back to my hotel and lie down or do anything I could. I did that, and came back in good early time before the train arrived.

2237. What train?—With Mr. Nicolson, and I believe, but cannot now remember certainly, that Mr. Nicolson went back into Benalla proper for some time. Either then, or on the subsequent journey down with him from Benalla to Euroa I told him all I knew. We sent together in the second special train. Oh, I find—*[looking at a diary]*—that Mr. Nicolson arrived from Wodonga at Benalla at 6.30. I started with him after some delay, but we were again detained at Violet Town. That reminds me that the enquiries I made made me understand that the delay at Violet Town was owing something due to the block system that we could not get the line between Violet Town and Euroa. We had to wait a very exasperatingly long time—I am not sure an hour. The result was we did not get down to Euroa till nine o'clock, though we started at 6.30. When we arrived we found the black trackers had run the track back towards Strathbogie for a mile and a half, then round westward.

2238. What track?—The Kelly tracks, from Faithfull's Creek station backwards into the Strathbogie for a mile and half, then round westward and southward and back to the line where it was lost, and was being saearched for when we arrived.

2239. Whom did you see when you arrived?—When we arrived, the first thing I noticed standing at the side of the railway, was a black man, who, I suppose, was a black tracker; and I remember thinking to myself, "How did that man come—did he come with us or since?"

2240. You said when you arrived at nine o'clock they had run the tracks?—The one who told me was, I think, Mr. McCauley, the station manager.

2241. Had the police gone out?—Yes.

2242. They had come back at nine?—Yes, a black tracker with the police party.

2243. They did not await the arrival of the superintendent?—No, they had made that preliminary expedition; they had gone up to Faithfull's Creek and had picked up the track there. The police party, with the black tracker, had gone from Euroa back to Faithfull's Creek and had picked up the track and run it in the manner I have described. They were found to be at fault near the railway station, and were searching for the lost track again when we arrived again, so that no time was really lost.

2244. Was Constable Johnson at the railway station when you arrived?—I do not think I saw any of the police there.

*The witness withdrew.*

*Adjourned to to-morrow at eleven o'clock.*

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WEDNESDAY, 13TH APRIL 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;	
J. H. Graves, Esq., M.L.A.,	W. Anderson, Esq., M.L.A.,
G. R. Fincham, Esq., M.L.A.,	E. J. Dixon, Esq., J.P.,
J. Gibb, Esq., M.L.A.	

Alfred Wyatt, P.M., further examined.

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*continued,*  
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*The Witness.*—I found yesterday night in a pocket-book of 1878, at the end of the pocket-book, a separate memorandum, by myself, which I have no doubt was made about the time of the Kelly bank robbery at Euroa—"Luggage train from Violet Town to Euroa at 4.4—from Euroa at 4.37." I find also this memorandum added to the end, in pencil—"Watt dropped about 4.30—had not appeared at Euroa at 6.50." That gives the accurate times, no doubt, taken from the time-table at the time.

2245. The 6.50 would be the time you came back to the railway station from Hart's hotel?—Yes.

2246. After being in the lane?—Yes; when I got back to the railway station. I find I have a little correction to make there. I think I stated yesterday the train was due. That might lead to a misapprehension. I meant "overdue." I remember speaking to Mr. Gorman for a quarter of an hour, and it was during that time that Mr. Benjamin Gould made that threat, of which you are no doubt aware, to Mr. Scott, the bank manager. Mr. Gorman at the interview informed me that he knew that Gould was supplying sausages and food on permanent character to the outlaws, but he did not know where the outlaws were.

2247. Did you communicate that to the police officers?—Yes, I did.

2248. That Gould at this time, prior to the bank robbery at Euroa, was supplying provisions to the outlaws?—That he was said to be buying up large quantities of sausage, and supplying it to the outlaws. That is, I believe, one of the reasons why the police preferred the information against Gould of having harboured—I forget the exact charge, but it was under the Outlawry Act that has expired.

2249. I thought it was for threatening Scott, this bank manager?—No. I will now refer to question No. 494 to same witness:—"Captain Standish stated that Mr. Wyatt told you a bank was to be stuck up, and so on?—The witness answered, "I do not know on what ground Captain Standish says that." I did not give any such information as that to Captain Standish; and upon looking back to the questions—reading all the questions before it on which that is based, with great deference to the Commission, I do not think that Captain Standish said that exactly; but, whether he did or not, I never gave such information, for I never had such information to give. I now have to refer to two matters, one with reference to the inquest on Byrne's body. When I left Benalla, in the same train which brought Edward Kelly down, whom I had committed, and resolved to see delivered into gaol safely myself, I arranged with Mr. Sadleir and Captain Standish that the day after to-morrow (on the Thursday) I would return again and hold the inquest on the body of Byrne.

2250. Where was the body then?—Lying in a police cell in Benalla, next to the same cell in which Edward Kelly had been imprisoned. On the following day, Wednesday, when conversing with Mr. Harriman in the Crown Law Offices on these matters, he received and put into my hands a telegram, I think from Mr. Sadleir (I may be wrong in that), to this effect—that it had been arranged to hold a magisterial enquiry upon Byrne's body, and it was then proceeding at the time that telegram came.

2251. On the Wednesday?—Yes. I was vexed that the arrangement I had made had been overruled, I did not know by whom or for what reasons. I may state that, since that, Mr. Sadleir has told me what I deem quite sufficient reasons for the course he took; but at the time I was vexed, and contemplated reversing the proceedings, and ordering that the body should not be buried till I came up, when I would hold the inquest instead of the magisterial enquiry.

2252. Were you a coroner?—Yes.

2253. You were the coroner of the district?—Yes.

2254. Where the coroner is available, it is not against the usage and law for a magisterial enquiry to be held?—That is too wide a proposition.

2255. Do you consider there was anything improper in a magisterial enquiry being held in the matter?—In that case I did; I thought it so important.

2256. Are not coronial enquiries held in preference to magisterial, where the coroner is present, and it is only when the coroner is not present that a magisterial enquiry is held?—I cannot go so far as that. With regard to the arrest of the sympathizers—with reference to what I deem an error in that, I wish to refer to one thing. I can give reasons why I consider it an error, both general and specific reasons with regard to their arrest.

2257. Were they before you?—Yes.

2258. One of the remands was before you?—Five, or six, or seven, or eight were before me.

2259. You were not the police magistrate at Beechworth?—No.

2260. You did duty for Mr. Foster; how was that?—It was the sheer accident of contiguity. I was there, and Mr. Foster's family were at Sale, Gippsland, and he wished to bring them to Beechworth, and he obtained leave to go to Sale to see about removing to Beechworth; and it was because of my being on friendly terms with him that I took his work. My view was then that the arrest was a mistake—all those arrests—and it prolonged itself as a mistake. It caused bad feeling, alienated a number of persons who were hovering between a disposition to help the police and a disposition to befriend their fellows, so that we lost their help—the opportunity of getting their help—and of a few persons whom I had reason to believe might have been relied upon for help before the murders, and up to the time of the murders.

2261. You are now expressing an opinion. Would it not be better to keep to facts you are acquainted with?—I am entirely in the hands of the Commission in the matter. I am going to give facts, I am coming to them. I am going to mention two individuals.

2262. Can we examine them ourselves?—I do not know whether you will get anything from them. They are two of the sympathizers themselves—men who were arrested. I have reason to believe that two of these men, namely, one of the Quinns——

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2263. Which Quinn?—The one that was arrested. There was only one before me.

2264. *Mr. Hare.*—There were two arrested.

*The Witness.*—I cannot identify him further than that he was one of the men brought before me, and who was also some years before prosecuted for assaulting a policeman.

2265. What relation was he to the Kellys?—I do not know. Besides one of the Quinns there was Isaiah Wright. I have reason to believe those two men would have assisted to bring the Kellys in before the murders of Scanlan, Lonigan, and Kennedy.

2266. Will you tell us why you have arrived at that conclusion?—My reason is this, that an informal offer was made to me.

2267. In writing?—No, not in writing—from Quinn.

2268. Of what nature?—Of this nature—offering to bring the Kellys in if the Government would liberate Kelly's mother.

2269. That was before they were apprehended?—Before the murders of Lonigan, Scanlon, and Kennedy.

2270. Did you make that known to the police authorities?—I did.

2271. To Mr. Sadleir?—I cannot remember to whom I told it.

2272. To one of them?—Yes.

2273. Would it be Captain Standish?—Certainly not. He was not in the neighborhood at that time. I am not sure Mr. Sadleir was. I think most probably, and I have thought repeatedly about it, that the person was Sergeant Whelan, who is now in charge there, but if he cannot remember it I am at a loss to remember who.

2274. It appeared in the press at the time?—I was not aware of that. I must answer further that I am not sure even that an offer was not made to me through a policeman, but I cannot remember at all clearly.

2275. This verbal proposition?—Yes, by the policeman who told me he had received that information, and asked me what I thought of it, or something of that sort. However, it did come to me, and I made answer thus—That I could not make a shadow of a stipulation on behalf of the Government, but if any such efforts were made, and were successful, I would use my most strenuous endeavors to carry out the condition they wished to impose. I said that the more readily because I thought the sentence upon that old woman, Mrs. Kelly, a very severe one.

2276. The condition was that Mrs. Kelly, Edward Kelly's mother, should be liberated?—Yes.

2277. Have you any other information you desire to give?—There was a special reason also for making the proposition to me by Quinn. It was that Quinn had expressed himself that I had treated him with great fairness on two occasions that he had been before me—once as the prosecutor and the other time as a magistrate. With regard to Isaiah Wright, he had been before me as a magistrate several times, and had received punishments, and had sent a message to me through Sergeant Kennedy once, who is now dead, stating that, at all events, Mr. Wyatt gave him fair play.

2278. Was that the man known as "Wild Wright"?—The same man. That man never made any proposition to me; but I heard things that made me sure that he was similarly inclined to help to bring in those men before the murders. In each instance, Quinn's and Wright's feeling was that it would be better for the men themselves to be brought in. It was not a feeling of treachery towards them, but that they could not

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hold out, and that it was better for themselves to bring them in. That is all that I have to say as to facts. I was desirous to add more in regard to what occurred at Beechworth, but I cannot say it comes expressly within that limitation suggested by the Commission, therefore I will not refer to it. The last thing I wish to say is this; there was evidence before me that there was a want of concert between the police and the telegraph office at the time of the Euroa bank robbery. That applied not only to the Benalla district, or the Bourke district, but to the Melbourne district. No arrangements had been made between the police and the telegraph office to take care that the earliest information should be given to the police of any breakage on the line. I have good reason to believe that all the lines were broken down at the Faithfull's Creek station, before two o'clock I think, but I would not venture to say this. I have heard from the telegraph gentlemen that it was as early as twelve, but that can be learned from the telegraph clerks.

2279. You mean that the telegraph officers had not informed the police?—If they had been instructed the moment there was a breakage in the lines, particularly the peculiar simultaneous breakage of the wires on both sides of the line, I think the police would have put them on means of ascertaining the modes of the breakage long before they did, because they proceeded merely in the usual way, by sending a telegraph repairer down by the first train, 4.40, in the day.

2280. Do you attach the blame to any special officer?—No, I do not venture to do that. I would scarcely call it "blame."

2281. Say "oversight?"—Yes; that perhaps is the proper way to speak of it.

2282. From your knowledge of police discipline, would you be kind enough to indicate what special officer was responsible for that?—That is beyond my knowledge; but I will tell you what occurred to me; but your question deals with the matter of the government of the police, which I am not cognizant of.

2283. I understood you to say that the information of the breakage of the wires was withheld from the police hours after it was known by the Telegraph Department?—Not "withheld," but not given. "Withheld" means actively, intentionally, but it was not that. I will give you the facts connected with that. I have been lately informed that Mr. John Woods, the Commissioner of Railways at that time, when he heard of the breakage of the line tolerably early in the day, exclaimed, "It is the Kellys;" and that was his opinion, I believe. I have been also informed by a telegraph gentleman that they were testing the lines, and applying the usual means to find out where the fault was some hours before. I discovered what the fault was, but up to that time only the usual means had been used which will allow the department to discover instantly, or very speedily, between which stations the stoppage has occurred; but only by the application of particular tests can they find out at what exact distance between any two places. What I think is that if the police had been instructed of it, the moment all the wires had been found down, Mr. Gorman might have sent his own policeman, or some one, to enquire what was the cause of it, or the police themselves might have sent from Benalla, Violet Town, or Euroa.

2284. You are quite sure that several hours were lost?—I am quite sure of that.

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2285. Before the information was communicated to the police?—The information was first communicated to the police by myself at the hour I have given, and they might have learned the state of the line moderately soon after the breakage.

2286. How do you know. You say of your own knowledge this matter occurred as you have related. By what means did you arrive at that information you have given?—I have told all I can recollect which is to the point.

2287. I know the mode by which you discovered the breakage in the line, but I want to know how you personally became possessed of the knowledge that hours of delay took place before the fact took place before the fact was communicated to the police?—I believe I learned it from Mr. Challen and from Mr. Saxe, the two telegraph gentlemen at Benalla telegraph station in the old town. Mr. Saxe, the permanent telegraph gentleman there, and Mr. Challen, a skilled gentleman sent up to assist him at the crisis. I believe I learned from them; I am not absolutely certain, but I believe it was from them how soon the evil acting of the wires was discovered.

2288. Are you done with your facts?—I think I have.

2289. It was stated, I think by Mr. Nicolson and Mr. Sadleir, that you were in a very exciting state when they saw you at the railway station. That excitement I know was due simply to excitement about the Kelly business, but some people have said was there any cause for excitement?—You mean might I be under the influence of drink?

2290. The impression of the evidence conveyed that at the time?—I do not know how to answer that.

2291. I put it in that form for your own sake?—I do not know how to put it. Such a construction had never occurred to me. I am not a teetotaller, but I may probably not drink a pint of spirit in the year.

2292. *Mr. Sadleir.*—I would not have thought of such a thing, as I know Mr. Wyatt to be almost a teetotaller.

2293. *The Witness.*—When I heard Mr. Sadleir say it, it excited a smile on my part, but what I thought he meant was that I lost my head a little bit, and I was going to say, "No, I was not excited, but I was urgent." Mr. Nicolson knows I am a man who does not get excited in time of danger; that is my best time.

2294. But at the time you gave the information to the police, after having discovered the break in the

wire, how long an interval elapsed between the time of your discovering it and the information you gave to the officers you have spoken of?—The interval that would be occupied by the usual main train running from Faithfull's Creek station, stopping there is usual time, and arriving at Benalla, I can approximate it. It is twenty-six miles, and taking the running rate on Victorian Railways it would be, I should say, from one hour to one hour and ten or fifteen minutes.

2295. In your opinion, do you think that if the information you gave then to the officers had been acted on immediate pursuit, would there have been a probability of speedily arresting them?—As facts have turned out, I do not think any different result would have followed, because I do not think they could have got upon the track before daylight, even if they had gone before.

2296. I understood you to say, after your return to the spot where you discovered that breach in the wires, that you subsequently learned that the outlaws were so near that they were positively watching you?—That is true, and you can learn from Mr. McCauley; he will tell you they did watch me on both occasions.

2297. Was this subsequent to information being given to the police?—Oh, no; the information was given by me to the police after dark, somewhere about eight o'clock—I imagine a little after eight o'clock, whereas the outlaws saw us first when I put down Watt, and when I got down to examine the lines from the engine. Those would both be by daylight.

2298. In your opinion, any action taken by the police in pursuing the outlaws then?—Would have had no better results than what did occur.

2299. With regard to this telegraph business, the impression on my mind by your narration is this, that the withholding the information from the police arose entirely through the want of harmony that should have existed between the officers in the various different Government departments?—No, I don't say want of harmony, but want of prevision on the part of police officers to make an arrangement with the telegraph office to be in special communication with them on those special occasions.

2300. Was there any feeling of jealousy?—Not the least. I never heard of any such feeling. I believe the most active assistance given to the police was given by the Telegraph Department, that could have been of advantage as to the outlaws, and there was good feeling between all the departments, universal good feeling in the working.

2301. Might not the delay have occurred through the idea that the cause of breakage was natural causes?—If it was, I did not know of it. It might be. It was not from any want of harmony but want of prevision for making special provisions for the special crisis by the police and the local officers, And by the supreme officers in Melbourne, who should have foreseen that as much as any, as the Melbourne office is where they would have given orders from.

2302. Were the officers under the impression that the break on the line occurred from natural causes as far as any information you have since obtained. Are you aware whether or not the information of the officers who had charge of the telegraph office was that the break in the wires took place from natural causes or what?—No, they had no suspicion of anything else. They merely thought it was more extensive breakage than usual, but still of the usual sort; but to my mind, the two lines down on both sides, I think, should have suggested some very unusual cause beyond such ordinary ones as they deal with from day to day.

2303. As far as you know, the impression never entered their minds?—No, I believe they were applying their tests all the morning to find out what was the matter.

2304. If the telegraph had informed Mr. Nicolson at once, what time would it have given Mr. Nicolson before he departed from Albury?—Many hours.

2305. How many?—From two to eight o'clock. The department knew of there being an accident to the line at two o'clock at the latest. And Mr. Nicolson departed at eight o'clock; therefore, if he had known earlier, he might have sent a party with trackers down earlier.

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2306. You think it was a mistake not having an arrangement made with the telegraph?—I say merely a mistake, and because I do not want to sit in judgment on the department that knows more about its own business than I, and besides I judge that after the event, when we are all wiser.

2307. Does the railway wire and the ordinary wire work from the same station in town?—No; the railway wire was set up in Mr. John Wood's time—they are separate services, and would be from different places.

2308. It could be easily ascertained by them if the lines were both broken?—They knew they were both broken. I knew that from them.

2309. Touching that later question asked you; you stated, I think, that the telegraph line—that is, the ordinary public service line—consisted of four wires on the side of the line and one on the other. Mr. Woods' system was, I believe, used for railway purposes?—Yes.

2310. Euroa is a junction station—the trains meet there?—It was at that time.

2311. Would it not be known almost at once that there was an interruption in the line on the railway line between Euroa and Benalla?—It depends upon how often trains would pass.

2312. You cannot say whether it would be known?—It would depend upon the accident of the number of luggage trains beyond Seymour; the luggage trains are very few there, they are broken to pieces and divided into a number of smaller trains between Seymour and Melbourne.

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2313. Can you give an opinion as to how soon at either side of the breakage it was known that an interruption existed on the railway line?—No, I cannot. I should think any fireman, guard, or railway driver could scarcely pass without seeing it.

2314. That is not the question—there is a railway operator at Euroa?—There was.

2315. Is there a railway operator at Benalla?—Yes, there is.

2316. That is, the station-master, Mr. Gorman does the duty of railway operator?—He did at Euroa.

2317. From your knowledge of the matter, and without referring to the guard at all, would it not be known at either of those stations almost immediately when an interruption took place?—Very immediately indeed, and the same thing applies to the Government lines.

2318. It would be with regard to the railway line, there being no station between those two?—I know, as a matter of fact, from Mr. Gorman, that he was very early made acquainted with the breakage at Euroa.

2319. With regard to the public line, the one with the four wires, would it not be known at either side very shortly after it was interrupted?—I do not think there is a Government line of any sort at Euroa; but I know, as a matter of fact, that the station-masters are always communicating with each other, and I know Mr. Gorman knew that the Government line was down as well as his own line.

2320. You mentioned yesterday that when you came to Faithfull's Creek station you went up to the station and took the depositions of the persons there—can you recollect from memory, what time was mentioned that will fix us the hour that the Kellys had destroyed the telegraphic communication?—No, I cannot remember from that. I am not even sure that it was told me, but the depositions are preserved, and can be obtained. I took them very rapidly.

2321. You said just now that you thought the mother of Ned Kelly was severely sentenced?—I did.

2322. Why do you come to that conclusion—what was she tried for?—She was tried for being present at a serious assault on a policeman in the exercise of his duty.

2323. What was her sentence?—I do not remember exactly, but I know it must have been at least three years, because she has been in two years, and if she was to get out at the very earliest period, she would not be out, but I cannot recollect what it was.

2324. She is out now?—I was not aware of that. It cannot have been till very recently, at any rate.

2325. You stated that Quinn came to you?—Not came to me.

2326. Spoke to you?—Not spoke to me.

2327. You received some information from Quinn?—No; a proposition from Quinn that, if the Kellys' mother was liberated, some promise or some arrangement would be made by which the Kellys, Ned and Dan, against whom there were warrants, would give themselves up. The words were, I think—"They shall be brought in if the old woman is let out."

2328. Was she sentenced at the time this proposition was made, or only returned for trial?—That I cannot remember.

2329. Are you the police magistrate for the immediate district, Benalla being your headquarters, and where does your district end?—At some unknown spot, probably half-way between myself and the next court of petty sessions on the North-Eastern Railway, namely, Wangaratta to the north-east, and at Mansfield to the south.

2330. Is Wangaratta in your district?—No, in Mr. Foster's.

2331. Is Glenrowan in your district?—That is a point of measurement that I cannot remember. I think it is. I can tell you in a few minutes by the railway time-table.

2332. Never mind?—It is not in my district, it is just outside. Fourteen miles from me, and ten from Wangaratta.

2333. Were not the greater portion of those outrages committed within your district?—That is also, I believe, a matter of question.

2334. Is Euroa in your district?—It was—I meant the murders of the men. The Euroa robbery was in my district.

2335. Did you hear Mr. Sadleir say yesterday, in giving his evidence, that the outlaws were traced to be continuously, or almost continuously, in the immediate districts round Benalla, Greta, and round there?—I cannot say I did.

2336. How many years have you been a police magistrate?—About nine.

2337. You are brought into connection with police offences, and deal with cases under the criminal law, and others?—Yes.

2338. And you took an interest personally in the maintenance of peace in your district, and therefore desired those men should be made amenable to justice?—A very strong interest.

2239. Did you almost daily, or continuously, speak with the policemen and people connected with your own department on the subject of making them amenable to justice?—I did; yes, I discussed these matters from day to day.

2340. How long were those men at large in the district?—I cannot remember.

2341. Can you say they were for ever eighteen months?—Yes. In a few moments' thought I could

more exactly. The period was from April 1878 down to June 1880.

2342. They were at large all that time?—Yes, a year and ten months.

2343. Do you consider that all was done that could have been done to make them amenable to justice during that time?—I speak with hesitation because of the difficulty I had with forming an opinion, but according to the best of my means of forming an opinion I think all was done.

2344. In your opinion—you recollect you have been nine years a police magistrate, you have had two years' service in the immediate locality of the police there—do you consider the police, under all the circumstances of the case, did all that men could do to make those murderers amenable to justice?—I do. I repeatedly expressed the opinion after the Euroa outrage, and from my personal knowledge of the country all the way—100 miles across in one direction, and up to the New South Wales border in another direction—I was always of opinion that the men never would be caught by mere pursuit. I said I can reckon myself seven or eight or nine flukes on the occasion of their Euroa robbery, all of which turned out in their favor accidentally, and which could not have been calculated on, but which turned out in their favor; and I said no doubt in the ignorant rashness of these men they would think those favourable circumstances due to their skill. I said “Those men will go on with the same rashness and ignorance, and thinking they are winning by their skill, till some day they will play the game, depending once too often on those flukes which will then be against them, and they will be caught; and that was what happened at the last when they were caught.

2345. How many petty sessions courts do you attend within that district?—About sixteen places.

2346. At all those courts are you brought almost daily in correspondence and conversation with, and your observation attracted to, the conduct of the police at those courts?—It is.

2347. From your knowledge of that district for the two years, do you believe that there was the slightest reluctance at any time of the part of any of the police to meet the murderers?—I am absolutely certain there was none, there was nothing but eagerness to do so.

2348. Do you say that, meaning without exception?—Without a solitary exception.

2349. Are you aware of the expenditure of public money in connection with this district?—No, I am not. I merely saw Mr Nicolson's returns produced here.

2350. Do you remember reading at the papers that the Chief Secretary stated in the House that the amount would reach nearly £50,000?—I think I remember that.

2351. You expressed the opinion just now that in your opinion they would never be taken by continuous pursuit—why did you think that?—Because of my knowledge of the country and of the people. A gentleman stated before this Commission that the connections of the Kellys were exceedingly numerous. I myself have, with a person who personally know them, counted up seventy-seven relatives, more than a year ago.

2352. Is that within your own district?—I can mention the various places from Mansfield on the south of Aberfeldy, known as Mount Lofty, to somewhere in New South Wales in the north, Table Top, Mitchell's run, I think, and from Wallan and Kilmore, and Kyneton on the west, right away up as far as Tallangatta on the east—that they had relatives, I am not speaking of connections. I was told blood relations, but upon cross-examination of the individual who told me I found I could not believe that—it would not be judicious to mention persons.

2353. It has been stated that they owed a great deal of their freedom to the assistance they got in food and so on from the number of sympathizers. Would it be true to say they received the general sympathy of the inhabitants of the district?—No, the district was to my knowledge considerably terrorized, but there was always a very large core of hearty disposition to help the police and of horror at the acts of those men. I am strongly inclined to think that for that reason the mode that Mr. Nicolson adopted was likely to produce the best results, rather than that adopted by Mr. Hare.

2354. You think that, though they had sympathizers and blood relations, the general inhabitants of that district were thoroughly horrified at the murders, and would, as far as they could, give the police assistance in making them amenable to justice?—As far as they safely could; but it was a matter of safety.

2355. Are you aware that those men were particularly qualified for evading the police?—I am. I knew three of them personally.

2356. Which of them?—The two Kellys and Joseph Byrne.

2357. You did not know Hart?—No.

2358. It is within your knowledge that they were reared in the immediate district, though not born there?—I think they spent a long series of years there; but their youth was spent at Wallan, and Donnybrook, and that neighborhood—I mean the two Kellys.

2359. You knew they were thoroughly good horsemen?—I am aware that Ned Kelly was a splendid horseman.

2360. Would it have been possible for the police, supposing they got on their tracks, and were well mounted, to overtake them?—I am sure they would not ride them down in a day; they would have to hunt them down, but not ride them down—the men were well mounted. I saw Steve Hart in that lane, and his horse was a fine upstanding well-conditioned horse, capable of speed and endurance.

2361. Do you mean where your wheels got locked?—Yes. I never knew it was Hart till Mr. McCauley informed me.

2362. You never told us before it was Hart—now do you say so?—I know it was from Mr. McCauley telling me. I was speaking to him about the sale of some land, two or three weeks before the Glenrowan outrage. I had met him for the first time in my life at the Killeen station one evening, and was conversing with him about the sale of some runs near Faithfull's Creek station; and he, to identify it,

said, "Just about where you met Steve Hart;" and I said, "I never met Steve Hart." And he said, "Do not you remember when you met him;" and I gave my reasons for not thinking it. And he said it was Steve Hart, and he knew it because Hart himself said so, and I said, "God bless me, what did he tell you?"

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He said, "When the party came back with the Scotts from the bank we were yarning, and Steve Hart said to me, 'Who was that old buffer, I met in the lane?'"

2363. Alluding to you?—Alluding to me, I presume. Nobody could tell at the time, but at last somebody recollected that it was my day at Euroa; then they said immediately that was Mr. Wyatt, the police magistrate, when Steve Hart said, "By God, if I had known that I would have popped him."

2364. I would now call your attention to the day of the bank robbery at Euroa. It is stated that Mr. Scott was taken prisoner and conveyed to Faithfull's Creek station—it is stated that the wires were broken, of which you cannot fix the hour, and you stated by your evidence that between eleven and twelve o'clock of that night you saw Johnson and party without the horses in the train at Benalla?—Much later than that.

2365. What hour?—Much after twelve. I imagine we got to the train, and they began to put the horses in about a quarter to one, but we did not start through delay in getting the horses in till half-past one.

2366. You then stated you came down with those men to Euroa, after you took the twenty-five minutes taking depositions?—Yes.

2367. After you came to Euroa the constables took the horses out again, and went out as you stated in your evidence, in the morning and came back and told where the tracks led to, namely, they had gone up to Strathbogie and crossed the line again, and there they lost them—do you consider the police showed any want of efficiency in delaying the following up of the Kellys from the time of their arrival at Euroa until they really did follow them?—On the contrary, they acted more efficiently than I expected. They varied from my advice, and by so doing saved time. I advised them to stay for Mr. Nicolson, but they filled up the time judiciously and properly in looking for the tracks as they did.

2368. Did you advise the police, or say that in your opinion it would be desirable to wait for their superior officer before they followed up the tracks?—I said, "I think, under the circumstances you will not do unwisely in waiting for your officer, provided the time is not too long," but I then expected Mr. Nicolson to arrive some hours earlier than he did.

2369. You stated that Ward and Johnson were with the party, both of them apparently having a certain amount of charge?—Yes.

2370. You stated, I think, that ward came to you and asked you—consulted with you as to whether it would be desirable to have an immediate pursuit, or whether he had better wait for his officer; and you gave us to understand that Ward had intimated to you that it was the desire of the officer that they should not go till he came?—I am not certain whether it would answer to those very words. I am not quite certain that Ward said those words to me—whether he said, "I am to stop," or whether he said some such words as these, "Mr. Nicolson will be here"; but whether he expected him, or was absolutely enjoined to stay, I cannot be certain.

2371. You stated on your own accord just now that you considered the plan adopted by Mr. Nicolson for making the Kellys amenable to justice was better than the other course—what did you mean by the other course?—I mean the system of pursuits. I think it was better to lull them into a sense of security, to be spreading your bands in every direction, to secure information, and gradually, without making a cordon round them, which was impossible, to get the power to seize them as Power was seized.

2372. Who adopted any other course?—I understand Mr. Hare adopted a course of raids, a process which I do not think was likely to be of any use in that country, and with that class of men, as they were capable of evading pursuit.

2373. It has been stated in the papers that it is a better course in pursuing criminals of this class never to leave them at ease—to keep them continually on the move, and so that they may never be certain of the movements of the police?—I may say that that was the plan in New South Wales in the pursuit of Ben Hall and Morgan—they followed them night and day.

2374. Do you consider that is the wiser course, or to spread detectives round them, and make them amenable to justice in that way?—I should think that the pursuit course is not so advisable as the other course. I should think with men so well qualified to evade pursuit, and with such special means of supply and assistance, and such large pecuniary means as they had at that time, there would be a certain time which must expire during which they would be pursued in vain; and then, when the Government rewards were announced, they would have had some effect. I felt since the Government rewards would act in this way; I did not think it would make any of those men untrue to each other, but some of those sympathisers would at some time draw distinctions between the two men who committed the murders and the other two. Some of the relatives of Joe Byrne and Steve Hart would say—"you have not shed blood, why should you stand out?" Their relatives would say that, and there would be jealousy arise, and want of trust, of which at last the police would avail themselves.

2375. Do you know the position of Glenrowan, where the men were shot?—I only know from recollection. I was there repeatedly while the line was being constructed.

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2376. Do you know where Morgan was captured?—I know Morgan's look-out well. I do not know the exact spot.

2377. You know he was captured near Peechelba?—Yes, but that is not near there.

2378. Do you remember when Morgan was there that he said that he would sooner give himself up than be kept continually pursued by the police?—Yes, I did hear that.

2379. That it was worse than death to him to be continually on the move?—I believe it was, but he was a single man and had not the large number of co-operators that these men had.

2380. Therefore the use of continually hunting him down had a strong effect with him?—It would operate well with some men, but not with these, for the reasons I have stated.

2381. Are you aware of your own knowledge, from conversation with your brother magistrates and residents of the district, that every assistance was given by the magistrate and the residents of any responsibility in the district to aid the police in the capture of these men?—I know no specific instance of special exertion, but I am certain of the general feeling of the inhabitants and the magistrates throughout the district.

2382. Do you know whether the outlaws had always horses available or not?—I have good reason to believe they had. I have one special reason to believe so.

2383. Do you think they were better than the police horses?—At first they were better than the police horses. I have two special reasons to know. I met a party on one occasion that I have no doubt was a relief party of four horses, being taken to these men—fresh horses for the Kellys.

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2384. Do you know where the horses captured at Glenrowan were taken from?—I know one was brought from Ryan's, of Cashel. That particular horse I was in treaty to purchase. He had offered it for £50, and I offered £45.

2385. Was he a stable-fed horse?—She was a stable-fed mare, a fine jumper and hunter.

2386. Do you know the other horses that were captured?—No, I do not.

2387. Do you know who claimed them?—No.

2388. That one you did know?—I saw a party of three men with four horses going under circumstances that made me confident they were a relief party. I reported it at Lake Rowan, and found they had not passed through Lake Rowan, and so I knew they must have come from some relative of Edward Kelly's living in that neighborhood—that is the place where the hut was inspected by Mr. Nicolson.

2389. Have you any knowledge that they had any amount of horses in the Upper King district?—I have heard that they had horses in the neighborhood of Tallangatta once.

2390. Do you know they had relatives close at the bank robbery at Euroa?—I do not know that, that was not one of the places mentioned that contained relatives. Ben Gould lived there, a strong sympathizer.

2391. You still continue to say, in your opinion, every effort was made by the police during the two years they were out there?—I do say that, very emphatically, principally the officers.

2392. Were you not, as the police magistrate of the district, responsible to a certain extent, for the state of the district?—All through I felt they were acting in a very fine, spirited, admirable manner. I say that in regard to every one—Captain Standish, Mr. Nicolson, Mr. Hare, every one as far as it appeared to me showed a strong desire to do his duty, and as far as I knew, they were in perfect harmony together.

2393. Did you considered it as being your duty, to maintain the peace of the district, to write to your Government, or head of your department, to say that steps were not taken properly or the reverse?—I did once remonstrate with the Government on what I thought was a mistake.

2394. It would be your absolute duty if you saw inefficiency on the part of the police to take such a step for the maintenance of the peace?—Yes.

2395. At once to draw the attention of the Government to any maladministration of the department of police?—It would, I should have done it.

2396. Whom would you communicate with?—The head of the department—the Attorney General or Minister of Justice, whoever might be the head.

2397. What department are the police under—I think the Chief Secretary?—Yes.

2398. Would you have considered it your duty, if you saw anything wrong on the part of the police, such as want of duty, or want of efficiency, to at once communicate with the head of the department as to facts?—No, I would first communicate it to the subordinate officers, and try to effect a remedy through them.

2399. Who?—The person under the head—Mr. Nicolson, or whoever it might be.

2400. You would communicate with an officer in your district first?—Yes.

2401. Had you any occasion to do so?—Never.

2402. That I assume, if it was your duty, and you did not do it, that nothing occurred?—Nothing occurred but one thing.

2403. What was that?—It was in the matter of the arrests. I felt so strongly the course the police took was wrong and totally indefensible in a British community, in keeping those men in custody in Beechworth on what proved ultimately to be no charges at all, that at last I came and said to Sir Brian O'Loughlen, the then Acting Chief Secretary—"You are doing a great deal of harm to your own cause there, and I beseech you to take some confidential officer from your own department and send him there to enquire into the cases against

every man, and discharge every one against whom there is not a case.” As a matter of fact, seven or eleven men were discharged.

2404. Was not the action taken by the then Acting Chief Secretary and Attorney-General such as legally could only be taken under the suspension of the Habeas Corpus Act?—There was no suspension of the Habeas Corpus Act.

2405. But it would be solely legal if that was suspended?—It was not legal as it was.

2406. It would be legal under the Habeas Corpus Act?—No.

2407. Was the action of the Attorney-General illegal in the way that it was done?—No, contrary-wise; his action was the rectifying of illegality—to arrest a man without a charge was illegal.

2408. Under whose direction were those men arrested?—Captain Standish’s, I believe.

2409. Do you know that of your own knowledge?—I cannot say to what extent I know it.

2410. You have stated now that you went and remonstrated with the Chief Secretary?—Yes.

2411. Did you with Captain Standish?—Yes, and Mr. Sadleir.

2412. Did you hear Mr. Sadleir say, in his evidence here, it was done contrary to his opinion?—I did, and I was much struck with that, for with proper official reticence he had never said so to me before.

2413. He could not have expressed that opinion upon his officer’s action?—No, and I would not have asked him. I used to say to the officers in speaking of these matters, “Do not tell me anything if you do not feel at liberty.”

2414. It has been stated in the public prints repeatedly that the police of the district—that is the subordinate police and sergeants, and so on—all seemed desirous that they should be led by Mr. Hare?—I never heard that.

2415. Did you read it in the paper?—I never read it.

2416. Do you get the papers in the district?—I do, but although I feel it my duty to subscribe to all the papers in my district, I fall in arrear in the reading sometimes. I may have a hundred papers in my room to read through, and cannot get through all. I feel it my duty to know all that is in the papers, although they call me over the coals sometimes, and very rightly.

2417. There is a paragraph here in the *Rutherglen and Wahgunyah News*, 14th May 1880, which says that in Superintendent Frank Hare the men had the most perfect confidence, and so on—[reading the paragraph].—Are you aware, from being two years in almost daily communication with the police, that they wanted to be led by Mr. Hare?—No, I cannot say that.

2418. You have no knowledge of that?—No. I am sure there is a very enthusiastic liking for him for his dash and frank manner. Altogether he is universally liked in the force, and without saying that the others are not, I think it is true that there is more partiality for him amongst the men.

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2419. You are firmly convinced that the plan adopted by Mr. Nicolson when he was in charge was, in your opinion from your knowledge of the district and particulars of the case, the most likely to be efficient in the end?—I am firmly convinced of that. I think it would have led to their being apprehended—no man can say how soon; but I think it was a fortune accident for Mr. Hare that they committed themselves shortly after he went there. I think they would have been bound to commit themselves shortly after that, even if Mr. Hare had not been there.

2420. It is not the fact that you sent a communication to Captain Standish complaining that Mr. Nicolson and Mr. Sadleir did not take the steps necessary at the time of your meeting them at the railway?—No. I have stated that Captain Standish is wrong in saying that.

2421. Did you write a letter?—No. All my communications with this gentleman were verbal, and I merely wished to correct that; and when I said yesterday, in this room, that Captain Standish was inaccurate, owing to the bad light I was under the impression that he was sitting behind me and was present at the time.

2422. You stated just now you had information that the Kellys were getting sausages and other provisions from Gould. Is it within your knowledge that they got maintenance of that character in any other portions of the district—Benalla for instance?—I do not know of my own knowledge. I was not told by any individual. I know it merely from seeing it in newspapers, and general talk, that Kate Kelly was there, and at the shops. I did hear there were a vast number of threepenny pieces in circulation, which were supposed to be from the bank robbery.

2423. Did you hear from New South Wales notes?—No.

2424. Are you aware how the Kellys were armed—do you know they had police firearms?—I know that from what I have read.

2425. Did you receive any information, as being magistrate of the district, of the purchase of ammunition from Melbourne?—I did.

2426. Will you tell us what you heard about that?—I heard that from Detective Ward or Detective Wilson. He told me the case of Miss Kelly, and, I think, one of the Lloyds being down for the purpose of getting ammunition of a particular sort from Rosier, the gunsmith. He (Rossier) immediately communicated with the police, and they made an appointment for them to come back, but they never did come back, and so gave the police the slip. I myself saw Kate Kelly and one of the Lloyds going about at the time; and it was in reference to my having seen them that I was told this.

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2427. Did you hear whether the ammunition got up to them?—No; I never heard of any particular fact of that sort.

2428. Do you consider that the black trackers would be utterly useless in following these men, supposing they got on the tracks?—No; but I thought it useless for them to go out without definite information; to go out with a definitive information is a different thing. I have no doubt, from my observation of these men, in particular in the one case that came under my knowledge, that those Queensland trackers were highly efficient men, and that if a track were picked up by them, they would follow it as long as the most skilful man could; but to go out without knowledge of something definite in that country is like looking for a needle in a bundle of hay.

2429. But you say the men were so well mounted?—Those men could ride 70 miles in the day, but they could not go 70 mile a day straight on end. There is not room in the country, and therefore they could be followed up, even though a day had been lost in starting after them.

2430. I suppose you know a man on foot, if he got on a horse track he will follow the horse, and the horse has to give in first?—Well, that depends on various things.

2431. It is a matter of positive fact?—I have had a good deal of experience myself for a white man in tracking.

2432. *By Mr. Sadleir.*—Was there a railway telegraph office at Violet Town at the time of the Euroa robbery?—There was.

2433. Are you sure of that?—I am sure of that. I mean to say that the railway telegraph station man had his own line and his own means of communicating with his own authorities at Violet Town. I feel certain of that, but I will admit that there is no subject on earth on which I may not be a blunderer; but I believe there was a telegraph office there.

2434. *By the Commission.*—Is Violet Town nearer to Benalla than Euroa?—No; nearer to Euroa. It is 16 miles from Benalla to Violet Town; 11 miles, I think, from Violet Town to Euroa.

2435. Was the line interrupted between Violet Town and Benalla?—No.

2436. *By Mr. Sadleir.*—At what hour did you first reach Violet Town after learning about the breaking of the wires?—At about 7.20 or 7.30.

2437. Why did you not send a message on to Benalla?—From where?

2438. From Violet Town?—I told the station-master to communicate with Melbourne, and that is all that I had an opportunity of doing.

2439. *By the Commission.*—How could he?—Around by New South Wales.

2440. *By Mr. Sadleir.*—Did you tell him to do so that way?—I am not certain of that.

2441. Or why did you not inform the police at that time in Violet Town itself?—If I had seen a policeman I would have done that, but I thought telling the station-master was all I could do, and communicating to Melbourne was all that could be done.

2442. How long did the train stop then?—Two or three minutes.

2443. *By Mr. Hare.*—You have said you think the plan adopted by Mr. Nicolson was preferable to that by me?—Yes.

2444. Are you aware that I had as many agents nearly in my employ as ever Mr. Nicolson had?—No.

2445. Are you aware that those men were working for me in addition to our going about the country harassing those men—that I had men working in every part of the district privately?—My opinion is that the two systems are somewhat inconsistent.

2446. Were you aware of that fact—I had those two systems at work?—I was not.

2447. *By the Commission.*—You have stated that the two systems, namely, surrounding the Kellys with spies so as to get information, and the other system of hunting them, are somewhat inconsistent?—Yes.

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2448. Why?—Because the one system tends to scare, to alienate, and to drive away a good many of the people that you might rely upon for help.

2449. What is the other?—It relies on the chances of successful pursuit, speed, and the luck of picking up the track, but that is always merely a matter of opinion to a person like myself, not so schooled in these questions as the police themselves.

2450. Were you often in conversation with Captain Standish, Mr. Nicolson, Mr. Sadleir, and Mr. Hare, at different times travelling backwards and forwards, as to making these men amenable to justice?—No doubt I was.

2451. Did you ever make suggestions to them as to the course they should take?—No, never.

*The witness withdrew.*

John Sadleir further examined.

John Sadleir,  
13th April 1881.

2452. *By the Commission.*—Where did you leave off?—On my last examination the Commission asked me for particulars of telegrams sent on the day of the Euroa robbery from two o'clock until eight in the afternoon—that is from the time the wires were cut till we spoke to Mr. Wyatt.

2453. You said you could fix the hour then?—I said I could fix the hour, and I find there were eight

telegrams despatched from the Benalla office (my office and Mr. Nicolson's) from two p.m. that day, on the 10th of December, the day of the bank robbery. One of those was to the Chief Commissioner of Police. It was sent to the telegraph office at Benalla, which is not more than 150 yards from our office, at 5.45 p.m., and it was held there until half-past nine: The other telegrams were on lines that were not interfered with.

2454. You say you sent eight telegrams, and the only one between Benalla and Melbourne was this one to Captain Standish?—To Captain Standish.

2455. The others were away?—On the Beechworth end and other places.

2456. Were you informed that the line was interrupted?—No, we heard nothing of that. This is the telegram, showing the hour of which I speak; the substance of the telegram is of no importance, only the date. You will see that it was received at 5.45 p.m., and despatched at 9.30 p.m.—[*handing in a telegram.*]

2457. That is simply to show that you had no information about the wires being cut before you started?—No, and not hearing of that telegram being delayed gave us reason to believe that everything was right on the wires.

2458. This telegram shows that clearly?—Yes.

2459. Was there any understanding between the police authorities and the officers of the Telegraph Department with regard to the action to be taken on any alarm or any suspicious circumstance arising?—I think there was not then.

2460. There was afterwards?—There was afterwards.

2461. But up to that time not?—Up to that time not, so far as I know of, but I am not absolutely positive about it.

2462. At some time during the pursuit of the Kellys by the police, was there not some understanding with the Telegraph Department that if any line was interrupted you would be communicated with?—Yes, after the experience of this, it was made an order that every interruption was to be reported to us at once.

2463. Was there not a test made at a regular time—ten o'clock or some time?—Yes, they were constantly tested by the operators—I do not know the hour. After the time spoken of in my evidence yesterday, there were many things that occurred outside of my own knowledge. Since my statement was begun before the Commission, I have made a calculation, as best I could—I am sure it is not quite complete, but nearly so—of the number of reported appearances of the Kellys from the time of the murders up to their capture at Glenrowan.

2464. Consecutively?—Yes; and I have divided them into periods on which different officers were in charge of operations. From October 26th—that was the date of the murders—to December 12th 1878, I find there were four reported appearances of the Kellys. From December 12th 1878 to July 3rd 1879, when Captain Standish and Mr. Hare were the senior officers, there were 40 reported appearances. From July 3rd 1879, when Mr. Nicolson again took charge, to June 2nd 1880, there were 18 reported appearances; and from June 2nd, when Mr. Hare finally took charge, to June 28th 1880, there were two reported appearances. One of these includes the final appearance at Glenrowan.

2465. And the other would be Sherritt's murder?—Yes, at Sherritt's murder. Then I have again subdivided the second division that I have given you, that is from December 12th 1878—that is the Euroa bank robbery—to March 6th, when the trackers came from Queensland, occurred 35 of the 40 appearances I have mentioned; and from March 1879 to July 3rd of the same year there were only five reported appearances, and none of those were authentic. That shows that the Kellys ceased at once to show themselves after the trackers arrived in Victoria.

2466. As you said five were not authentic, can you tell us whether any of the 35 were authentic, from 10th December 1878 to March 1879?—Yes. Some of them were certainly authentic. The Jerilderie bank robbery occurred during that time, and there were others.

2467. Touching that—after the Jerilderie robbery, is there no authentic account of their return to Victoria after the robbery in New South Wales?—Yes, I am sure there was. I propose, if the Commission take any interest in this, to put it all into detailed table showing the informants and places where the things were said to have taken place and the steps taken, or such references to the papers that will explain.

2468. And the officers?—Yes; that will take several days.

2469. That will be most important?—Then I will do it, giving the names as mentioned in the key. Then I need not refer to those as I go along.

2470. Then from your own knowledge of the Kellys did they remain in the district all the time except when at Jerilderie?—I have no doubt they did, within the limits I spoke of in my previous evidence.

2471. There was a statement made in the papers, amongst the other untrue statements, that they paid a visit to the Western district, and that some information got into the papers, and they came back;

2473. You do not know whether it was authentic?—No, we were not interested in it at that distance; we knew they were too near for that. I was a good deal engaged about my own district duties all the time I have been speaking of, and to the end of this business. I think it has been stated there were a number of reductions made in the police, very considerable reductions. The last reductions were of the Artillery; they were finally withdrawn at the beginning of the year 1880, 1st January or thereabouts.

2474. Were the Artillery of any value whatever towards the capture of the Kellys?—No; except only rendering the banks safe and giving more police at our disposal. About May 1880 I heard that Mr. Hare was coming again to relieve Mr. Nicolson. I wrote to him about it privately as a friend, and tried to dissuade him from coming. I think I spoke to Captain Standish to the same effect; and I know for a certainty that I had spoken to Captain Standish as soon as I heard that he contemplated removing the Queensland black trackers.

2475. You protested against the removal?—I urged and advised him not to remove them.

2476. What time was that?—It was somewhere about the beginning or end of March of that year that I spoke about the trackers. I was on my way either to or from Tasmania where I had a few weeks' leave that year. I urged all I knew to dissuade him from removing them.

2477. Did you know at that time that other black trackers were to take their place?—I knew that was contemplated—yes.

2478. Had Mr. Chomley then gone to recruit?—No, not for months afterwards.

2479. Why did you try to dissuade Mr. Hare from coming to the district?—I disapproved of Mr. Hare's way of searching for the Kellys.

2480. Was that the reason you assigned to him?—Yes, in the private letter—there is a letter I dare say. At any rate I had so fully explained at all times to Mr. Hare my disapproval of his operations as they were taking place that he must have understood what I meant.

2481. Then your letter was dictated altogether by your desire for the public interest?—Solely and entirely.

2482. Not as a matter of feeling between two officers?—No, that had nothing to do with it.

2483. You thought it would be more efficient if the arrangements then going on were carried through?—I was perfectly satisfied that the arrangements then going on under Mr. Nicolson, myself, and Mr. O'Connor, who were all in perfect confidence with each other, were leading steadily to a good result at very little expense, no noise or trouble, and that we were stepping forward most surely towards the capture of the Kellys—that is a matter of opinion only.

2484. Is this a matter of opinion?—I think Captain Standish stated that when Mr. Hare went away from duty about the previous July and Mr. Nicolson came back, he (Mr. Nicolson) gave in evidence the way he found the police inefficient—he had them out shooting and all that—and I think he said that he found the force very much reduced in numbers, that the force was weakened about the time he received charge?—It was very much reduced.

2485. Did you ever think it was too weakened, or were they withdrawn with your full consent. In other words did Captain Standish take upon himself to withdraw the men without your advice, or contrary to your advice, as the responsible officer (as you were then, the same as now)—did you think that that weakening damaged the efficiency of the force of the district, and was it with your sanction, or did you advise it, or the reverse?—I did not advise it, I was against it. I thought it very dangerous.

2486. Did you inform Captain Standish of that?—Yes. I had several conferences with him on the subject for the purpose—he asked me to come to Melbourne.

2487. Did you inform your superior officer on the ground—Mr. Nicolson—did you say to him that the men had been weakened during this short interval?—Mr. Nicolson understood perfectly what I was doing I do not think the actual reductions took place until immediately after he came up

2488. There was a full body with Mr. Hare?—There had been odd drafts away while Mr. Hare was there—about May or June.

2489. Up to this time those were extra men drafted from other districts?—Mostly.

2490. Were they drawing extra pay besides their police allowance?—They were drawing 5s. a day for travelling allowance.

2491. What is the pay per day?—Seven shillings and eight shillings.

2492. What extra pay would the eight shillings mean?—It was five shillings only towards their travelling expenses.

2493. Did they get 5s. up to a certain date?—Yes.

2494. And when was it stopped?—I can find that out.

2495. Were the officers getting extra pay?—The officers get the same allowance at their scale.

2496. What is that?—Twelve shillings.

2497. That is the extra officers that came to your district under you?—I drew none.

2498. It was your station and the others would be entitled to it?—Yes, the others received 12s. a day.

2499. After it stopped, did any of the officers remain after it was stopped?—The officers' allowance never stopped. Mr. O'Connor's, Mr. Nicolson's, and Mr. Hare's never stopped while they were there.

2500. Nor the constables?—They all stopped at a certain period about the middle of that year.

2501. Though they were not permanently stationed there?—There was a formal order for their transfer, which would have the effect of bringing them outside the regulations in regard to extra allowance.

2502. Still they were doing duty out from their homes?—Yes.

2503. And that pay was stopped?—Yes.

2504. On whose recommendation was that stopped?—That came from the Chief Commissioner

himself. I never heard of his consulting anybody else about it. I knew it was coming, but I am sure he never consulted anybody else about it.

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2505. When Mr. Nicolson was giving the statement here as to the comparative expenses during Mr. Hare's time and his time, when that was a very much lower scale, will that be after the reductions were made of the extra pay?—I cannot say unless you show me the return.

2506. Under your system it was not necessary to have so many men as under the system carried out by Mr. Hare?—No.

2507. Then why did you disapprove of men being taken away?—I think the reduction was carried further than safety, even with that consideration.

2508. In fact the service was weakened?—The service was weakened. We were often at a difficulty for men.—[*A return was handed to the witness.*]

2509. That is the expenditure?—You are asking, I suppose, now from July 1879 to May 1880. This return does not show expressly when the travelling expenses to constables ceased.

2510. Do you remember Mr. Brook Smith being out with a party from Wangaratta?—I remember hearing of it.

2511. I think the evidence given here is rather against him—that is, he came in against orders. Do you remember whether he did?—I know nothing of it, except from Mr. Nicolson afterwards. I was at Benalla at the time.

2512. Then you do not know anything at all about that circumstance, except what you have heard?—Nothing whatever.

2513. Were you present?—I was present when Mr. Hare relieved Mr. Nicolson in the early part of June 1880.

*Mr. Hare.*—2nd June.

*The Witness.*—Mr. Nicolson and Mr. O'Connor and myself were in my office when Mr. Hare came in. After a little preliminary conversation, Mr. Hare stated what we knew already—that he had come with authority to take over charge from Mr. Nicolson. Mr. Nicolson handed him over—

2514. Was the authority verbal or written?—Written authority had passed.

2515. Such things are always done by correspondence?—I know Mr. Nicolson had his orders in writing, but whether Mr. Hare had his with him I do not know. The orders are generally sent ahead.

2516. There are written instructions in all such cases?—Yes; Mr. Nicolson had his orders at this time.

*Mr. Nicolson.*—A copy is in the hands of the Commission.

*The Witness.*—I saw Mr. Nicolson, and heard him hand over and explain about papers relating to the Kelly business. I knew the business exactly as it stood at the time. Mr. Nicolson, after the conclusion of his words to Mr. Hare, asked me if I thought that was all.

2517. Meaning if the information was complete?—Yes; had he forgotten anything.

2518. "Is the information complete, is that all?"—Yes. "Have I forgotten anything," he asked me—if I knew anything, or remembered anything, he had forgotten. He did not close his communication with Mr. Hare until he had mentioned everything that was essential, bearing on the case at all, that would be of any use to Mr. Hare. I think in Mr. Hare's presence; I am not quite sure of this. He asked me also to give all information to Mr. Hare. I had already told him I would do so. I did do so. There were a large number of documents, some old, some were recent, and I understood everything essential to the case was passed over to Mr. Hare.

2519. Had you authentic information as to the whereabouts of the Kellys?—I think there was very late information about them at that time.

2520. You had seen the "stock inspector's" letters?—I had seen them.

2521. Was Mr. Hare made aware of all this?—This person referred to had several communications before this time, and after. Some of them were very long dated, and I do not suppose those were brought under Mr. Hare's special notice. They had passed and gone, and were out of date, several of his communications. Mr. Nicolson left Benalla that evening by train, and that was his last appearance in the district.

2522. What time was this?—The first interview between Mr. Hare and Mr. Nicolson was about half-past eleven or twelve.

2523. What was the latest time at this particular interview—was Mr. Nicolson at the office?—I think they were both in and out of the office until luncheon time—until one.

2524. What time did Mr. Nicolson leave?—By the six o'clock train.

2525. What time was the last official communication?—The communications did not last long; they were over before that time.

2526. What do you mean long?—Perhaps half-an-hour or twenty minutes' talk between them, more or less. It took about a quarter of an hour or twenty minutes to relate the different matters between them.

2527. Were the documents all there?—Some of the most important of the secret ones were in the drawer, and that was drawn open by Mr. Nicolson. They were filed together and handed to Mr. Hare just as they were, as all the contents were named, as you would form an index or catalogue.

2328. The contents would be on the back of the letter?—Well, I found them later so. I think they were endorsed with the informant's name—"Communication from So-and-so and So-and-so"—but the contents were not shown on the back. There was a much larger correspondence on the shelf in the corner of the room. That was what had been mostly dealt with in the past, and extended over the whole time from October 1878 to this date.

2529. Whose office was that?—Mine, but it was used by them.

2530. Is it your office now?—Yes.

2531. Was it used by Captain Standish?—Yes.

2532. It was the Superintendent's office?—Yes, and is now, but it was used by all those officers in charge at the different times.

2533. Did Mr. Nicolson explain the whole matter to Mr. Hare so as to give him an idea how to go to work?—Mr. Nicolson, without any reserve that I could see (and I knowing the whole business and looking on), explained the whole matter to Mr. Hare.

2534. In about 25 minutes?—A quarter of an hour to twenty minutes.

2535. That is what you may call the salient points of the matter, and he asked had he forgotten anything?—Mr. Nicolson asked me if I remembered anything else, if he had forgotten anything.

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2536. Did he say if he had forgotten you were to tell him?—I would have told him, no doubt, if he had forgotten anything. I should not have allowed Mr. Nicolson to go away without giving Mr. Hare all the information that was necessary.

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2537. Do you believe you had as much information as Mr. Nicolson of what was passing?—Yes.

2538. Had you access to all the papers?—Yes, I had access to all the papers.

2539. Did Mr. Nicolson keep any document from you?—I have not the slightest suspicion he ever did.

2540. Did he give full information of everything?—I am sure he did, he has always assured me he gave me everything.

2541. Did you actually know where the Kellys were at that time?—I am pretty sure we had information that they had appeared a week before that in the neighborhood of Beechworth, but I am speaking from recollection. If you like I will refer and make it sure—*[the witness referred to his papers]*.—Yes, we had information that they had appeared in the Beechworth neighborhood. I mean somewhere near Sheep Station Creek.

2542. About Byrne's house?—Yes, Byrne's or Sherritt's; I forget which now.

2543. How far is that from Beechworth?—Four to six miles, taking the shortest way, somewhere near Sheep Station Creek; four to six miles from Beechworth.

2544. I suppose that information caused you to send out that watch party to Sherritt's hut?—I am afraid to speak without book, but I can find out in ten minutes—that would be under Mr. Nicolson, a week before Mr. Hare's arrival, I am speaking of.

2545. In the interview of a quarter of an hour or twenty minutes, did Mr. Nicolson inform Mr. Hare of the detailed arrangements he had under his control, such as the watch party at Beechworth?—I do not remember about that.

2546. Did he tell him the supply of money had been stopped and he would have to dismiss the agents?—No.

2547. Did you?—I do not think there was any allusion to that.

2548. Did Mr. Nicolson tell Mr. Hare that he proposed to call in all his agents at that time?—I think there was an understanding that if they were to be maintained, Mr. Hare would have to see to it, and act upon his own responsibility about it.

2549. Between Mr. Nicolson and Mr. Hare?—That Mr. Nicolson would be fully relieved of all responsibility, and if they were to be kept on, Mr. Hare would have to keep them on, on his responsibility.

2550. Was that a matter of conversation between Mr. Nicolson and Mr. Hare?—I think it must have been, because it was only then I could have had an opportunity of understanding that.

2551. Did Mr. Nicolson say, "There are certain parties in the pay of the police, you had better communicate to them what you intend to do in the future"?—That brings to my mind that there were some of those parties that we were not authorized, without their consent, to hand over to Mr. Hare. I undertook to get their consent and inform Mr. Hare, and rather than discharge them, I was to arrange, knowing them all, to ascertain their wishes upon the subject and then report to Mr. Hare.

2552. Do you remember if at this time the agent going by the alias "Hunter" was employed at this time?—At that time, I think not.

2553. Or "Bruce"?—Yes, I think he was got rid of at that time.

2554. Can you give any reason why he was got rid of?—I think he was trying to swindle the police out of money—that is, he was trying to get money for false information; I never saw the man.

2555. What was the false information?—I never had any communication with him, and all I have is by hearsay.

2556. Who is the officer who communicated with that man "Bruce"?—Captain Standish or Mr.

Nicolson, I think.

2557. They only could give him information?—They were the people in communication with “Bruce.” I do not think I ever saw him.

2558. *By Mr. Nicolson.*—Do you recollect the interview after lunch time with Mr. Hare?—I remember Mr. Nicolson asking Mr. Hare to dinner, but that is all I remember.

2559. *By the Commission.*—You were not at dinner with them?—No. My recollection goes this far, that Mr. Nicolson asked Mr. Hare to dine with him at his hotel that day.

2560. How long was that after the interview you spoke of?—I really cannot say.

2561. Was it in the afternoon?—My impression is it was after luncheon—the dinner hour is six o’clock. I heard them talking no business during that time.

2562. Were they both stopping at the same hotel—Craven’s?—Yes, I believe so.

2563. Were you present the whole time they were together in the afternoon?—No, I did not see them together in the afternoon, except during this little interview. I am sure Mr. Nicolson went away immediately.

2564. *By Mr. Nicolson.*—In what order did we leave the office on the first interview?—I cannot tell you. I fancy Mr. O’Connor left first—my recollection of it is imperfect. I was busy writing with my back turned a great deal of the time to the other officers, and I do not remember who left the room first.

2565. What time did the train come in that day?—A quarter past eleven.

2566. What time did Mr. Hare arrive at your office?—Perhaps twenty minutes or half-an-hour after that.

2567. That would be before twelve?—Yes.

2568. Who met Mr. Hare first when he arrived?—He walked into the office and found us all there.

2569. Who first got up and shook hands with him?—I thought I did.

2570. Then we had some preliminary conversation?—Yes.

2571. How long did that last?—We asked several questions about things—I did—and Mr. Hare talked of some indifferent matters perhaps five or ten minutes before business began.

2572. That would bring us up to twelve, and you say we did not leave the office till one?—No, I did not say that.

2573. When did we leave the office then?—Some of you left the office as soon as the business part of the conversation was over and came in again.

2574. Came again?—I think so.

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2575. Who did that?—You must understand I am only speaking from recollection of matters that seemed to me then, and even now, very unimportant. I am quite sure they all left the office at intervals after the business conversation was over. I have a recollection of seeing Mr. Hare speaking outside the office, I think to Mr. O’Connor. I have the recollection of being outside the office myself, and I have a recollection of Mr. Nicolson leaving the office; but this was all after the business part of the conversation was over.

2576. And before lunch time?—And before lunch time.

2577. Do you not remember that Mr. O’Connor went out first?—That is my impression decidedly.

2578. Who went out after and was talking outside with him. Do you not remember my talking to you after they had gone out of the room, and turning to you, and saying, “Is there anything I have forgotten?”—Yes.

2579. Who was in the room then?—Only us two. That was after the business was over.

2580. What was your reply?—I said, “Yes, you have told everything that I know to bear on the case.” You had made that appeal in Mr. Hare’s presence also.

2581. Yes, but at last, when we were alone together, I turned towards you, and I asked you if there was anything I had forgotten?—Yes.

2582. What was your reply?—To the effect that you had told him everything.

2583. *By the Commission.*—And that is your opinion now as then?—Yes.

2584. *By Mr. Nicolson.*—You spoke of a large heap of papers on the left of the table containing the whole correspondence from the very beginning—a lot of old correspondence from the beginning of the outbreak to that date—was that alluded to at all?—I think that was pointed out by you to Mr. Hare.

2585. Were they handled or interfered with?—No.

2586. Do you remember that drawer in the table where I was seated—you know my usual seat?—Yes.

2587. Are there not two drawers?—Yes.

2588. Do you remember the drawer being open?—Yes.

2589. Were those particular papers in question connected with this enquiry, all the particular matters and special matters in that table?—Yes, they were all there.

2590. *By the Commission.*—You had specially confidential letters in that drawer—is that one—*[handed a letter]*?—Yes.

2591. Is there another drawer?—Yes, on the right-hand side.

2592. *By Mr. Nicolson.*—Was that interfered with?—No, that drawer was placed under Mr. Hare directly you left.

2593. Did not this small drawer contain all—describe the size of the drawer?—An ordinary small table drawer.

2594. How many packages—do you remember a large packet of papers, and that I said to Mr. Hare I had a particular reason I would like to keep them; they were of no use to him, and I would like to take them with me?—I remember an allusion of that sort for “Bruce’s” papers.

2595. You know the reason, I dare say?—I do not know that I do.

2596. Do you remember those papers about the armour. How many letters did you find in that drawer—you sent them down to me?—On the 20th November you asked me for two letters.

2597. The letters connected with the armour?—You telegraphed me on the 18th, asking for the letters of this individual known as the “diseased stock” man. I say, “Your telegram of the 18th November, asking for this man’s letter, came in my absence, and it had to wait my return. I send now three letters, February 26th, May 14th, and May 20th, and some memoranda, some notes made by you undated. I suppose these are what you refer to, as I can find no others.”

2598. *By the Commission.*—That was in answer to the telegram?—Yes, he asked for those papers by telegram, and I sent them.

2599. Did he ask for these papers as Acting Commissioner of Police?—Yes.

2600. Not as a private individual?—No, as Acting Chief Commissioner of Police.

2601. In November?—I think his telegram, asking for them, is in the hands of the Secretary of the Commission.

2602. Mr. Nicolson said he wrote for them in a private character?—I wrote to him as Chief Commissioner of Police, and responded to his telegram, and would not have sent them if he had not telegraphed as Acting Chief Commissioner of Police. I attached the papers to the telegram. The practice is, when you get the telegram ordering certain information, you attach your return to the telegram, and turn it up and say “Forwarded herewith.” 20th November was my reply to his telegram of the 18th.

2603. He was head of the Police Department then?—Yes.

2604. *By Mr. Nicolson.*—Coming back to that day, do you remember my handing an envelope with those letters to Mr. Hare?—I do not remember those papers particularly. I found them in the other drawer when I sent them to you.

2605. How were they in the other drawer?—All together.

2606. Were they not in the envelope?—Yes, with one enclosure.

2607. Were they not in one envelope when I handed them to Mr. Hare?—I cannot speak so well of your papers, because your drawer was private and under your control, and I cannot well say how you kept your papers. You had the key of both those drawers, and though I often saw documents in them, still they were not under my daily observation, as my own were.

2608. Had you not access to them?—Not unless I went for the key.

2609. You do not suppose any one would keep our documents unlocked?—Certainly not; but the drawer was under your control.

2610. You were speaking about some expedition, the last information about the Kelly gang where there was an expedition—had I not come in from the expedition the day previous?—Yes, from the place I named, Sheep Station Creek; from the reported appearance of the Kellys there.

2611. After that, up to the time that Mr. Hare left, from that date to then, did Mr. Hare ever utter any complaint to you about not having received information?—The only complaint he made was about the discharge of those agents, no other about the want of information. He had all the information I could possibly give him, and that was all he could possibly obtain from anybody else.

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2612. You say, as I handed the papers to him, I explained the contents?—You explained without reserve, to my mind, all that an officer relieving you would require to know.

2613. Do you recollect Mr. Hare interrupting, “What was your last news, when did you receive it?”—I think that was said.

2614. Do you recollect, in reply, my referring to their recent appearance at Chiltern, two of them at a certain person’s place?—Yes, I do. I was not aware it was Chiltern.

2615. Did I not then go on to explain to Mr. Hare from there right down to their appearance at Sheep Station Creek, when I had been out on an expedition the day before?—Well, I was only observant of this as to whether you gave him all the information that we then knew of the Kellys without noticing details. I remember distinctly you told him everything—all information that I knew to be in existence. I do not remember those details. I was occupied a good deal myself with my own business in the office, and I cannot give you an answer to each of those questions as you put them.

2616. *By the Commission.*—What time did Mr. Nicolson leave at night?—Six o’clock.

2617. Then he must have been there about seven hours while Mr. Hare was there?—About seven hours—Yes.

2618. You and Mr. Nicolson occupied the same office?—Yes.

2619. And there were two tables in that office?—Yes.

2620. Who attended to the discipline of the ordinary men. Supposing a change of men from Wood’s

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Point to Jamieson, who would do that?—They were all under my discretion.

2621. You would specially deal with those?—Yes.

2622. You say there was another table, that Mr. Nicolson occupied?—Yes.

2623. You stated also that a bundle of papers connected with the ordinary correspondence was on the shelf?—No, that had relation only to the Kelly business.

2624. Close to Mr. Nicolson's table there was a lot of papers connected with the Kelly business?—Yes.

2625. There were two drawers in the table that Mr. Nicolson sat at?—Yes.

2626. Did I understand you to say he opened the drawer, and said to Mr. Hare—"There are all the papers containing the circumstances relating to the case"?—Yes.

2627. We have heard that there was a special lot of letters in the envelope?—Yes.

2628. Do you know that man's writing—[*handing a letter to the witness*]?—That is disguised writing.

2629. You know the agent?—I think so.

2630. Can you say, now, of your own knowledge, amongst the papers in one of those drawers where Mr. Nicolson had the letters, that there were letters from this person?—All I can say about this letter is that after the Glenrowan business, and when Mr. Nicolson wrote to me for this man's letters, I found this.

2631. Is that the letter you refer to, written in November, asking for this special letter?—Yes and that was one I sent down.

2632. Where did you find that?—In the right-hand drawer.

2633. Was that drawer handed over to Mr. Hare?—Yes, both were handed over to Mr. Hare.

2634. Had you any reason to remove it, after giving over the papers to Mr. Hare, and your finally sending it down?—No; I knew it was in one of two drawers at the time Mr. Hare took over.

2635. Who kept the key after Mr. Nicolson took charge?—Mr. Hare.

2636. Therefore if Mr. Nicolson gave that letter over to Mr. Hare, and you found it there finally, it must have been there in Mr. Hare's room at the time, and under his control?—Yes; that stands to reason.

2637. And he had the key of it?—Yes.

2638. How many agents, paid or otherwise, had you supplying you with information at the time Mr. Hare relieved Mr. Nicolson, on the 3rd of July?—Five.

2639. Including the "diseased stock" man?—Yes.

2640. Did Mr. Nicolson convey to Mr. Hare, at that interview, the value of those five persons and their evidence, or of their information, rather?—He gave him the substance of all information.

2641. Did he say, "I have so many agents now supplying me with information, and I attach such and such importance to this man and that man"?—I cannot remember that particularly.

2642. Would Mr. Hare be able to judge only from letters he found in the drawers, as to the value of the agents?—I think Mr. Hare knew all of them.

2643. But Mr. Nicolson had been in charge?—Mr. Hare had all the recent information sent in by this man.

2644. In the drawer?—He had them from the drawer and by word of mouth from Mr. Nicolson.

2645. He gave it all by word of mouth in ten minutes?—There was more than that.

2646. Mr. Hare says ten minutes?—Ten minutes would have told all that was to be told.

2647. Did Mr. Nicolson tell that these were the persons he had engaged, and he would have now to make arrangements because supplies were stopped?—I do not think anything was said about supplies being stopped. When an officer gives over the charge of business like this, he would name his agents and say, "If you continue, you must make your own agreement."

2648. Would an officer going out communicate the fact to the agents that, as far as he had done, he had finished with them?—He ought to, to protect himself—most assuredly.

2649. At the time Mr. Nicolson relieved Mr. Hare on the previous occasion do you remember what steps were taken by Mr. Hare?—There were no agents I remember then—we had no systematic agents except the one man, Sherritt.

2650. In the case of Sherritt did Mr. Hare, of your own knowledge, communicate to Sherritt and say, "Now you will have to make terms with Mr. Nicolson"?—I do not know that.

2651. It would be his duty?—No, it would be simply for his own protection, or else he might be held answerable for expenses incurred by these agents.

2652. *By Mr. Hare.*—Do you think that Mr. Nicolson, having been there eleven months, could, in ten or fifteen minutes, give all the information respecting the pursuit of the outlaws?—No, it has taken me three days to tell that to the Commission.

2656. With reference to those agents being paid up to date, and that one was over-paid?—Yes.

2657. How long did it take going over those accounts?—I think that would take a very small part of the time, because I think he gave you a statement of them in writing.

2658. He went over each account that could be due to each man?—That account would want no explanation; that would explain itself.

2659. Do you remember one subject that he told me in connexion with this, beyond the accounts?—He told you what the agents had been doing, and everything that was important.

2660. In fifteen minutes, over eleven months' experience?—He did not go further than the last few months.

2661. Did he give any other information, beyond stating that Mrs. Sherritt had seen Joe Byrne in the shed?—That was the very latest information.

2662. Did he give anything later than that?—No; I do not remember that he did.

2663. This man, "Diseased Stock," had been in the employ of Mr. Nicolson for eleven months?—He had been in communication with us for a long time.

2664. After I left I gave his name to Mr. Nicolson?—I know this man was in communication with the officers of police before Mr. Nicolson came up a second time.

2665. He was with Mr. Nicolson for eleven months?—I know that he was in communication as far back as April.

2666. Do you know how many letters were written from that agent to Mr. Nicolson?—I could only find three.

2667. Were there not more than that?—I think his communications were verbal, mostly.

2668. Were there not more than three letters?—I do not think it; I have no recollection. I found three, and sent them to Mr. Nicolson.

2669. Do you mean to say only three for the eleven months?—I have no recollection of it, I could not speak distinctly about them if I had not seen them.

2670. Were there any other letters removed from the office about the Glenrowan affair besides those three?—No.

2671. Was not Mr. Nicolson in the office between the Glenrowan affair and the time you sent the letters down; did he not visit the office?—I know that Mr. Nicolson came up with his wife to Benalla; I am not quite sure he came to the office, I think he did—yes.

2672. Were there any papers connected with this matter referred to out of that private drawer?—There was nothing taken unless Mr. Nicolson were to steal them, nothing removed by him or anybody else.

2673. Was that drawer opened and any reference made to letters?—No, after he left I took the key and kept the drawer myself.

2674. *By the Commission.*—Where did you get the keys?—I think Mr. Hare sent them to me after the day he was wounded.

2675. *By Mr. Hare.*—Were they referred to on that occasion that Mr. Nicolson visited Benalla?—I do not think so. Mr. Nicolson may have asked for information, but I am certain there was nothing taken unless it was stolen without my knowledge.

2676. Where are the letters now that Mr. Nicolson wanted to take on that occasion, when I asked for them to be left to read?—They are amongst the papers catalogued, you will find it on the file.

2677. You say you do not recollect any other subject being touched upon except the one of Joe Byrne's being seen up by Mrs. Sherritt's on that occasion?—I know Mr. Nicolson, in talking the matter over to you, talked about every point that I thought would have been of any use to you or that you would desire to know.

2678. But eleven months' work could not be told in that time?—He did not talk about eleven months' work.

2679. Was it only one week?—He gave you all the information that was in our own minds at that time.

2680. With regard to "Renwick" alias, do you remember his coming down from Beechworth?—Yes.

2681. Do you remember his making an appointment to meet me that night?—Yes, you told me of it.

2682. Do you know whether he did meet me?—I remember you told me afterwards he would not work for you.

2683. That he had left the place?—That he would not work for you. He was at no particular place at the time.

2684. He came down from Beechworth to Benalla to see me?—Yes.

2685. Did not Mr. Nicolson tell him that he was going to Melbourne, and that he was to come down to see me at Benalla?—I think we told that to our different agents. I told that to the "diseased stock" man myself.

2686. With regard to that telegram and the information I received from Detective Ward, were you aware that those agents were to be dismissed that day?—I have not seen the telegram yet.

2687. You know there was a telegram to that effect?—I never knew of it till you told me next morning, nor am I aware of the purport of it now, except from hearsay.—[*The telegram was produced.*]—This is the first time I have seen this.

2688. Were you aware of that telegram being sent?—No.

2689. Or any subject connected with it, that those agents were to be discharged?—No. I knew nothing at all about it.

2690. *By Mr. Nicolson.*—Do you understand that telegram?—"To send Constable Armstrong back to his station and withdraw the watch party."

2691. *By Mr. Hare.*—Where were they staying?—I do not know exactly.

2692. Where was that watch party?—No. I never gave them any instructions.

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2693. Well, you could not afford that information to me?—No.

2694. Did he say anything about it when I relieved him—about his purpose to remove them?—No, not to my knowledge.

*Mr. Hare.*—I never spoke to Mr. Nicolson, after I left the office, on the subject of the Kelly business, after I left Mr. Sadleir's presence. I may explain to the Commission. Mr. Sadleir and I were conversing on the subject of the Kelly business that evening, and about three that evening Mr. Nicolson put his head in and said, "Mr. Hare, will you dine with me to-night?" and I said I would be very glad; and he had to go to town, and I did not dine with him, and I never saw him after that.

2694a (*To the Witness*).—With regard to that, will you read on?—"And send them to duty; any further orders from Superintendents Hare or Sadleir." I suppose that to mean any further orders you will receive will come from those two officers.

2695. *By the Commission.*—Will you look on that telegram and see if you can find out the hour at which it was sent?—6.47 p.m. from Benalla railway station. That would be about the time Mr. Nicolson would be leaving by train for Melbourne.

2696. So that you could not possibly know anything of that, except Mr. Nicolson had told you?—No; I did not see him again after this.

2697. *By Mr. Hare.*—Will you read on to the end?—"Detective Ward already instructed that no further authority for money or supplies to Tommy or his friend."

2698. *By the Commission.*—Do you know what that refers to?—That means that any authority that did exist no longer existed for Tommy and his friends; that they were to be discharged; that Mr. Nicolson's authority ceased for their employment. That is for the constable in charge at Beechworth.

2699. *By Mr. Hare.*—You see that is dated six hours after he handed over to me?—Yes.

2700. *By the Commission.*—There is some feeling with reference to this, Mr. Nicolson. I would like to ask you now, why did you send that telegram?

*Mr. Nicolson.*—I had forgotten to send it during the forenoon from the office in the bustle of business. At the railway office, just starting, I only remembered that those men were left stuck in that house without giving them any orders.

2701. That you were still responsible for them?—Yes. I rushed back to the telegraph office, wrote that telegram, and despatched it. Those men had been sent there the previous week, when we heard the information about Joe Byrne, the outlaw, being there, and from the expedition I had returned the day before. Mr. Sadleir and Mr. O'Connor went up with me in the first instance, and then I made arrangements to send those men out temporarily for a few days whilst we went down, and I made further arrangements, and came up with another party. (*To Mr. Sadleir*)—Here is the telegram which I understood you to say you never saw till now?

*Mr. Sadleir.*—Never.

2702. *By the Commission.*—Had you any knowledge on the interview, or during the interview between Mr. Nicolson and Mr. Hare, on the day that Mr. Hare took charge from Mr. Nicolson, that a statement of this purport or anything like it would be sent?—No.

2703. Is Constable Armstrong the one who was in Sherritt's house when he was shot?—Yes.

2704. Was he specially selected for the Kelly business to go, or was he a constable of your district?—A constable belonging to the district.

2705. "Send Constable Armstrong back to his station"—where was his station?—Beechworth then.

2706. Where was he to be sent from—where was he at the date of this?—Out watching at Mrs. Byrne's.

2707. Did Mr. Nicolson communicate to Mr. Hare in your presence, or were you aware that it was Mr. Nicolson's intention the day he gave up duty there to order Senior-constable Armstrong from that place. Was that amongst the particulars he gave Mr. Hare?—I do not think that was mentioned at all to Mr. Hare.

2708. Had you any knowledge from what you heard Mr. Nicolson say to Mr. Hare, or from conversation with Mr. Nicolson, that it was Mr. Nicolson's intention to issue this order after he had given up the charge of the district to Mr. Hare to that effect?—I knew nothing at all of Mr. Nicolson's intentions of that kind.

2709. You have been in a great number of stations in the colony?—Yes.

2710. And have taken up charge from officers in the usual way?—Yes.

2711. Is it usual for officers to give an order over men they have been in charge of, after they have left charge?—No, it is not usual for a man to forget anything, but I can quite understand that being done—there is nothing irregular in that.

2712. Would it not be usual that if a man did forget he would write to his successor, telling about it?—Yes, it would be more courteous.

John Sadleir,  
*continued,*  
13th April 1881.

2713. Not courteous, but more official?—More in accordance with strict official courtesy.  
 2714. Then it says, “Withdraw the watch party”—was that under Armstrong?—Yes.  
 2715. Had you any knowledge that that was going to be done on that day at all?—No; I do not know that I had knowledge it was there at the time. I knew that Mr. Nicolson contemplated sending a party into that part of the country then, and I had spoken to him about it.  
 2716. “Send Constable Armstrong back to his station, withdraw the watch party, and send them to duty”—that would mean duty at their own stations?—Yes.  
 2717. “Any further orders from Superintendents Hare and Sadleir”—that would be that Mullane, to whom this was directed, was to receive further orders from Mr. Hare and Mr. Sadleir?—Certainly.  
 2718. Then the next paragraph, “Detective Ward already instructed that no further authority for money or supplies to Tommy or his friend”—did you know prior to Mr. Hare’s telling you, on the morning after Mr. Nicolson left, that Ward had been instructed that there was no further money or supplies to be paid to those agents?—I knew nothing at all about this.  
 2719. Did you hear Mr. Nicolson tell anything to that purport to Mr. Hare when he was giving up charge of the place?—Mr. Nicolson gave Mr. Hare to understand that any future special services must be upon his authority, and not on Mr. Nicolson’s; that was, as a matter of course, that Mr. Hare could please himself and not be bound by Mr. Nicolson’s authority; that Mr. Nicolson was relieved from all further authority after giving over charge.

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John Sadleir,  
*continued,*  
 13th April 1881.

2720. Do you know whether Detective Ward, in consequence of some instructions, saw Mr. Hare?—I think Mr. Hare sent for him.  
 2721. To come to where?—Benalla.  
 2722. Did you see Ward?—No. Probably I did see him, yet I do not remember.  
 2723. Did Mr. Hare tell you he had conversation with him?—Mr. Hare told me that Mr. Nicolson had discharged his agents the evening before, and asked me if I could not tell him anything about it. I knew nothing about it.  
 2724. *By Mr. Nicolson.*—Is there anything about discharging agents?—Something about supplies. I may explain then it was left to Mr. Hare’s discretion whether he would keep up the supplies still to those people.  
 2725. What was the impression conveyed to you the following morning by Mr. Hare?—That all the people should be discharged.  
 2726. Was he annoyed?—Yes, he was puzzled, and so was I, but the telegram does not bear that out.  
 2727. If it did bear that out you would be surprised?—Yes.  
 2728. Had Mr. Hare the means of finding out who the agents were?—He knew all about them, but there were some of them that it was agreed I should see and ask whether they were willing to assist Mr. Hare as they had been assisting Mr. Nicolson.  
 2729. “Tommy” and his friends were well known to Mr. Hare?—Yes. “Tommy” was chiefly his friend. “Tommy” was selected by Detective Ward.  
 2730. Under Mr. Hare?—Yes.  
 2731. After the Sebastopol affair?—Yes, and I think we did nothing with him till afterwards Mr. Hare picked him up and made use of him.  
 2732. *By Mr. Hare.*—Who were the agents you were to see—I never heard of it till this present moment?—That is a mistake—for instance, the “diseased stock” man I was to see. The point is that you heard nothing about the arrangement about seeing the agents.  
 2733. Did you see them?—Yes.  
 2734. *By the Commission (to Mr. Hare).*—You said in your direct evidence there was a man who said he would not work for you?—Yes, that was the man I met in Benalla, mentioned just now.  
 2735. *The Witness.*—The other principal agent I was to have seen and asked him to work for Mr. Hare. We had not his authority at the time to say he would do so.  
 2736. In fact you did not know what mode of procedure Mr. Hare would follow?—No, I could not tell what was in his mind at the time.  
 2737. You say you had authentic information when Mr. Hare came of the outlaws being seen at Mrs. Byrne’s house. Did Mr. Nicolson give Mr. Hare all the information about the watch party and so on?—Yes, when the outlaws are supposed to visit a place, and a search party went to visit the place there was an end of them.  
 2738. Mr. Hare knew all about this watch party?—No, I cannot say that.  
 2739. Would it not have been one of the most important points to have given him information on, as to what steps had been taken recently to watch the Kellys?—My impression is that the watch part was put there to meet the contingency of Mr. Nicolson going out, and making search and driving the outlaws across the other search party.  
 2740. When Mr. Nicolson was informing Mr. Hare that the Kellys had been seen at Byrne’s place and he had a watch party there, was not that the time really to have reported that Armstrong had a party there

watching?—My impression is that the party would then have been left watching for nothing.

2741. But they were withdrawn by a telegram from Mr. Nicolson?—Suppose this watch party, as I believe was the case, was put at a certain place to meet the Kelly's in case they were running away from another search party on their tracks, that watch party's use ended as soon as the pursuit party was called in, and that is what was the case.

2742. Why were they continued there afterwards?—I do not know; Mr. Nicolson says through forgetfulness on his part.

2743. Do you not think that at the time Mr. Nicolson was informing Mr. Hare that the Kellys had been seen at Byrne's place within a week before that date, that that was the time Mr. Nicolson would have naturally thought to have told Mr. Hare he had a watch party there?—Mr. Nicolson did not speak to Mr. Hare about that watch party.

2744. Does not it appear strange that an officer giving over charge should have forgotten that information so recent?—I think it more strange his forgetting the watch party altogether, and that they ought to be withdrawn.

*The witness withdrew.*

*Adjourned to to-morrow at Eleven o'clock.*

THURSDAY, 14<sup>TH</sup> APRIL 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

G. R. Fincham, Esq., M.L.A.,

J. H. Graves, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.

W. Anderson, Esq., M.L.A.,

E. J. Dixon, Esq., J.P.,

G. W. Hall, Esq., M.L.A.

John Sadleir further examined.

John Sadleir,  
14th April 1881.

2745. *By the Commission.*—Will you resume?—After Mr. Nicolson left Benalla on the 2nd of June, Mr. Hare and myself went over all the particulars of the Kelly business.

2746. The documentary particulars?—Everything in relation to them—documents and all that I could tell him by word of mouth.

2747. Was that on the 2nd?—No, those are the following days—following the 2nd. I made no concealment from Mr. Hare of anything. I told him I was not so willing to work with him *con amore* as

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I was on the first occasion, and he expressed himself as very anxious that I should give him all possible advice and help, and he said he was desirous of not doing anything without consulting me. Then I promised to assist him as far as I could, and I did do so. On the afternoon of the 27th June, about between two and three o'clock, Mr. Hare sent for me. I found him near the post office. He then informed me of the murder of Aaron Sherritt and of the police in his hut being bailed up by the gang on the previous night. After some consultation, I advised him to get the trackers with Mr. O'Connor back again. We had some difficulty in getting Captain Standish, either in finding him or in getting him to carry out what was required. I think the difficulty at first was in finding him.

2748. Do you mean you had a difficulty in finding him?—In communicating with him by telegram. I do not know whether finding him was our first difficulty, or getting him to carry out some arrangements that were necessary.

2749. That is, there was not an early reply to your telegram?—There was some hitch; I forget what it was.

2750. You do not mean to say that he objected to carry out your recommendations?—No; there was a difficulty either in finding him or in getting him to carry out some of the arrangements. As we went on arranging, I advised Mr. Hare not to do as he first intended, that, was to start with his party from Benalla to Beechworth without waiting for the trackers; and later on, when he came to agree to this, I recommended him to take an engine he intended for his own use as a pilot engine to Beechworth. I see Mr. Hare, in his evidence, says he has forgotten that.

2751. I think he qualified it by saying he thought you suggested it?—I have not seen that. How ever I mentioned the matter to Captain Standish a day or two afterwards, in speaking to him after all was arranged for the night, and messengers were despatched in accordance with an arrangement of some months' standing in anticipation of an outbreak of this sort. I undertook to see everything arranged for the start, so that Mr. Hare might have whatever rest he could. I will put in the papers. This is the 2nd of June. I will put in the document marked in my catalogue C 43.

2752. That was made nine months before this date?—Yes, sealed and marked on the outside, "To be opened only on instructions from head-quarters." They were handed to the various stations, and kept there to be acted on in case of an outbreak.

2753. What do you mean by "head-quarters"?—Benalla, the district head-quarters.

John Sadleir,  
*continued,*  
14th April 1881.

2754. Were those your own instructions?—Those were instructions prepared and signed, I see, by me, arranged in conference with Mr. Nicolson, who was then in charge, and were to the effect that the police in different localities were, on the report of an outbreak, to send other constables and assistants to different crossings, townships, bridges, and points where the Kellys would be likely to pass in case of a pursuit, either by the ordinary police or the trackers.

2755. Were the places stated in the sealed orders?—The places were stated in the sealed orders. Of course the orders varied for each different district. For instance, at Millewa, Bright, Beechworth, Wangaratta.

2756. North of Wangaratta would be nearer the scene of the outbreak?—Yes, north of Wangaratta would be nearer the scene of the outbreak, and steps were taken from Wangaratta in pursuance of those instructions.

2757. Were the New South Wales police in possession of those instructions?—No.

2758. You had no concerted arrangements with them?—We had agreed to work with them as well as we possibly could. Those only referred to places in the North-Eastern district.

2759. Was it after the outbreak occurred at Wangaratta instructions would go there, and your men would go where an outbreak was; the others would know where to go to cut off the retreat, if you did not make them amenable to justice?—I will read the instruction to the police at Millewa:—"Benalla, 24th September 1879. Strictly confidential. Memo.—On receipt of instructions to carry these arrangements into effect, Constable Arthur" (the man in charge) "will first have the township of Millewa patrolled by a constable, for the purpose of watching for the appearance of the outlaws; and should they pass through, it will be the duty of the constable simply to note carefully the direction by which they leave, preserve the tracks, and report without delay to Constable Arthur, who will immediately pass on the information to Sergeant Steele. This duty must be maintained from 10 p.m. to 6 a.m. 2ndly. Have the — bridge carefully watched by a constable, and, if necessary, a reliable hired assistant, whose wages must not exceed 10s. per diem, chargeable only for the time actually employed, it will be the duty of these men to watch carefully—and, above all, silently—the bridge, and should the outlaws pass, they will note carefully the direction they take and preserve the tracks, so as to enable the trackers to pick up the trail when they arrive. It is not intended to dispute the passage of the river with the outlaws, there being only one man at each point of observation—that is if the whole party of outlaws should pass together; if but one or two pass, and the constable or his assistant should clearly recognise them, then he should certainly capture them, if an opportunity offers—J. S., Superintendent)—but simply to watch and afterwards indicate the direction taken by them. Too much care cannot be taken whilst on this duty, as the slightest indiscretion might spoil all our plans. These duties require coolness and sagacity, and as very important results may follow the efficient performance of them, I hope no pains will be spared by the men entrusted with them. Should the outlaws pass over the bridge, the watchers must keep them in view as long as possible from their post of observation, but keep themselves carefully concealed from view; and when the offenders have gone out of hearing, they will proceed quietly for a time towards the place where they will have to report to Constable Arthur; but as soon as they consider it safe, they must mend their pace, and make their report as soon as possible. Every care must be taken to guard against giving a false alarm, the result of which might be fatal to our arrangements. The bridge must be carefully and constantly watched, day and night, until orders countermanding these are given. — bridge will be watched by the constable from Beechworth, who will receive his instructions there.—(Signed) J. Sadleir, Superintendent." I will ask the Press not to mention those localities by name. The object of those instructions was to hasten the work of the trackers—that is, for instance, if the trackers were put on the tracks of the outlaws at Beechworth, we could, on receiving information of the outlaws passing ahead at another point, lift them, as you would hounds, and carry them on with fresh tracks from the last point they were seen at. Those instructions, as regards one of the bridges, were carried out. Two of the outlaws were observed to pass after the murder of Sherritt, which was proof to us of the effects of the order.

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John Sadleir,  
*continued,*  
14th April 1881.

2760. Would you argue from that that there were only two at the murder of Sherritt?—I think that is certain. I attended at the Benalla railway station when Mr. Hare met Mr. O'Connor on the morning of the 28th. I saw them start for Glenrowan, the combined parties, by special train, and then I returned and got to bed again about half-past three. I was called by a constable. I cannot say the hour. I was very fast asleep, and took some time before I was quite aware what he was talking about.

2761. Was it before daylight?—Yes, long before. I think about four o'clock on the morning of the 28th June. He brought various messages; the first message, I think, was, that the engine Mr. Hare was travelling on had not arrived at Wangaratta. The next was, that it had arrived at Wangaratta. Then the next message was, that that last one was a mistake; it had not arrived, and that firing was heard near Glenrowan; and I got a final message that Mr. Hare was wounded, and that the Kellys were shut up, surrounded at Glenrowan. I should say that those messages all came from Wangaratta, arrangements having been made to keep the telegraph going between the two places until Mr. Hare had safely passed up with this party.

2762. That was because the party meant to go beyond Wangaratta?—Yes; and the same arrangement was made with the Beechworth telegraph station—it was kept open. I think Mr. Hare made some other

arrangement that all other stations were to report at two o'clock that morning, or half-past two, all the stations in which we were interested, as to whether things were all right there. As soon as I got the last message I have referred to, I jumped out of bed and dressed, saddled my horse, and started. In the meantime I had heard further, that Mr. Hare was coming to the Benalla post office, and wished to see me. I got to the post office between four and five.

2763. That is the telegraph office?—And telegraph office; they are both the same. I found Mr. Hare there. He was sitting down, dictating to Mr. Saxe the operator. He spoke of going back to Glenrowan. I told him it would be foolish to do so. He was badly wounded, and he was then growing faint as I spoke to him; and he fainted, I believe, before I left the yard. While I was speaking it was only a very few moments.

2764. What did he say to you?—He told me that the Kellys were at Mrs. Jones's and to hurry on; I forget his words beyond that. Of course I wanted no orders after that; he told me to hurry on and to take all the police with me that I had. Those were all collecting at this moment, and running on foot by the post office to the railway station. I do not think he said anything else. Before I had done speaking with him he asked for water; he was growing faint, and I do not think there were many more words passed between us. I rode then—galloped down on horseback—to the railway station. I found the engine ready to start, but was delayed for about ten minutes, waiting for Dr. Nicholson. It was reported at this time that there were others wounded. We were delayed until a few minutes past five, as far as I remember, and we reached Glenrowan, myself and several police, a list of whom I will give presently.

2765. Was it dark then?—Yes, it was dark; there was a moon—there was no daylight. They landed at Glenrowan—

2766. About what time?—It is fifteen miles and we travelled fast—I should say it would be after half-past five. The first thing on landing I asked for Mr. O'Connor. The whole of the men who had come with me and myself were standing in a cluster for a moment.

2767. Your own men?—My own men. It was pointed out to me that we were being fired upon, and then I could hear the bullets striking close near us from the house—Jones's. Senior-Constable Kelly appeared about this time, and I ascertained from him how the men were placed—the first question I asked him—and he represented some point, I forget now particularly, that was weak, and I gave him all of my own men to strengthen the different points all round while I should go and see Mr. O'Connor. I saw Mr. O'Connor immediately. I ascertained from him what he knew of the position of affairs. I was informed that the outlaws and their prisoners had barricaded the place with the furniture and bags of grain or chaff, and something of that sort.

2767a. Where was the point you met Mr. O'Connor—where was he at this time?—He was in the watercourse in cover, about forty-five yards from the front door of Jones's.

2768. Was he with his men—did you see his men round him?—There were only two of his men and Constable Kirkham, two trackers, Jack and Jimmy.

2769. Is Kirkham a colored man?—No, one of our ordinary men; he was attached to the trackers.

2770. Did Senior-Constable Kelly seem to have charge of all arrangements?—He was the first man I saw who knew what was going on. He was the only sub-officer on the ground, I think, and it was he who told me where Mr. O'Connor was. I spoke with Mr. O'Connor for some time, during which the outlaws came out and challenged the police, making the noise upon their armour.

2771. Did you see them come out?—I could see the figures and hear the sound most distinctly.

2772. What light was there then?—The light was not sufficient to distinguish.

2773. Could you see figures forty-five yards off?—I do not know that I could. I thought I saw them. I heard the noise.

2774. Was the moon very bright?—No, the moon was not bright; there was a hazy sky. You could not see the moon's edges clearly, though you could see the moon itself; it shone through a fog, as it were, or through a cloud, not enough to hide the moon; and the moon stood behind the building, was descending towards the west. The building faced the east.

2775. Going down towards the Warby ranges?—Yes, and the house is with its back to the Warby ranges. In fact, to judge by the calls of the police in different points, the outlaws were frequently coming out in that way.

2776. What were the calls of the police?—Challenging.

2777. To show the place was surrounded?—No; the outlaws, to judge from the noise of the police about, appeared to come out frequently, even oftener than I saw.

2778. That intimated that the police were surrounding the place?—I knew the police were round the place.

2779. For the means of escape did they come?—No, at first to defy the police.

2780. Did all four come out?—That I could not tell. I could see one with certainty. Whenever the outlaws showed they were fired upon, and so all through the morning, whenever they showed either at the door or the window or on the open ground they were fired upon by the police.

2781. Was that fire returned?—They were constantly firing from the house.

2783. Was the fire returned by the outlaws?—Frequently. I did not see them firing from the open ground, but there were frequent shots came from the house all the morning. 14th April 1881.

2784. Can you fix the time “all the morning”?—They were firing from the house I think up to one or two o’clock in the afternoon.

2785. They did not show themselves outside after daylight?—They showed themselves at the windows, and were reported as being seen up to two or three in the afternoon, showing themselves at the windows. Now, to return to the time before daylight. After considering with Mr. O’Connor what was best to be done I went around to see the outposts.

2786. That was before daylight?—Yes. The first man I saw was a young constable named Gascoigne. He was on the south-east end of the building, quite close in at a tree.

2787. That would be more towards Benalla?—In the direction of the schoolhouse.

2788. Then you passed right in front of the house in going to him?—No, I went down a continuation of this gully where it breaks into the railway and crossed. I was under cover the whole time up to that point. He informed me that he was certain he had hit one of the outlaws several times, and that he was sure he was in armour, otherwise he would have killed him.

2789. Can you tell about how far that was from the front of the hotel?—About 25 or 30 yards. I did not believe this. I thought Gascoigne, being a young man, he was rather scared; and I did not wish to encourage the supposition that they were invulnerable. He also told me that he had seen one of the outlaws (it must have been Ned Kelly, if his supposition was at all correct), after the first fire when Mr. Hare was wounded, going into the yard amongst the horses, trying apparently to catch a horse, but the horses moved away as he approached them; and that he called out then to the police on the other side to look out for them, that they were trying to escape; and I think it followed on that that those police who heard Gascoigne say that shot the horses. At this time, that is, going on towards daybreak, I was anxious about seeing every point.

2790. Did he intimate how long it was that this had occurred and the horses were shot before you had seen him?—I think he meant it was soon after Mr. Hare’s accident.

2791. Shortly after the commencement of the fight?—I think so. I would not be sure about that.

2792. It has been stated that Kelly escaped immediately after that—got away?—According to Gascoigne’s account Kelly, instead of going straight into the bush, went to the horses in the yard. Gascoigne at that time could not be sure it was Kelly, but he described the figure as Kelly was afterwards found, with a loose cloak on, and I believe he was the only one dressed in that way. It was a very difficult matter, I found, to get round myself from post to post. You had to run the gauntlet of the outlaws’ fire from the building, and there was danger too from the cross fire of the police. Constable Dwyer, an active zealous fellow, seeing me going round myself, asked for any messages I had to give, and I gave him some messages to the different points, and to ascertain for me particulars of how the thing stood at all sides, and he ran round from place to place where I directed. As he went along I saw him jumping and skipping as sheep will, apparently over nothing. These were the bullets passing, as he reported afterwards.

2793. Did he mean when the bullets impinged in the timber?—No, as they passed him as he was going round with my messages.

2794. Probably as they were firing he thought it would be safer to jump?—I understood he jumped when he heard a bullet coming.

2795. Was he one of the party that you took up, or was he there before you arrived?—I think he was a Wangaratta man.

2796. Would he be one of the men who came to the relief. I want to fix the time of the Wangaratta men coming down—was it before you?—I do not think we knew which of us were coming. The Wangaratta men were on the ground as soon as we were, if not a little sooner. It is very uncertain there are different versions, and I do not know from my own observations, because the Wangaratta men got out of the train in the break of the line, and came in quietly through the timber and bush without my observation. About half-past seven, I believe, I was again with Mr. O’Connor. We heard an unusual noise around somewhere on the other side of the building.

2797. Was that the striking on the armour?—No; I do not mean that, but an unusual shouting and calling of the police to one another as I took it, an indistinct sound that I could not make out. I took it from the tone to be an alarm that the Kellys were showing again outside the building, and I looked steadily to the building for their appearance, and I think Mr. O’Connor’s party was with me at the time. Presently a constable came and explained that this was the capture of Kelly, this noise that we had heard. That was the first I had heard of it.

2798. What was your position at this time?—I think I had returned to where O’Connor was, and was speaking to him when this news came to me.

2799. Do you know the name of the man; I think it was the same constable—Constable Dwyer. I had heard before this of the finding of the rifle with the blood on it by Senior-Constable Kelly and Constable Arthur, and of the skull cap. The prisoners with the Kellys had been several times called upon to come out, and at ten o’clock I came close up by the building.

2800. Kelly was captured then?—Yes.

2801. You have not said anything about seeing him captured?—I did not see him till after he was captured.

2802. Did you see him?—Yes; immediately after he was captured. I will come to that.

2803. It had been reported to you that the rifle and cap had been found before the report of the capture?—Yes.

2804. And before you heard the noise and what turned out to be the capture?—Yes. After hearing that Kelly was captured, I went up to see him at the station. He was very weak, and it was not certain at the time whether he would not die straight away. He was supplied with stimulants, and Dr. Nicholson was attending upon him, and doing all he could. He was first brought and laid in one of the vans. There was an engine and van standing at the station. He was carried into the van of one of the engines that were there. The outlaws from the house were firing on us.

2805. Firing still?—Firing still into where we were looking on and attending to Kelly. He was then immediately removed across the platform into the station-master's, one of his rooms, not his dwelling-house, but one of the rooms belonging to the station.

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*continued,*  
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2806. Was there a pretty good light then?—It was a small room, but had a pretty good light.

2807. But I mean was it nearly daylight then?—It was daylight then, it cleared into daylight very quickly about that time. I saw that he was being attended to, and I went back to the ground again. As Kelly grew stronger I spoke to him to this effect, "We are bound to have those fellows out, can you do anything to help?"

2808. That is as to a surrender?—Yes. I said, "There is no use in wasting life over it if you can help in the matter." He considered for a few moments seriously, took it evidently into his full consideration, and he said it would be no use, he could do nothing, they would not mind him; and I think it was in this connection he said they were "too great curs, or too great cowards."

2809. That his mates were?—Yes. He also said, "Their armour is different to mine, and you can't get at them." He gave me to understand that they were quite independent of all our firing. I spoke to him no more upon the subject.

2810. Was it your impression from his reply that they were two great curs?—That they were took great curs.

2811. I mean did you infer that they would not come out of the place?—That they would not venture out, or do anything bold like ordinary men.

2812. You had seen his armour at that time?—I had seen his armour at that time, but I had not time to study it.

2813. You knew they were armed; you had formed the opinion they were?—He told me so, he said their armour was altogether better than his.

2814. Long previous to this you knew they were to appear in armour?—I had heard of armour for months.

2815. Did you believe Gascoigne when he said so?—No; I could not believe it then.

2816. You stated when you went to Gascoigne that he told you, "Well, sir, I fired at him, and I am sure that I hit him; but I am satisfied they were in armour"?—Yes; that is true.

2817. Did you think then that that statement of Gascoigne's was true?—No I did not think it.

2818. Though you had that previous knowledge?—Though I had the knowledge I had been informed for months before that the armour was preparing; I never thoroughly believed it, I looked upon it as an impossibility.

2819. Kelly did not tell you his comrades had escaped at that time?—We knew they had not; they were firing from time to time.

2820. Till you saw the armour of Kelly captured you did not believe that your men were firing upon men armed?—I did not. I never thoroughly believed it till I saw it.

2821. In answering that question in regard to Gascoigne I understood you to say, "I replied to him in this manner because I did not wish him to think them invulnerable"?—I would, if I had thoroughly believed it, have taken his word and said they were, but I was not impressed then. It is a sort of mistaken wisdom you sometimes fall into; you think you know better than your informants. Mr. Nicholson was the only man who believed it, I believe, except his informant. Of course there were a great number of people on the platform all the morning, and some of them my own friends and acquaintances, and the general feeling then was—"How are those men to be got at?"

2822. What o'clock?—All through the morning, up till seven or eight o'clock; and I confess I, for one, did not see how to get at them. There were several, I think, of the reporters of the press who urged sending for a gun—a heavy gun.

2823. A cannon?—Yes; and this thing was pressed upon me by frequent repetition, by different persons frequently saying it; and I yielded to their persuasion, and telegraphed to Captain Standish, asking him if we could have a gun. That was the first mention of a gun, and I am responsible for it; it was entirely upon my own motion.

2824. Then you meant at that time you had formed the opinion that the men were armed in the house—protected by the use of armour?—Of course, if I had determined upon this—

2825. Under those circumstances there would be a great loss of life of your men by rushing?—Of course; that was my feeling all through the day.

2826. Had you not a consultation about the best means of getting the prisoners out of the house before this?—No; we felt the prisoners had to get themselves out; we could not help them. We wished them

to come out, and called on them to come out.

2827. When did you call out to them first?—I could not really say; it seemed to be from the first there was an urging; in fact, I know from later knowledge that they were called upon to come out almost immediately after the Wangaratta police came there.

2828. What time were they liberated?—I was going on to say about that, that about 10 o'clock I got into a closer position on the north-east end of the building. I took out my watch, and I sang out, called out loud, "We will give you ten minutes—all innocent persons to come out." Mr. Rawlius was standing beside me; he said, "I have a very big voice, let me call." I desired him not to call; but the constable immediately in front, Constable Armstrong, straight in front of the windows and door, called out.

2829. Was that the Armstrong of the watch party mentioned before?—Yes; he called out as a bellman would call out at a sale. He called out, "All you innocent persons come out, or you will be shot." Then Mr. Rawlins called out to the same effect from my side; then the prisoners came buzzing out like bees; running out from the front door in great confusion, some of them towards where Gascoigne was, some to the front, straight out from the building. I called out to them to come in my direction. After some little confusion and delay on their part they came up to where I was standing.

2830. That is the north-east point?—That is the north-east point.

2831. There was no firing at this time?—No firing.

2832. What time was it?—Ten o'clock. Not a shot was fired at this time. They came by me. We sorted them, and retained two of them, whom we took to be sympathizers; the rest we let go.

2833. Who were those two?—The two young McAuliffes.

2834. At this time were you aware of any wounded parties—I mean, did you know that Riordan's son and Mrs. Jones's child were wounded?—I know that there were two of Mrs. Jones's children wounded.

2835. In other words, I want to fix the time (if any) that the children that were shot in this attack came out of the house, because it is stated that they were brought out by one of the *détenus*—the prisoners in the house?—I think both Mrs. Jones's children, who were wounded, had left the house long before this

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2836. Can you fix the time?—It would be before my arrival if they had left it before. The only one I remember coming out was young Riordan; he came out, wounded in the shoulder, with the other prisoners.

2837. Do you know that one of the prisoners carried out one of the wounded children before that?—I know it was the fact; I did not see it myself. I did not see the man. All those wounded children and the women had escaped before I came to the ground (and Mrs. Jones's two children), before my arrival from Benalla at all. I think it was ten minutes past ten, and they came in about three minutes.

2838. Where was Mr. O'Connor at this time?—Standing beside me, I think. He had been a few minutes before, if not then.

2839. Did you see those that came out?—I sorted them, and retained two prisoners.

2840. Did you see some of those that made their escape before your arrival at Glenrowan?—I think not at this time.

2841. Did you see a man named McHugh?—No; never, to my knowledge.

2842. It is said that after the shooting of Kelly one of the children was shot, and a man called Neil McHugh took it up in his arms, and brought it out to the police, and informed the police of the position inside?—Which shooting of Kelly? He was shot twice.

2843. After the capture of Ned Kelly the statement is?—That cannot be true.

2844. Would it have been before the capture?—It must have been.

2845. Have you a knowledge that Neil McHugh carried the child in the face of the fire?—I understand that it was done, but before I arrived.

2846. Did you hear about his having told the police of the position of prisoners in the house, and the position of the outlaws?—I did not know at that time; McHugh I never saw. I have sent since to see him, to ask some questions, but I have never seen him. We had to guard against the outlaws escaping, and we had to watch for a fair shot at them whenever they shot; that was all I concerned myself about at this time. When the prisoners came out we first heard of the death of Byrne from them, and the wounding of Cherry. We ascertained from Riordan, one of the prisoners, that Cherry was lying in a back detached building, which we could see before us. After these prisoners escaped there were several very hot volleys fired into the building. It was supposed the outlaws were fixed inside the breastwork of the chimney at one time; there were all sorts of conjectures, and we tried to break down the chimney by firing with bullets. The men saw they had no effect, and stopped it.

2847. Did you give the orders for the volley—the first after the prisoners came out?—Yes.

2848. Had you satisfied yourself that there were no persons in the place but the outlaws?—Yes, except Cherry.

2849. He was in the detached building?—Yes; and this was made known to all the police, particularly about the wounded man being there and where he was.

2850. Was the volley all round the place, or only from the front?—From the ends more. There were only one or two men in front. From both ends and the back. I saw that our shooting had no effect upon the building, and was still somewhat puzzled what to do.

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*continued,*  
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2851. There was no answer of fire then?—Yes, there were answers of fire long after this.

2852. Up to what time—how long after that volley, after the prisoners had cleared out; how long after that can you say that there was any answer of shot from the building?—I could not say. I had lost count of the time starting so early in the day. When I thought it was five in the afternoon I found by my watch it was only twelve, so I could not guess.

2853. You saw the police fire had no effect?—We put it down that they could not stand against our fire, in spite of armour and all, unless they had got behind the breastwork of the chimney.

2854. You thought they were alive and there?—We thought they were alive and there; and we knew for a fact that they were alive, except Byrne, one of them.

2855. The outlaws did not show themselves while the prisoners were escaping?—No.

2856. Or interfere in any way with them?—No.

2857. You say the police were firing at the two ends and back—now, if they were firing at the back the people at the station would be in the way of that fire—are you not slightly mistaken there?—The wonder has always been that some of the people at the station were not hit by our men, the shot going right through the building, raking the building, and going on in the direction of where the crowd was; but we left the people to take care of themselves; if they felt themselves in danger they could shift. I do not think we took much notice of them. The men who were firing from the back did not consider their bullets were going through. The chances are, the bullets would hit the ground, and then rebound again. I saw the people at the station spread out several times, as if alarmed.

2858. One bullet came on the station and struck a shed on the opposite side?—Two did; and one struck the building where Kelly was, it was said, but I never could find it.

2859. You saw those volleys had no effect?—We tried then to fire through the woodwork, so as to reach the inner breastwork of the chimney at the other end. The chimneys were on the end. We hoped to reach that through this end of the building, and the inner breastwork at the other end, and so fired the same way from the other side—fired a great many shots for that purpose.

2860. To rake the house?—To reach this particular spot.

2861. Had you heard from the prisoners that the outlaws were keeping in the chimneys?—I suppose it to have come from them. The report came to me they were stuck in the chimneys. I think it was after two o'clock.

2862. You state you knew the two outlaws were still inside after the volleys were fired—what means had you of knowing that?—I think it was about two o'clock that Constable Armstrong, or a man standing with him, told me, "That last volley has brought down one of them." There was a volley shortly before he spoke from the back. I went round amongst the police standing at the back.

2863. Were the volleys given by order?—Not at this time. There were volleys by order, and the men had instructions to shoot whenever they saw the outlaws. I went round to the back, and asked them what they had fired at, and they said at a person showing at the window at the back, one of the outlaws. Then I said, "You have shot him"; and they answered, "No, we do not think so, he seemed to turn round and go away quietly." I spoke to Armstrong about it, and he was very decided about it; that one of them was shot at that time, and that he fell down in the chimney, he said, judging from the noise of the crash of

the armour upon the floor, but the men who fired the volley were equally positive that they had not shot him. Senior-Constable Johnson came to me about a quarter or half-past two, and said, "I will fire the building for you." I did not think it was possible at this time to fire a dwelling-house which was made of smooth, well-formed hardwood weatherboards, that did not offer a good surface to set fire to; and we dare not fire the outbuilding, on account of the wounded man Cherry; and I also considered the difficulty of getting Johnson up to the building without being seen, as the walls were all perforated by bullet marks at every square foot. I objected to sending Johnson too, personally, because I knew he was a man with a wife and children, and I told him so. I said, "I will find a single man to do it, I will not send you"; and he insisted that he had the right, being the first to volunteer, and then I said, "Yes, very well, you can do it." I spoke at this time about the matter only to Mr. O'Connor, Sergeant Whelan, and Senior-Constable Mullane. They were the officers; and there was Senior-Constable Kelly. I knew all those men very well, and had reliance upon their judgment. I looked upon it as a very dangerous undertaking for Johnson, but as the only thing we could do.

2864. Just previous to this do you remember that any man came to you to ask to get Cherry out?—I remember a man doing so. I said, "Better finish first." I told Johnson then to go and get an armful of straw, at the building the other side of the railway line, and some kerosene. He could only get the straw there, and had to come back to the railway station, amongst the crowd, for the kerosene. When he got the kerosene he was starting straight for Mrs. Jones's, and I sang out to him, "Oh! Johnson, the horses are up this way"; and he understood the hint at once, and turned round and said, "Oh! are they, sir," and reversed his course, and went round the other way, as if going down the line towards Wombat, where the horses were. He carried the bundle of straw openly through the crowd—there were 400 people perhaps on the platform and all about—and no one observed what he was about. I went across into the timber and met him as he went on his course round. He circled right round by my directions. I pointed out explicitly it would be round the north and west, and to approach the building from the south up the creek running down, a continuation of the watercourse running

through the railway yard.

2865. Of that gully we have heard of?—Yes, while he was going round I made arrangements for a firing party to cover his approach to the house.

2866. From what position?—To fire from the reserve, the railway reserve, almost to where he would reach just keeping, say, half the length of this room, at which he was to set fire to it, to keep their fire just that distance from him. I had another party immediately under my own direction firing at his side as it were, as he went along the building. We kept a very warm fire for just the few minutes while he was approaching the building. He walked up quite coolly, got behind the chimney, he was protected so far, lay down his bundle of straw and set fire to the south end, saturated the straw and dashed kerosene on to the wood work. I think his first match missed fire; the second match he set fire to the bundle of straw and got easily back again to cover without a shot. There was no firing that I could hear from the building at him while the fire was going on. I thought it had failed to catch the building; Mrs. Skillion, sister of Ned Kelly, approached just about this time, before I was certain whether the fire had taken, and I had her stopped as she came; she wanted to go to the building and enter it; and Father Gibney also came on in the same line that Mrs. Skillion was coming from, the railway gates, urged on by the crowd, and I called upon him to go back; he stopped, then the crowd urged him again and he went on, and the police still tried further to stop him; and then I saw him make the religious sign of the cross on his face, and I knew he was going for the building. Then, at this time, while what I am speaking of was occurring, the smoke began to come through the roof, and I saw the building was then taking; he rushed into the building, the police near, myself and all, rushed after him. My intention first was to stop him, but he was first in and out again—the whole thing then took but a moment. When he came out he repeated that there were three men dead lying on the floor, one in the passage and two in another room. I ran round the end of the building to save Cherry. That was arranged I should have said at first—the first thing that was to be done was to save Cherry.

2867. Before that what distance was it between the police and Father Gibney?—The nearest police about ten yards; the men crossing Armstrong, the police would almost pass him; they were, as I said, about ten yards, and some followed him from behind, and some rushed from where I stood. There was a general rush of all those in sight as soon as the priest went for the building. He was very nearly unable to get out again through the fire.

2868. This was Dean Gibney?—Yes.

2869. Nearly smothered?—Yes. I was on the verandah with him in half a minute; and the heat and the smoke had descended from the roof in a cloud of fire and smoke down close to the floor. The iron roof of the building was lined with paper and canvas, the fire ran up along the sides and caught the ceilings, if there were ceilings; and when I went up the fire was descending like a cloud, there was no getting into the building. If he had stayed a few minutes more he would have been burnt; there was no getting in. I got round to the back of the building and found a man named Dixon, a private citizen of Benalla, and, I think, three others lifting out Cherry.

2870. Dixon the bootmaker?—Yes; the others were lifting out Joe Byrne who was perfectly cold and stiff at this time, the corpse, and his armour on, part of the armour. His helmet was outside the building altogether, I believe, at that time. Cherry merely gasped a few dying gasps and died within three minutes; he was perhaps dead almost immediately. There was no sign of fire on Cherry or in the building where he was. There was a sign of fire on Byrne's knuckles. His hands were clenched and lying somewhat in this fashion—*[illustrating his meaning]*. The very point of his knuckles were cracked with the heat of the fire, scorched. It took some time before the remains of the others could be seen, and still longer before we could get them out. It was, perhaps, close upon half-past four when we got the charred remains of Hart and Dan Kelly out on the platform.

2871. Were they in armour?—No, their armour was lying immediately beside them. I think they died in armour. It is only my impression, and from reflection on the subject since. The armour being beside them was simply that the thongs that held them were burned, and the armour fell off.

2872. Then a portion must have been on the body?—It depends upon how they lay; they would lie on the side, and it might fall off. They were altogether in a lump; the armour and the two bodies were as close as this—*[describing by spreading his hands]*. I saw the bodies as soon as they were to be observed by anybody. The smoke rose again for a moment I was with Senior-Constable Johnson, and he said,

“There they are,” and we could see them, and my impression was that the armour was on them then, but I found that was a mistake—the armour was lying close to them.

2873. Do you think they shot themselves or shot each other?—You have all I know of the matter. When I came again the bodies were being removed.

2874. Who removed the bodies?—Any one of the 50 constables there, or several of them. It was done by the police; that was from the charred position in which they were found.

2875. Who did it?—I do not know who did it. The bodies were brought down to the platform. After the bodies were removed on to the Glenrowan platform, I offered to Isaiah Wright, if the friends wished it, to give them over the bodies of Steve Hart and Dan Kelly. This seemed to please them very much, as an

unexpected favor.

2876. Who?—The friends. They all began to come up at this moment, Mrs. Skillian, Kate Kelly, Dick Hart, and several of the friends. They seemed pleased at my doing this, and afterwards, when Captain Standish arrived—

2877. What time did he arrive?—It is a great question. Perhaps within half-an-hour of this, between four and five o'clock. I told Captain Standish what I had done about the bodies. I said, "Please do not interfere now; leave the matter as it stands," and he never interfered—never said another word about it. He did not interfere at all. I was afraid that he would. Strangers in authority are so apt to fear responsibility that I preferred taking the responsibility upon myself, and not being interfered with. To return now. Before the place was set on fire there were several constables—

2878. Before you pass from that, you seem to throw stress on delivering the bodies up—had you satisfied yourself they were the outlawed men?—There was no question about that. There was no absolute proof. I do not think the sisters could have recognized their brother. You could see they were males; that was all any human being could tell. Before setting fire to the building, there were several of the police who wanted to rush into the building upon the outlaws. The only three I can remember are Dixon, Armstrong, and a constable named Montifort. I believe there were others, but I cannot recall them to mind. I had the same answer for them all.

2879. Was Johnson one of them that offered?—No. The same answer for all—"It is not time to rush yet; stand back and keep your ground." At this time the crowd of people near the platform were urging the police to make a rush, and remarking upon their not doing it, and it made my men a little unsteady at times, and made it more difficult to keep them quietly to work as I had laid it out for myself and for them.

2880. How long before the firing was this request made to you by the constables?—Almost immediately after the prisoners escaped, early in the forenoon some time. I put in my report of that day of the whole proceedings, mentioning every person. In printing that, it was put as if we (myself and party) had started at five minutes past ten, instead of ten minutes past five, in the morning. I have corrected that.—[*The report was handed in as follows:*]—

*Superintendent Sadleir's Report.*

Police Department, Superintendent's Office, Benalla, 1st July 1880.

Sir,—I have the honor to furnish the following report, for your information, of such of the proceedings of 28th ult., in relation to the capture of the Kelly gang, as occurred whilst I was in command of the party of police carrying on the attack:—

I was first made aware of the encounter with the gang by Superintendent Hare's return, at about 4 a.m.; and after exchanging a few words with him as to the position of affairs, proceeded to Glenrowan by train, accompanied by the whole of the reserve on the Benalla station.

Immediately on reaching Glenrowan, and on dispersing to take up the best positions we could find around the building, numerous shots were fired from the direction of the house, striking the ground and fences close to us. After finding Mr. O'Connor and learning what I could from him of the positions of the men, I made myself assured that the buildings were surrounded by the police, and in this I was greatly assisted by Constable Dwyer, 2,507, who was always willing to run the gauntlet under fire from one post to another.

It was not, however, until the capture of Ned Kelly, and then on from his statements, that there was any assurance that some of the gang had not passed through our lines, as the prisoner himself had done. We had occasional firing from the outlaws within the house, and could hear them calling out and rapping on their armour, but after this arrest the remainder of the gang slackened their fire greatly, and only a shot at intervals was heard.

About 10 a.m. I called on the persons kept prisoners by the gang to make their escape, and allowed ten minutes' grace before recommencing firing, and soon after the word was passed on by the posts nearest to the front of the building a general rush was made by those persons, and no further shot was fired by the police until they had all been examined and passed out of the lines.

We had ascertained from these prisoners that the two outlaws, Dan Kelly and Hart, were still alive, and that Byrne was dead. These two survivors were called on several times to surrender, and, on their failing to do so, several of the police repeatedly appealed to me to let them rush the building. This I would not permit for various reasons, chiefly that the party rushing in could not be supported by those outside; that a long narrow passage through the house had to be traversed before the outlaws—whose exact position in the buildings was not known—could be reached; that they could not be knocked over, on account of the armour, until the police actually had their hands on them; that I knew they still had large supplies of ammunition; that there were yet several hours' daylight; and that the final capture or destruction of the two outlaws was a matter of certainty. I therefore held to the determination, though under considerable difficulties, to sacrifice no life in this way if it could be avoided.

I think it was about 3 p.m. when Senior-constable Johnston, 764, volunteered to set fire to the building, and after a short consultation with Mr. O'Connor and some of the senior members of the force present, arrangements were made accordingly. A strong firing party was placed under cover in front of the building, and another at the end to be fired, and protected by their fire the senior-constable was able to carry out his work and return in safety. This precaution was considered necessary, as a few minutes before it was reported that the two outlaws were seen at one of the windows.

It was known at this time that Martin Cherry was lying wounded in a detached building, shot by Ned Kelly early in the day, as it has since been ascertained, because he would not hold aside one of the window-blinds; and arrangements were made to rescue him before the flames could approach him. This was subsequently done.

When the fire had taken, the Rev. Mr. Gibney, a clergyman of the Church of Rome, with great bravery passed towards the building, in spite of all remonstrance, and the constables and myself, with a view of stopping him, rushed forward, and this movement immediately changed into a general rush for the building, when, as I have stated, Cherry was removed, as well as the body of Byrne, the latter from the burning building.

It was found impossible to reach where the other outlaws were, and it is clear, from the Rev. Mr. Gibney's statement, that these were dead when the fire took place; and it is impossible to say whether they had been killed by our last volley, or had shortly before taken their own lives.

Before proceeding briefly to refer to the conduct of the police under my command, I wish to call attention to that of Mr. Jesse Dowsett, an employé on the railway, who, armed with a revolver only, stood manfully to his ground in the capture of Ned Kelly. His conduct has been specially commended to me by the members of the force who witnessed it.

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I understand also that Mr. Charles Rawlins, of Lake Winton, was also in Mr. Hare's company at the first encounter, but that officer will be in a better position than I for describing what his conduct was.

I have also to acknowledge the readiness with which Dr. John Nicholson, of Benalla, accompanied my party, to afford any professional assistance that might be necessary, and his services were at once afforded to Ned Kelly when captured.

The conduct of every member of the police force engaged was completely satisfactory.

From Sub-inspector O'Connor I had throughout the day continual assistance and advice, and with regard to the members of the Victorian force, my only difficulty was in restraining a few too eager spirits.

I have already alluded to the conduct of Senior-constable Johnston. He did the special work sought by him in the face of special danger, as all then supposed.

I am assured—for I was not present on the spot—that the men who captured Ned Kelly had a difficult and dangerous business for the short time it lasted.

I find that Sergeant Steele (1,179), Senior-constable Kelly (1,925), Constables Bracken (2,228), Dwyer (2,507), and Montiford (2,697) were the men concerned. I find, also, that Constables Arthur (2,971), Phillips (2,745), and Healey (2,886) were all more or less directly assisting in the arrest of Ned Kelly.

Ned Kelly, from his appearance in the imperfect light, looked like some unearthly being, on whom bullets had no effect. Mr. Dowsett, who was also on the spot, says he thought he was the devil.

The conduct of the Queensland trackers was excellent, and shows, certainly, that in good company at least they may be thoroughly relied on.

The circumstances of the day did not call for many acts of conspicuous daring, and excepting the severe wound to Superintendent Hare, none of the attacking party received any injury.

Martin Cherry died in a few minutes after his removal from the building, and a boy named Jones has since died from his injuries in the Wangaratta Hospital. I also understand that a youth named Rearden is in a critical condition in the same institution. A man named George Metcalf has also been forwarded by your instructions to Melbourne for treatment to an injury received in the eye while the firing was going on.

After the affair was over, the bodies of Hart and Dan Kelly were given over to their relations, as I reported to you on your arrival at Glenrowan.

Their friends applied to me next day for the necessary order for burial, which I had procured for them, and expressed their acknowledgments for the consideration shown to them.

Subsequent reports as to the conduct of these people have, as I have good reason to believe, been greatly exaggerated.

The body of Martin Cherry was handed to his sister.

The body of Byrne was buried at 4 o'clock on Tuesday afternoon in the Benalla cemetery, and was not claimed by any one.

Attached you will find a list of all the members of the force concerned in this duty, with the hour of their arrival.

I have the honor to be, sir, your obedient servant,

J. SADLEIR,

Superintendent of Police.

The Chief Commissioner of Police, Melbourne.

Return of Officers, Sergeants, and Constables who took part in the Capture of the Kelly Gang of Outlaws on the  
28th June 1880.

Registered number	Rank and Name.	Hour of arrival	Registered number	Rank and Name.	Hour of arrival
	Superintendent F. Hare*	2 a.m.	3105	Mounted-constable P. P. Wilson	5.10 a.m.
1925	Senior-constable Kelly	"	3110	Mounted-constable J. L. Stillard	"
2710	Mounted-constable Daniel Barry	"	1670	Foot-constable Patrick Kelly	"
2745	Mounted-constable William Phillips	"	2041	Foot-constable Thomas Reilly	"
2971	Mounted-constable J. M. Arthur	"	2684	Foot-constable John Milne	"
2986	Mounted-constable Thomas Kirkham	"	2963	Foot-constable J. M. Hewitt	"
3056	Mounted-constable P. C. Gascoigne	"		Tracker Moses	"
3100	Mounted-constable William Canny	"		Tracker Spider	"
	Sub-Inspector S. O'Connor †	"	1179	Sergeant A. L. M. Steele	5 a.m.
	Tracker Hero	"	2679	Mounted-constable J. Montiford	"
	Tracker Barney	"	2719	Mounted-constable William Moore	"
	Tracker Johnny	"	2886	Mounted-constable Patrick Healey	"
	Tracker Jacky	"	3039	Mounted-constable J. F. Dixon	10 a.m.
	Tracker Jimmy	"	2057	Foot-constable Patrick Walsh	5.20 a.m.
	Superintendent John Sadleir ‡	5.10 a.m.	2507	Foot-constable James Dwyer	"
1305	Sergeant James Whelan	"	764	Senior-constable Charles Johnston	12 noon
2271	Senior-constable R. A. Smyth	"	2526	Mounted-constable Thomas Meehan	"
2312	Mounted-constable Robert Graham	"	3106	Mounted-constable T. E. Dwyer	"
2688	Mounted-constable C. Ryan	"	2845	Foot-constable J. H. Stow	"
3059	Mounted-constable W. J. R. Wallace	"	3072	Foot-constable Peter McDonald	1 p.m.

\* Superintendent Hare in charge of party. Returned Wounded to Benalla shortly before 4 a.m.

† In charge of trackers

‡ Superintendent Sadleir took charge of entire party during the remainder of the day.

*The Names of the Members of the Force from Beechworth who assisted at the Capture of the Outlaws at Glenrowan, on 28th June 1880.*

Registered Number.	Rank and Name.
2353	Senior-constable P. Mullane.
1649	Mounted-constable A. Alexander.
2382	Foot-constable R. Wickam.
2475	Foot-constable H. Armstrong.
2551	Foot-constable R. McHugh.
2595	Foot-constable W. Duross.
2612	Foot-constable R. Glenny.
2755	Mounted-constable R. Alexander.
2918	Foot-constable T. P. Dowling.
2968	Mounted-constable C. F. Magor
3033	Mounted-constable R. McColl.

Date and hour of arrival at Glenrowan—June 28, 1880, at 9 a.m.

Superintendent Sadleir, Benalla.

P. MULLANE, Senior-constable 2353, 30/6/80.

J. SADLEIR, Superintendent of Police.

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2881. Is that a copy of the despatch that is in the department?—The original of that is my despatch to the Government.

2882. That will be in the Government department?—Yes.

2883. Do you remember if a party of civilians offered, before the burning of the place, to rush it themselves?—One did—not to rush it. A man named Dixon, a man I have already spoken of, said, “If you will allow me, I will go to the end building and bring out Cherry.”

2884. Was that before the fire?—Yes.

2885. Do you remember a Frenchman, named Amidie, offering to go and rush the building with a party?—I never heard of it and never heard of the man; I think it is somebody’s dream.

2886. He told me?—Well, he is dreaming or romancing. I never saw the man to my knowledge.

2887. That was reported?—I never heard that report, though I read the Benalla papers very steadily, and I am certain there is no foundation for it in fact, that Amidie or any person else hinted at such a thing.

2888. You do not remember a number of them saying they would take down the hoardings from the railway station, and go up to the place as if they were armed?—I never heard of that till this minute.

2889. It was reported in the paper that Mrs. Skillian wanted to go into the building?—I have stated that, and that we stopped her and the priest. My objection was lest the fire should not take, and we should have those two people, who were innocent, as a further difficulty in our final rush. My determination was to defer the rush, as I knew it was a most dangerous undertaking, until the very last thing before night set in. It would not have been safe to have left the outlaws there another night, even with all our men to guard them. We knew that the outlaws, as I have stated in my report, had a large quantity of ammunition; Bracken reported this in the building.

2890. Before the fire?—Before the fire; and we heard a proof of this—the ammunition exploding continuously while the fire was going on. On the next day the usual arrangements were made for a magisterial enquiry. Mr. Wyatt was also seen, but I think that was the next day after. On the Tuesday or Wednesday Mr. Wyatt was seen, and an understanding was arrived at that he should hold an inquest on the body of Byrne.

2891. He was the coroner of the district?—Yes. Something transpired—I think it was desired to get rid of the business—

2892. You have broken off. You told the commission on the platform you offered to give up the bodies to the relations, you have not told what became of them?—The bodies were given up to the relations.

2893. Where was the inquest to be held?—Those were not the same bodies.

2894. Of course, the two bodies you gave up were Hart and Dan Kelly?—Yes. Joe Byrne’s body we brought to Benalla, and there was Cherry’s body also. I was anxious that there should have been a coroner’s inquest on both those bodies—Cherry’s and Byrne’s—and some difficulties arose that I cannot call to mind to prevent, and magisterial enquiries were held instead.

2895. Was not the arrangement before you gave the bodies to the relations that they were to allow an inquest to be held?—No, there was no formal arrangement. They were not to be buried without a magisterial order. I looked upon the bodies as the bodies of outlaws, and that we might have done what we liked with them.

2896. Did it not come into your calculation that the nearest relations were close upon the spot and their home close adjacent?—Yes, they were on the spot, and their homes within three miles or four miles at the very farthest.

2897. Well, you say Captain Standish did not interfere when you asked him not to?—The bodies were thereupon given up—those of Dan Kelly and Steve Hart.

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2898. Captain Standish said in his evidence (question 77), "I instructed Mr. Sadleir not to hand over the charred remains of the outlaws. It is just possible he may have misunderstood me, but I certainly did say that to him; but seems that possibly there was a misapprehension"—It must be a misapprehension on Captain Standish's part, because he was in my company the whole of the next day, and there was not the smallest allusion made to the subject. If Captain Standish had given any orders, I should have been very careful to have obeyed them on the spot or persuaded him to alter them, but there was no question at all.

2899. It was a mere question of yours to do the best?—I was greatly gratified at getting this trouble over that we had had on our hands for two or three years, and I was inclined to act liberally, and I know the effect has been most beneficial to the public peace. I had the thanks of those people since, both for that and for following a fair moderate course towards them; they have conveyed to me their messages direct that if I had pursued the course they had anticipated—that was a harassing course, pushing the law to the utmost, or, perhaps, going beyond the law—that there were eight or nine men prepared to break out, and we should have had the same trouble in an aggravated form again. I have ascertained since, too, that the vapouring and threatening that were said to have been over those bodies was confined to one or two drunken men, and it was put down by the real friends of the Kellys themselves as unseemly and uncalled for. The most dangerous of that crowd were the first to say the police had done their duty simply and you ought to be thankful for the kindness you have experienced. Of course these are mere reports, second hand, and to be taken for just what they are worth. I was anxious for the inquest upon all the bodies, especially Cherry's, as he was a man against whom there was no accusation, and about whose death there might be some serious question. It was impossible to arrange it. Mr. Wyatt had some private business at Seymour, as well as public business, and before he could return some necessity arose, I forget what it was, to have the bodies all disposed of and buried.

2900. Where the coroner is in the district, is it not more desirable and more according to law to have the coroner's inquest as distinguished from the magisterial?—Certainly, but the rule is departed from every day.

2901. What is the difference of the effect in law?—No difference in effect. I think there is a greater security to the public in the coroner's inquest than in the ordinary magisterial enquiry, but, eventually, they both lead to the same result if fairly conducted. The magistrate, upon hearing the evidence of witnesses concerning the death of any one, can issue his warrant for the arrest of the person inculpated; but the coroner has a further power. He can issue his warrant for the committal, but, in effect, there is

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very little difference. Usually, in spite of the coroner's warrant of committal and case is brought before the police court, as if the coroner had not interfered in the matter.

2902. To whom does the result of the magisterial enquiry go—does it go to the coroner of the district?—No, the Crown Law officers direct; they are sent usually to the police to forward direct to the Crown Law officers. That is so in my district, but there is some variety, I believe.

2903. If Mr. Wyatt did not agree with the magisterial enquiry, would he have the power as coroner to order a fresh enquiry absolutely of his own action?—Of course, certainly. I spoke to Mr. Wyatt after the affair, and he seemed satisfied. I wrote to him, and spoke to him afterwards in Melbourne about it.

2904. What was the magisterial finding in the case of Cherry?—Shot by the police in the execution of their duty.

2905. And in the case of Byrne?—That he was shot as an outlaw. The evidence of Constable McIntyre was taken, the proclamation of the Government declaring them outlaws, the whole of the official papers from the Gazette were shown and read before the magistrate.

2906. Who was the magistrate?—Mr. McBean.

2907. Was Captain Standish on the bench?—Yes.

2908. The report of the magisterial enquiry in that case is what he puts as being his finding in that case?—Yes.

2909. At the coroner's enquiry the jury is sworn?—Yes.

2910. And the evidence taken and they find a verdict?—Yes. I may say I do not like answering the foolish rumours that appear in the press, but there is one thing personal to myself. One writer connected with the Melbourne press on the ground that day stated afterwards that I was off the ground, and that the men and police were without my control. Now I can only account for that in this way, and that upon the report of others, that the gentleman was not upon the ground at all himself.

2911. You can say it is not a fact?—It is a downright lie, a most annoying lie to me.

2912. You cannot tell who wrote it?—I can, I know Mr. Carrington wrote it. I would like to give my most emphatic denial to that. According to some other gentlemen of the press, Mr. Carrington was away off the field altogether—he found it too hot and went away to Mr. McDonnell's, and I wish to add further that I do not know him and he does not know me. I think he is mistaking me for some one else. I received from the Governor, through Captain Standish, the usual thanks on those occasions.

2913. You mentioned, in the early part of your evidence, and you told Mr. Hare when he came up, you could not assist him *con amore* as formerly, but you would do your best. Was there anything said by Mr. Hare

about the disposal of those agents upon his coming into the district?—Mr. Hare spoke to me about that telegram we were considering yesterday, as to the dismissal of the agents. He asked me if I understood what it meant. I did not understand what it meant, looking at it in that light as the dismissal of agents. I have not seen the telegram, but he told me of it.

2914. You stated he had an interview with Detective Ward?—Mr. Hare spoke of that as the dismissal of the agents, and I could give no information about it.

2915. What was the cause of the coolness between you and Mr. Hare on that occasion?—There was no coolness, we were very good friends.

2916. Did you disagree with his method?—Well, I did not like the turn things had taken. I looked upon it that Mr. Hare was pushing himself forward into the position unfairly towards another officer. Mr. Hare denied it. I should tell you he denied always that he was doing anything of the sort, but at the time I had those feelings I was moved to act in that way. I said, “I am not going to take the trouble with you that I did before; I will attend to my own and you must attend to your own business,” but nothing personal between us. We had been always good friends, perfectly free and open.

2917. How many years brother officers?—I have known him twenty-five years.

2918. How did you join?—As a cadet.

2919. And he as lieutenant?—Yes. He has always been senior to me.

2920. We have Mr. Nicolson’s telegram of the 29th November 1878 before us now; I will read it?—I was speaking of another telegram.

2921. You stated that in May 1880, when you heard that Mr. Hare was likely to supersede Nicolson, you wrote to Mr. Hare remonstrating with him—may I ask you your reasons for so doing?—I think I explained that yesterday. I was satisfied Mr. Nicolson was doing the best that could be done, and I did not expect any improvement by a change.

2922. Did you know at that time that Mr. Hare was likely to be appointed in Mr. Nicolson’s place against his own desire?—Not until Mr. Hare wrote and told me. His answer to that was he could not help himself.

2923. Are you aware he had written to Mr. Nicolson on the same subject?—I did not know he had as early as that. I knew he had written about that time.

2924. As far as you were concerned, when Mr. Hare arrived at Benalla, on the 2nd June, you were aware Mr. Hare was there not of his own seeking?—Yes, he had repeatedly told me so.

2925. This telegram is with reference to the bank robbery. There have been statements made that Mr. Nicolson was informed, and that telegram of the 29th November was spoken of, but we have not got it now. It is—”*Re* confidential communication of yesterday.—The temporary stationing of one or two foot-constables at Seymour recommended. No men can be spared from this district.—C. H. NICOLSON.” You would not say that that telegram proves that Mr. Nicolson was aware that the banks were to be protected all through the district?—No; but that confidential communication ought to be read in connection with it, wherever it is—it all turns upon that.

2926. This is the statement:—“If they do leave the ranges, they are certain to stick-up and make a haul. They would likely try the Seymour bank, as Ned Kelly had it in view for a long time to stick it up. They would keep the bush until they got to Seymour, and returned the same way. Mrs. Skillian would probably get the haul. The Kellys have a track from Greta to Barnawartha; they pass under the railway bridge.” That is dated 15/11/78. There is an endorsement on the back of it by Captain Standish, dated 28/11/78, as follows:—“Confidential.—Forwarded for the information of Mr. Nicolson and Mr. Sadleir. I address this to the latter, being uncertain whether Mr. Nicolson is still in Benalla. At all events this information, which is important, should be communicated to him as soon as possible. The signals which Mrs. Skillian makes from her place clearly bring her within the reach of the new Act. It

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would be very desirable to convict her if possible, or at any rate to prosecute her.” It was forwarded with this endorsement to Mr. Sadleir on the 28th?—Are my initials to it?

2927. No, Captain Standish has sent that, and Mr. Nicolson, being in the district, has replied to it. You and he were working together at the time?—Yes. I had no recollection of it, and I was sure I had never seen about the banks in the district.

2928. This is about the bank at Seymour?—Yes; I imagine now I must have seen that. I was at Benalla when it would arrive.

2929. Where are the ranges there referred to?—Probably the Tallaroop Ranges, a continuation of the Black Ranges.

2930. Is not Tallaroop below Seymour?—Yes; but, as to the ranges, it depends upon which side of the river you speak of.

2931. “The Kellys are certain to keep on the ranges in the neighborhood; they get supplied with rations from Mrs. Skillian, which she will plant for them.” Now, first of all, there is Greta, where Mrs. Skillian lives; and what are the first ranges; suppose they were going to rob a bank at Seymour, and keep the bush, which way would they go?—If they kept the ranges—I thought it was the bush.

2932. “Certain to keep on the ranges”—would that not mean the Strathbogie Ranges?—It would

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mean that of course, but it would be very rough riding, but the shortest way as the crow would fly.

2933. Would it not mean at the back of Euroa, Strathbogie, and towards Seymour?—They would probably take the ranges by Dall's, cross to Doon, over the Puzzle Range.

2934. On by Broken River to Doon?—By Dall's, that is the only easy way of doing it.

2935. When they came to Dalls, how would they get to Doon?—There is a made road before going to Mansfield.

2936. By the Black Swamp or Glen Creek?—Glen Creek; then by Gobur, and run into Seymour between Ghin Ghin and the railway line; that is seventy miles, the shortest route you can go.

2937. Did you receive any police information of any member of the Kelly family being seen by the police in their search, immediately after the bank at Euroa robbery—would it be true that the police saw Kate Kelly on the very road you now have indicated?—I have never heard anything of the sort; I do not like speaking from memory where records can be had.

2938. Would it be within your knowledge that the search parties of police—were you informed that the search parties of police who went that very road met Kate Kelly within a day or two of the bank robbery at Euroa?—No, I have no recollection of any such report.

2939. That road you speak of now would go very close to the aunt we spoke of the other day?—Yes, it would go within four miles or so, or nearer; or they might have taken the very road, and got over the highlands of Tabletop, as it is called.

2940. From Wodonga, did Mr. Nicolson leave you on his way down to Melbourne at Wangaratta?—Yes.

2941. Did any of your men go along that road from Benalla, along the road you have just mentioned?—No; I think Mansfield men did go that road.

2942. We will know from some order in the Mansfield barracks what exactly was done on that occasion—have you got a clerk at Benalla?—I have.

2943. Did he remain there?—Yes, all the time.

2944. Did he open the correspondence?—He took care of every communication, everything in our absence.

2945. Is it usual to leave orders in writing about the route or verbally?—We are apt to do without them when in haste.

2946. Does the sub-officer then who takes charge keep a diary of all he does?—He keeps a diary of all duties—the duty he does himself.

2947. Would his entry be “Ordered to proceed in such a way, started at such a time, and came back”?—No, not exactly that.

2948. But it would contain each day's work?—The principal parts of each day's work.

2949. In other words, if the Commission asked for the instructions, and how they were carried out, given by you on that occasion at Wangaratta, and Mr. Nicolson at Benalla, will we find it written in any way?—You will find all those instructions in the papers now before you; in fact, I have seen them—all you can refer to.

2950. Mr. Nicolson had a very short time in Benalla on that occasion, and if he gave the instructions verbally the men would, in the course of their duty, say how they carried them out?—Yes, there are only two men—Sergeant Whelan and Senior-constable Maude—you will have to examine about it.

2951. He was clerk of the office at the time?—Yes.

2952. You stated just now that the constables talked about rushing the building, and that the general feeling was that the time had not arrived?—That was my own feeling.

2953. That you did not at all events accept that offer?—Yes.

2954. At that time was Cherry to your knowledge lying wounded in the outhouse?—I have stated all I knew about Cherry.

2955. Was the offer to rush the house for the purpose of taking the Kelly that were in the main building or was it to save Cherry in case he was alive?—The offer by the police was to shoot the Kellys—to get them.

2956. You were asked was it within your knowledge that the offer was made by civilians, you said “No”?—There was no offer made to me, I am certain of that.

2957. Neither to rescue Cherry nor rush the house?—There was an offer from Dixon to run the risk of going to the back building and getting out Cherry. I told them we would take care of him, and not let any harm come to him; and he grew anxious as the fire came on.

2958. Dixon's offer was after the fire was lighted?—No; he was offering several times in the day. Nobody except Dixon will come forward and say (if they speak the truth) that they made an offer to go and relieve Cherry. I am absolutely certain of that.

2959. Did you know the state of Cherry from any information then; did any one say whether he was living or dead?—They said he was living; of course they gave us to understand he was living.

more certainty about it than before. Their manner of life I could tell you, I think, for the last few months before the outrage.

2961. You are going to send down a report, and can show whether steps have been taken by the police to ascertain all the information it is possible to obtain, so that in the event of another outbreak of a similar character in that district they would have a reliable idea of the places where the outlaws secreted themselves?—We have learned very very little; my hands are a good deal tied. That sort of information you have to pay money for, and the Government have a great objection to paying anything except for salaries and wages.

2962. You think that information could be obtained if money was available?—Yes. If I had the handling of perhaps a very few pounds, and send an agent in amongst them and get the talk and gossip, it would only be of use to me as information coming through gossip. I should be able to get all the information I have not been able to get, and information in the past that I would like.

2963. Supposing you were told the hiding places of those men, Greta, and so on, are there not hundreds of places equally secure?—Each party of outlaws would be guided by their connections and their nearness to a basis of supply. Probably if people in the Black Range broke out, they would make that their place; if people in Beechworth were to take to the bush, they would make that their principal centre.

2964. Has the strength of the police been reduced since the capture?—We have a few men, perhaps eight or ten, extra.

2965. At the time, I think you said 50 was the strength of the district?—No, 100 was strength of the district—perhaps about 95 or 96—before the Kelly affair. I gave it in my evidence the other day, that the proper strength of the district, on the 1st of April 1879, was 100 men, mounted and foot.

2966. That is the united district—Mansfield, Benalla, and part of Kilmore, now known as the North-Eastern?—Yes.

2967. Has the district been quiet lately?—There has been a great deal of horse-stealing lately, and I shall be glad to speak on that; as to the future prospects of the district—I think the prospects are very serious, and we may any day hear of some serious outbreaks.

2968. Do you know Kelly's surviving brother, James?—No.

2969. Do you know he has been in gaol?—I know he has just come out of gaol in New South Wales—the end of last year.

2970. Has the younger Tom Lloyd, who went about with Kelly, been in gaol?—Yes.

2971. Where is the Quinn who was arrested as a sympathizer?—There were two.

2972. The one that was in gaol?—Jim Quinn?

2973. Yes?—He is at his sister's place—the Farrells—constantly.

2974. Are you aware that most of those men have been arrested and tried for serious offences, over and over again?—I do not think Tom Lloyd has.

2975. His father?—He is dead.

2976. His uncle?—He has been in Pentridge for something—cattle-stealing, I think.

2977. Did you know, of your own knowledge, that the constable in charge at Greta was attacked by a member of this family?—That was a mistake.

2978. By Hall?—He is married to an aunt, but he is no relation.

2979. What character do the Harts bear in the district—the brother of Steve?—Dick Hart is an unconscionable young scoundrel.

2980. Has he been in gaol?—I think not. Those young men are doing no work—not one of them—they live by roguery.

2981. Do you know the Wright family?—Yes, very well.

2982. Do you know they have moved from Mansfield?—Yes, to Lake Rowan, towards the Murray.

2983. How do those men generally get their living?—Part of the year they shear, probably taking somebody's horse with them to New South Wales. Then they make a little money, and I really think that is all the work they do for the rest of the year.

2984. Do they bring back the same horse?—No; there is so much chopping and changing, and altering of brands, that unless the owner drops upon his own horse, no person can know it by description. They are so clever at altering the brands that even when the brands are being described to the police, as I have seen at Benalla, it is not until you have shaved closely that you can see the brand was tampered with. They use brands dipped in scalding water, and cigar ends, and are up to all sorts of tricks that we know nothing about.

2985. As a matter of fact, with a bit of hoop-iron, you can almost erase any letter by heating it in the fire?—You can do that without heating it in the fire—you can do it by putting the brand in boiling water for a time, which will leave a little rise in the skin, and show no difference between the new and the old mark, and by pulling out the hair with the finger-nails you can easily turn a B into a D for instance.

2986. Have you established any new stations in the district?—Yes, I have; I have re-establish Greta, and strengthened the station at Glenrowan.

2987. And put the best men you could find?—Yes.

2988. Is there a station at Glenmore?—No.

2989. Is there at Hedi?—Yes; two men there, and arrangements are being made for a new station at Dederang, which is a sort of no man's land.

2990. By Mr. Hare.—The letter that Mr. Nicolson put in evidence from the "diseased stock" man, was that one of the three letters you sent down to him?—Yes, of course.

2991. Dated in the middle of May?—May 20th was one of the dates I sent.  
 2992. How many did you send altogether?—Three.  
 2993. Because there are four besides the letter he put in evidence?—I was not aware of that; let me see the one you are speaking about.—[*A letter was handed to the witness.*]  
 2994. May 20th?—Yes, this is one of the letters I sent.  
 2995. How many did you send in all?—I sent one dated 26th February, one May 14th, one May 20th.

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2996. Do you know where March 16th came from?—1881 that is; that is long after.  
 2997. July 13th 1880—do you know where that came from?—No, that is after the Glenrowan business. I never saw this; they never came near my office at all—[*the post-marks were examined by the witness*].—I never heard of them before.  
 2998. *By Mr. Nicolson.*—Those two letters never came through your hands at all?—No.  
 2999. *By the Commission.*—Those three are the ones you sent down, the ones of which the dates were given?—Yes.  
 3000. And those were in the drawer of the table?—And I did not look at them till I was asked for them by Mr. Nicolson.  
 3001. As soon as Mr. Hare was wounded you got the keys, and those letters would be in your possession till Mr. Nicolson asked for them?—Yes, and no one had any access to them.  
 3002. *By Mr. Nicolson.*—If it has been stated that there were six to eight letters from “Diseased Stock” left by me with Mr. Hare, is that true?—I cannot say. I do not think it was. I never heard of them.  
 3003. *By the Commission.*—Do you know of your own knowledge of any other letter from “Diseased Stock” but those three?—Those are all I know of.  
 3004. You have seen all the documents?—There is nothing left now; you have before you every paper I have in the business. I do not know of any besides those three from the “diseased stock” agent.

John Sadleir,  
*continued,*  
 14th April 1881.

*The witness withdrew.*

*Adjourned to Tuesday, 3rd May, at Eleven o'clock.*

TUESDAY, 3<sup>RD</sup> MAY 1881.

*Present:*

Hon. F. LONGMORE, M.L.A., in the Chair;	
W. Anderson, Esq., M.L.A.,	J. H. Graves, Esq., M.L.A.,
E. J. Dixon, Esq., J.P.,	J. Gibb, Esq., M.L.A.,
G. R. Fincham, Esq., M.L.A.,	G. W. Hall, Esq., M.L.A.

John Sadleir further examined.

3005. Have you anything further to say?—Only this, that since the last meeting I sent in a return of the number of reported appearances of the outlaws at various places (*vide* Appendix), and that I desire to be present to offer to the Commission any remarks upon that that they may desire. The information as to the steps taken by the police will necessarily be incomplete, as I have explained in the foot-note to the report, and it may be that the explanations I have given may be questioned by the other officers who were in charge of operations; and as it is such a very important report, I thought it better to be here to offer myself for any examination by the Commission or the officers concerned on the subject.

John Sadleir,  
 3rd May 1881.

3006. There was one case where I think it was stated in the papers that the Kelly party were seen near one of the Hart family, where they bound the man not to give any information for a month. Is that in your list?—Yes, I think so. That would be about October 1879. It is the sixth item on page 3—Green’s paddock, near Wangaratta. I would remark that the genuine names of parties are given in this list in many instances, and urge upon the press the necessity of precaution, either in alluding to the names or the particular facts that would lead to the discovery of the identity of our informants. In this instance it does not much matter, because the man made the affair public himself in Wangaratta.

3007. What do you mean by the entry, October 23rd—“A man named Smith reported he had been made prisoner by the gang. (*See last item for steps taken.*)” What were the steps taken?—You will see in the previous report, October the 16th, that we had an agent employed as scout in that very locality.

3008. Then the police took no action, except through this agent, on that report?—No. You see this information was more than a month old.

3009. Was the statement made in the papers of the day that they had given money for the silence of Smith?—Certainly, and Smith stated it too.

3010. Was the money handed over to the police?—I think it was offered to the police.

3011. How much?—£10. I am speaking from memory. Two sums of £5 each.

3012. Who was the officer he offered it too?—I cannot tell that. The files of correspondence all speak for themselves.

3013. The report is true that Smith did receive £10, and did do what I have referred to?—It is true he reported to that effect.

3014. And at the end of the time he offered the money to the police, and gave information?—I believe so.

3015. The first information came from Smith?—No, the first information we got did not come from Smith, himself. We got hold of rumours from the police after Smith had started it.

3016. Where are the references—"D 10," and so on?—The number is attached to the files I forwarded to Mr. Williams, the secretary of the Commission.

3017. Have you reported in any of your papers, in connexion with this, about the money (the £10) that Smith was offered—will it be found in the report?—I cannot say without looking at the papers.

3018. Can you say whether Smith retained the money or not?—I believe he did retain the money. I believe that is certain.

3019. Do you know what bank the notes he had were from?—No; Mr. Nicolson knows more about that. I did not see Smith at all.

*The witness withdrew.*

*Mr. Nicolson.*—I received that report yesterday, and I am going over it, and will have to add considerably to it in many respects.

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Michael Ward,  
3rd May 1881.

Michael Edward Ward sworn and examined.

3020. *By the Commission.*—What are you?—I am a detective constable stationed in Melbourne.

3021. Were you employed by the police to trace out the Kellys?—Yes, on the 25th of April 1878.

3022. You have been allowed to refresh your memory during the last week?—I have been allowed to go through the papers, and refresh my memory, and take short notes.

3023. In what capacity were you appointed on the 25th of April?—Having been in the North-Eastern district, I joined the police on the 1st of October 1869, and, in November, I was then sent to the North-Eastern district in search of Power, the bushranger, and remained there until November 1875. From my previous knowledge of the Kellys—

3024. When did you acquire that knowledge?—From 1869 to 1875, when I was after Power, and still stationed in the district. I was for three years in Beechworth. During that time Ned and Dan Kelly, the Quinns, and all their relations were in the habit of being at the circuit courts; one of their friends was always before the circuit court at the general sessions.

3025. Accused of some criminal offence at every circuit court?—Some of their friends were at nearly every court.

3026. Do you mean that they were prisoners on trial at every court?—Some of their friends. Not at all the courts. At the commencement, when I went up, I do not think there was a year when some of their friends were not before the court for trial.

3027. By "their friends" you mean their blood relations?—I mean their blood relations. In 1874 and 1875 I knew Ned Kelly very well. I was stationed then in Wangaratta, and had occasion to speak to him very often there.

3028. What was the nature of the offences that these men were principally taken up for?—For beating Sergeant Hall, the policeman at Greta, horse-stealing, and cattle-stealing.

3029. And violent assault on Sergeant Hall, at Greta?—Yes, violent assault on Sergeant Hall, at Greta, with a stirrup-iron.

3030. What else?—Sundry other offences.

3031. Can you speak more exactly of that?—I cannot call back the exact offences.

3032. Principally horse and cattle stealing and assaults?—Principally horse and cattle stealing and assaults.

3033. Was there any reason assigned for appointing you a detective in that district?—No, not that I know of. The late Chief Commissioner gave me the appointment in the detective force, or offered me one when I was in Wangaratta. I then declined.

3034. Were you a civilian at the time?—No, a mounted trooper.

3035. Was there no particular reason assigned for sending you into that district at that time, 1878?—Yes I will come to that presently.

3036. At what date were you appointed detective?—1876. Some short time after I refused the Chief Commissioner, there was a general order that all the efficient members of the force who would be recommended by their superintendents, and were holding over their names, would be enrolled and called into the detective force as required. At that time I placed my name on the roll, and was called. On the 25th of April 1878, the report of the shooting at Constable Fitzpatrick came in. I was then directed by the officer in charge of the detectives to proceed to Benalla, there to report myself to the officer in charge of police, and to try and catch Edward Kelly and Dan Kelly then charged with the offence.

3037. Try and state the names of all those you had to do with. Was the officer Sergeant Whelan or Sergeant Pewtress that you reported yourself to?—I saw Superintendent Chomley there, I think on the day after I arrived.

3038. Whom did you report yourself to?—I cannot say. On that night, in company with Senior-constable Strahan and two other constables—I do not remember their names now—we started for the Eleven-

mile Creek, at seven o'clock in the evening.

3039. Is the Eleven-mile Creek Kelly's residence?—Yes; Kelly's residence. Our object in going there on that evening was this. Mrs. Skillian and Kate Kelly were in Benalla to hear the preliminary hearing of their mother's, Mrs. Skillian's, and Williamson's cases; they were brought into the court on that day charged with aiding and abetting Edward Kelly at the time he shot Constable Fitzpatrick. The night was raining heavens hard and very dark. When about two miles from Winton, on the Greta road, and about four miles from Mrs. Skillian's residence, we found a dray, and two bags of flour and other articles, without a horse, in the middle of the road. We searched round and found Mrs. Skillian and Kate Kelly sitting on a log. They were wet through, having very light clothes on. We went up and spoke to them. They said they were benighted, and could not find their way home—it was too dark. I had a flask with some whisky in it. I gave some to Kate Kelly. She drank it.

3040. Did they know you?—Yes, they did. They knew Senior-constable Strahan very well. I then left two men behind to show them the road to their own house. Senior-constable Strahan and I started for the Eleven-mile Creek, and placed ourselves in a position to see if any person came to the house during the night, as we were of the opinion that Ned Kelly or his brother would come on that night to see his sister, and know how his mother got on at the court. I watched the place without success. My object was that I might capture him when he would come home to hear how his mother got on at court.

3041. You were unsuccessful?—Unsuccessful, yes.

3042. Up till June 1879 you did not hear anything of him?—Oh, yes, I did. During that month I received information that they were at Bullocky Gully, or at the head of Ryan's Creek.

3043. What position is that in from the place where the constables were murdered?—About five or six miles from where they were murdered.

3044. In the same direction of the same country?—In the same direction of the same country. This was on the 7th of May. Constables Mooney, Hayes, Whitty, and Senior-constable Strahan proceeded to there, and made search for three days.

3045. Were you with them?—I was with them.

3046. That was to Ryan's Creek—Bullocky Gully?—Yes. We were unsuccessful at that time again. We searched the surrounding creeks for three days, but could find no trace. I returned to

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Melbourne, and on the 9th of September, from information I had received, I was instructed to return to the Kelly country.

3047. By whom?—Mr. Secretan.

3048. Under whose instructions did you generally act?—Mr. Secretan's, when in Melbourne or the suburbs; when in the country, I of course acted under the officer in charge of the district.

3049. Mr. Secretan is the head of the Detective department?—Yes.

3050. When you received information respecting the Kellys, could you act on that information without first reporting to one of your superior officers, either in Melbourne or the country district?—In the country district, at one time, I could, but in Melbourne I could not.

3051. At one time, you say, you could, in the country—was that altered as to the country?—Yes.

3052. At what time?—While after the Kellys.

3053. At what time?—About the latter end of the search for the Kellys.

3054. Was it six months after they were taken?—No, it was not.

3055. Was it three months?—No. I think it would be about the time Mr. Hare came up the last time.

3056. What was the fresh order you received?—The order was that I was to receive two black trackers, and to start whenever I got information, but to telegraph where I would likely be found and what direction I was going in.

3057. Are the Commission to understand this—that while you are stationed in Melbourne and get instructions to make a certain offender amenable to justice, you are at liberty (that being handed over to you) to take your own action as to how best to do it, as being responsible for it?—I am.

3058. When you went up to the North-Eastern district, under instructions to make the Kellys amenable to justice, were you at liberty during that time, until you came back, to act on your own responsibility, without consulting with your officers?—When I first went, on the 9th of September, I did not go as a detective officer to be known to the world; I went secretly—privately.

3059. When you got any information, what would you do then?—I would immediately communicate with my officer, Mr. Secretan, in town. And even at that time, up to the 26th of October, the day of the police being shot, my instructions of what I would do, acting as I was at that time, were to communicate with Mr. Secretan. But if I at any time found any information that I could immediately work upon with the aid of the nearest police station, I was to go and get the police, and make an arrest if possible.

3060. Upon your own responsibility?—Yes, upon my own responsibility.

3061. And you were permitted to do that throughout?—Yes.

3062. Then, as a matter of fact, were your actions in regard to the capture of the Kellys untrammelled by any instructions from your officers?—Yes.

3063. Would it be true or untrue that you could not take any action for making the Kellys amenable to justice without consulting the superior officers before you took any steps?—It would be perfectly untrue.

Michael Ward,  
*continued,*  
3rd May 1881.

3064. You stated that for a portion of your time you could not act upon your own responsibility. You had better complete your evidence about that?—It was, providing I saw my way clear. For instance, if I got information that the four outlaws were in a certain place; I was one individual, having nobody with me. I travelled the whole district without any person to assist me. No matter where information was received from, I went there myself. For instance, I was once in a false position near where the police were shot, in which I would not like to be again, and I alone could not arrest the four.

3065. That is not an answer to the question. You went on the 9th of September 1878?—Yes.

3066. Did you remain in the Kelly district till the capture of the Kellys?—Yes.

3067. At what time were you prevented from acting on your own responsibility—or were you ever?—I was never prevented, but I was to be guided by circumstances.

3068. You stated just now that, when in Melbourne, you would have to report any information to your superior officer, and also that you were allowed to do the same in the country up to a certain time (about the time that Mr. Hare took command on the second occasion)—now we want to know what was the difference made at that time?—The difference made was that there were different parties in the district.

3069. Never mind the parties in the district. What we want to know is this—were you prevented by any instructions from taking action at once, when necessary, through having to consult your superior officer?—Never, but different arrangements were made.

3070. By whom?—Mr. Hare. We were working on a different principle before that.

3071. What was the difference?—All the black trackers were kept in Benalla—that was the only difference.

3072. Then you could go out with black trackers without sending for them?—We could by sending for them; they were always ready the moment I telegraphed for them. But the new arrangement was that they were to be on the spot—two in Beechworth, and two in Wangaratta, as well as two in Benalla.

3073. Were they that way with Mr. Nicolson?—No, never in Beechworth, except when required, when we should telegraph for them.

3074. You mean they were not distributed over the district. They were all in Benalla before?—Yes.

8075. They were not distributed till Mr. Hare took charge?—Yes; but they could be got any time to go anywhere they would be required, but their head quarters were at Benalla.

3076. Mr. Hare altered that system, and distributed the trackers?—He intended to do so; but on the 3rd of June I saw Mr. Hare. He telegraphed to me to Beechworth, on the night of the 2nd, directing me to proceed to Benalla on the following morning. I did so. I met Mr. Hare, and we walked along the road in the direction of Violet Town. We had some conversation there, and it is there he said, “It will take me two or three days to read the papers over.”

3077. What papers?—The Kelly papers in the office at Benalla. He said, “I intend having a party of police in Benalla, and to give you two black trackers, that you will be able to act with at any time, immediately you receive information. I will have two in Benalla, and two in Wangaratta. You could go at any time you pleased when you get information, but telegraph to me what direction you are going.”

3078. Was that different from what the usage before was?—We never had the black trackers except when we applied for them.

POLICE.

X

Michael Ward,  
continued,  
3rd May 1881.

3079. “I had long talks with them and their men”—[reading from *Superintendent Hare's report published in Argus of 20th July 1880*—“on the state of affairs, and informed them that I intended stationing black trackers whom I expected from Queensland, at Benalla Wangaratta, and Beechworth. Those are the black trackers you refer to?—Yes.

3080. Are those the ones originally there or the ones recruited by Mr. Chomley?—The ones recruited by Mr. Chomley.

3081. He then says, “I also told them that at each of these towns I would have a full party of men stationed, so that if any information was received about the Kellys they would be in a position to go in pursuit at once.” The question is this, was that the fresh order, different from the usage that was adopted by the constables before—did Mr. Hare then alter the usage for the first time?—We could not have the usage; we had not the men. I had to communicate with my officer.

3082. That is the question we are asking?—Yes; I had not the men.

3083. Before that, when you had a report of the Kellys, you had to communicate it to your officer and act upon his instructions as to what you were to do?—We were never told to do so, but we always had to report to the officer.

3084. This altered that arrangement?—Yes; because we would have the power of doing so having the men.

3085. This simply refers to the black trackers?—Yes.

3086. Then this change was simply that you got the black trackers there to assist you?—Yes.

3087. Then there was nothing to prevent you going out, if you could have gone alone, at any former period?—Nothing.

3088. But if you were at Beechworth you had to telegraph to Benalla for the black trackers?—Yes.

3089. Here is a statement made by Mr. Hare that some alteration was made in the manner of proceeding. It does not refer (according to his report) alone to the black trackers—that is the part where he stated he would have a party of policemen stationed at the different townships. Supposing that you were stationed at Beechworth, that being your head-quarters, and you heard of the Kellys being at the Sheep-wash Creek, would you, supposing you were a mile or so outside Beechworth, before this alteration in the arrangements by Mr. Hare, have been in a position then and there single-handed to go in pursuit of the Kellys on your own account, or would you have had to go to your officer and report first, and take his instructions how to act?—The order was never given either one way or the other to do one thing or the other, but the men were not available. I had certain men at Beechworth, but they were employed in a certain position, and their instructions were very clear as to what they were to do if the Kellys came in their way they were to wait for no officer; they had written, instructions to shoot or capture in the best way they could, but not to lose a chance. It was my duty to communicate with the officer, as being head of the working of the Kelly business in that part of the district.

3090. It has been stated in the papers and elsewhere that one of the causes of failure was that, when a constable had private information in his district, he could not take any action without consultation with his officer as to how he should take action. Is that true or false?—It is false. I remember that not only one but a hundred different people said to me, “Ward, if you got your own way you would capture them,” and I said “No,” that was not the case, that I was really left perfectly free.

3091. Formerly the practice would be that in whatever position you were placed you would naturally consult with your superior officer if he were near at hand?—Yes.

3092. Still you were not restricted from taking action in his absence?—No.

3093. Were there any other detectives in that district?—Detective Eason, and Detectives Brown and Berrill.

3094. Your action there was never in any way trammelled—so that such a statement would not be true?—Never. I had full power to employ any persons I thought would be able to do good—to pay them to submit their claims, and the accounts were always passed by the officers. I received the greatest kindness. There is not a man I sent them but they employed.

3095. When Mr. Nicolson was in charge was there a larger number of constables in Benalla than after Mr. Hare distributed them over the district—did he send constables to Benalla?—I could not say that.

3096. It seems that he also sent constables as well as black trackers?—He said he would do so.

3097. Was it done?—Yes, a few men were sent to Beechworth, but they were on special secret duty, watching the place that they would come to if they showed out. Men were very scarce in the district at the time. Several times I applied for men, but they could not give them to me from having distributed them in different places just at the time. In a day or so they would be forwarded as soon as they could conveniently do it.

3098. The detective service in Melbourne, while you are there, is under Mr. Secretan?—Yes.

3099. In the country whom are you under?—The officer in charge.

3100. Irrespective of Mr. Secretan?—Yes.

3101. The superintendent of the district?

3102. Suppose there was an instruction at Beechworth, your superior officer you would communicate with would be the superintendent?—Yes, I always recognized the superintendent, but I would recognize any officer. I was under the officer who had charge of the capture of the Kellys.

3103. On the day of the capture where were you?—At Beechworth.

3104. Were you, as detective, cognizant of all that was known as to the Kelly movements?—No, not of all.

3105. Were you solely employed in pursuit of the Kellys, or did you do other detective duty?—No other duty.

3106. Then your duty from week’s end to week’s end was to keep yourself acquainted with the movements of the Kellys?—Yes.

3107. Are you aware of any chance being lost, or not being made available, for the capture of the Kellys on any information you received?—I am not.

3108. Some time ago, a man named Sherritt made a disclosure that on a certain day the Kellys were to visit him at a place?—I must refer to my report on that.

3109. You were saying about going to Bullocky Creek—will you go on from there?—On the 29th August 1878, I received information in Melbourne. I furnished the report then to Beechworth, and this is

a copy of it:—“I have the honor to report, for the information of the officer in charge, I have received information that the above-named offender, Edward Kelly, was seen about three weeks ago between the Woolshed and Sebastopol, in the Ovens district, by a Mr. —, a blacksmith at the Woolshed; he was riding and carried a gun under his arm, and had a revolver strapped on his saddle. Kelly is well known to —. If Kelly was seen there, he would be most likely making for Joe Byrne’s mother’s place, as she lives at the Sebastopol. I would respectfully suggest this report be forwarded to Mr. Inspector Smith for careful enquiries. Mr. — is a very respectable man, and will give every information to the police, providing it is

Michael Ward,  
*continued,*  
3rd May 1881.

kept secret. The person who makes the enquiry would do well to call on —— of the Woolshed before calling on ——, as he may be able to give some information on the subject. —— has a good many cattle running on the common, between the Woolshed and Sebastopol, and if it was known by Byrne or Sherritt that he would give any information relative to Kelly's whereabouts, his cattle would not be safe."

3110. Did it appear that a report sent in three weeks after the time would be of much value?—Yes, I did; this was after the murders—it would show I was aware they were in communication. On the 9th September, I left Melbourne and reported myself at Benalla to Superintendent Sadleir.

3111. That was in 1878?—Yes; from Benalla I went to Glenrowan—Glenrowan to Oxley, and made search then until about the 15th of October, when I received information that Dan Kelly was on the Fifteen-mile Creek, working with a man there.

3112. Is it a fact that you had information that Ned Kelly, prior to the murders, was going about armed?—Yes, there was a report there of that.

3113. Before you proceed, I would like to know how you learned that—what information did you usually get that you could rely upon?—Direct information; in fact, I had a secret service man with me, as well as myself.

3114. Do you doubt now that they were armed prior to the murders, and going round the country?—No; my opinion is that Ned Kelly had a revolver, I do not know whether he had a gun.

3115. You say that you were there from the 9th September to the 15th October, five weeks—how would you employ yourself for five weeks in the district?—I will tell you where I was every day. On Monday, 9th September, at 2.30 p.m., I left Melbourne. I will read the distances and the places I went to.—*[The witness read his diary, giving in detail the places he was at every day.]*

3116. In what character did you go round those places?—In disguise, sometimes as a butcher, sometimes as a splitter, and as a swagman—every sort of disguise.

3117. On foot or horseback?—I had a horse; I sometimes walked and sometimes rode, as I best could disguise myself.

3118. Now proceed with your narrative?—On the 15th of October, I then wrote a letter to Mr. Secretan, the officer in charge of detectives, suggesting to him that two bodies of police should be sent out to search the Fifteen-mile Creek, the right-hand branch of the King, and thence on to Mansfield.

3119. You said just now that you were placed under the charge of the superintendent of the district. Why did you write to Mr. Secretan?—At that time I was not placed under the superintendent. The conversation that passed between Mr. Sadleir and me was private at the time, and it was not to be known to anybody in the district, to be kept quite private.

3120. Not till after the murders; you were under the officer in the district?—After the murders. Well, I wrote suggesting that two bodies of police should both start at the same time, that I would go to Mansfield, and that the secret service man I had, would go to the head of the King; that if my information was correct the Kellys would be started from their haunts, and we were bound to get them. I specially wished this done, as the public were talking that the police were frightened to catch Ned Kelly.

3121. Did you hear at this time that the Kellys were mining at some diggings near where the murders were committed?—Not at this time. I heard on the first occasion, on the 7th May, information that they were at the old diggings place, and we made a search there.

3122. Then, if you had gone higher up on that date, you would come to those other places?—I believe we should. The information was good, but we did not find the place. Mr. Secretan and the Chief Commissioner agreed to this, and I believe Mr. Sadleir made arrangements for two parties of police to start and make this search.

3123. Did you inform Mr. Secretan, at that time, you knew Ned Kelly was travelling about armed?—I did not know he was travelling about armed then.

3124. You stated he had been seen before that?—Yes; I reported before that, through my officer, Mr. Secretan, to Mr. Inspector Brook Smith.

3125. Did you think, and the constables you were acting with at that time think, that if you did come on the Kellys they would be likely to fight?—I thought they would fight, but I never had the remotest idea they would shoot. I knew Ned Kelly would fight. I had a fight with him once before. I would not leave Melbourne with a small revolver if I thought they would shoot. I knew Ned Kelly would fight.

3126. You did not know they were so well armed?—I never gave it a thought that they would be. About the 20th—I think on the 21st—of October, I received a letter from Mr. Secretan, stating that the Chief Commissioner had sanctioned the suggestion, and that Mr. Sadleir was instructed, and that a body of police would start about a certain time. Instead of my going to Mansfield, as suggested to me by Mr. Secretan, I went to the head of the King myself.

3127. Was that by instructions?—Oh no, on my own motion; I had nobody—just my own idea.

3128. Whom had you with you?—A secret service man with me, that is the only one; he was in one part of the country.

3129. He did not go to the head of the King?—No, nobody went with me there; I was by myself alone.

3130. Armed?—Armed with a small pocket Webley revolver.

3131. Mounted?—I always had a horse.

3132. Still travelling in disguise?—Yes.

3133. Your object in going there was not really to catch them by yourself but to obtain such information as would lead to their capture, with the assistance of others?—My object in going to the head of

the King was to be present at about Power's Look-out, as I was of opinion, if my information was correct,

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that these men, the Kellys, would make for that place. On the 26th October I went and got up on the top of Power's Look-out; from that I went along the Dividing Range in the direction of, and along the Fifteen-mile Creek, about ten miles from Glenmore, and there was no person with me; I was expecting to meet the police, and I was undecided which side of the ranges I would take to return back, whether the right-hand branch of the King or the back of the Fifteen-mile Creek. I turned to the right, into the Fifteen-mile Creek, and went back near Glenmore. I met Senior-Constable Strahan, Constable Shoebridge, Constable Thom, and another, I do not remember his name now. I asked them had they any good news—did they see or hear anything of the Kellys.

3134. This was one of the search parties?—This was one of the search parties, the party that started from Greta. They said, "No; we are very hungry, we have had nothing to eat for the day." I said, "Come on to the station and I will get you rations. Where is the other party—did they start?" Strahan replied they had. "Sergeant Kennedy started from Mansfield on the same day that we did; he had three constables with him; he is to meet us down at the head of the King." "Has he not arrived yet?" I said. He said, "I saw nothing of him, you are the first I have seen." "Well," Strahan said, "we will go to the Hedi station to-morrow; from there I will make to Eldorado, for I think I will get the two Kellys. I am certain," he said, "that they will be somewhere about Byrnes'." That was Saturday the 26th. On Sunday the 27th I went to Jack Daniels' hut, up the King River, about nine miles higher up than Glenmore.

3135. Was Jack Daniels there?—No, that is an empty hut. I returned on the same evening, got on the top of Power's Look-out, expecting every moment to see Kennedy. On Tuesday the 29th, when I found he did not come to Glenmore, I left to go to Moyhu, to get my letters.

3136. Are there any relatives of the Kellys up in that country—Moyhu?—Yes, Moyhu, and higher up.

3137. Whereabouts?—Jack Quinn, an uncle.

3138. Where is he?—He lives about four miles above the Hedi station, close to where I was.

3139. What is he?—He is a notorious cattle-stealer, and Jack and Jimmy Quinn, the two brothers, they are living on the Black Range Creek.

3140. Do they keep cattle?—They keep cattle, very few cattle, but a lot of horses—a stock of horses; they go round the ranges, take all the unbranded horses they can get, and brand them and pluck them; they have been repeatedly in trouble about it. They have the run of the country there—they are uncles of Ned and Dan Kelly; and that was part of my reason to be at that point where the Fifteen-mile Creek and the right-hand branch of the King, where they would be when they run across the Black Range into their uncle's place.

3141. There they could get horses day and night?—Yes.

3142. They never could want a horse?—No, never want a horse there. On Tuesday the 29th I started for Moyhu from Glenrowan. When about four miles from Glenmore, a young lady overtook me on horseback.

3143. Do you mean Glenmore station?—Lewis's station. I was stopping there.

3144. How far is Glenmore from Glenrowan?—Forty-five miles, I think. The lady overtook me, and handed me a small note from Senior-Constable Strahan, informing me of the death and the shooting of the police, and requesting me to return to Glenmore at once, the party that I met on the Saturday previous.

3145. What date was that?—That was on Tuesday the 29th I got the letter.

3146. How did she know you?—I was staying at their place—it was the daughter at the place.

3147. How did they get the information?—Senior-Constable Strahan crossed over there.

3148. Where did he get it from?—He got the information from the police from Wangaratta. He requested me to return to Glenmore. I said, "No" to myself—he was not present—"I am not going to return as long as there are three police shot, and me only with a little revolver; they are well armed; I am not well armed. I will make my way to head-quarters for proper arms and accoutrements." When I got to Mr. Isard's, I met the police there. I there met Constable Arthur and Constable Thom and this constable—I do not remember his name. They gave me further particulars of the murders of the police. On the following morning, the 30th, I arrived in Wangaratta. I there saw Mr. Nicolson, the Assistant Chief Commissioner, and made arrangements to return back to Mount Blowhard to interview some people that we were of opinion would give information, and could if they only pleased to do so. I remained there for two or three days. I was hemmed in by the floods; I got up but could not return owing to the floods. On the morning of the 4th November, arrived in Oxley.

3149. Still by yourself?—By myself all the time. I received information in Oxley that, on the night of Sunday the 27th October, there were four horsemen seen riding through Oxley, near the Oxley square, going in the direction of the Pioneer Bridge. They had two pack-horses with them; they were going pretty quickly. The person who gave me the information said it was about two o'clock, and on the following morning he examined the foot-prints, and he believed them to be police horses' foot-prints from the marks of the shoes. I then proceeded to the Pioneer Bridge Hotel, kept by a man named Moon. He was absent in Melbourne at the races at the time, but I was there informed by a young man that on the morning of the 27th, or the morning of the 28th, I think, that one man called there and purchased a bottle of brandy. The other men stood with their horses near the Pioneer Bridge, and crossed over the bridge, going in the direction of Everton. From other enquiries I made, I found that the same four men called at Everton, and purchased several boxes of sardines,

and some horse-feed, and crossed under the railway in the Blind Bridge, between Everton and Beechworth, going in the direction of Sebastopol that would be. I proceeded to Wangaratta the same day.

3150. Did you believe those were the Kellys?—Yes, I believed that those were the Kellys.

3151. How far would Sebastopol be from where they were seen on the morning of the 28th?—They would run across there from the ranges in about six or seven miles.

3152. How far would that be from Mrs. Skillian's place?—From fifteen to nineteen miles. Her place is about ten miles from the King Bridge. Then I proceeded to Wangaratta. I was just in time to catch the train. Finding that Mr. Nicolson was up in Wodonga, on the Murray Flats, I put my horse into the horse-box and went to Wodonga. I went from there. Mr. Nicolson was out with the party, and went across to Albury. I returned to Wodonga. Finding he was not at home, I telegraphed to Beechworth

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and Wangaratta to have the bridges guarded that night. The place was flooded. I received information that the police had them surrounded on the Murray. The Murray was at high flow.

3153. The outlaws could not have got across except by punt, boat, or those bridges?—They could not.

3154. You must have telegraphed on November 4th?—Yes, on that night.

3155. Your information about Sebastopol?—No; later information arrived that they were on the Murray. The direction I mentioned was in the direction of the Murray.

3156. What information had you of their being seen—had you any information of their being actually seen at any particular place between the 28th October and 4th November?—On that evening, when I arrived at Albury, I found it was common report thereabout that the police had them surrounded on the Murray. Then I believed my information was good.

3157. Do you know from your knowledge whether they were seen after the 28th?—Only when they were seen on the Murray.

3158. When?—On the 4th, I heard.

3159. Were they seen on the 4th—were they seen by anyone after the 25th of October, with any certainty?—There was a certainty between the 28th and 4th that they were seen by the men when they called for rations. Mr. Nicolson will know about that.

3160. Of your own knowledge can you say?—I did not know myself.

3161. The 28th October was the last you knew anything about?—Yes, but I did not receive this information till the 4th.

3162. You have had information since where they were seen. Were they seen by anyone from the 28th October to the 9th or 10th November by anybody?—Yes, I believe they called at Sherritt's place going across.

3163. When?—Just after the murders.

3164. Between the 28th October and the 4th November?—Yes.

3165. When you say Sherritt's place, do you mean the house where he was shot, or his mother's house?—His mother's house.

3166. What date would that be?—On the 28th or 29th; they were no distance from that.

3167. After the 29th had you any positive information?—No, I had none, because I was in a different part of the country at the time.

*The Chairman.*—As we cannot take the whole of your evidence to-day, it is thought better to break off your evidence at this point, in order to call the next witness, who has to leave Melbourne immediately.

*The witness withdrew.*

William Bradish Montfort sworn and examined.

3168. *By the Commission.*—What are you?—Inspector of police.

3169. Did you occupy any position in the North-Eastern district formerly?—Yes.

3170. At what time?—I went to it in 1858.

3171. And remained how long?—Until 1867.

3172. What were you then?—Sergeant of police—superintendent's clerk.

3173. What station?—First at Benalla, then at Wangaratta.

3174. Did you know the police wants of the district intimately when you were up there?—Yes.

3175. The nature of crime in the district and the criminals—the district generally?—The lower part of what is now called the North-Eastern district; it was then the Benalla district.

3176. Did you know the Kelly country?—Yes.

3177. And the Kellys?—Yes.

3178. And their friends?—Yes.

3179. Have you any idea what led up to the break-out of the Kellys?—Only from hearsay.

3180. Yes; but would the district have been safer under any other conditions than that in which it was when the outbreak took place?—I think so, decidedly.

3181. Will you state your opinions?—I think from what I have heard—I do not know the strength of the various stations—but I heard the number and the strength of the police at the stations was reduced, and

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the number of stations was reduced, and that pressure thereby was taken off the criminal classes.

3182. You mean supervision?—Yes.

3183. Do you mean supervision or pressure?—Supervision in the same sense as pressure.

3184. What stations were done away with?—The Glenmore station, for example.

3185. Who was responsible for doing away with those?—That I cannot say of my own knowledge; of course I can form an opinion.

3186. What is your opinion. Were you the superintendent's clerk at Wangaratta when it was done away with?—No, sub-inspector of police at Melbourne. I opposed its being done away with every time it was hinted at.

3187. For what reason?—Because I think the station was one of the most important in the district.

3188. Why?—To keep down horse and cattle stealing, and the free passage of the criminal class, the Quinns and Kellys and their associates, backwards and forwards from Mansfield.

3189. Were there any other stations reduced in strength?—I believe the Greta station was reduced.

3190. When was the Glenmore station done away with—what year?—I cannot tell; I was in the station at Melbourne at the time.

3191. Was it before the shooting of Fitzpatrick?—Yes, decidedly.

3192. Years before?—Yes, I think so.

3193. Was it after Power was caught?—It was established in consequence of that being Power's head-quarters.

3194. You said you opposed it on all occasions?—Yes.

3195. What was the nature of the opposition you offered?—My advice.

3196. To whom?—Superintendent Barclay, who was in charge of the Ovens district.

3197. Was he in a position to accept or refuse your advice?—Decidedly he was; it was he who recommended its abolition.

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3198. On what grounds?—I do not know. Ostensibly the ground was, as well as I can remember (the report is now in the Chief Commissioner's office), that it was not needed, that it was a loss of power having men where there was no population.

3199. His report would be forwarded to the Chief Commissioner of Police?—I saw it. I read it and reported on it, and my report is no doubt attached to it. It was in 1872, about the month of March or April.

3200. That it was abolished?—No; that I had to report on it.

3201. Were you the officer there?—Yes, sub-inspector of police.

3202. That was after Power's capture?—Yes. I was promoted after that.

3203. For the reason that Power was captured—was that one of the reasons given for abolishing it?—Oh, no. It was established in consequence of Power having established himself there. It was considered by Mr. Nicolson and Mr. Hare, who were there, and had to do with the capture of Power, advisable that a police station should be placed there for the express purpose of preventing what I have already stated, the free movement of criminals. It was abolished in direct opposition, I believe, to the officers who originally had established it. I had the station erected by direction of Messrs. Nicolson and Hare.

3204. The inspecting superintendent, at the time of the first application for its abolishment, I believe to have been Mr. Bookey?—I think so.

3205. He refused to have it abolished. Mr. Nicolson said it was without his own knowledge and without his consent—were you aware it was against the opinions of the really responsible officer who understood it?—I know nothing about Mr. Bookey, but I know Mr. Nicolson was in charge of the city at the time, and he called upon me; he was so much opposed to its abolition, that he pursued the extraordinary course of calling upon me to report upon Mr. Barclay's recommendation, which was then about a week after my transfer from North-Eastern Victoria.

3206. Being the superintendent's clerk, and therefore cognizant of every correspondence that went through, is it your opinion that the abolition of those stations was the cause of those criminals you speak of getting ahead and out of the control of the police?—Not altogether. In addition to that there are various causes—undoubtedly it did affect it to a very great extent.

3207. You know the Greta station?—Yes.

3208. Under whose charge was it?—When I was stationed at Wangaratta, Senior-Constable Hall.

3209. Was he specially selected?—Yes, by the officers immediately over me, Mr. Nicolson and Mr. Hare.

3210. Are you aware that he kept the criminal classes completely, as far as possible, under control?—As far as possible, while he was there.

3211. Under what circumstances did he leave?—He got grievously assaulted there by Pat Quin.

3212. What relation to Kelly is he?—Pat Quin was a cousin to Jimmy Quin, and Jimmy Quin is Kelly's uncle, and Pat Quin is married to Jimmy Quin's sister.

3213. Was there a conviction for Hall's assault?—Pat Quin got three years.

3214. Why was Hall removed?—I think at his own request.

3215. Why?—His wife was in a bad state of health—he got married, and his wife got into a very bad

state of health, and I think that is why he made the application—I think so, I am not sure.

3216. Who was sent there after Hall by Mr. Barclay?—I am speaking now altogether from memory and without the aid of the books—that is why I wanted to give my evidence at Benalla—I believe a constable called Montgomery.

3217. Had he any experience of these criminal classes?—None whatever, he came from the Portland district.

3218. Was that considered an unwise step by the officers?—I looked upon it as extremely so.

3219. Is a special knowledge of those criminals indispensable to keep them under?—Yes.

3220. And a knowledge of the country?—Yes.

3221. Did Montgomery have a knowledge of the country?—No. I got him removed. It was my duty to inspect the Greta station, and after he was placed in charge of it, on the first occasion of my inspecting it, I noticed his horse was very fat, and I knew his horse, and I was surprised that this horse should get so very fat.

3222. What time was that?—The latter end of 1871. It attracted my attention, and the next time I went to the station I determined I would overhaul the occurrence-book, because I found him there when I went, and then the next time I found him there in the barracks, not on duty, and he appeared as if he had not been mounted, and I know there is such a thing as doing duty by the occurrence-book, and I questioned him. I saw he had entered “Bush patrol” in his book. That means riding in the bush for a certain number of hours, a certain number of miles, without any terminus being stated.

3223. Is it generally undertaken for special duty or for the exercise of the horse?—No; patrolling the district to see what he could see, to get a knowledge of the country.

3224. What knowledge of the country had he?—Absolutely none, for I asked him about Mason’s station, and he did not know about it. That is on the Fifteen-mile Creek.

3225. Would not that be the direct road where those lawless men would go?—Yes, and of course he should know every inch of it.

3226. Was Montgomery removed?—Yes.

3227. Why?—On my report. I reported him to Superintendent Barclay for this, and he removed him to Bright I think.

3228. Who went there then?—I think it was a mounted constable named Flood that went there after him.

3229. Did you ascertain from the records of your office whether those criminals about there had been prosecuted constantly by Montgomery?—No, there was no prosecution when he was there—no arresting.

3230. Was there in Hall’s time?—Certainly.

3231. Constantly?—I could not say constantly, because it is a difficult matter; it may take months and months to get at them for one offence. He did it as often as the opportunity offered.

3232. Flood was sent there?—Yes, he was an active man and did good work.

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3233. Do you know he had them continually under “pressure”?—Yes, he had.

3234. Do you know he was removed?—I think it was after I was away from the district. I cannot speak of that unless I saw the occurrence-book. I inspected the station while he was there some times twice a month.

3235. At whose advice was Glenrowan station put there?—Mr. Nicolson and Mr. Hare’s.

3236. Do you know as a superintending clerk that the Kellys and their companions, the Lloyds, were active agents of Power and their party?—I was superintendent’s clerk to Mr. Hare at that time, but I had been previously at Wangaratta up to 1867. And when there I knew they were assistants, and also I knew from the correspondence that I afterwards saw when I was Mr. Hare’s clerk, and I knew it after 1870—after Power’s arrest.

3237. With the exception of that lot—Power, Quinn, and Lloyd—were the rest of the inhabitants lawless or the reverse at that time. In other words, were outrages more frequent in that district than in others?—Always. It was always a bad district; it was a focus of crime.

3238. Was it a place where criminals collected?—It was in consequence of two families of the name of Lloyd—the Kelly’s uncles—settling down there.

3239. And then the criminal classes came?—They were arrested by me, and they got three years for cattle-stealing—Tom Lloyd and Jack Lloyd. I got acquainted with the criminals in Wangaratta, and when they came out of there they were never without criminals rallying around them; and the Quinn’s, at the head of the King River, was another depôt. You never went there without seeing strange faces, all of the criminal type.

3240. Is it your opinion that that is a place where there should be police protection of extra efficiency?—Most decidedly.

3241. Was not that principle violated when Glenmore was abolished and Greta reduced?—Undoubtedly.

3242. Would it not be worse than none if an indifferent man was sent?—Yes; because they would have the name of police while absolutely there would be none.

3243. Was Montgomery long there?—Montgomery was either two or three months there. I know the

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moment I noticed him I reported him.

3244. Do you know of your own knowledge as to whether the magistrates and presidents of the shire and the shire councils of the district remonstrated to the Police department against indifferent men being sent to Greta?—To Greta?

3245. Yes?—I do not remember that. I know that a remonstrance was made by the President of the North Ovens Shire, Mr. Parfitt, against a refusal to form a station at Boorehman.

3246. It would lie between those portions of the Murray?—It would lie on the Ovens between Wangaratta and the Murray. It was the track of the cattle-stealers to New South Wales.

3247. Are you aware that they used to exchange horses and bring back stolen horses?—That was not in force when I was there; the Omeo was the place they used to take them to.

3248. This station would intercept anything of that sort?—It ought to from its position.

3249. In what year were Jack and Tom Lloyd convicted for horse-stealing, and sentenced to three years' imprisonment?—Morgan was shot in 1865, and I think it was before that.

3250. Power was arrested in 1870?—Yes.

3251. Were the Lloyds convicted before that?—I think it was in 1864—I think it was before Morgan was shot.

3252. Would it be within your knowledge as to whether the sessions were held at Beechworth or Benalla?—Beechworth.

3253. Do you know that some one or other members of this family wore continually up for trial at those sessions?—Well, I have heard of it many times. I did not know of my own knowledge.

3254. Detective Ward has given evidence of that?—He was much later than I was. That was the first time they were caught when I arrested them, and we were looking out for them a very long time. That was their first conviction to my knowledge. They were known to be cattle-stealing of course, but we could not get at them.

3255. The Kellys must have been young then?—Yes, quite boys. Their mother kept a grog-shop on the Eleven-mile Creek.

3256. Was Kelly's father alive then—Red Kelly, as they call him?—No; I never saw him.

3257. We have had it in evidence that there were serious differences of opinion between the heads of the Police department—did anything of the sort come within your own knowledge?—No.

3258. None whatever?—None. Nothing of that sort came under my observation. In fact, the present enquiry was the first intimation that I had of it to a great extent.

3259. When did you leave the North-Eastern district?—Finally in 1872—March 1872.

3260. Had you, during that time, prior to your leaving the North-Eastern district, drawn the attention of your superior officers to the necessity of greater police protection in that place?—That would not have been my province.

3261. Whose would it have been?—The superintendent of the police—Superintendent Barclay.

3262. You are not aware whether he did at any time do so?—No. I was in charge of Wangaratta, and he in Beechworth. I had nothing to do there, except to look after the stations he instructed me to visit.

3263. At the time you left you were of the opinion that it was necessary to have an unusual number of police there, on account of the crime there?—The stations should have been kept up—that was all.

3264. Had Senior-Constable Hall any man stationed with him when he was attacked?—That I cannot very well remember without the occurrence-book. I think he had two mounted men.

3265. Is it your opinion that, if the police stations which were dispensed with had been kept up and the same watchfulness observed, that the Kelly difficulties which afterwards occurred would have been prevented?—It would certainly have had that effect no doubt, the same stations and proper men in charge. I have heard that the man placed in charge of Glenmore station was utterly unfit. I did not think of that just now, when you were asking about the abolition of the station. There was a constable named McInerney; this I heard afterwards—

3266. Was that the man dismissed?—He died in the Lunatic Asylum I think or got killed—I am not certain. He was placed in charge of Glenmore station, and I was told by a settler of that neighborhood who met me down in town here. He complained of the want of police protection, sending a man like that to be in charge of Glenmore station. Of course that is the effect, that it would be no use having a station there without a good man.

3267. The criminals would soon find out that?—Yes.

3268. Was that man McInerney the man who was afterwards dismissed at the recommendation of Judge Barry?—I heard he was sent to the Lunatic Asylum and died there.

3269. That observation of yours with reference to the unfitness of policemen at those stations would seem to imply that there is not proper supervision of the police force—is that to be inferred from your remarks, because if such unfitness existed for any lengthened period, would it not be very soon discovered if there was a proper system of discipline and supervision maintained over the force—I mean as regards every locality?—I think his immediate superior ought to have known the character of the man. I would have, had I been there at the time.

3270. Is it not a fact that the police, as a body, should be more effective in preventing crime than in capturing criminals after the crime has been committed?—That is a recognized dogma of the force.

3271. Do you believe that?—I believe prevention is better than cure in any case.

3272. Do you believe that is the duty of the police?—Yes, no doubt.

3273. How far towards the Mansfield district did your district go?—Nominally the boundaries of the sub-district are half-way between stations—about twenty miles from Mansfield.

3274. Did you know Sergeant Kennedy, who was murdered?—I cannot remember him, but I know he was stationed under me in the escort at one time.

3275. Did you know Scanlan?—Yes.

3276. Did you know they were specially selected to keep the mountain portions there free from those characters?—No.

3277. Did you know that Flood and Steele, and those men, acted as a cordon there?—No, I had nothing to do with that then.

3278. How often would those out-stations be visited by the inspecting officer?—The order is once a month. I visited them every month, sometimes twice and three times a month.

3279. That being so, what rule is adopted by the officer so inspecting to detect any remissness in the performance of the duties of the man in charge?—It depends on the individual officer. I can only tell what I do.

3280. He reports on every thing connected with the station; is there a general revision of the daily duties performed by the men since last visit?—He has an occurrence-book.

3281. The constable keeps a journal?—A diary.

3282. And the inspection is something after the manner of this—every station is inspected, and everything about it; the buildings, the cleanly appearance; whether the horses had been worked; where the men have been, and everything of that sort?—Yes.

3283. In this case you have alluded to, where the horse was suspiciously fat, that led up to the impression that the man himself had not worked?—Yes.

3284. What test would you have of that fact by reference to his diary—would that show the daily work he had performed?—I cross-examined him on his diary, when I found that, and he could not answer me, and then I concluded that he was telling an untruth, and that he did not go out on bush patrol, and his stating that was to prevent the testing of the entry. He did not say where; therefore we have no means of finding it out.

3285. The unsuitability of this man was a want in the knowledge of the country, and not knowing the criminal class?—Want of knowledge of the criminal, classes and of the country, and want of inclination on this man's part to learn anything.

3286. Does not the efficiency of the test depend on the individual officer himself—you have power to visit night and day?—Yes.

3287. Do the officers go at night?—No, I do not remember ever going to the out-stations at night on purpose.

3288. Do the officers of the force visit stations at irregular times for the purpose of testing the efficiency of the men?—I never remember any officer doing that but one. It was Superintendent McCulloch. He used to visit them at all times of the night.

3289. Is it usual in other countries?—Yes, in Ireland.

3290. At all hours, day and night?—Yes.

3291. To see the efficiency of the men?—Yes.

3292. Were you in the Irish police?—No, my father was.

3293. You got promoted to the position of officer?—Yes.

3294. It was stated in evidence that the efficiency of the police, I think, would be materially increased if young officers from the cadet rank entered into the police force—is that your opinion?—I think it would be quite impossible in this country.

3295. Why?—Because the general feeling in the police force would be so much against it.

3296. Against what?—Against promoting men outside the force. It has been always an understood thing since 1854 that promotion would go from service in the ranks; and it would go far to demoralize it, if such a proposal got wind.

3297. Can you speak from memory as to the age of the youngest officer promoted as an inspector in this force?—I think I was the youngest myself.

3298. How old were you?—Forty.

3299. Is it your opinion that it would be against the feeling of the force—do you yourself consider the efficiency of the service would be increased by young officers being brought into the service or younger men promoted from the ranks?—All things being equal, a younger man is better than an old.

3300. With regard to police service?—Yes.

3301. Why?—He is supposed to have more energy as a rule. I said all things being equal, but of course I might find an old man who would have a great deal more energy than a young man.

3302. How large are the districts those officers have control over, if you are sent to the country districts?—The North-Eastern district?

3303. Yes?—It is a very large size; ninety miles north of Yackandandah is one station I believe, and there are other stations, such as Snowy Creek; and the southern station is Longwood.

3304. Does that entail a great deal of horse work?—There is a great deal of work done by railway now, but it is all horse work north of Beechworth.

3305. A man over forty or fifty would not be so efficient in the saddle as a younger man?—I suppose such would be the case, though I do not know it in my person. I am as well able to work as I was twenty years ago.

3306. As a general rule, would it be the case?—Yes, as a general rule. Men generally get heavier, and they have not the same amount of energy and fire as they grow older.

3307. Is it correct that your conclusion is that you do not think it would be fair to the police themselves, as they expect that promotion will go from the service; except for that, do you think that young, carefully prepared, and trained officers would be more efficient than the present system?—I think the Irish system is the best, if it had been carried out; that is, trained officers appointed by competitive examination, and regularly trained and drilled.

3308. And under probation?—Under probation, to see if they are proficient.

3309. And then promoted?—And then promoted; and, in isolated cases, where men were found suitable, they should be promoted from the ranks, as in the home force; but with the force here, as at present constituted, every man enters it with the understanding that he carries a marshal's baton in his knapsack—that he can rise to the highest rank if he conducts himself properly.

3310. Is there a feeling in the force against promoted men, as there is in other services, amongst the men themselves. Is there a feeling amongst the ordinary constables and sergeants against the men promoted as officers?—In connection with men promoted from the ranks, there is decidedly, amongst those who are aspirants themselves; a great number of men think they ought themselves to be promoted.

3311. In those promotions that are made, what is the difference of their pay when they are promoted and when they leave. What was your pay before you were promoted?—When I was promoted my pay was £14 5s. one month and £14 4s. 6d. another month. I was then with Mr. Hare.

3312. What did you get as sub-inspector?—£20 6s. 8d.

3313. Is that sufficient pay, in your opinion, for the difference between the officers and the expenses attending that position and sergeant's pay?—I do not think so.

3314. What year were you appointed?—I was recommended for promotion by Mr. Nicolson and Mr. Hare. Mr. Hare selected me in his office to go up to the North-Eastern district at the time of the Power outbreak, and subsequently I was ordered to meet him and Mr. Nicolson at a settler's station, and thence we went to the head of the King River, and I was with them when Power was taken, and the two officers did not themselves accept any remuneration on account of their services; they only asked for my promotion, and I was promoted.

3315. You think the Irish system would be a better one than that?—That would be the Irish system I have spoken of.

3316. The questioning has been particularly with regard to officers so far—now I would like to ask what is the practice as regards the men and constables generally, the system that is adopted by the chief of police and the officers co-operating with him, in locating men; that is to say, supposing a constable was appointed to Melbourne, would he be appointed only for a given time or would he be there until he was ordered to remove; is there any system of interchange by which men will be kept moving about?—No system at all.

3317. In your opinion, do not you think that the efficiency of the police would be increased by having an interchange of that sort, so as to cause ordinary constables to be familiar with every district in the colony?—I think it would be very beneficial, but not for that reason alone.

3318. There are many others, but that is one?—Yes.

3319. What are the others?—When a constable is left too long in one place he gets property, surrounds himself with encumbrances of various sorts, and he seems at last to look after his own affairs a great deal more than the affairs of the police force.

3320. That would not apply to a district like the North-Eastern, where they need to know the criminal class?—There may be instances in which I do not know of my own knowledge, unfortunately I know very few men who had money there, when I was there, because they were very active men, while activity there means spending money to get information.

3321. What difference is made between the single and the married men in appointments?—I never knew any difference. If a man is thought suitable he is sent to a certain place; of course at some stations it would be necessary to station a married man; in some stations the man's wife cooks for the station. In some there are quarters only for married men.

3322. Would that do in the North-Eastern district?—I have a great dislike to married men myself, but my opinion is not shared by every officer in the force.

3323. Is it the custom to be accommodated with house room at the barracks, or are they permitted to occupy private rooms?—The rule is laid down in the regulations; the Government is not obliged to provide barracks, but if there are quarters available they are allowed to occupy them, provided they keep them in repair until they are required. You will find it under the head of "Buildings."

3324. What proportion of the constables at present in the police service are accommodated by a selection of their own?—I could not form an idea.

3325. In country districts they have their quarters in the police barracks?—No, not all the married men; they have at Benalla.

3326. That is the officers' quarters—I mean the out-stations; do they reside at the barracks?—At some places—Wangaratta, for instance.

3327. Assuming they were all provided with barrack accommodation, if the system were adopted of locating the men for a given period at one station, would the efficiency of the service be increased?—As a rule, yes; but there are exceptions, for I have known men to be stationed a long time in stations that were just as efficient the day they left as in the beginning of their career, but then they are few and far between; and of course, the man that does his duty zealously, the longer he is there the better, because he knows the whereabouts of people.

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3328. As an inspector, you could tell at the places you visited every month whether the officer in charge was really discharging his duties?—No, not necessarily. You might go to a station; you could not see it on the surface; you might get information about it.

3329. Do you place yourself in a position to get that information. As a rule, has not an inspector got sufficient judgment to lead him to the conclusion as to whether the place he visits is properly conducted. You visited Glenmore, for instance; were you not able to form a pretty correct opinion as to whether the police had done their duty since the visit before?—I understand what you mean; but it is a wide question, and the duties of the constable are so varied, and further, you must judge of his efficiency a good deal by results, and those results will not appear in the books except the crime book.

3330. You can judge if his arms and accoutrements are in good order?—Yes.

3331. But can you judge whether he has taken a liking to one lot of men and a disliking to another?—Certainly not.

3332. Or whether he has discharged his duties faithfully?—I cannot. The first point is to see that the forage is correct according to his books, and that the Government property placed in his charge is in proper order, that his horse is properly groomed and looked after properly, and that his books are properly kept, and written up to date. The crime book will afford an indication of the number of offences reported to him. The occurrence book will show when he goes out and in, where he went to and generally what he did, but beyond that it is impossible, to say.

3333. Then when a constable is placed in charge of a district, what means have you as an inspector of ascertaining whether the constable is performing his duties as he ought, beyond the observations of the stores and books and so on?—By information received, for one thing.

3334. From the people of the district?—People I knew—a man I would know intimately, he would tell me in a minute if he knew that so and so was going wrong. Of course a man's personal appearance when I go to the station would be a very good indication of what he was doing.

3335. Who would be responsible for the proper management of the police in the outlying districts?—The superintendent in charge of the district.

3336. And you would be in a position to ascertain from his report whether to retain or remove a man?—Decidedly.

3337. If an officer of police were placed at one of those out-stations, and he had obtained one or two thousand acres of land, that would not prevent his being there if he did his duty?—No, decidedly not.

3338. You stated just now that you would examine the occurrence book and the crime book?—Yes.

3339. If there was frequent crime in the district undetected and the offenders not made amenable to justice, would you not know that the man stationed there was more than likely inefficient?—Not necessarily.

3340. Would the book show the action the constable took on that information?—It would only show he had made enquiries, in a general way, it would not give the details. For instance, two men might come over from New South Wales and go to Moyhu, and steal horses there, and successfully pilot them across into New South Wales, and it would be a difficult thing to make the police officer responsible for that. It does not necessarily follow that the thieves live in the district.

3341. But if offences were taking place constantly in the district, and no man made amenable?—It would not be policeman's fault alone.

3342. Would it not cause you to enquire if it was his fault?—It would necessitate a very large amount of supervision on his part.

3343. Would not the inspecting officer be bound in that case to be doubly careful if he doubted the man's efficiency?—Undoubtedly. It is laid down in the regulations.

3344. Do you know anything about the promotion in the service amongst the men; is it by the Chief Commissioner?—The Chief Commissioner.

3345. Upon what recommendation?—Upon the recommendation of the superintendents of police.

3346. Is it altogether arbitrary on the officer taking upon himself the responsibility of recommending promotion, or is it by political patronage?—There is no political patronage I am aware of. Promotion is made by the Chief Commissioner of Police on the recommendation of the officer in charge of the district. There are

a certain number of promotions allowed in each rank in proportion to the number of men in the district. For instance, Superintendent Winch in Melbourne would be permitted to recommend a greater number of men for promotion in the ranks than any other officer, because he has a greater number of men under him.

3347. Then another man more efficient in another district might in consequence of that fact not be promoted?—Yes; or another man very inefficient might be promoted over the head of a good man here.

3348. That may occur?—Yes.

3349. It is not by a mere general system of record sheets?—No. With reference to the superintendents' action, I was not a superintendent, but I believe it was always the rule of the superintendents I was with that the record sheet, together with the man's general efficiency, length of service, aptitude for the post, and so forth, was the basis upon which he recommended.

3350. It is quite possible then that in the city of Melbourne a man with a shorter service, and without an efficient record, would be promoted over men of a more lengthened service in the country districts?—No, on the contrary; you must reverse it. The man in the country competes with only 30 men, while the man here competes with 300—that is the difference.

3351. Do you know if that is a matter of complaint?—Yes, I know it is a matter of complaint.

3352. The men in each district are promoted for their district, and not through the police force generally?—That is a question I cannot answer. I do not know what reasons the Commissioner may have for promoting men. I can only state the manner in which the names are submitted to him. A man can be removed to any part of the colony.

3353. I understood you to say that a policeman in Melbourne had far less chance—300 to 30?—Yes.

3354. What I wish to know is—are those promotions confined to localities?—Each officer recommends so many for promotion.

3355. Then how can there be discontent, if a certain number out of 300, and a proportionate number only out of 30, can be recommended?—The discontent is this—Take the case of a senior-constable, we

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will say in a small district, the Western district—he is promoted, and he may be the best man there, and recommended by the superintendent on that account. He comes into Melbourne here, and he takes precedence over men that are his seniors in length of service and his superiors in ability and everything.

3356. Now, as a matter of fact, when he is promoted, is he not removed at once?—He ought to be.

3357. That is understood?—He must be unless there is a vacancy made for him in the district, because only a certain number are allowed in each district.

3358. Do you know that senior-constables in the district are employed in private service for which they receive remuneration altogether independent of the Government service—as inspectors of nuisances, and so on, by shires and others?—I know that is so, because I was inspector of nuisances myself at one time.

3359. Do you think that is good for the public service?—I do not; I think no man should hold any position except that in the Government service.

3360. Do you not think that it is very unsatisfactory that officers highly paid, and whose services ought to be applied to the Government service, should be employed in those subordinate things?—That is my opinion.

3361. Do you know that there are constables who devote nearly their whole time to those private duties?—I was aware of it in Melbourne.

3362. In the country?—The same principle applies. I do not know that they do devote their whole time in the country. It has that tendency; they can always say they are on that duty, and they cannot be disbelieved.

3363. How much did you get for that position?—£20 in Wangaratta.

3364. Supposing that a man can say he is at that work when his officer reports him for some neglect, that is very unfair to the Government service?—I do not think that there can be two opinions about that.

3365. You believe that prevention is better than cure?—Yes.

3366. You believe that if there had been better supervision by police in the Kelly district we would not have had the trouble with the outlaws?—That is my opinion as far as I can judge.

3367. Are there other districts where crime has existed and the police have been removed?—I can speak of my own personal knowledge only of north-eastern Victoria, and I think that is quite exceptional, and that the removal of police from there would have a far greater and more immediate effect than in any other locality that I know of.

3368. On account of the character of the population?—Yes, on account of the character of the population.

3369. And the character of the country?—Precisely.

3370. When you went to capture Power, the bushranger, with two officers, who ordered you for that duty?—Mr. Hare.

3371. Where was he stationed?—At the depôt, Richmond.

3372. What position?—Superintendent of the depôt—the county of Bourke.

3373. Did he succeed Mr. Bookey?—I do not know.

3374. Where were you stationed at that time?—I was Mr. Hare's superintending clerk at the office.

3375. Did he take you up?—No, he sent me up before.

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3376. Were you altogether then under Mr. Hare's control?—At the time I was sent up.
3377. There seems to be a difference as to who was in charge of that party. Mr. Nicolson was the senior officer, under whose control were you supposed to be then, and that party was supposed to be?—There was no manifestation that I could judge of who was in charge until we were going up to where Power was. Then Mr. Nicolson stepped out and said—"I will go first; I am the senior here."
3378. And made you believe that he claimed that position?—There is no doubt about it.
3379. Suppose that Mr. Hare had disputed that, and told you not to go, what would you have done?—We were all going together.
3380. How could you go together?—We did.
3381. What would you have done under these circumstances. Suppose Mr. Nicolson said—"Go with me," and Mr. Hare said—"No, go with me"?—I cannot imagine such a contingency.
3382. What I want to ascertain is this—On that particular morning, if Mr. Nicolson said—"Come with me," and Mr. Hare said—"No, come with me," which would you have obeyed?—Mr. Hare. I was acting under him.
3383. Which was superior in rank?—I know Mr. Nicolson was senior.
3384. Would it not have been your duty to have obeyed him?—I would not have minded that there.
3385. Would it not have been your duty, as under an officer who was under Mr. Nicolson, to obey Mr. Nicolson?—It would be my duty to obey the order of the senior officer
3386. As far as that expedition after Power was concerned, Mr. Hare had the control of it?—I did not understand it so. The thought never struck me.
3387. You said that you would have obeyed Mr. Hare—why?—Because, as he brought me up there, I was in his charge continually, under his immediate control and supervision, and I looked upon him as my personal officer.
3388. There is no personal officer in a case like that?—You asked me what I would do; I have told you, if there were such a contingency.
3389. Would it not have been Mr. Nicolson's duty to instruct Mr. Hare to instruct you?—It is so far fetched that I could not possibly say. I can only tell you what I think I would do now. I am sure I would have obeyed Mr. Hare if there had been a conflict of authority.
3390. Mr. Hare, in his statement, says he was sent for by Captain Standish and instructed to proceed to the North-Eastern district to capture Power—that he met Mr. Nicolson in the street afterwards and Mr. Nicolson asked him whether he would allow him to accompany him, and Mr. Hare put it to this Commission that he had charge of the capture of Power, and up to the morning when you were proceeding to capture Power Mr. Hare thought he was still in charge of that capture. Were you under that impression at that time?—The thought never struck me; you asked me did I form an opinion on it, and I wish to tell the exact truth, that I did not form an opinion. There are some questions I cannot answer, because the thought never struck me. I am telling you what my impression was at that time. I saw no act of
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- claim to pre-eminence until we were going up the hill, and then Mr. Nicolson instantly assumed the command; that was about ten minutes before Power was captured—previous to that they appeared to be acting together.
3391. I want to ascertain who, in your opinion, was entrusted by the Government, or the Police department, with the capture of Power on that occasion?—I never knew.
3392. Did it ever occur to you?—I never heard of it, and I never heard it mooted until this Commission sat.
3393. And you were the superintendent's clerk?—Yes.
3394. And saw the correspondence?—No, I never saw the scratch of a pen about it. To recur to that matter, I was instructed about the middle of May, the 20th, by Mr. Hare one day, that I was to go up to Wangaratta to look after Power. I knew nothing whatever about its being his intention to go up or to send me further than that, I knowing the country, the Chief Commissioner decided I should be sent up to assist in catching Power. I was not aware that any information had come in to justify any extraordinary effort. I went up with that understanding; I got no information. My horse was sent up to me, and I think it was on the 24th of May I got a telegram from Mr. Hare—"Meet me at Kilfera station," or "Me and Mr. Nicolson on Sunday next." My horse arrived on the Saturday, and on the Sunday I went to Kilfera and met them there. That was the first knowledge I had of their having any definite idea of where Power was at all. That was on the 29th of May and he was captured on the 5th of June. We started on Thursday, the 2nd of June, from Kilfera station.
3395. You had a pretty accurate knowledge of the North-Eastern district generally?—A portion of it.
3396. Wangaratta, Greta, all that known as the Kelly country?—Yes.
3397. Can you give the Commission your idea as to the time, and means, and money spent over the capture of the Kellys—whether it could not have been arranged better than it was, from your knowledge of the district?—I have no idea of what was done. I was not up there; I was in Melbourne at the time it happened, and during the currency of the pursuit I was here, and not till last July, after they were taken, did I go up, so I could not give any definite opinion on the subject, because I know it was a very arduous task in various ways.

3398. What made it so?—The extent of country over which they ran, the amount of assistance and help they could get at all points. That necessitated an equal dispersion of the police, and an equal amount of watchfulness on the part of the police; so that no person knew where something would not occur, therefore it required a large number of men spread over the country.

3399. Would the character of the Kellys have anything to do with it?—Undoubtedly.

3400. That they could creep out and get provisions and so on?—Yes, that is involved in my answer.

3401. Are there many men in the force capable of coping with outlaws in a country like that—bushmen in fact, good shots, and so on?—They may be good shots, but the thing is to find the outlaws; it is not how to shoot them, catching them is the difficulty.

3402. Would it not be possible for the policemen not to want to find any four men so well armed?—That might occur.

3403. Did that occur, do you think?—No, it did not, from my knowledge of the men.

3404. Do you believe they would go anywhere to face them?—Yes.

3405. Do you believe there is a single coward in the force who would not face them?—Yes, I believe there is.

3406. Have you formed any opinion as to the shooting of Sherritt?—I have read the original depositions, and seen the ground-plan of the house where they were.

3407. What is your opinion of that?—Well, it is a difficult question to answer.

3408. Was that a display of courage, their getting under the bed?—It happens that I know one of those men, and I believe he is as sterling a man as any in the force—I mean Constable Armstrong.

3409. Is he not notorious as a fire-eater in the force?—He has a character of great daring. I knew him in the city on one occasion walk up and down Little Bourke street in danger of his life.

3410. The cowardice of three men might have outweighed the bravery of one?—Yes; but I do not want to give an opinion on that case.

3411. You have closely followed the history of all this Kelly business—the action of the police?—Yes.

3412. Is that the only case you know where the slightest attack can be made upon the courage of the police?—It is the only case I ever heard of. I beg your pardon, as I am on my oath—I did hear that some police turned back near Wangaratta, and that the officer in charge displayed an amount of apathy in not pursuing the outlaws when the men under him considered he should have done so.

3413. That was Inspector Brook Smith?—Yes.

3414. Are those the only cases?—Yes.

3415. In regard to Armstrong, who was in charge?—I did not know he was in charge. I would go with Armstrong anywhere myself, and that is the best compliment I could pay him.

3416. You have heard the statement about those four constables remaining in Sherritt's house. After reading that, do you believe they acted wisely in remaining inside on that occasion, purely from a police point of view?—I do not think I would have remained in.

3417. If you would not, you do not think they ought?—I think they ought to have made a rush. That may not be the fault of one—there is no use one man rushing unless they all do it; and besides, as I remember, the manner in which the door was opened, the door obscured the person who was standing outside. They could not see him from where they were standing inside the room. I am judging from the depositions I saw.

3418. The opinion that you formed of the North-Eastern district, more especially what is now known as the Kelly country, led you to believe in those days that it required special police protection?—Undoubtedly it did.

3419. Have you formed the idea that special men should be specially trained for that work—good shots and good bushmen?—I think so now.

3420. And that ought to be done even now, from the latest reports we have received from that district?—Special men should be selected—good bushmen.

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3421. Men reared in the locality if you could get them?—That would be much better.

3422. In your experience in the Power business, had you been in charge, or if you were now placed in charge of that district, and another outbreak took place of a similar character to the last, would you explain the course that you would adopt in suppressing or endeavoring to suppress a gang of that description?—I could not answer that question.

3423. Have you read the evidence that has been taken sufficiently to be enabled to express an opinion on the course of proceeding adopted by the officers from the time of the murders to the capture?—That is a very large question.

3424. I am asking if you read the evidence?—The impression I gained from the evidence was that there were two systems in vogue—one was the system of patrol through the bush, and the other was the system of secret service. You ask me which do I think the most effective. As far as my opinion goes, I think the patrols would be useless there.

3425. Why?—Because it is like looking for a needle in a bundle of straw.

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3426. Do the roads run up the valleys?—The men will not go on the roads, and they do not require to.

3427. Could the police go any other way?—Certainly they could.

3428. Could they go with their baggage?—They can go with pack-horses through the bush.

3429. Did they as a matter of fact?—That I cannot say.

3430. Would it not be very inconvenient?—No; pack-horses are used in travelling stock through bush.

3431. Would the Kellys go where police could not?—One horse could go where another could.

3432. Are there not horses accustomed to mountain country that can go where no other could?—There are some police horses will go where any other horse will go.

3433. It was stated that the outlaws had such superior horses that the police could not follow them?—I do not believe that.

3434. If it was a system of waiting for secret information, do you believe, after reading the evidence tendered by the officers, that the system adopted there of the secret service was likely to eventuate in the capture of the Kellys?—I think so—more so than the other.

3435. Will you tell us why?—For this reason, the outlaws could choose their own time to go out—there is no necessity to go out and meet the police, they can always avoid the police—there is any amount of scope to do so. It would be their own fault if they did meet them; and another thing, I got information from a private source, which I cannot mention of course, that the outlaws used to travel by night; well, even if the police did travel by night, they could not see them even if they did meet them.

3436. It would be a mere matter of chance?—It would be a mere matter of chance—a fluke. I am merely giving an opinion—I may be all wrong.

3437. Do you know that those men committed their cattle-stealing depredations, and drove them always at night?—I heard so and I believe so.

3438. Have you ever had experience with the black trackers in this country?—No, I never saw any until I went up in July last.

3439. With your knowledge of the country, do you think it would be desirable to have a number of them located in the Kelly country?—I think it is a very important adjunct from what I have been informed by Mr. Sadleir of their capabilities.

3440. Have you ever formed an opinion as to the advisability of amalgamating the two branches of the police force, the detective and the general?—I have formed an opinion, but what it is worth is another matter.

3441. What is it?—I think the present system is not conducive to success at all.

3442. Do you believe that in the detective police there are such cases as what are known in the force as “put up” cases?—I could not say of my own knowledge.

3443. Has it come under your notice?—Cases in the police court have been pointed out to me, but there was no proof that they were “put up”—the assertion has been made.

3444. Have you formed an opinion—every man forms his own opinion—as an officer stationed in Melbourne a long time, and being as able to obtain information on that head as any man in the force?—It is a very serious matter for me to cast imputations upon any man.

3445. Have you formed any opinion that there have been cases known as “put up” cases?—As a matter of evidence I have not. I might be accusing some one unjustly.

3446. No?—I must form an opinion.

3447. I want your opinion generally?—I have heard of cases at times in which those facts were as described to me that I believe the case was “put up,” but I do not say the facts were so. I may have been misinformed.

3448. Had it that appearance in your mind?—Provided the facts were as stated to me, it did.

3449. Is there a general feeling between the two branches of the service, or is there a strained feeling between the two?—There is a very antagonistic feeling.

3450. Do you know that there is a strong antagonistic feeling between the two branches of the service?—I think so.

3451. You have already stated that it would be better to have the whole of the service under one control?—I did not say that. You introduced your question to me by that, but I did not answer it in that way.

3452. Do you think it would be better under one general management, or how would it be better than at present?—It is rather too extensive a question for me to answer.

3453. It is not a very extensive question, it is only for you to express your opinion about?—Yes, I think there should be a different system. You ask me my opinion of the detective and general police.

3454. Will you explain what you mean by different?—A different system established. I think the ordinary detective police, as they are in Melbourne, might be divided into two classes. They are what I call nothing less than plain-clothes police, and there are some three or four very good men—I mean high-class detectives—but the majority of the detective police are just equivalent to our plain-clothes police in Russell street as regards their ability to detect crime.

3455. At considerable expenditure?—I think that a detective should be a man of high-class ability.

3456. Do you consider that a large number of them are not suitable for the position?—I do think that a large number of them are not suitable as detective police.

3457. Are we to understand that you would recommend that the detective force should be reduced to a few really good efficient men?—No, not reduced, not a reduction.

3458. I mean so far as the management is concerned at present. The other detectives you speak of as not possessing special ability should be under the control of the ordinary police, and at any time Constable So-and-so could be sent out in plain clothes?—That is my opinion. I believe the detectives should be divided into two classes—one under the direct supervision of the superintendent in charge of the district, the other under the supervision of the Chief Commissioner himself.

3459. That is a higher order?—That is a higher order, who, I should add, I do not think should be known to everybody.

3460. To direct operations?—Yes, to be used when information is received from other sources that would require their attention, and that they should not be used in police courts and seen amongst prisoners.

3461. Their efficiency becomes destroyed by publicity?—Yes, in the police courts, and being known by everybody.

3462. They should be men superior in intellect and ability?—Decidedly; pay them well and pick them for the work they may be best fitted for. Some men have an aptitude for detecting horse-stealing on a large scale—some men have a commercial mind, and are useful for embezzlement, high-class forging, and so on.

3463. Is it the custom of the police to visit the police cells every morning?—Yes.

3464. And by that means become known as detectives?—It is for the purpose of the prisoners becoming known to them.

3465. Have the prisoners not the opportunity then of knowing the detectives?—Yes; every man, I believe, discharged from Pentridge is discharged through the detective office. I wish this to be understood, that I express this opinion with great reluctance, because I am pitting my individual opinion against men of much greater experience than myself.

3466. Do you believe it is advisable to continue the present management of the police under one responsible head, or would it be more advisable to have, say, a commission of three?—Yes, I think it would give a great deal more satisfaction in the force. I say so on the ground that I think it would give more satisfaction to the men.

3467. You say it would give greater satisfaction to the police?—I think it would.

3468. Would it be, do you think, in the public interest to appoint a commission of three?—Yes, because what would give satisfaction to the police would be conducive to the public welfare.

3469. Would you describe what you would recommend as the duties of those three special commissioners?—I think one should be chairman, and the other two should travel like the provincial inspectors in Ireland.

3470. Why make an exception of one?—There must be a chairman—there must be one.

3471. Why not recommend that the three should travel at stated periods in different localities in turn?—There is no objection to that, except that I cannot conceive a regiment with three colonels. I offer the opinion as regards the three commissioners to prevent the possibility of an accusation of favoritism being made against the head of the department. I think two commissioners would be a check on the chairman.

3472. And to assist their deliberations?—Certainly, that is what I mean.

3473. All of equal standing, except one appointed as chairman?—Yes.

3474. Were you inspector of the North-Eastern district at the time of the Kelly outrages?—No, I was in charge of No. 1 here.

3475. You were at the dépôt?—Yes.

3476. Who is responsible that the constables trained from the dépôt are efficient for service?—The superintendent in charge of the dépôt.

3477. What does the efficiency consist in?—Knowledge of the use of arms.

3478. What arms?—When I was there the men used to be drilled with the old carbine, the muzzle loader, and the foot were armed with the ordinary Enfield rifle.

3479. Were they supposed to understand that?—Yes.

3480. And the mounted men pistol exercise?—Certainly. I might add that the officers had only the opportunity of arming the men with the arms afforded them to arm them with.

3481. There was a statement about the inefficiency of the men on account of not being accustomed to arms—were they from the dépôt?—I never saw an instance yet where a man could not use his arms.

3482. There was one statement where a man said he had never fired off a gun in his life?—A gun?

3483. Yes?—The carbines were not used in the mounted service.

3484. Is it your opinion that constant supervision—what you call “pressure”—ought to be continually maintained, night and day, over those men that are committing these outrages?—Certainly, as offenders in all places should be.

3485. And that the men charged with the maintenance of peace in the district should be efficient, active, intelligent men?—There can be no two opinions about it.

3486. And better have none at all if not such men as that?—I cannot say that.

3487. Every policeman is not alike?—I know some perfectly useless, not fitted to be there or

anywhere else.

3488. Have they the best men there now?—I do not know; I have not been there for a very long time.

3489. If you found on taking charge of a district that there were inefficient men, you would at once call attention to it?—Yes, I have instructions to that effect.

*The witness withdrew.*

*Adjourned to to-morrow, at Eleven o'clock.*

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WEDNESDAY, 4<sup>TH</sup> MAY 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

J. H. Graves, Esq., M.L.A.,

W. Anderson, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.,

E. J. Dixon, Esq., J.P.

William B. Montfort further examined.

*The Chairman (to Mr. Nicolson).*—You had a question or two to ask Mr. Montfort, you said; you can do so now.

3490. *By Mr. Nicolson.*—I want to ask with reference to inspecting stations. He stated yesterday that stations were not visited by the officer in charge on inspection at night or early in the morning. Am I correct?

*The Chairman.*—There was one officer he excepted from that. He said it was not the usage of the service to inspect at night or at extra hours, and Mr. McCulloch was the man.

3491. *By the Commission (to the witness).*—Are you aware that stations are far apart, and must necessarily be examined at night in some instances?—I only speak of my own experience. Mr. Nicolson may have done so. I am only speaking of my own experience before I came to Melbourne.

3492. When an officer takes to visit two or three stations in one day, must he not necessarily start very early in the morning, and reach the first station before breakfast, or earlier than that?—I only speak of my own experience. I have known the inspecting superintendents—that is, those in the habit of inspecting my stations—if they arrived in the evening, or over night, they invariably inspected the next morning. That was my custom. I never had a station inspected at night. I only speak from my own knowledge. I do not know what Mr. Nicolson's system or custom has been, because he was not inspecting stations. Of course I exclude the city, because the city watch-houses are inspected at night.

3493. You are speaking of the inspecting superintendents?—I have never known them to do so. They may have done so without my knowledge.

3494. *The Commission.*—At such hours as twelve or one at night?—I have never known it to be done.

3495. *By Mr. Nicolson.*—You spoke of one instance, where Power was arrested, when I used an expression to Mr. Hare or to you that I was the officer or leader of the party?—The expression was not that you were the leader or officer. The expression was, "I will go first here; I am the senior."

3496. *By the Commission.*—You said that occurred ten minutes before the capture?—Yes.

3497. That was the first overt act by which he claimed to be the senior?—That I noticed. The thought never struck me to enquire who was the leader; both were acting together in concert without any apparent priority on either side.

3498. *By Mr. Nicolson.*—Would two officers in such a case stand on ceremony?—No.

3499. Except when it came to a crisis, and then the senior officer would exercise the right if he chose?—That is the case. I am merely telling my feeling at the time.

3500. Do you remember when we reached the small plateau on which this man's mia-mia was erected, going up the hill, my making a sign to you or Mr. Hare to follow me to go round by the back?—No, I do not remember that.

3501. Do you not remember my waving my hand?—No.

3502. Did you not go to the back?—I did not take any one's direction at the time.

3503. Here was the mia-mia, there was the tree—[*explaining*]—about seven in the morning. We were coming up this hill. I ran towards the mouth of it and I signed to you to go round?—I do not remember your signing.

3504. Did you go round?—I did; but the reason was because you were at the other side.

3505. Did you and Mr. Hare go round to the back?—We did.

3506. A long time has elapsed—are you sure that what prompted you was not a sign by my beckoning with my hand?—I am quite positive it was not your beckoning that caused me to go round. You may have beckoned, but I did not notice it. My reason for going round was you were at one spot and there was a lot of hop scrub at the other side, and my idea was he would jump out and escape there.

3507. *By the Commission.*—What was the mia-mia?—Made with a blanket, bushman's fashion, and covered over with trees.

3508. Therefore if a man approached the apparent entrance the man inside could escape at the

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side?—Of course, if Mr. Nicolson went to the front he could jump down the declivity at the side and get into the hop scrub. Therefore I ran round the hill immediately alongside of me, and when I was getting in front Mr. Hare pushed me back, so that he got in front of me the other side.

3509. *By Mr. Nicolson.*—Where was I?—In front of the gunyah.

3510. Was not I inside?—No, my recollection of you was presenting your pistol at Power.

3511. How could I have been doing that?—That is my recollection of it.

3512. You stated that you protested against the first suggestion of the abolition of the station at Glenmore?—Yes.

3513. At whose instigation did you do that?—At yours.

3514. You did not say that yesterday?—I did not think there was anything in it. I certainly did not claim any credit for doing it.

3515. Is that your signature?—Yes.

3516. Is this what you mean to say, “In conclusion, I consider the withdrawal of any of the police at Glenmore, or breaking up the station, would be a great mistake, and, now that the police stables have been burned, such a step would be most disastrous to the prestige of the department in north-eastern Victoria”?—Those are my sentiments still.

3517. Are you not aware that the reward for Power was promised before his arrest to the informer?—I was told so.

3518. Therefore how could we take a portion of it?—I do not know what the reward was, but I understood from the conversation between you and Mr. Hare, in the Royal Victoria Hotel, on the occasion that you were writing the report concerning the arrest of Power, I understood from both you and Mr. Hare

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that you would not accept, either of you, any pecuniary reward for the arrest of Power—that the only thing you wanted was my promotion.

*Mr. Nicolson.*—There was a great deal made of our magnanimity in not taking that. I must strip the thing of that illusion, for we had no chance of getting it, so there was no credit due to us—it was no feather in our cap.

3519. *By the Commission (to Mr. Nicolson).*—If the reward had been available by you instead of by the informer alone, what would have been your feeling as an officer as to taking it?—I would not have taken it.

3520. Is not that the general feeling?—Yes.

3521. That a reward should not be taken, but let it go to the general fund, and every man to do his duty?—Yes.

3522. Would not the taking of rewards lower the standing of the lower officers of the force?—Yes.

3523. Could anything be more calculated to lower them?—No.

*Mr. Sadleir*—[*handing in a paper with names on it.*]—That is a list of persons looked upon by the police as belonging to the criminal class in the North-Eastern district.

3524. *By the Commission (to the witness).*—Will you read those names over?—[*The witness did so.*]

3525. Are those persons known as criminals in the district?—I know six of those by repute, but cannot speak of those I do not know.

3526. Do you consider that criminals of the type of the Kelly be allowed to select in the district?—No.

3527. *By Mr. Nicolson.*—I go further than that. Should persons whom we may know by experience as likely to help offenders have facilities to settle in the district—is it a good policy, and tending to the peace of the district, to allow them to settle, especially in remote mountainous parts?—It is a difficult question to answer, because if they are in the habit of helping criminals, they are criminals themselves, and my first answer covers that.

3528. Suppose they are criminals, or ready to assist, is it desirable to let them take up selections in mountainous lonely places?—I do not think so. I think, on the contrary, it should be resisted most strenuously on every occasion.

3529. John Quinn, you know him?—Yes.

3530. Has that man ever been convicted?—No. He was in my mind, for though he was never convicted, yet at the same time he is a most undesirable man to be allowed to select, more especially on the verge of civilization.

3531. *By Mr. Sadleir.*—Is he not, taking him all in all, a dangerous man?—He is, undoubtedly.

3532. Would it not be desirable to prevent men of that class, and women also, settling in any district so as to form a community or band of criminals?—I think if it were possible to prevent it it would strike the greatest blow at horse and cattle stealing, and crimes arising therefrom, that could be struck. It is the aggregation of those families that has been the bane of the North-Eastern district.

3533. *By the Commission.*—That list of names has been submitted to you, and you have answered generally upon it. Will you look at the names marked No. 1 and No. 3. Do you know those of your own knowledge to belong to the class of men such as would be undesirable as occupiers of land?—I know nothing

of my own knowledge of the first one.

3534. What about the second one?—I know nothing about him.

3535. Do you see this name here—[*pointing to another*]?—do you know him, or any of his family?—Yes.

3536. Would you class that man amongst them?—Decidedly. Not as being direct criminals themselves, but aiders and abettors, and sympathizers, on all occasions. His two daughters are married to criminals.

3537. Did I understand you to say, in reply to a question by Mr. Sadleir, that in the interest of the public service it would be desirable to prevent suspected persons, by reports from the police, from becoming selectors of land under the Land Act?—Yes, persons that they have a reasonable ground for believing to be so, which reasonable ground can be substantiated, because the police may have good grounds for believing a man to be a horse stealer and yet not be able to arrest him. If they could prove it, of course he could be arrested, but the police may know it only from circumstantial evidence, which may yet be quite sufficient to establish their belief.

3538. All this applies to the Kelly district in consequence of the outrages?—And it has been so for years.

3539. There is no other district in the colony it applies to?—I do not think so. I may mention that it is the law here in Melbourne, that the occupier of a house which is frequented by disorderly person and thieves can be brought up under the Vagrant Act. None of those persons I speak of are themselves suspected persons, but they always harbor and allow their places to be frequented by men who have been known to be criminals. On those grounds the law would simply be extended, or the operation of it, to certain extent. I am only giving my opinion, but I am put on my oath to give my opinion. I would just add that in north-eastern Victoria the persons referred to in Mr. Sadleir's question had, in my time, the invariable tendency always to settle at the back, always on the outside of the settled country, having nothing behind them but the ranges—that was always their disposition.

3540. And anybody that travels will always find it so along the skirts of the Gippsland mountains?—Hence the difficulty of getting at them.

3541. Would you recommend that a list of the persons of the character you allude to should be kept in the Crown Lands office, in order to avoid the evil you speak of, as being the most effectual to prevent it taking place, by the report from the police from all the districts?—I think so, because I do not think the aggregation of those people in any locality ought to be allowed. It has always been productive of the greatest evils in that district as long as I remember.

3542. Are you aware that in the North-Eastern district exactly what the last question proposes has been done, that a very large number of names are in the hands of the Lands department who will be refused land on applying for it in that particular district?—I heard so; indeed I saw the correspondence in connection with one man, but that is all I know. It was not so in my time.

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3543. Do you approve of the desirability of preventing the collection of those dangerous characters, who concert together, settle in the district, and so act together; do you consider it desirable that when those men apply for land, pay the survey fees, and the case is heard in open court before the public, for the officer in charge of the Lands Department to say, "I refuse you this land in consequence of the police objecting to your taking it"?—Well, putting it in that way, it is a very hard case, no doubt. I think the police should be called upon to give reasons, but those reasons should be looked upon as confidential.

3544. Can you approximately estimate the number of persons of the class you allude to now in occupation of lands up there?—I am not speaking of the state of affairs there now. I know nothing about it. I have not been there for the last eight years.

3545. You appear to be aware there are a large number of persons of that sort?—I am referring to the names of those persons on that paper that I know were suspected as being a bad lot.

3546. You do not know whether they are in possession of land?—No.

3547. Look at the one marked S and the one marked "crosses," do they belong to the class that ought not to get land?—There is nothing against them, to my knowledge.

3548. *By Mr. Sadleir.*—Are you not aware there is a warrant against one, then?—I have already said that man should not be allowed to have land.

3549. You say there are no other districts in the same state?—Not to my knowledge.

3550. Are you aware of the country beyond Omeo?—I look upon that as all North-Eastern Victoria, and the Omeo should be protected as much as the other.

3551. There are papers in the office that will show the same evil extends all along the Dividing ranges, and from the late Superintendent Singleton, of New South Wales, showing that he could not send any party into the Tumberumba country of less than four; and I am sure we shall have all this trouble over again in the North-Eastern district or Omeo district, or the adjoining parts of New South Wales; have you a knowledge of the country I have referred to?—When I went to Wangaratta in 1862, the great trouble the police had then was with the Omeo mob of horse-stealers. They used to come across to Wangaratta, steal horses, go to Omeo and plant them in the ranges, and alter the brands, and then sell them in Melbourne or in

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New South Wales. I could mention the names of the parties. There is still the same complaint. That is why I considered the doing away with the Harrierville station was a great mistake at the time.

3552. Do you see the name "Tanner" there?—Yes.

3553. Will you read that letter from the Secretary for Lands, dated the 16th June 1879?—[*the witness did so, as follows:—*] "To Mr. William Tanner, Myrrhee.—Sir—Referring to your letter of the 9th instant, enquiring the reason why your application for 44a. Or. 4p., parishes of Myrrhee and Tatong, was refused, I have the honor to inform you that the land in question was refused on the recommendation of the Police Department."

3554. Do you consider that a desirable action to refuse a license and state it in that way?—If I answered that question in the affirmative it would be a reflection on the Lands Department, because they would have good grounds for refusing.

3555. I ask when those men are refused ground, do you think it desirable the public should become aware of the refusal because the police reported?—Certainly not. I think the greatest difficulty we have to contend with is undue publicity.

3556. As an experienced officer of many years standing, you think the power of the police to do that should not be exercised except with the very greatest caution, and with sufficient evidence before them?—I made my remarks with the understanding that every precaution possible would be used by the police before making any such recommendation. I assumed that. To begin with, I could not imagine an officer of police making such an assertion in a reckless manner, or without having very good grounds for it.

3557. Is there no such thing as a reformed criminal who would be perfectly competent to occupy land with advantage to himself and to the public?—Undoubtedly.

3558. Would it be desirable to throw any obstacles in his way merely from the fact of his having been convicted of crime?—Not merely that, but if he was in the habit afterwards of harboring criminals.

3559. If a man were convicted in a certain locality, and he had assistants in his crime when he was convicted, and if when he got out and had apparently reformed he wanted to select where his companions were, should he be allowed to go there and take land?—No, certainly not.

3560. You are going to the North-Eastern district?—Yes.

3561. There is an article in this morning's *Age*, which looks as if it had been inspired by one of the officers. Will you look at that—[*handing a newspaper to the witness*—] and tell me whether you do not think if an article such as that has come from the Police Department, it will tend to interfere greatly with the public service?—I think it is a very unfortunate thing that this article has appeared. I thought so when I read it this morning.

3562. Does that article appear as if it was inspired by some person in the Police Department?—I do not know who inspired it.

3563. From the information therein contained, could that reasonably have come, except through the Police Department to the public?—Shall I read it out?

3564. Yes?—[*The witness read the article referred to as follows:—*]

"The feeling in the North-Eastern district that another gang of bushrangers is likely to break out before long is increasing, and the Acting Chief Commissioner of Police, under the advice of his officers stationed in that district, has taken the necessary steps to strengthen the force in the north-east, but at the same time it is generally admitted that the force will be in a worse position than before to effect the capture of any future gang, because of the difficulty that will be experienced to secure the services of any reliable and competent secret agents. The men who have been in the employ of the police heretofore have declined to act longer, because of the fact that their acts in the past have been made known by the publication of the evidence taken before the police commission. Many of them have already left the district, dreading violence from the sympathizers of the late Kelly gang. It was at first thought that the fate of the outlaws would deter others from following their example, but about three months ago the police at Benalla received secret information that a gang was in course of formation in the neighborhood of Greta. This was at first considered to be the result of empty boasts on the part of certain lawless inhabitants of the district, but more recently information has been received which has evidently caused the authorities to think it necessary to be prepared for any emergency. The number of police in the district has been very considerably reduced, the men having been sent to do duty in Melbourne during the Exhibition, but now it has been determined to strengthen the various stations on the North-Eastern line, and to establish other stations where it is considered desirable. It was rumored in Benalla on Monday that four valuable horses had been stolen from a firm close to Benalla, but there does not appear to be any real foundation for the rumor. The black trackers at present stationed in Benalla are believed by the authorities to be better men than their predecessors."

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3565. The question is as to the early part of that—do you think that is the result of information conveyed by the police officials?—It would appear on the face that it was.

3566. Do you consider such a course advantageous to the public service from the character of that?—Do you mean the publication of it?

3567. Yes?—I think it is very injurious. It is likely to precipitate the thing we are anxious to avoid.

3568. Is there a rule in the police service of Victoria that such information as that should not be given to the public by officers amongst the police—not to give information to the Press on matters connected with the department?—Well, there is a good deal of latitude allowed in this country.

3569. Is there any regulation?—There is no regulation; the order is, we are not to give information to

the Press that is likely to affect the interests of the service.

3570. Would that information be likely to do so?—I think so.

*Mr. Sadleir.*—I am the officer in charge of that district, and perhaps Mr. Graves suspected that I inspired that. I can assure the Commission that I never heard of it till this moment.

*Mr. Graves.*—I have no suspicion of any man; but I ask you now, do not you think if it was inspired by any official that it must have a very injurious effect on the district?

*Mr. Sadleir.*—Not a bit more because it was inspired.

*Mr. Graves.*—I speak of the effect.

*Mr. Sadleir.*—It is not advantageous, and that is the effect. If I had inspired it, I would have given more correct facts. The Age reporter has evidently been there, and it is the general talk of the district.

*Mr. Graves.*—That, to be of any value, could only be known by the police.

*Mr. Sadleir.*—No, the only circumstances in that report correctly stated are those that are common property in the district; the other details are not correct.

*The witness withdrew.*

William Duross sworn and examined.

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3571. *By the Commission.*—What are you?—A police constable.

3572. What time did you first go into the North-Eastern district?—On the 29th October 1878.

3573. Was that before or after the murders of the constables?—Three days after the murders.

3574. Are you a foot constable?—A foot constable.

3575. Where were you stationed after that?—I was sent from Benalla to Violet Town on the 30th October 1878, to take charge of the Violet Town station.

3576. How long did you remain there?—Close on twelve months.

3577. Was the Violet Town Station the station where the murdered man Lonigan was?—Yes.

3578. You went to the station after he was murdered?—I went to the station after he was murdered.

3579. Did anything of importance transpire with reference to the Kellys while you were there?—Yes; the Euroa bank was stuck up during the time I was there by myself.

3580. How far is Violet Town from Euroa?—Twelve miles to where the bank was stuck up, and eight miles to Younghusband's station.

3581. Were you at any time out amongst the parties who were scouring the bush after the Kellys?—I went on two occasions out with a message to them, when they were stationed at the Strathbogie.

3582. You did not form one of a party at any time?—No.

3583. Did you go out on horseback?—On a horse.

3584. Then you really know very little of what occurred in the district at that time with reference to the outlaws?—Not a great deal. I remember on one occasion in Violet Town Tom Lloyd and a man named Ryan—

3585. Who is Ryan?—A mate of Tom Lloyd's.

3586. Is he the Ryan whose horses were found with the Kellys at Glenrowan, do you know?—No; I do not know that. Those two came into Violet Town about six o'clock one evening; their names were told to me by Constable Gascoigne, who was then in Violet Town with me.

3587. You did not know them personally of your own knowledge?—No.

3588. Had they any particular business in Violet Town at the time?—I followed them up the township. I saw them putting their horses in the stables of the hotel. I went in after them, where they were in the sitting room, and commenced reading the paper. They were sitting opposite me, and I do not think they knew me at this time, until the coachdriver, who was driving the coach between Shepparton and Violet Town, came in—he spoke to me and called me by name. I did not answer, did not want to make myself known to the men, and they commenced laughing; so the coachdriver said, "I have seen a party of your police down on the road to Shepparton, who are camped close to the road." They were laughing over this. I sent a telegram to Mr. Sadleir in Benalla about the whole affair, and he returned one to me, told me to pay strict attention to them and watch which direction they went. I did so, and sent Gascoigne to watch them a certain distance out of the township, and he watched them and said they went in the direction of Benalla. I afterwards received a telegram from Benalla, saying they were seen there at the proper time. I was by myself at the time the Euroa bank was stuck up, and it was about twelve o'clock at night when I first received the intelligence from the railway porter—he came and knocked me up—I was in bed. I was very cautious in opening the door. He informed me that the Euroa bank had been stuck up, that Constable Anderson was proceeding from Euroa to Benalla on the engine and informed him so. I got out the back way with what arms I had and went to the bank in Violet Town, knocked the manager up, and informed him of the circumstance. I got a civilian along with me, and armed him in the bank, and stopped there the remainder of the night, up all night, as it was rumored they were coming towards Violet Town. I remained in the bank, and there were two or three men sent down to me from Benalla a day or two afterwards.

3589. Nothing further occurred?—No.

3590. Did you remain there till the capture of the Kellys?—No; I went to Mooropna.

3591. You were sent down to Mooropna?—Yes, and remained there till June 1880, when I was ordered to Beechworth by telegram, where I arrived on the 11th of June.

3592. Was Sherritt alive then?—He was. There was another constable sent from Shepparton, named Dowling, along with me. We were in Beechworth four or five days before we were ordered to Sebastopol, that is where Sherritt lived, to relieve two other men who were there at the time, as they were not satisfied with their position—Sherritt did not like them; they did not agree; and we were ordered in their place.

3593. Did you know that Sherritt was employed by the police, as an agent?—No; I never saw him till I went out that night.

3594. Were you in the house on the night he was shot?—Yes, and when we were leaving Beechworth for Sherritt's, our Spencer rifles were taken from us, the only rifles we ever used in the district, the only ones I ever had practice with in the district; and we were told we should receive the rifles from the men when they were relieved—double-barrelled shot guns we had never seen before in our lives.

3595. Who was in charge of that party?—Constable Armstrong.

3596. Who ordered that change?—Senior-Constable Mullane, at Beechworth; we asked him would we take our rifles, and he said, "No, get the guns from the men you relieve, and they will get yours and will look after them."

3597. Did you travel that distance unarmed?—Except the revolvers. It was a distance of seven miles. We reached Sherritt's about one or two in the morning.

3598. What was the date of that when you reached Sherritt's?—I could not say the exact date, about five or six days after we went to Beechworth, about the 16th of June.

3599. You were there some time before Sherritt was shot?—About ten or eleven days before Sherritt was shot.

3600. What were the party doing during that time?—We used to go out to Mrs. Byrne's house of a night.

3601. Who are "we"?—Constable Armstrong in charge, Alexander, Dowling, and myself, and Sherritt along with us.

3602. By what means did you proceed?—We used to go different directions each night, on foot.

3603. At what time at night?—Different hours, because there was sometimes a lot of people knocking about the road, going backwards and forwards to a bit of a shanty there.

3604. What arms had you with you?—This double-barrelled shot gun and revolver.

3605. You say you did not understand this shot gun?—I never fired a shot out of it; they shot a wire cartridge.

3606. What sort of shot?—Duck shot, I think.

3607. Did you expect to meet the Kellys at Mrs. Byrne's?—We got no instructions when we went out, except to go and proceed with the other men and watch with them. I did not know exactly before I went what I was to watch for. I understood we were to watch for the Kellys.

3608. What time did you return in the morning after watching?—Sometimes we used to come back because of the dogs; and there was a flock of geese as bad as the dogs; we could not get there.

3609. You did not know whether you were to watch the dogs or the geese?—We had no positive instructions.

3610. What did you do in that time?—We used to have to stop in Sherritt's house all day, and not be seen by any person.

3611. You were there, as far as you know, unknown to any one, except the officers of police and the Sherritt family, from the 16th to the 26th?—Yes.

3612. Did you approach some of the trees near the hut, and remain so many hours?—Yes; and Sherritt used to go sometimes close to the house. We used to remain one under each tree.

3613. How many hours?—Five or six hours.

3614. Did you form any opinion of Sherritt's character during the ten days you were there?—I thought he was a very good man, but I thought it was strange his not being armed of a night.

3615. Did you form any opinion as to whether he was keeping good faith with the police, or really only stringing them on, as the expression is?—We were very watchful of him.

3616. What opinion did you form?—We were told by some of the constables in Beechworth to have our eye on him before we went out.

3617. After your being warned about him, what opinion did you form yourself during the ten days' experience you had?—I thought he was honest to the police.

3618. The arms you were supplied with you were unaccustomed to?—Yes.

3619. Did you complain from the 16th at any time to Armstrong, who was in charge of the party, that those arms were of no value to you?—No.

3620. Although you knew, in the event of the necessity arising, that they would be no use, yet you complained to no one?—Armstrong knew that we had exchanged arms.

3621. Did he know that you, for instance, were dissatisfied?—No, he did not.

3622. Did you tell him?—No.

3623. During the time you were there, from the 16th to the 26th, was there any officer of police visited you?—Yes.

3624. Who?—Mr. Superintendent Hare.

3625. Did you complain to Mr. Hare that your arms were not adapted?—No.

3626. Why did you not?—I do not know whether it was forgetfulness or not.

3627. Did you not desire Armstrong to complain?—No.
3628. So you simply remained there, knowing your arms were useless in the event of your requiring them, and yet you never took any steps to complain?—Yes.
3629. Suppose the Kellys had put in an appearance at Byrne's, you would have fired?—Yes.
3630. You knew the distance they would carry?—We thought 40 or 50 yards.
3631. Were you so experienced that you might have struck a haystack?—I think we could, On the evening of the 26th Sherritt and I, and Mrs. Sherritt and Sherritt's mother-in-law, were sitting in the kitchen having our tea about half-past six or a quarter to seven. The other three men were in the bedroom.
3632. Was it dark at that time?—Yes.
3633. What were they doing in the bedroom?—They had to go in. When they heard the least noise they went in. We were often in there for hours if anybody came to see Sherritt, not to be seen.
3634. Had you any information that the Kellys were likely to appear?—Not the slightest.

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3635. Not from Sherritt?—Not the slightest. They had finished their tea, and we were talking. Sherritt and I were having some conversation.
3636. Were you dressed in police uniform?—No, private clothes.
3637. Describe the dress?—A blue jacket; on, like a butcher's smock.
3638. Something like bush dress?—Yes. And a knock came to the door, and I said, "You had better go to the door." He motioned for me to go into the bedroom. There was a calico screen hanging down for a door. I went in.
3639. Was the whole partition calico or only the door?—Only the door.
3640. There are only two rooms in the house?—Only two.
3641. What material was the hut?—A log hut and a shingle roof.
3642. Does that mean slabs or logs?—Slabs.
3643. Slabs on end?—No, lengthways; slabs running lengthways.
3644. Split or sawn?—Sawn.
3645. Will you draw a sketch of it?—*[The witness did so, and explained it.]*
3646. What thickness were the boards?—About three-quarters of an inch.
3647. Hardwood weatherboards?—Yes.
3648. There was a front door and back door?—Yes.
3649. Will you describe what occurred when the knock came to the door?—When I went into the bedroom Sherritt opened the door, and there was some person asked the road, said they lost their way, and Sherritt was stepping outside and saying, "Do you see that sapling over there, at the back of the door"; and Mrs. Sherritt (the wife) said, "Go out and show him the way." Sherritt was stepping outside to do so when the first shot was fired; he staggered back, and the second was fired, and he fell then in the kitchen.
3650. Could you see him from where you were?—No.
3651. He fell back into the room?—Yes.
3652. You heard the shot?—Two shots.
3653. Were they both fired by the same person, do you think?—I think so.
3654. You heard, and saw enough to know, a man was being shot near by where you were standing?—Yes.
3655. What was your impression—that it was the Kellys?—Yes, as soon as the shot was fired, not before.
3656. Did you feel disposed to fire at them?—I could not see anything to fire at.
3657. You believed it was the Kellys, and the four of you were then in the bedroom—will you continue?—When Sherritt fell we heard the women running outside the door, and I heard one voice saying, "Oh, Joe, Joe! what have you done, what; did you shoot poor Aaron for?" Byrne said, "The —— will never put me away again."
3658. What did you understand by that?—Put him away to the authorities—the police authorities. He said, "Who is that man along in the room, the man that went in the room?" She said, "That is a man by the name of Duross." He said, "What is he?" and she said, "He is looking for work about here." He said, "Go and tell him to come out." She came in and said, "Come out"; and I said, "I will not"; so at this time Constable Armstrong was standing on one side of the partition, and Alexander on the other—both could see any one at the door if they were inside in the kitchen—and Constable Dowling was watching the kitchen, I was watching the window, watching to see if we could have a chance of anything. She came and said, "Come out, he wants you." I said, "I will not." She went out, and he said, "Go and bring him out or I will shoot you too." Constable Armstrong, when he saw the figure coming so often, said he (Armstrong) was near shooting her on account of her running back and forwards.
3659. Was Sherritt dead?—He was shot at this time, he never spoke after he was shot. When she came in the second time we got hold of her and would not let her go out—we kept her in there.
3660. Who is "we"?—I think I was one, and Constable Dowling I believe was the other, and did not let her go out; the others also spoke and said—"Do not let her go," the other two men, Alexander and Armstrong. There was a shot then fired into the bedroom, just near where Constable Dowling was. He said,

“Look out.” I heard somebody saying then to Mrs. Barry (the mother-in-law), “Go and see did that shot go in through the boards.”

3661. Who said this?—Joe Byrne; the same voice was speaking all the time, so she said, “If I go down they might shoot me,” meaning us. She put it plural; she said, “They might shoot me.” She said, “They might shoot me if I go down.” He said, “If you do not go I will shoot you”; so he called on me to come out again.

3662. By name?—No, he said, “Come out here, out of that house.”

3663. You understood he thought there was only one man in?—No, because at that time when he said to go down and see, she said “they.” She put it in the plural that time. I do not think he thought there was more than one, previous to that.

3664. Did you afterwards?—Just through her making use of that expression “they”; if he had his ears open he might have known too. He then said, “I will soon make them come out,” and he commenced whistling. We heard the whistle. Mrs. Barry said, “You come out, Mary.” I think she said—I forget the name. “Come out, they are going to burn the house down,” so we would not let her go out, and Mrs. Barry came in, and we would not let her return.

3665. Who was “we”?—The constables in the bedroom at the time.

3666. Were you one who would not let her go out again?—Yes. We heard voices outside; and Byrne sang out, “Look out for the window in the bedroom,” to Dan Kelly—Dan Kelly we thought it was. There was a shot fired from the front end of the bedroom, and Byrne said, “Who fired that shot”; and Kelly said, “It was me”; and he said, “All right, look out for the window in front”; and Byrne said, “That is all right, I have my eye on it.” Constable Armstrong picked up one of the slugs in the bedroom that went near Constable Dowling.

3667. A slug?—It might have been a bullet.

3668. Was there nearly enough lead in it to make a bullet?—It was a very large one.

3669. What happened next?—There were several shots fired in, about seven altogether, I think.

3670. Was that counting those you spoke of before?—Yes, seven altogether; about five after the women were in there.

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3671. How did you manage to protect yourselves from those shots?—At the first, Armstrong was kneeling at one side of the partition—one side of the bedroom—guarding the entrance into the kitchen; and Alexander and the other constable, Dowling, were looking to the partition. There was a sack of flour there, and Constable Dowling looked over off this to see; and it was the shot that was fired in then of which he said, “That was close then.”

3672. Were any of you under the bed?—Not a soul, except the women.

3673. Not at this time?—Or any other time.

3674. You were prepared to fire if you could have seen any object to fire at?—Yes. At the time there was a wooden log fire burning in the kitchen. We used to put three or four logs on. It was very cold and frosty, and we used to have to wade through the creek every night going to Mrs. Byrne’s house.

3675. How long from the time that Aaron was shot till the women came into the bedroom?—I think about between half an hour and an hour. They were talking to them outside.

3676. Talking to whom?—To Byrne, outside at the back of the house.

3677. You just now said Dan Kelly was there?—He fired from the front of the house. They were talking to Byrne and Weekes. That was the man that Byrne got to come to the back. Dan Kelly was at the front.

3678. Was Weekes the man who was supposed to lose his way?—Yes, a German.

3679. What happened after you refused to let the women go out?—There were other shots fired into the room, and we heard conversation at the back of the house until about four o’clock or five o’clock in the morning. But about half an hour after the women came in we could not distinguish any voices who they were, but we could tell there was somebody there, and the dog was howling all night at the house.

3680. What then?—We all remained very quiet in the room until morning. Constable Alexander was the first man to go out and go round the place.

3681. What time?—Daylight; and the first one then we saw was a Chinaman, and we called the Chinaman and asked him would he take a message into the police in Beechworth, and we would pay him for doing so. He was horrified at the sight of Sherritt lying on the floor, and said he would not. We asked him then if he would go and take a message to the schoolmaster, who lived about a couple of miles away from there. He went, and the schoolmaster came back. We asked him if he would take a message into Beechworth. He said certainly he would, and he went and he returned in about an hour’s time, or an hour and a half, and said his wife would not allow him to go in, afraid he would be shot on the road taking the message in. Then there was another man; he volunteered to go through the bush around and take it in.

3682. A constable?—No, a civilian.

3683. Who was he?—He was introduced by the schoolmaster as a man who would do it. He was gone about half an hour, and then the four of us came to the conclusion that one of us had better go in, and Armstrong decided to go in.

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3684. Did that not strike you before?—We had nothing to do with that. Armstrong was in charge of the whole movements. We were supposed to obey him.

3685. Did you never see any of the parties that were outside?—No.

3686. Was it so dark that with careful watching you could not have distinguished an object moving about?—There was a careful watch kept, and we could not distinguish any. The fire was burning very brightly, and the two doors were facing each other, and they opened towards the partition.

3687. Were both doors open?—Yes. One of the outlaws, Byrne, made Mrs. Sherritt open the two doors wide. It was about one o'clock, I should think, when Armstrong got into Beechworth with the message. He did not return; nobody came to us until about five or six that evening.

3688. How far had he to go?—About seven miles.

3689. Was he in uniform?—No, plain clothes.

3690. Did you form any opinion at all on the conduct of the force that night?—Well, we knew the public would be criticising our conduct afterwards, but at the same time it would be foolishness for us to come out of the bedroom in the kitchen because, the way it was lighted up, we would have been shot before we got out.

3691. Could you not get out by the window?—No, Dan Kelly was at the front watching the window; Byrne told him to.

3692. Did Byrne call him by name?—He said, "Who fired that shot?" and the answer was, "I did." He said, "That is all right."

3693. Where was Byrne when he said, "Who fired that shot"?—At the back of the house.

3694. Apparently then you think they were watching the two doors?—Yes.

3695. Looking through into the house by them?—Yes.

3696. Was there no outlet from the bedroom but the door?—Only the window—a small window in the bedroom.

3697. Was the chimney slab or brick?—Slab.

3698. How high?—I should think about twelve or fourteen feet to the top of it.

3699. Was it a glass window in the bedroom?—A glass window.

3700. Did you knock the panes out, or anything?—No.

3701. You did not attempt to open it?—No.

3702. Was there any axe or tomahawk in the house?—There was an axe outside.

3703. What was the roof covered with?—Shingle, hardwood.

3704. It was not a bark roof?—No, no bark in the place.

3705. What were the other three members of the force doing from daylight in the morning till six in the evening?—They were inside in the hut.

3706. They did not come out till six in the evening, when some one came from Beechworth?—Yes, we went out in our turns round the place.

3707. What were you doing?—Just at a call of nature, on one or two occasions.

3708. You did not go to look for the tracks?—No, the place was crowded with people.

3709. What time did the crowd commence to come?—About two o'clock.

3710. You had remained inside all that time?—Yes.

3711. Did Armstrong instruct you what to do on the evening of the 26th, after you went in the bedroom and that shot was fired that killed Sherritt. Did Armstrong take the command and instruct?—He was the recognised leader all along.

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3712. I understand that; but did he tell you how to act?—We advised one another at the time what to do.

3713. What did Armstrong advise?—I think he first at one time said, "Will we get out?" meaning the whole four of us.

3714. What time was that?—I should say about eleven o'clock.

3715. How long before that time had you ceased to hear voices outside?—We heard the voices outside until about four or five o'clock.

3716. Did Armstrong, about eleven, leave the bedroom and go to the kitchen?—He went out, and I think Alexander went out and dragged Sherritt further over into the kitchen and covered him up.

3717. Did he put the fire out?—No; the fire was not and the candle was out.

3718. Did he close the doors?—Yes.

3719. You did not go outside then?—No.

3720. Did the women remain in the bedroom all night with you?—Yes.

3721. You state that only the women were under the bed?—That is all.

3722. Did I understand you to say that you kept first Sherritt's wife in, and next the mother-in-law, and would not allow her to return?—That is correct.

3723. Did they voluntarily after that keep under the bed?—They were forced under the bed because there was very little room in the bedroom, and there was not much room for them to be knocking round in the room.

3724. When you used the word “forced,” did you mean that you compelled them, or that they were obliged from the circumscribed space—did you tell them to go under?—We told them.

3725. During that evening, from the first shot to the last, what space intervened between those two?—Between an hour and a half and two hours.

3726. All those seven shots were fired into the bedroom?—No; two were fired at Sherritt, and five into the bedroom.

3727. What portion of the building did they strike?—The bedroom.—[*The witness showed on his plan.*]

3728. How many penetrated the building?—There were two—[*showing the spots*].

3729. What direction was that fired from to get there?—[*The witness indicated on the plan.*]

3730. Were you satisfied that there were not more than two outside between the hours of seven and nine?—We believed there was.

3731. Did you ask Mrs. Barry how many people there were outside when she came back?—Yes; she said she saw two and Weekes, but they were whistling for others.

3732. Do you think now if you were placed in a similar position, that had the police made a charge after the first shot, that you might have captured those men?—No.

3733. Why?—Because there is the scrub outside, and before we would leave the kitchen at all they could have shot us. It is my opinion we would not have left it alive; and if we did, it was dark outside and we could not see anything, and they had timber to protect them.

3734. Had you arms on your person at the time?—Yes, a revolver.

3735. Did it not strike you that when Mrs. Sherritt said you were Duross, a man looking for work, you might have gone out under that assumed idea?—No; I believe he thought it was police all the time.

3736. Might you not have gone safely in your disguise?—No, I think not.

3737. What was the motive that induced you to believe you ought not to have gone out; was it self-preservation?—As much as anything else.

3738. Was it that more than anything else?—Of course it would be foolishness to have gone out by myself alongside of Byrne.

3739. This was not immediately after the shooting; it was a little time after you went into the bedroom the conversation had taken place, and you might have consulted the others as to a concerted attack?—If I went out with a revolver he would know who I was, and if I made a movement to take it out of my guernsey he would see it.

3740. Might you not conceal it under your shirt and trousers’ belt, and assume the idea that you were looking for work. Did you consult with the others?—Yes.

3741. Was that course mentioned?—No.

3742. Could they have heard your voices?—Byrne said, “Look out, they are loading,” as soon as we went into the room; we were getting our rifles. It was darkish in the bedroom. They heard the noise, Byrne did; he said, “Look out, they are loading.”

3743. Then he must have known there was more than one person looking for work?—Yes, that is my opinion.

3744. Were you talking in a whisper?—We were not talking at all; we were getting our rifles.

3745. You said you were consulting?—When we were it was in a very low whisper.

3746. You said you were under the impression that they believed there was only one in the house till Mrs. Barry went and spoke about shooting her; now when you were described as a man looking for work, it must have been previous to that?—No, when I went into the room I heard the conversation—that was after Sherritt was shot.

3747. Byrne asked Mrs. Barry who was it went into the bedroom?—Yes.

3748. She said it was Duross, looking for work?—Yes.

3749. That was some time before she said if she went back she would be shot?—Yes.

3750. So that they were under the impression you were the only man?—No, I think not. I believe, if they had thought there was only one man, they would have come inside.

3751. It is not the fact that the police got under the bed?—No, it is not.

3752. Did you move about from place to place between that time, from seven to eleven?—Yes, Constable Armstrong was in this corner, and he made a considerable noise in that corner, and Constable Alexander was here, and Constable Dowling was here too, close alongside of him. I was down at this end at this time—[*pointing out the places on the plan*].

3753. Was there at one time one of you went under the bed?—No, we were in different positions on the floor, but not under the bed.

3754. Where was the bed?—Just underneath the window.

3755. Did it fill the whole side of the room?—It came within about three feet of it.

3756. Is the room lined?—No.

3757. Only the slabs outside?—Yes.

*Mr. O'Connor.*—Before you go on I wish to ask—I have been offered an appointment in the North

Eastern district, and the Government are anxious I should go to work as soon as possible, and I wish to ask if you can dispense with my presence for the future till I come down to cross-examine a few witnesses. I wish too that the secretary could notify me of that.

*The Chairman.*—I do not think there is any objection to your leaving. If there comes any necessity there will be ample opportunity in the North-Eastern district of calling you; the secretary will give you due notice if you are wanted.

3758. *By the Commission (to the witness).*—You brought us up to the point at which Mr. Armstrong went to Beechworth. We have it from you that Sherritt was shot about seven o'clock in the evening?—Yes.

3759. And you could not see anybody outside, which was the reason for not making a rush out during the night, as there was a possibility of your being shot as you came before the open door?—Yes.

3760. How was it you did not go out when daylight came?—Constable Alexander did go round the house when daylight came.

3761. You seem to have done nothing for twelve hours after daylight—from five o'clock in the morning till five o'clock at night?—Yes; Constable Armstrong had a verbal message himself by one o'clock. He had arrived at Beechworth himself at one o'clock.

3762. What were you doing during the day?—We were not doing anything; we were just inside the house.

3763. What object had you in keeping Mrs. Sherritt and Mrs. Barry in the house after they came in?—Because they were running about and interfering with us. The room was very small, and the running backwards and forwards made less room for us, and Mrs. Sherritt was in danger of getting shot herself.

3764. She was willing to go out, but you detained her?—Yes.

3765. What was your object?—To prevent her running backwards and forwards; she had been in twice.

3766. And the same with Mrs. Barry?—She came in to take her daughter out, and we would not allow her.

3767. About what time was the last time Mrs. Barry came in?—I should say about nine o'clock.

3768. Then your object was to prevent the two women being shot?—Yes, and to give us more room, because of the running in at the door; we did not know but what the others would be on top of us any moment.

3769. Your object was not that, having the women in, the Kellys would not be so likely to shoot you?—That never entered my head.

3770. Mrs. Barry had been out several times before this, talking to Byrne?—Yes, she had been out all the night, and came in for her daughter, Mrs. Sherritt.

3771. How often was she in the bedroom?—Mrs. Barry was in once and Mrs. Sherritt twice. There are two things I omitted to tell: On the Saturday night previous to the murder Mr. Superintendent Hare and Detective Ward came out to Sebastopol, where we were. They arrived there between eight and nine at night. Detective Ward burst in the back-door—shoved it in. I may mention there was no lock on either of the doors, we had to fasten the door with a bit of a prop-stick to keep it fastened. On Saturday night it was our custom not to go out till late; as I stated before, there was a shanty a couple of miles down the road, and many people passing backwards and forwards, and Sherritt said it was not wise to go, and the wood we used we had to chop after dark for fear of being seen in day-time. At this time, when Mr. Hare came, constables Dowling and Armstrong were out chopping wood at the back of the house. The reason I make this statement is because I see by Mr. Hare's evidence that he accused two of us of telling an untruth. When Ward shoved in the door he asked where were the other men; I said, "Chopping wood at the back." "No," he said, "they are away watching Byrne's house—say that," he said on the moment. Mr. Hare stepped in and said, "Where are the two men?" and just to shield them, as Ward told us (Alexander and I had no reason to be frightened, because we should not have been out so early), we told Mr. Hare they were watching the house. He asked one of us to show him the house. Constable Alexander, who had been longer there than I had, said he would show the way. We went across to the house, and I see by Mr. Hare's evidence that Ward told him he could not trust us, and that we told an untruth. We had no reason whatever to be frightened of telling the truth, because he had no reason to be out so early on Saturday night, because our custom was not to go out till ten o'clock on that night. Mr. Hare also states that Sherritt said he had no faith in any of us, only Armstrong. I can contradict that by saying that I myself, along with Alexander and Dowling, can state that Sherritt said on different occasions he was well satisfied with the four men he had, and if we were changed he would do nothing more for the — Government—he was getting sick of the way the men were galloping round the country and the outlaws laughing at him.

3772. Why did you feel it necessary at all not to tell the exact facts of the case when Superintendent Hare came?—Detective Ward, as soon as he burst in the door, said, "Where are the men?" I said, "Chopping wood at the back;" and he said, "Say they are away watching Byrne's house, here is Mr. Hare." he put the words in our mouths, and we went and told it.

3773. You were inspired to make this false statement by Detective Ward?—Detective Ward told us to state so—Alexander and I.

3774. You say there was only a calico screen between the room you were in and the room Kelly was in?—No, a wooden partition; but the door was calico, just hung down.

3775. Had you no means to have a peep through that door?—Yes; Constables Alexander and Armstrong were on either side of the door, and they could have seen the two doors, back and front, from the position they took up.

3776. Mrs. Sherritt states that Kelly came into the front room?—She has not given her evidence.

3777. I want to know whether you had an opportunity of seeing any of this—did you look through—move the curtain?—No. Those two constables were alongside of it, and could not have helped seeing the kitchen some part of the time, because the wind was blowing back the curtain. The Kellys could not have been in the room without their seeing it; the partition did not run up to the top.

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3778. Could he see what took place in the kitchen?—Yes. Dowling stood on the top of a bag of flour, and could see. If he looked over the top of the partition, anyone could have shot him. They had the command of that from outside, if anybody got on top of the partition.

3779. You could have reached over and shut the doors?—Yes; but they could have easily been opened again.

3780. What light had you in your room at this time?—None.

3781. What light in the kitchen?—A bush fire, with big logs, as we were in the habit of putting a large fire to warm us in the morning, and a candle. Byrne asked what sort of light we had, and Mrs. Barry had the candle. He asked was there no kerosene—he wanted to burn the house down, and she said there was none in the house. There was a constable (Jim Dixon) that Byrne had a “down” on, and he asked if that b—— Jim Dixon was in the hut.

3782. Was it suggested in your party the advisability of one being on the outside of Sherritt’s hut on the watch?—No, that was a mistake. If there was one outside we could have had them; but we were supposed not to be seen in the day-time; and if we were there, we would have been seen by the people there; and at night we were supposed to be at Byrne’s house.

3783. Not on the look-out at Sherritt’s?—No.

3784. Your duty up there was watching Byrne’s house?—Yes.

3785. You were concealed during the day in Sherritt’s house?—Yes.

3786. At what time did you leave Sherritt’s house for Byrne’s?—About eight o’clock.

3787. And, on Saturday night, later?—Yes.

3788. And return about four in the morning?—Yes, and sometimes a good deal before that, as we could not keep near the house for the dogs barking.

3789. About what distance from the house did you get to watch?—We used to go round about three miles.

3790. No; I mean, what distance from Byrne’s house?—About a hundred yards; sometimes more and sometimes less.

3791. Were there any children?—No, I never saw them, only going to school in the day-time—a little boy and girl going to school. Only once I saw Paddy, a boy of nineteen, next to Joe. We saw him watching Sherritt’s house one day—watching the hut for an hour.

3792. How long was that before Sherritt was shot?—On the Sunday before exactly.

3793. Had you any suspicion he would give any information of that to Mrs. Byrne?—That was her son Paddy.

3794. So that his mother could communicate to the Kellys?—Yes. He had a well-bred horse, stable-fed, locked up of a night, that we suspected he used to be scouting about on of a night—that is, Paddy Byrne. A couple of days after this Sunday he was watching, Mrs. Sherritt got him at the back of the house in the scrub. There is a thick scrub at the foot of the range, what they call the Sugarloaf.

3795. Did you find out afterwards that the public knew you were in that house all the time?—No,

3796. You never had any information that Byrne knew you were there?—No.

3797. Had you any suspicion that anybody in Byrne’s family or anybody knew?—We thought it strange Paddy Byrne watching the house this Sunday, and a couple of days after in the back.

3798. Then in fact you considered that you were being watched by the Kelly friends?—I consider we were only in a trap all the time; and I would request that you would ask any constable that has been doing duty previous to me about that.

3799. What did you think of Sherritt not giving you information all the time that you were in a trap?—I do not think he knew it, because if he knew it he would not have got shot himself.

3800. Are you not aware that Sherritt upon many occasions gave information about the movements of the Kellys?—He said he mentioned one case that he met them after they came from Jerilderie—met Joe Byrne and Dan Kelly.

3801. Are you aware whether he said on any occasion that he could tell where the police were?—Yes.

3802. In consequence of his intimacy with the Kellys?—Yes; he told us that the Kellys could see the police, the way they were galloping round the country in search parties.

3803. Did not he pretend to be in constant communication with the Kellys and their sympathisers as an agent—did he ever tell you that?—Yes; that he was doing the police good service all the time by speaking to them. He said he had communication with Kate Kelly—that he was over at Greta, where she was, and spoke to her on different occasions.

3804. Was Sherritt with you all the time you were there, or did he go away?—No; on the day he was

shot he went to Chiltern, twelve miles away.

3805. How long was he gone?—Gone about three hours. He rode away.

3806. Did he tell you what he was going for?—He said he was going to look for some cattle of his mother-in-law's in pound.

3807. Did he tell you anything?—No, only he saw the police going about.

3808. Do you know Jack Sherritt?—Not Jack, but his brother Bill. I saw Jack in Beechworth and in Glenrowan.

3809. You do not know why the outlaws did not set fire to the hut?—They tried to. It was a damp night; because we found some bark broken up at one side of the hut and some leaves up against it, and the leaves were damp.

3810. Did you hear them threaten to set fire to the hut?—Yes.

3811. Did you expect they were going to carry it into execution?—Yes.

3812. What action were you going to take if that were the case?—To remain as long as we could, and then make a rush when we could not do anything else.

3813. Would it not be better to make a rush while they were making preparations?—I do not suppose they would all be doing it.

3814. How many were there?—That has never been solved, for they were whistling.

3815. Could you not fire through?—The shot would not penetrate.

3816. Why not through the window?—We might fire through the window.

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Cross-examined by *Mr. Hare*.

William Duross,  
*continued*,  
4th May 1881.

3817. You say you had a shot-gun. Would not a shot-gun be more effective at night than a Martini-Henry rifle?—Yes, at night amongst the bushes.

3818. Do you think a man could fire with a rifle, unless he was a very good shot, at night?—No.

3819. Do not you think a shot-gun is more effective for night work than a rifle would be?—Yes, when you are outside, when you have fair play the same as they would.

3820. And far more effective than a rifle?—Yes.

3821. And you distinctly said Ward suggested to you to tell that untruth to me?—Yes, I can prove it, because he sent Mrs. Sherritt to the other men, who were chopping wood, to tell them to clear before Mr. Hare got down to Byrne's house to do us a good turn.

3822. Did the other man hear that?—Alexander did.

3823. Did you go with me and Alexander?—Yes.

3824. You remember we took a long time, got into a difficulty on the way?—Yes; Alexander was leading and I was behind you.

3825. And we found Armstrong and Aaron Sherritt there?—Yes, and Constable Dowling.

3826. You said something about not being able to use a double-barrelled gun; if you could fire a rifle, could you not fire a double-barrelled gun?—I did not say I could not; I said I never did.

3827. Did you object to take it at the time?—No.

3828. You made the statement that you were given a double-barrelled gun, and your rifle was taken from you; I suppose, if you could use the rifle, you would be a better shot with the shot-gun?—Yes; but I think it would have been better if two had rifles and two shot-guns.

3829. *By the Commission*.—Did you delay for a time in order let Armstrong and Dowling get to the house?—No, we never had such a thought.

3830. Did you hear any of the police make any suggestion about going out and fighting the men?—No; only Armstrong said once, "Shall we go?" and we said we were willing to go if he thought it advisable.

3831. What time was that?—About nine o'clock at night. I think it was Armstrong who said it—one of them said would we rush out, and we said we were agreeable.

3832. Why did not you go?—He thought afterwards it would not be advisable; that we could not get to either door before we were shot.

3833. At any other time, during the time the Kellys were there, was there any talk about going out in pursuit of them?—No; we had no horses at all, we were on foot.

3834. You say that Mrs. Sherritt and Mrs. Barry were under the bed all night—were they not allowed out at all. Surely it was a miserable thing to stick them there?—Yes; they had their heads out from under the bed.

3835. Were they upon the hard boards?—Yes.

3836. Was there a floor at all except the earth?—There was a wooden floor. I think the women came out before daylight, one of them, and got on top of the bed.

3837. Did they complain much of being kept in this position?—No, not after the shots, they did not complain at all.

3838. Did either of them faint?—No.

3839. When you came home from the watching, what did you usually do?—Lie on the floor.

3840. Did you not turn the women out and lie on the bed?—No, the women were not there. Sherritt came home, and lay with his wife, and we lay on the boards with our feet to the fire.

3841. Where was Mrs. Barry?—At her own place, a mile and a half off.  
 3842. Could any one have got in?—When we were sleeping there, any one could have pushed the door in, and come on us; there was no lock on the door; we put a bit of a log to keep them closed.  
 3843. No one sitting up to watch the remainder of the morning?—No.  
 3844. All asleep?—Yes.  
 3845. I heard you mention that the man who shot Aaron Sherritt asked the women to come outside?—Yes.  
 3846. What did they say about burning the house?—Joe Byrne said, “We will soon make them come out, we will burn the house;” and Mrs. Barry said, “Joe, don’t burn the house;” and he said, “You go in, I will consider over it.”  
 3847. Was it to prevent them burning the house you kept the women inside?—No.  
 3848. Did you not consider it would be the more honorable course to rush out than be burnt out?—We would have had to if it had come to that, but, otherwise, I am certain we could not have got further than the door without being shot.  
 3849. It would be the same if the house was being burnt?—It would be the same then.  
 3850. I was under the impression that you stated you had come to the conclusion from something that occurred that the outlaws were going to burn the house, and called on you to come out?—Yes.  
 3851. You would not go?—No.  
 3852. Then you said the women went out, and there was a talk amongst them about burning the house—Yes.  
 3853. You then stated you prevented the women going out again?—Yes.  
 3854. Did it come into your mind that they were going to burn you out?—When they whistled they said they were going to burn us out.  
 3855. Did you come to that conclusion?—I cannot say.  
 3856. You stated that the outlaws heard, or you believe they heard, you loading your guns?—I know they spoke about it. Byrne said, “Look out, they are loading their rifles.”  
 3857. Were your rifles loaded?—Yes.  
 3858. Were your guns loaded when Aaron Sherritt was shot?—Yes.  
 3859. How long had they been loaded?—Mine was loaded from the time I went there, except to clean it.  
 3860. Were you in the habit of unloading when you came from duty?—Just took the charge out and put it in again at once, after cleaning.

POLICE.

2 A

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William Duross,  
*continued.*  
 4th May 1881.

3861. In what place was Sherritt shot?—On the left breast.  
 3862. And the second shot brought him down in the house?—Yes.  
 3863. Where was the first?—Close to the same place.  
 3864. How near was Joe Byrne to him when he shot him?—Joe Byrne was close behind Weekes; he stood one side of the door.  
 3865. How near to Aaron Sherritt?—About two yards from him, because Mrs. Barry told us that Byrne had his rifle in his two hands swinging like this—*[explaining his meaning by gesture]*.  
 3866. Were there marks of powder on Aaron Sherritt’s clothes?—I did not see any.  
 3867. How long would it have taken you to have got your arms and immediately rushed out?—Our arms were inside the room. It took me a considerable time to get my gun, for we were feeling for it in the dark.  
 3868. You had no light in the inside room?—No.  
 3869. Where did you keep them inside the room?—Up against the wall.  
 3870. How long was the room?—A very small room—not much more than room for five or six to stand in, with the bed.  
 3871. Were your arms stacked together?—Along together, and the cartridge pouches hanging alongside of them.  
 3872. When Aaron Sherritt was shot and fell on the floor, did his mother-in-law or wife go to see if he was shot to death—to see whether it was fatal or not?—I cannot say.  
 3873. Did any of the constables?—Not till afterwards.  
 3874. How long?—When they brought him inside from the door.  
 3875. How long?—About eleven or twelve o’clock that night.  
 3876. In the morning you said that the people in the neighborhood came round?—Yes.  
 3877. What hour?—The Chinaman was the first.  
 3878. And when did the people come?—About two o’clock;—that is, the people from Beechworth, in traps, and there were people before that.  
 3879. Did any constable there or officer propose you should rush out?—On one occasion one of the men proposed it; I think it was Armstrong.  
 3880. He was in charge?—Yes.

3881. Is it a fact that one of the constables in the place, when they heard that the Kelly party were going to burn the house down, said, "Let us keep the women in, and while they are here they will not burn the house down"?—That was never said.

3882. Were those three constables at Glenrowan?—Yes, the following day.

3883. Are you named for the reward?—Yes, £42.

3884. Where were you that morning?—We were in Beechworth, and went down by special train.

3885. Were you stationed in Beechworth?—We were withdrawn from the place that night; about six o'clock the night after Sherritt's murder.

3886. When did you go down?—On the Monday morning.

3887. Did you come into barracks in Beechworth?—Yes.

3888. Whom did you go out in charge of?—Senior-Constable Mullane.

3889. How many men?—Nine or ten; and Jack Sherritt came along with us.

3890. Why?—He said he wanted to be revenged of his brother on Byrne.

3891. Had he been round to collect men that morning?—Yes. I think he slept at the barracks that night, and there were three other men that relieved us down at Sherritt's place, and he galloped down the first thing to them to go by special train, and they came back with him, and we all went down in the special train.

3892. That was to Glenrowan?—Yes.

3893. After you left the hut what did you do?—We walked into Beechworth.

3894. What steps were taken to follow the murderers?—The police came out on horseback, five or six of them I think, and they relieved us, and we were told by Mullane to proceed to Beechworth.

3895. Did any black trackers come to follow the tracks?—No; not one.

3896. None of those four that were in the hut were sent in pursuit of the outlaws?—No.

3897. It was Sunday night you went in?—Yes.

3898. You saw the black trackers when you went to Glenrowan?—Yes.

3899. At what time did you arrive at Glenrowan?—At nine o'clock in the morning.

3900. Did you take up your stations directly?—Yes, immediately.

3901. Who put you into your position?—I saw Mr. Sadleir there and Mr. O'Connor, and I got close alongside of them, off where Mr. Sadleir was standing, just alongside the house. I did not know Mr. O'Connor at the time; and there was some other constable there, and I said, "Which is Mr. O'Connor?" and he nudged me to say that is he.

3902. Whom did your sergeant report himself to when you arrived?—I think Mr. Sadleir; I would not be certain.

3903. Did you get instructions from anyone?—No.

3904. What did you do?—First I went to where Ned Kelly was.

3905. Where was he—he was taken?—Just in the room adjoining the station. I got some warm bricks and put them to his feet, as he was complaining of cold.

3906. Where was Mr. Sadleir?—I think he told me to attend on Kelly.

3907. Where was he?—I think he was on the platform when we arrived; I would not be certain.

3908. Was Ned Kelly taken at the time of your arrival on the platform?—Yes.

3909. You knew he was taken at that time?—Yes.

3910. After that you went down to the scene where they were shooting at the house?—Yes.

3911. What did you do when you got there?—I heard that news from a couple of men, and took up my position alongside of Mr. Sadleir, and he had evidently heard about the men while they were in the room. I had my Spencer rifle at this time, and was firing a couple of shots at the house, and he saw a couple of splinters flying out, and he gave me orders to fire into the brickwork low down.

8912. He saw you fire the shot?—Yes, and he told me to fire into the chimney, low down; that he believed the men were there.

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8913. As to Sherritt's hut, did Mrs. Sherritt or Mrs. Barry tell you anything about the men, the Kellys, having armour on; did you hear about that at that time?—No.

3914. You had no idea of that?—I never heard of it.

3915. Did you see any tracks of horses in the morning at Sherritt's hut?—No; we heard the foot of horses in the scrub.

3916. Did you go and look?—No, we did not hear of it till after we left.

3917. At Glenrowan were the prisoners still in the house, in Jones's hotel, when you got there?—Yes, they were there, because I saw them when they came out.

3918. How long after you came was it that they came out?—I should think about 11 or 12 o'clock, to the best of my recollection.

3919. When did you take up your position with your Spencer?—It was a little after 9 when I did.

3920. How many rounds of ammunition did you fire?—I fired more after the people came out than before.

3921. The rifle you fired is a magazine rifle?—It will hold seven or eight cartridges.

3922. How many of those did you fire?—Altogether I should say twenty-four or twenty-five.

William Duross,  
*continued,*  
4th May 1881.

3923. Then you loaded it more than once?—Yes.

3924. The orders were to fire at the house?—Yes, there were no orders only what I am telling; when I was firing at the house Mr. Sadleir said, “Aim for the brickwork.”

3925. Where were you standing?—Opposite the chimney, at the side of the house.

3926. How far from the house?—I should say about a hundred yards—the men were all round the house.

3927. In which direction from the railway station?—As you go up the line this way towards Beechworth. Here is Jones’s house—*[explaining his meaning by a diagram]*—and I was stationed at the north of the house, by the chimney.

3928. Were any shots coming from the house when you were firing?—There were several shots passing by.

3929. Was that from the house?—Either from the house or the opposite side of the house.

3930. Were the constables opposite?—Yes.

3931. Would their bullets penetrate the two walls and come to you?—I should think so unless they came in contact with the brickwork.

3932. Were you aware when you were firing that there were people inside beside the outlaws—of course you were obliged to obey instructions—from any information you heard?—I think I heard there were some.

3933. What do you think you heard?—That there was somebody inside besides the outlaws.

3934. How many?—It was not stated. I did not take much notice.

3935. Where were the black trackers?—They were running round in all directions about this time.

3936. What time?—About eleven o’clock, I should say—no, it was after eleven, because I saw Mr. O’Connor give them some lunch.

3937. When you arrived there first you saw Mr. Sadleir and Mr. O’Connor—where was Mr. Sadleir?—The north side of the house was the first time I saw him on the ground.

3938. Where were you when you asked about indicating Mr. O’Connor?—Just alongside of him.

3939. Do you know anything of the drain?—There was a drain in front of the house.

3940. How far where you from it?—To the north-west of it.

3941. How far from it?—I should say about 120 yards.

3942. That would be about what time when you fired the shot that splintered the wood?—I could not say.

3943. It was about the first shot you fired?—Yes; I can only remember the time I arrived accurately.

3944. You were warming bricks for a time?—Yes.

3945. How long?—Half-an-hour or three-quarters.

3946. What did you do after that?—I went around the place.

3947. You did something else for Ned Kelly you said?—I turned him in the bed and settled the bed underneath him.

3948. Mr. Sadleir had instructed you to do that?—Yes; Mr. Sadleir and Sergeant Steele.

3949. Where were the men that instructed you to do that?—Sergeant Steele was in the room, and I think Mr. Sadleir was on the platform.

3950. After performing that duty, who gave you further instructions?—I acted on my own instructions.

3951. You went to that point one hundred yards away?—Yes, I saw the other men go and followed them.

3952. Were the other men instructed to take positions in your hearing?—I could not say.

3953. You took your own position and took the general fire with the rest?—Yes, I saw the others fire.

3954. Were you instructed by either of your superior officers to fire?—No, I was not.

3955. Did Mr. Sadleir seem to have charge of the whole affair, giving orders to all the men around?—Yes, he seemed to be in command there.

3956. What do you mean—“seemed to be”?—He was the senior officer there.

3957. What do you mean by “seemed”?—I mean seemed—that he was the senior officer, and I supposed he would give instructions.

3958. Did you see him giving instructions from point to point?—Yes; I could not tell what he was doing or saying.

3959. Did you hear him call upon the people in the house to come out?—Yes.

3960. Did all the people in the house then come out?—Yes—and to cease firing, and the men did cease firing for a considerable time, and the people all came out in a body.

3961. Was the fire pretty hot before that?—No.

3962. After they came out did they fire volley upon volley?—Yes; there was a little time elapsed before there was any firing, and then it was pretty warm for a time.

4th May 1881. other men fire I fired.

3964. Did you put down your gun from your shoulder, and then lift it again and fire?—Yes.

3965. To see where you hit?—Yes.

3966. You cannot remember when the outlaws ceased firing from the house—how long before it was burnt?—The house was burnt down about four or five o'clock.

3967. The outlaws ceased to fire about eleven?—No; I think I heard some man say that one of them came out, and tapped his armour.

3968. You did not see it yourself?—No.

3969. You saw the house when it was set on fire?—Yes.

3970. You saw the priest enter?—Yes.

3971. How far were the police from the house when the priest went in?—There were some of them nearer than others. He went up from near the front of the house, and I think he went in the back door, and came out and put out his hand.

3972. Do you call the back door the one nearest the station?—No, that leading to the back yard.

3973. On the other side you mean?—Yes.

3974. How far were the nearest police from the house when the priest went in?—I should say about 50 or 60 yards.

3975. Did you see the priest go in?—Yes.

3976. And go out?—Yes.

3977. Did you see his action?—He held up his hand.

3978. And then after that did the police go up?—Yes, they rushed the house then.

3979. They were then about 60 yards off when he raised his hands?—Yes.

3980. And about that time the priest went in?—Yes.

3981. *By Mr. Sadleir.*—You said I ordered you to fire at the bricks—was not that as late as one o'clock in the afternoon?—It might have been still later on.

3982. Was not the supposition then that they would go in the chimney?—Yes I recollect that the prisoners when they came out told you or some one that they were in the chimney.

3983. Did we also try to fire through the wooden end, into the breastwork at the other end, right across the other side?—I believe it was done, I do not know of my own knowledge.

3984. *By the Commission.*—Did you get instructions from your officers to do that?—Yes.

3985. Did you do it?—Yes, I did, to the best of my belief.

3986. *By Mr. Sadleir.*—Do you remember where Dixon and Armstrong were standing?—I remember where Dixon and Armstrong were standing.

3987. At the tree directly opposite the door?—Yes.

3988. Is not that tree inside the railway fence?—Yes.

3989. Will you look at this plan.—[*The witness did so.*] The tree was about here, was it not.—[*pointing to the plan*]?—Yes.

3990. How far from the tree to the front door—you have called it 60 yards—can you say it was anything like 60 yards?—I could not say.

3991. I have measured it, and know it was under 30 yards. Which end did the priest go round?—I think the little end, at the north.

3992. Did you see him go in?—I think I did—I saw him coming out of the little gate.

3993. Was that after he had gone into the house?—That was after.

3994. When he approached the house, did you not see the police run in after him, on all sides, some trying to stop him?—Armstrong was singing out to him.

3995. Did you notice him making the sign of the cross on his face?—I noticed him hold up his hands.

3996. *By the Commission.*—Did you see Mr. O'Connor often during that day?—Yes.

3997. Where was he?—I saw him along with Mr. Sadleir, and I saw him giving the black trackers lunch.

3998. Where were they then?—The north side.

3999. They did not leave their positions to get lunch?—Yes, they did.

4000. Did they get under shelter?—They were running behind trees.

4001. Where were they getting lunch?—There was plenty of lunch at the station.

4002. Did they get it there?—Either them or Mr. O'Connor.

4003. Did you get your lunch at the station?—Yes.

4004. There is a little difficulty; you cannot fix the hour of the shooting. The point of the examination is when you discharged this repeating rifle of yours—after the people came out of the house or before. Did you give me to understand that you had shot prior to the coming out of the people. Subsequently you fixed the hour at or about one o'clock. Can you decide on that point?—Yes, because I had fired before Mr. Sadleir told me.

4005. What time did you get your lunch?—I could not fix the time. I went down to the station and had it.

4006. You felt hungry and went down?—Yes.

4007. Did the men say there was lunch down there?—Yes.

4008. It was a mere matter of time?—It would not take you ten minutes to run down.

4009. Did most of the men go?—I do not know; I saw one or two.

4010. Did you see the black trackers eat their lunch?—I saw Mr. O'Connor distributing it to them,

4011. Where?—At the north side of the hotel.  
 4012. Were they stationed there?—No.  
 4013. Did they come together for lunch?—Yes, they came all together for lunch to the north side of the house.  
 4014. Was Mr. O'Connor moving about and giving orders?—No, I saw him give orders to the trackers.  
 4015. What was he doing when you saw him first?—Standing under shelter of a tree with Mr. Sadleir at the north side of the house.  
 4015a. Is what you call the north the back of the house?—No, the back I call the west.

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4016. Beyond the station, as you go up the line, you call the north?—Yes.  
 4017. Can you take upon yourself, after this lapse of time, of your own knowledge, to say whether any firearms were discharged by the occupants of the house, the outlaws or any one else, after you came on the scene—discharged from Jones's residence?—Yes, on one occasion. I believe it to be Jack Sherritt he was standing up near the back of the house, and I got up there, and he said, "Look out, old man, there has just been one come out of the back window."  
 4018. Did you see him?—No, I saw something.  
 4019. He drew your attention to somebody at the window firing a shot?—Yes.  
 4020. Do you believe a shot was fired from the time you arrived—can you state positively—do you know, yourself?—I cannot state positively.  
 4021. Do you think there was?—No.  
 4022. Could you not see the flash of the gun if fired from the window?—Not if they stood back a good distance from the window.  
 4023. Did you see Mr. O'Connor several times on that day—what was he doing?—He was along with Mr. Sadleir talking with him.  
 4024. Did he move from place to place?—I saw him on a couple of different occasions in different places.  
 4025. Did you see him in that drain under cover?—No, I did not.  
 4026. He was not in that when you saw him?—No.  
 4027. As far as you know it would not be true to say he remained in that drain, and did not stir out?—I could not say.  
 4028. When you saw him he was out of it?—Yes.  
 4029. As far as you know it would not be true to say he was in it all the time?—He might have been, but when I saw him he was out of it.  
 4030. Was it at one o'clock that Mr. Sadleir instructed you to fire lower?—It might be after one o'clock.  
 4031. So that Mr. O'Connor might have been in the drain up till one, as you did not know him to distinguish him up to that time?—Yes.  
 4032. Did he keep in one place?—I saw him lower down from the railway station.  
 4033. Did he seem to be going round and giving orders to the men?—I did not take any particular notice of him. I did not know him till then.  
 4034. After that?—I only saw him giving the black trackers their lunch.  
 4035. What did you think, yourself—was it quiet?—There were plenty there, and we did not all go together.  
 4036. Did you think the outlaws might rush out at any time?—I thought that it would be a good thing to have them out before night-time, to prevent their escaping at night.  
 4037. Then rush them or shoot them?—Yes, some way or other.  
 4038. What was your impression?—I heard several men say, "Rush the house." I saw Armstrong and Mr. Sadleir. I think he said he would not lose any more lives over the like of them.  
 4039. What did Armstrong say before that?—He was roaring out a lot in front of the house, calling them cowards not to come out.  
 4040. Did you hear any men volunteer to rush the house?—A couple sang out, "We will rush."  
 4041. Where?—Towards where Mr. Sadleir was standing.  
 4042. What did he say?—He would not lose any more lives.  
 4043. Did you come to any conclusion that he was going to adopt that particular course?—I heard immediately afterwards Senior-Constable Johnson was going to burn the house down.  
 4044. Did you hear about the cannon?—Not till afterwards.  
 4045. Did you see Mr. Sadleir any time after he gave you instructions at the railway to attend to Kelly till he told you to fire low?—Yes.  
 4046. Where?—I saw him talking to the prisoners that came out of the house—he and Mr. Rawlins, and I think Mr. O'Connor. I would not be certain about the latter.  
 4047. If Mr. O'Connor was there you would not have known it was Mr. O'Connor at that time?—Yes, I did.

William Duross,  
*continued,*  
 4th May 1881.

4048. How could that be when you told me the first time you knew him was after you were told to fire lower?—Yes, it was after that.

4049. But they came out at eleven o'clock?—I did not know that.

4050. That was the time, the first time, you knew him; how can you say he was there?—I fancy he was there, because I know there were several, and I thought I recollected his features afterwards.

4051. It is only a matter of conjecture that he was there?—Yes.

4052. If a witness came and said Mr. O'Connor was not there, would you take upon yourself to say he was?—No.

4053. Were you somewhat confused after the brick warming?—A little, but not as much as I was at Sherritt's hut.

4054. You do not seem to remember time well?—I do not remember the time at all.

4055. Did you see Constable Kelly that day?—I saw him.

4056. Did he come round to you at any portion of the day?—He did not speak to me personally, but he was going round.

4057. Was he actively engaged going about?—Yes.

4058. More so than Mr. Sadleir?—No, I could not say that.

4059. Did you see Mr. Sadleir continually moving about after eleven?—I could not say "continually."

4060. Where did Mr. O'Connor go after you knew it was Mr. O'Connor?—I saw him giving the trackers lunch, and I may have seen him afterwards, but I did not take particular notice.

4061. Did you see Sergeant Steele?—Yes.

4062. Was he actively engaged?—Yes, he was in the room where Kelly was when I saw him first that day.

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William Duross,  
*continued,*  
4th May 1881.

4063. Did you know him?—No, because he had shaved from the time I knew him before.

4064. Did you expend all your ammunition?—I had two or three rounds left.

4065. Did you put in a claim for this Kelly Reward Fund?—Yes.

4066. What was your claim?—Through being at the capture at Glenrowan I stated the part I took in it. Arrived there at nine, and left in the evening by the train.

4067. Was that a written claim you put in?—Yes.

4068. Were you examined before the Board?—No.

4069. In your claim did you claim anything for the great anxiety that you suffered on the night of the 26th?—No.

4070. How long have you been in the police force?—Since 1874, and I was in the barracks previous to that.

4071. Was your father a constable?—He was in the detective police.

4072. Are you a foot constable?—Yes, and always was.

4073. Where?—Stationed in the city of Melbourne.

4074. Had you had much practice in the use of firearms before you went up?—Never.

4075. You could fire a gun?—I could.

4076. You did not consider yourself a "shot"?—No.

4077. Were you not trained at the barracks?—No target practice.

4078. The ordinary manual platoon practice?—Yes, artillery drill with no ammunition, and blank cartridge with the big gun.

4079. Were you not shown how to discharge the gun and aim with the rifle supplied to you?—Very little of it.

4080. Have you been accustomed to guns?—Only to drill with them—shoulder arms, and so on.

4081. After passing the military barracks did you go direct into the police?—We go to the Richmond barracks for a little. I was there for a month.

4082. What did you learn there?—Ordinary police duty.

4083. You were not taught anything. You get your manual and you have to learn it. Have you passed any examination in that?—No.

4084. Was the practice in your time to draft from the artillery barracks into the police?—Yes.

4085. Did you undergo no examination as to whether you were accustomed to firearms?—No.

4086. Were you not asked?—No.

4087. You only put off one uniform and put on another, and got the book?—Yes, that is the regulation book I got.

4088. And went on duty at once?—Yes.

4089. In the North-Eastern district?—No, five years before that, in Melbourne.

4090. How long before you went to the North-Eastern district was it you had any use in firearms?—About five years before.

4091. While you were stationed in Melbourne you had no practice in firearms?—No.

4092. Were any men, to your knowledge, taught. Are you not supposed to be armed. Is this the book

you got?—No.

4093. You are furnished with batons?—Yes.

4094. And are you exercised in the use of them?—No.

4095. Did you make yourself acquainted with the “Police Regulations” book?—I am supposed to make myself acquainted with all the books.

4096. Does that one prescribe what your arms shall be. What are the police arms?—We have an Enfield rifle—a muzzle-loader—and that is all a foot-man has.

4097. Were you taught to take up, load, and discharge with that?—No.

4098. Were you taught that at the Victoria barracks while you were in the Artillery Corps?—I was taught a different rifle altogether in the barracks.

4099. Were you served out with a double-barrelled shot-gun in the North-East?—A muzzle-loading Colt’s revolver and a Spencer rifle.

4100. Were you taught the use of that rifle?—I had several shots with that.

4101. Were you taught how to use it?—Inspector Montfort showed us, in Russell street, before we left.

4102. Do you think you were competent or incompetent to use firearms when you went up there?—I was not perfect.

4103. Were you drilled up there in the use of firearms by Mr. Nicolson?—No.

4104. Never went out on practice?—I did on different occasions myself.

4105. On your own responsibility?—Yes, put up a target.

4106. *Mr. Nicolson.*—My party was at Benalla.

4107. *By the Commission.*—Is the feeling amongst the constables, in your opinion, that the men are not efficient in the use of the arms in the service?—The mounted men are different altogether from the foot police in Melbourne. The latter are not perfect in the use of firearms. They have no drill for firearms in Russell street.

4108. No shooting?—No shooting.

4109. Are the mounted men taught?—I heard they are taught revolver practice on horse-back, in the riding school. We have only the Enfield rifle—the City police.

4110. What is the special qualification for the police force that you were supposed to be perfected in at the Victoria barracks?—We were taught big gun drill and infantry drill.

4111. And to march?—That is infantry drill.

4112. Is there anything as to dealing with prisoners, or framing reports, or doing ordinary police duty there?—No.

4113. Were you drafted direct from that into the dépôt?—Yes.

4114. Except those books, were you taught how to frame reports to your officers and so on?—When you go out on the section with a senior-constable, he is supposed to instruct you in all that.

4115. At the dépôt you are not taught anything of that?—No.

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4116. You learn that yourself out on duty?—Yes.

4117. Is there a difference in the pay of the police when they first go on duty. Did you get less pay at first?—Yes, for two years I was getting two shillings per day in the artillery.

4118. You were not a policeman then?—No.

4119. When you say you left the Victoria barracks, and then joined the police force, and remained in the dépôt, what was your pay then?—Six and sixpence per day then.

4120. Has that been increased?—To seven and sixpence.

4121. Under what circumstances?—By Act of Parliament. After two years’ service in the police force we get a shilling a day extra.

4122. Had you an increase when you were in the North-Eastern district?—Yes; it was a travelling allowance, two shillings a day for being up there, while you are out on duty at night, and five shillings a day increase.

4123. Did that continue all the time?—No; there was a reduction previous to my going to Beechworth. We were transferred there temporarily; then we could not claim it after that.

4124. Before you went up there had you any experience of bush life?—No; I was never stationed out of Melbourne.

4125. Can you ride a horse?—Yes.

4126. Have you been trained in the regular way?—I have been accustomed to horses.

4127. All that you were taught in the artillery barracks was simply big gun drill and infantry drill?—Yes.

4128. Is the infantry drill not very advantageous to you as a policeman?—Yes, it is.

4129. It is a very legitimate basis of education to make a constable?—Yes, it is, in one way; a lot of men marching together would look awkward not marching properly.

4130. And ready to obey orders properly?—Yes.

4131. You were not taught sword exercise?—No.

William Duross,  
*continued.*  
4th May 1881.

4132. Have you heard any conversation amongst your comrades about giving evidence before this Commission?—Yes.

4133. Is there any reluctance on the part of the men to give evidence?—I could not state that. I heard a couple of men say they would like to give evidence—in the police.

4134. How do you mean “like”?—Anxious to be examined.

4135. Why?—Before the Board.

4136. Why—that they could give information about the Kelly business?—Not about that in particular.

4137. About what?—Other subjects.

4138. Is there any disinclination amongst the men to give evidence?—Not to my knowledge.

4139. Is there any fear of the officers amongst the men?—Not to my knowledge.

4140. If there was a disinclination, would not you be likely to hear it?—I might not.

4141. There is no such feeling to your knowledge?—No.

4142. Have you heard any at Beechworth express a desire to give evidence?—Constable Dowling and myself applied directly we saw Mr. Hare’s evidence; and I now ask to be present when Detective Ward is finishing his evidence.

4143. As to the drill, were you not drilled in the use of firearms in the North-Eastern district?—No, only by myself, or with one of my mates. We must have a little practice. Gascoigne and I went out together.

4144. You had no regular practice—no one giving you regular instructions in the use of firearms?—No.

4145. Is not Gascoigne a first-rate shot?—Yes.

4146. Were you allowed to use ammunition to practise with?—We got orders on one occasion not to use so much, and we used very little of it.

4147. *By Mr. Nicolson.*—When was that?—When I was at Violet Town. There was an order came not to expend so much of it, and then the order came that Colt’s ammunition was very scarce.

4148. Did you not get an order previous to that to begin to practice?—Yes, to have a little practice.

4149. *By the Commission.*—Was there a sergeant at Violet Town?—I was there by myself a considerable time.

4150. Did you get a circular that you were to make yourselves proficient by the use of Government ammunition?—I think that was the order that we could use a little.

4151. You were limited in the use of it?—Yes.

4152. *By Mr. Nicolson.*—Did you not get an order to discharge your Colt’s revolver every week?—There may be an order in the first part of it like that, but in the latter end we got an order that we were to be very careful in expending Colt’s ammunition.

4153. *By the Commission.*—Are you now supplied with a Colt’s revolver or a Webley?—No; I have neither.

4154. What arms had you at Violet Town?—The Colt’s revolver and the Spencer rifle.

4155. Has the Colt’s revolver a cartridge or a cap?—A cap.

4156. How would you get that unloaded without discharging it?—That would be a difficult thing.

4157. Could it be done?—I could not do it.

4158. Could any man do it unless he screwed out the bullet?—I think not.

4159. Is there any implement given you to screw out the bullet?—No.

4160. Would it be possible to see that your arms were in order without discharging your Colt’s revolver?—No, you would have to.

4161. Then if you saved ammunition you might have to leave your revolver loaded for a time longer than it should be?—Yes.

*The witness withdrew.*

*Adjourned to to-morrow at Eleven o’clock.*

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THURSDAY, 5<sup>TH</sup> MAY 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

E. J. Dixon, Esq., J.P.,

W. Anderson, Esq., M.L.A.,

J. H. Graves, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.

G. R. Fincham, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.

Thomas Patrick Dowling sworn and examined.

T. P. Dowling,  
5th May 1881.

4162. *By the Commission.*—What are you?—Constable.

4163. Were you engaged in the North-Eastern district of the colony at the time of the Kelly outrages?—I was.

4164. When did you go up first?—The latter end of February 1879.

4165. Where were you stationed?—Mooroopna.

4166. What time did you go towards Beechworth?—About the 11th June 1880.

4167. What was your first employment there?—I was employed on special duty at Sherritt's hut.  
 4168. That was about when?—About the 17th.  
 4169. Were you told off along with other members of the force to watch in the neighborhood of Sherritt's hut?—I was.  
 4170. Was your duty to watch during the night?—Yes.  
 4171. And to keep away from observation during the day?—Yes.  
 4172. Where were you watching?—In the vicinity of Mrs. Byrne's house.  
 4173. Were you present on the occasion of the visit of Superintendent Hare to Sherritt's?—Yes.  
 4174. Was it on a Saturday evening?—On the Saturday evening previous to Sherritt being shot, Mr. Hare and Detective Ward came.  
 4175. Do you remember what Mr. Hare said on that occasion?—No, I was not at the hut at the time he came.  
 4176. Where were you?—I and Constable Armstrong were about some 200 yards away from the hut, cutting firewood.  
 4177. What time was that?—We left about half an hour after dusk; after tea.  
 4178. What time would dusk be then?—I could not say exactly the time.  
 4179. Was it moonlight at the time?—Yes, I believe it was.  
 4180. Would it be about seven o'clock in the evening?—About half-past six.  
 4181. When Mr. Hare arrived?—When we went up the hill to cut firewood.  
 4182. How long did you remain cutting firewood?—We would be up there about an hour and a half, I think.  
 4183. Was it sufficient light for you to be able to use the axe to cut firewood?—Yes, it was.  
 4184. That would make it eight o'clock; after that where did you go?—We were coming down with a load of firewood when we met Mrs. Sherritt.  
 4185. What did she say?—She told us that Mr. Hare and Detective Ward were down at the hut.  
 4186. Did you see Mr. Hare that night?—Yes.  
 4187. What did you do when she told you that; did you drop the firewood?—We were going down to the hut. She told us that they had arrived, and that Detective Ward sent her up to tell me and Armstrong to go and take up our posts as quick as we possibly could at Byrne's house. I said there was no occasion to tell him a lie; that we could go down and tell him the truth, and there would be no blame attached to us. On our way down to the hut we saw Detective Ward, who told us to clear out as quick as we could, and take our post at Byrne's house, as Mr. Hare had just gone to see what we were doing there.  
 4188. How far were you from Sherritt's hut when you met Detective Ward?—About 150 yards.  
 4189. Did Detective Ward give you any reason why you should go down there so quickly?—No, he did not.  
 4190. Did he say Mr. Hare was led to believe you were down there?—No.  
 4191. He gave you no reason?—Yes, he said he told Constable Duross to tell Mr. Hare that I, Armstrong, and Sherritt were over at Byrne's place watching, and that the reason he and Alexander had remained behind was that Aaron Sherritt thought it too light for them to go with us.  
 4192. Did he suggest to you then that having told that to Mr. Hare it was absolutely necessary for you to go on?—Yes, he told us to clear out. I told him there was no necessity to tell Mr. Hare a lie, and to tell the truth. He then said to me "— it go on, and do as I tell you." I and Armstrong then left and had taken up our posts some three or four minutes previous to Mr. Hare coming along.  
 4193. You obeyed that command?—Yes, when I saw Mr. Hare I was going to stand up, but he made a sign to me to remain where I was, and passed on to Constable Armstrong. I do not know what took place between Mr. Hare and Armstrong.  
 4194. Go on with your narrative in your own way, and tell what came within your own knowledge on that occasion?—That was all.  
 4195. You stayed there all that night?—Yes.  
 4196. And returned to Sherritt's?—Yes, about three o'clock in the morning.  
 4197. You saw nothing else before that?—No.  
 4198. You were doing nothing all the day?—No, we were supposed to remain in all the day.  
 4199. Mr. Hare returned to Sherritt's with you?—No, he left us at Byrne's.  
 4200. And you and Armstrong returned to Sherritt's?—We remained at Byrne's till three o'clock in the morning, and then returned to Sherritt's.  
 4201. Did anything further occur before the night on which Sherritt was shot?—No, not that I am aware of.  
 4202. How long was that before he was shot?—That was the Saturday night previous to his being shot.  
 4203. When was he shot?—Saturday night.  
 4204. Then nothing particular occurred during that week?—No.

4206. Will you just relate to the Commission what occurred upon the night when Aaron Sherritt was shot?—

5th May 1881.

*The witness was requested to withdraw.*

*The Commission deliberated in regard to the reported appointment of Mr. O'Connor to the position of Inspector in the North-Eastern district.*

Thomas Patrick Dowling further examined.

4207. *By the Commission.*—Will you just relate to the Commission, in your own way, what occurred upon the night upon which Aaron Sherritt was shot?—On that particular night I and constables Armstrong and Alexander were in the bedroom. Constable Duross, Aaron Sherritt, and his wife, were in the kitchen, having tea.

4208. And Mrs. Barry?—Yes, was in the kitchen also. I was lying on the bedroom floor when I heard a voice outside, at the rear of the hut, saying “Aaron Sherritt, I have lost my way, I want you to put me on the road.” I then heard Sherritt say (this was giving me and my mates to understand that he knew who was outside), “It is only Anthony Weekes, a German that lives over the creek, he is in the habit of going astray when he gets drunk.” Mrs. Sherritt then said to Sherritt, “Go on and show him the way, and do not keep him waiting out there.” I then heard the back door opening, and heard Sherritt say, “Do you see that sapling over there?” when there were two shots fired, and the words “bail up” were heard in a loud tone of voice three or four times. I then heard Mrs. Barry and Mrs. Sherritt screaming, and saying, “Oh Joe, why did you shoot Aaron. Oh Joe do not shoot me.” He then asked, “Who is that gone in there, in that room?” Mrs. Sherritt said, “It is a man that is looking for work, named Duross.” He then called upon him to come out, several times, and commenced whistling as if signalling to some one to come to his assistance, when there was another shot fired in the front door, I believe by Dan Kelly. I then heard a voice at the rear of the hut saying, “Who fired that shot?” and I heard the reply outside of the front door saying, “I did”; and the man then at the rear of the hut said, “It is all right.” He then told the women to throw the doors open and come outside, and they did so. I and my mates kept a sharp look out into the kitchen. We were at the bedroom door looking in, and also out through the kitchen doors when they were thrown open, but could see nothing outside but darkness. Armstrong then said to me, “What about rushing?” I said, “Yes, I will rush, ask your other mates.”

4209. Did you know who those men were?—I thought it was the outlaws directly I heard Mrs. Sherritt shout “Joe.” He asked them, and they said, “Yes.” Armstrong then said we would remain in the hut till daylight in the morning, as he believed the outlaws would remain until then, as they had done so in other places they had stuck up; and that then we would be on equal terms with them. He also said if they were gone at daylight we would go and search Byrne’s house. Mrs. Sherritt then came running in, and said that Byrne sent her in to tell Duross and his mates to come out.

4210. “And his mates”?—Yes; and that he would not shoot us. I told her to keep quiet and not be running in and out of doors. My mates also told her. I believe we also told her mother not to be running in and out of the doors, as they were apt to be shot. I then heard a voice at the rear of the hut saying, “Come outside here, Mrs. Sherritt”; and she immediately ran outside. I then kneeled down on the floor, and was leaning against the wall, when there were two more shots fired from the rear of the hut into the wall that I was leaning against. The effect of the shots was knocking some of the mortar down my neck and back.

4211. Were the walls plastered?—Yes.

4212. Between the slabs or how?—It was a slab hut, plastered inside.

4213. Lath and plaster?—I am not sure whether there were laths or not. It was lined with some sort of bags and paper also.

4214. Was it slabs with plaster between the joints?—I cannot say about between the joints. There was papering—covering of some sort, and dirt fell down anyhow. They were calling on us to come out and surrender.

4215. Up to that time did Mrs. Sherritt present the appearance of being very much frightened, or did she what would be commonly called “take it easy”?—She seemed very much frightened. I heard her ask Byrne several times not to shoot her. They were calling on us to surrender, and saying, “Come outside here, and I will shoot you down like b—— dogs. If you don’t come out I will riddle the b—— hut, for I have any amount of ammunition.” immediately the two shots went I jumped on a bag of flour that was leaning against the partition that divided the room from the kitchen, and I leaned on the partition and looked out through both kitchen doors, and could see nothing outside but darkness.

4216. In looking outside could you see in this sitting-room?—Yes.

4217. You could see what took place in there?—When I looked over I could.

4218. Did you look at all when you heard persons inside?—Yes; we went to the door and kept a sharp look out.

4219. Did you look out while they were there?—Yes; we looked in from the bedroom door.

4220. While the outlaws were in there?—No, they were not in the kitchen at all; they were outside.

4221. They had not come in at that time?—No.

4222. Were they ever in the kitchen?—No, they did not enter the house at all. They could not come in without our seeing them.

4223. You would have shot them?—If they had come in we would have shot them. I would have fired at random, at that particular time, had it not been for the women being outside. I was afraid of shooting one of them if I fired. Armstrong then said, “Look out for that window,” and I got on the bed and pulled the

blind on one side. I could not see outside, it being so dark. I then heard the outlaws call on us to come outside again, and saying, "You are a long time about coming out"; and I heard one of them say, "I will b— soon make you come out"; and I heard him strike a match and set fire to some scrub at the end of the hut.

4224. Will you point out which end—[*showing a plan*]?—The bedroom end.

POLICE.

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T. P. Dowling,  
*continued,*  
5th May 1881.

4225. Were they aware at the time there were police inside?—They were. I believe the women told them. I heard them ask, "Is that b—— Dixon inside?"

4226. Was he one of them?—No. I heard Mrs. Sherritt say he was not one of the men that was inside.

4227. Is there a policeman of that name?—Yes.

4228. Do you know him?—No. I believe I have seen him once.

4229. Was he up in that district?—Yes.

4230. He must have referred to a policeman in asking if Dixon was there?—Yes. Up till nearly daylight in the morning I could hear some one talking outside the hut every now and again.

4231. Did the women come in ultimately—that would be before daylight?—It was after the third or fourth shot that went they came in. Shortly after the time I mentioned about not shooting because they were outside, they came in, and were running in and out of the door several times. We could not keep them quiet, so we concluded not to let them out again, and we put them under the bed.

4232. Was that to give you more room or for their protection?—For their protection, and also to give us more room, as the bedroom was very small, and they were apt to be shot, running in and out the way they were doing.

4233. Shot by whom?—They might have been by us, supposing we did fire at any time.

4234. What size was the room?—About 11 feet by 10, I should think.

4235. What size was the bedstead—was it a double bed?—Yes, I think about six by five or four.

4236. What else was on the room on the floor?—Some boxes.

4237. How much space would they take up?—About one corner at the head of the bed.

4238. So there was very little standing space for you?—Very little standing space. I remember, when I was lying on the floor, I could not stretch my full length through the boxes being in the corner.

4239. The bed was under the front window?—Yes; we also heard a dog barking and making a rush every now and then, as if he was running at something.

4240. Did the dogs give any alarm before the arrival of the men?—Not that I heard of.

4241. How many dogs were there?—One. At daylight in the morning Constables Armstrong and Alexander went outside.

4242. Did either of the constables leave the room before daylight?—Armstrong, I believe, went outside and covered Sherritt up, and put the fire out. That would be about 12 o'clock.

4243. Was the door closed before that?—Yes; he closed them himself, I believe.

4244. Were they closed before that?—Yes.

4245. Who closed them?—Armstrong and Alexander, before they went out, closed them with their guns.

4246. You could have done the same when you looked over on the bag of flour?—No, not very well with the gun.

4247. Was this partition (*pointing to the plan*) across from wall-plate to wall-plate—about the same height as the wall-plate?—Yes, about that.

4248. And the doors opened back to that partition?—Yes.

4249. Could not you have closed them when looking over?—If I had had a gun.

4250. Could you not have got some one to assist you with a gun?—I do not see how I could. I had a revolver only when I got on the partition.

4251. Your three comrades were in the bedroom?—Yes, one at each side of the door then.

4252. You heard voices till daylight in the morning?—Yes.

4253. When Armstrong and Alexander went out the doors were open?—No; they closed them with their guns.

4254. In what position were they then?—They were at the bedroom door.

4255. And the doors were not closed until that time?—No.

4256. At that time you were under the impression that those people who fired were outside?—Yes.

4257. You said you kept the women inside for fear you would shoot them. Did you shoot after that?—No; they stopped talking outside, so we thought it would be useless. There was not a shot fired. We could hear them at the side of the hut.

4258. Was that fancy?—No, I am sure it was not fancy. I made the remark to my mates several times during the night.

4259. You each had a gun in the bedroom at the time you describe?—Yes.

4260. What was the character of those guns?—They were double-barrelled breech-loaders.

4261. And loaded with what?—Wire cartridges.

4262. Bullets or shot?—Shot.

4263. What was the character of the shot?—That I could not say.  
*Mr. Hare.*—They are pellets, B shot, 14 or 16 to the ounce and a half of shot, and they use half a shot in a cartridge. They were not all wire cartridge.  
 4264. *By the Commission (to the witness).*—What is about the length of one of those guns; stand up and show where it would reach to?—(*The witness stood up and indicated that it would reach up to his waist.*)  
 4265. Standing on that bag of flour with a gun in your hand, could you have reached to touch the doors?—Yes, I could.  
 4266. You could have done that at any time?—Yes.  
 4267. Did it not strike you at any time?—No.  
 4268. Nor any of your comrades?—No.  
 4269. Was it that you were expecting them to come in every moment?—Yes, and I could hear them talking outside.  
 4270. If they had come opposite the door you would have tried to shoot them. Did you try to see them?—Yes, all we could.  
 4271. Were you ready to fire at any moment up to the time of the shutting of the doors?—Yes.  
 4272. That was what was in your mind?—Yes.  
 4273. That they might come to close quarters at any moment?—Yes,

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4274. How many men could get in such a position as to fire at the door?—If they were coming in at both kitchen doors, only two could see them. If they came into the kitchen, any of us could see them.  
 4275. You would have to stand on the bag of flour?—No, we could have seen them from the door, and one could have got on the bag.  
 4276. And shot over the partition?—Yes.  
 4277. Did they send Weekes in?—No.  
 4278. Were you quite satisfied with your arms—the gun?—Yes, I was satisfied with them. On the night I was told to go out there I was going to bring my Spencer rifle; and I was told by the sub-officer in charge of the Beechworth station that I was not to bring any arms but the revolver, and that I was to take the arms and ammunition from the man I was going to relieve at the hut.  
 4279. Was the gun, do you think, preferable to the Spencer rifle—the way it was loaded—for shooting in the dark?—It would be better outside, perhaps, but not inside.  
 4280. What do you mean by that for shooting at an object in the dark, which would be the best, the rifle or that gun—the most certain to hit at short range?—If we were to fire at random, I dare say the guns would be better, but, firing at an object, I would rather have the rifle.  
 4281. Had you been used to firearms before being sent to Sherritt's?—Yes, I was.  
 4282. In what particular instance?—In shot guns.  
 4283. So that you did not object to the shot gun?—No, I did not.  
 4284. You believe they were likely to be just as effective as any weapon you could have?—No, I would have preferred the rifle, as I was more accustomed to it since I joined the police.  
 4285. But you were quite competent to use the shot gun?—Yes.  
 4286. Were you told your duties when you went there; what was your supposed object in being sent there; did you not know that?—Yes, I was told by Aaron.  
 4287. What?—To watch Byrne's house, to see if the outlaws came there at any time.  
 4288. And any further instructions, in the event of your seeing them?—No, he never told me any more.  
 4289. No instructions that, in the event of seeing one of the outlaws—as to what you would do, and you being at a distance from your other comrades—what course of action you were to take then?—No.  
 4290. You were told simply you were there to watch, and report afterwards?—Yes.  
 4291. Supposing, during the time you were watching Byrne's place, you had seen one of the outlaws moving from Byrne's place, what course would you have adopted—acting on your own responsibility?—If I knew for a fact it was one of the outlaws I would fire.  
 4292. Were you instructed to do so?—No.  
 4293. You had no other instructions than to watch Byrne's place?—No other instructions.  
 4294. As a matter of opinion, do you consider as to those four men who were together if any of them had seen one of the outlaws would he have considered himself justified in shooting without any orders?—Yes, I would.  
 4295. Was that the feeling among the men themselves?—Yes, it was.  
 4296. What experience had you of that particular duty before going to Sherritt's place?—I had no experience. I was on bank duty at Mooropna, doing mounted duty there.  
 4297. Are you a mounted trooper?—No, but I was doing mounted duty there.  
 4298. Were you in the artillery corps before joining the police?—Yes, I was.  
 4299. Was there no understanding between those four men that if the Kellys put in an appearance at Byrne's place what course they were to take?—No, I never received any orders.  
 4300. None at all?—No.

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4301. Did you feel you would be fit to cope with four outlaws if they came there?—Yes, I felt that.  
 4302. Would you try it?—Yes, I would, I was always prepared, supposing they did come.  
 4303. Supposing they had put in an appearance, you would have surrounded the house and endeavored to take them?—Yes.  
 4304. Without sending to head quarters?—Without sending to head quarters.  
 4305. Have you had much experience in firearms?—Not a great deal, only what I had previous to going to the police force.  
 4306. How long before that had you had practice with firearms?—The last I had was in Mooroopna.  
 4307. How long was that before?—About three or four months.  
 4308. Did you fire a shot between that time and this night?—No.  
 4309. Were you accustomed to use a shot gun before you entered the police force?—Yes.  
 4310. How?—Shooting, up country.  
 4311. What sort of shooting?—Duck shooting or opossums, or anything.  
 4312. From your childhood?—Yes.  
 4313. When did you first fire a gun, what age?—About thirteen or fourteen.  
 4314. Are you a native of the colony?—Yes.  
 4315. Was there anything particular in the double-barrelled gun?—No, nothing particular.  
 4316. You just put in the cartridge?—Yes.  
 4317. A breech-loader?—Yes.  
 4318. What occurred in the morning?—Armstrong called in a Chinaman who was going along the road.  
 4319. About what time was that?—I could not say what time that was.  
 4320. How long before daylight, fix the time as near as you can?—It might be a quarter of an hour.  
 4321. After daylight?—About that. He wrote a letter, gave it to the Chinaman, and also some money, I do not know how much it was, and told him if he delivered the letter at the Beechworth police station——.  
 4322. Was the Chinaman on foot?—Yes. That he would receive more money afterwards. The Chinaman said he would and left for Beechworth, but returned in about half an hour and said he would not go as he did not understand what it meant. Armstrong then asked him to take the letter to a schoolmaster.

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4323. Did he see Aaron Sherritt's body lying there?—Yes.  
 4324. Did he make any remark?—No, he did not make any remark. He seemed rather frightened.  
 4325. Where was the body then?—Lying covered in the kitchen.  
 4326. Did the Chinaman know there was a murdered man in the house?—Armstrong pointed out the body to him, I believe. He asked him if he would take the letter to a schoolmaster named Donoghue, who lived half a mile up the creek. The Chinaman did so, and the schoolmaster arrived in about half an hour's time.  
 4327. Had you any means of knowing the time—any clock?—No. Duross had a watch.  
 4328. Then you could know the time of day?—Yes; but I never asked him the time except on one occasion.  
 4329. At this time it would be about nine o'clock, judging by the time taken by the Chinaman and the schoolmaster?—About eight, I should think.  
 4330. Did the schoolmaster go?—Armstrong asked him if he would take a letter. He said he would not take a letter, but would give the information without. He said he was afraid if he brought the letter with him he might be stuck up on the road, and if they found it in his possession they would be sure to shoot him.  
 4331. Did he go?—Armstrong asked him to be sure and go. He said he would, and left for Beechworth. He returned in about an hour and a half, and said his wife would not allow him to go; that he was afraid of his life, as he believed the outlaws were on the opposite hill to us, watching our movements.  
 4332. Did he lead you to understand that he had any reasons for believing so?—No. He told me they were on the opposite hill watching our movements. I told him he might have come back sooner than he did to tell us that he would not go.  
 4333. What did you do then?—Armstrong asked a digger that happened to come into the hut at the time if he would go. He said he would, and left for Beechworth. He had gone about half an hour when we came to the conclusion that it would be better for one of us to go.  
 4334. Why did you not communicate that before, earlier in the morning?—I do not know. We all thought it was advisable to leave the body and go away into Beechworth, all of us.  
 4335. They could not have injured a dead man?—No, certainly not.  
 4336. Had there been any others at the hut up to this time?—Several others came in; but I did not hear him ask them to go.  
 4337. Who were they?—I do not know.  
 4338. You were present?—Yes. They were workmen that would be about the creek there.  
 4339. Were they all informed that Sherritt was shot?—Yes; they heard of it.  
 4340. Cannot you give their names?—No, I cannot.  
 4341. Was it that intelligence that brought them there?—Yes.

4342. Where did they get it from?—I do not know.  
 4343. Did you ask them?—No.  
 4344. At what time did the workmen come out?—Shortly after daylight.  
 4345. Did they remain or go to the adjoining houses?—I think one went outside. I am not sure. I was not paying particular attention.  
 4346. Were you out of the house yourself?—Yes; I went away about twenty yards to a sort of a slab hut that was there covered in at the top only.  
 4347. What was your object?—I merely went up to see if I could see any tracks there, for I thought they might have tied their horses there.  
 4348. Did you find any traces?—No, I did not.  
 4349. Did you make a circuit of the hut to see if you could find any traces?—Yes, we——  
 4350. Speak for yourself only?—I had a look round to look if I could see any tracks, and could not see any.  
 4351. How long did you remain out on that search?—Perhaps ten minutes.  
 4352. Then you came back to the hut?—Yes.  
 4353. Were you in the hut when those strangers came in?—Yes.  
 4354. Did you ask them what they wanted?—No.  
 4355. Were you not afraid that the Kellys or some of their friends might have been coming to the place?—We were on the look out.  
 4356. You allowed those men to enter, and did not question them?—No, we did not. We allowed them to come in.  
 4357. Did you know Kelly or any of the gang at that time?—No.  
 4358. For all you knew one of those men that came in might have been one of the gang?—Yes, they might have been for all I knew.  
 4359. Did you challenge them at the door when they came in?—No, we did not challenge them.  
 4360. You heard voices up to daylight?—Close up to daylight.  
 4361. And strange men came in the morning?—Yes.  
 4362. You did not know the Kellys, and did not challenge any of those men that came in?—No,  
 4363. Some of your party knew the Kellys?—I am not sure whether any of my mates knew them or not.  
 4364. You had the photos of those outlaws?—Yes.  
 4365. You would form a pretty good idea from that?—Yes.  
 4366. Do you remember any remarks made by those parties when they came in?—No, I do not, only what Donoghue said that the outlaws were on the opposite hill.  
 4367. Was it not rather strange they should come in, and look about without your saying anything and their saying anything?—I heard them say they heard about Sherritt being shot, I believe.  
 4368. Did you ask where they got the information?—No.  
 4369. Did Donoghue say, in the first instance, that the Kellys were there?—No, when he came back.  
 4370. Did he say then they were?—Yes.  
 4371. Not that they “may be”?—No.  
 4372. As a fact, that they were there?—Yes.

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4373. Do you know what means he had of ascertaining that fact?—No.  
 4374. Was there any sign outside of where they made any preparations to fire the house?—Yes there were some bushes gathered together, but they would not burn.  
 4375. Anything else?—There was also some wood under one of the windows.  
 4376. They could not have put that wood there without coming under the window?—They could not. It was a catch window.  
 4377. You did not attempt to open that window?—We could not open the bedroom window.  
 4378. Why?—It was fastened. I tried it myself and could not. It would have been useless in any case if I could.  
 4379. Was the place where the boughs and wood were where you heard the match struck?—Yes.  
 4380. That was by the bedroom?—Yes.  
 4381. Did you hear any voices there?—Yes.  
 4382. Whose?—Byrne and Kelly both, I think, also Mrs. Barry, I think.  
 4383. They must have left their positions at the front and back when they collected those boughs?—They must, at least one must be looking in while the other was bringing the bushes, but there were bushes there for us to light a fire ourselves?—We brought them down.  
 4384. At what time did they attempt to set fire to the place?—About ten o’clock at night.  
 4385. Was it not suggested you should make a rush while they were making preparations to set fire?—No, it was not. We were not aware that the others were not there. We were sure in fact the others were there. We did not believe they would leave the others while they were going to commit that deed.  
 4386. What time did the moon rise that night?—It was moonlight about twelve, I think, as near as I

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could guess.

4387. Did it suggest itself to you that you should go out as soon as the moon had risen?—No, Armstrong said it was better to remain.

4388. You were entirely under the direction of Armstrong?—Yes, we were supposed to obey him. We were under his orders.

4389. At what time in the evening were you in the habit of going to Byrne's house?—About eight or nine.

4390. This occurred about half-past six?—Yes.

4391. You were preparing to go out, I suppose?—No.

4392. What were you all doing at this time when the knock came?—I was lying on the floor, and I think Armstrong was on the bed, and Alexander on the bedroom floor.

4393. You had all your arms in the bedroom?—Yes, they were leaning against the wall.

4394. You placed them so as to easily find them at anytime?—Yes, we could easily find them.

4395. No difficulty in going to them in the night time to find them?—No; we always kept our revolvers on us—at least I did.

4396. And placed the gun so as to find it at any moment?—Yes.

4397. Would it be possible for the outlaws to come to Mrs. Byrne's hut without your seeing them?—They could have come at the back.

4398. And you not see them?—We were there, we were all at the one side of the house.

4399. You had no spy?—Yes, Sherritt.

4400. Did he go to Mrs. Byrne's house?—He was with us.

4401. Was he inside the house to see?—Not that I am aware of.

4402. You had no one there to inform you?—No.

*The witness withdrew.*

Jacob Wilson sworn and examined.

4403. *By the Commission.*—What are you?—A farmer.

4404. Did you receive any information from Superintendent Nicolson?—Yes.

4405. What did he do?—He sent out a constable to my place.

4406. Were you ever a man-of-war's-man?—Yes.

4407. What vessel were you on last?—I was discharged from the Dreadnought.

4408. Where do you live?—I lived near Greta.

4409. Were you a selector?—Yes.

4410. Who was your nearest neighbor?—My nearest neighbor was Tom Lloyd.

4411. Did you know Ned Kelly, the outlaw?—Yes.

4412. Was Lloyd any relation of his?—Yes, Mrs. Lloyd is his aunt.

4413. Mr. Lloyd was his uncle, Then, by marriage?—Yes.

4414. Do you recollect when the constables were murdered at Mansfield?—Yes.

4415. When first did you know anything about the police being in search, as far as you were concerned?—I knew the police were in search in 1878.

4416. Was that after the murders or before?—Before.

4417. Did you know who they were in search of?—I knew they were in search of Ned Kelly, after the outrage on Fitzpatrick, on the Eleven-mile Creek.

4418. How far did you live from the house where the outrage was committed?—About four miles.

4419. You knew all the family?—Yes.

4420. You recollect when the constables were murdered at Mansfield?—Yes.

4421. How soon did you see the police after that, looking for Kelly?—I do not remember.

4422. Did the police come to your house—a search party—looking for Kelly?—Yes.

4423. What occurred on that occasion?—They asked me if I had seen anything about the Kellys, we said, "No."

4424. Who was "we"?—There was my son along with me.

4425. Who asked you that?—I think it was Constable Flood.

4426. Did you see any officer?—No, I did not.

4427. What did they do then?—Some time, in 1879, Superintendent Hare came to my place.

4428. Did you know anything of the Kellys when Constable Flood came?—No, we knew nothing about them.

4429. Was that after the murder of the constables?—I am not certain.

4430. Try and fix it?—I am not certain whether it was after the outrage at the Eleven-mile Creek, or after the murders.

4431. Had you seen the Kellys at that time?—No.

4432. When did you next see the police?—I do not think I saw the police till Mr. Hare came to my place with his horses.

4433. Did he ask you had you seen the Kellys?—Yes.

4434. What did you tell him?—I told him I had not.

4435. Had you?—I had seen Ned Kelly in December or January, after the police were murdered.

4436. You had seen Ned Kelly and you told the officers you had not?—Yes.

4437. Where did you see him?—I went to the Kilfera station early in the morning after sheep. We were fencing for the station, and he crossed the road and bid good morning to me; he was riding a bay horse.

4438. Was he armed?—I did not see any arms; he might have been under his coat.

4439. Mr. Hare asked you might he put his horses into your paddock?—Yes.

4440. What did you reply?—Senior-constable Mills came to my place, and I told him I would not give him any hay; I was frightened to give him any hay, and that if he went to Tom Lloyd's place he could get plenty of hay there. He said they were camped and had put up their tents at the creek, and it was too late to go to Tom Lloyd's place.

4441. What time was this in the evening?—Just dusk.

4442. Did they put the horses in your paddock?—Yes.

4443. Did you give them hay?—Yes.

4444. Did they pay you?—Yes; fifteen shillings every morning for the hay for 21 horses.

4445. Did you refuse at first to give it?—Yes.

4446. Why?—Because I was fearing that the sympathizers would have a "down" on me.

4447. That is the Lloyds?—Yes.

4448. Did you tell the police they might take the hay if they liked?—Yes; Mills said they must have the hay as their horses were knocked up, and paid me for it.

4449. After they went away that time did you give any other information to the police?—Yes.

4450. Who did you see next?—I do not know the name of the policemen, only Senior-constable Mills, but I saw Inspector O'Connor.

4451. Did you offer to give any information to the police?—Yes.

4452. What did you say?—I told Mills, when he asked me if I would have a look-out in Eagan's paddock for horses.

4453. Where was that?—A mile and a half from my place. I did look in Eagan's paddock, and I saw no horses there, only their own horses.

4454. Did you see any trace of the outlaws after that at all?—After that I heard nothing. This was in 1879, and I heard there was nothing before 1880.

4455. Can you say what month in 1880?—In March.

4456. What occurred to you in March 1880 about the outlaws—you mean you gave no further information to the police till March 1880?—No; I did not give any information to the police till April 3rd 1880.

4457. What information did you give then on the 3rd April?—Some hobbles I found; but I was frightened to give any information, because after they had their horses in my paddock the outlaws' friends came to my house at three o'clock in the night and ordered me up, and I would not get up. Then they took a big piece of stick, and said they would get me up; that was James Quinn and John Hart, at the Fifteen-mile Creek.

4458. What relation is he to Steve Hart?—I do not know whether he is any. They came then and called me to get up.

4459. What names did they call you?—An old b——.

4460. And to get up?—Yes; and I said I would not get up, and I asked what they wanted, and they said "Get up;" that was all they said. They then came into my room with the stick and said I was to get up, and I got up and dressed, and I ran away to my neighbors.

4461. What for?—I got frightened of them.

4462. Did they follow you?—They called me back and told me to come down in the creek, and I went down.

4463. Where was the creek?—About fifty yards from my house. They did not say anything going down, and I did not know what they were going to do with me. There they had two horses in a dray with a plough, and two horses tied up—they could not cross the creek, and they asked me to see them across the creek. It was a little deep creek above the crossing place.

4464. Did you see Mr. Sadleir after this?—Yes.

4465. What did you tell him?—Sergeant Whelan was the first one. I told him Jim Quinn had been at my house.

4466. Did you tell Mr. Sadleir you had found any hobbles?—Yes, that was in March 1880.

4467. What did you tell him?—I told him that I found five pair of hobbles in the next paddock to me in some ferns.

4468. Whose paddock was that?—It belonged to the Kilfera station.

4469. Is that known as Patterson's paddock?—Yes.

4470. Whose paddock is next to that?—Tom Lloyd's.

4471. Did you tell him whose the hobbles were?—I told him they belonged to the outlaws, I thought.

4472. Anything else?—Some sort of a cloth they had had some provisions in.

4473. Did you tell him there was a high bank of ferns that you thought they camped in, and sardine tins?—Yes, and newspapers, and all that sort of thing.

4474. Did you tell him you thought they camped there constantly?—Yes, I saw a lot of horses at Tom Lloyd's at various times.—three times.

4475. Did Mr. Sadleir ask you to keep a watch on Tom Lloyd's place?—Yes.

4476. In consequence of your telling him the outlaws visited there?—Yes.

4477. Did you see the outlaws at Tom Lloyd's?—I could not tell that.

4478. Did you go up on one occasion believing they were there?—Yes, I went up.

4479. Did you hear the outlaws at Tom Lloyd's?—Yes, I heard Dan Kelly in Tom Lloyd's.

4480. What was that?—I saw six horses tied up to Tom Lloyd's garden, and I thought there were more horses, and I went to a cow-shed about a hundred yards from his dwelling place, and a dog came out and detected me.

4481. Did they always keep dogs about the place?—Yes, and when the dog commenced to bark furiously, and a lot of them came out of the house. I could see that by the candle, and I ran away then.

4482. Were they men or women you saw then?—I do not know. I had not time to see.

4483. Was this night-time?—Yes, dark. I ran into the next paddock, and they came after me and "sooled" the dog.

4484. Hunted you with the dog?—Yes, "sooled" the dog after me, and I crept up into a low cherry-tree and they went past me.

4485. Who?—The lot of them. Dan Kelly and young Tom Lloyd. They were within ten yards of me on the other side of the fence, and "sooled" the dog, and called out as if to the police that they would burn the b——. They thought I was the police, I expect, and was watching the place.

4486. Whoever it was, that was what they meant?—They did not say.

4487. Are you satisfied it was Dan Kelly?—I am satisfied it was, because I knew him by his voice.

4488. You knew them for years?—I lived there five years, and knew them since I came there till they took the bush.

4489. How long was this after you gave the information about the hobbles?—It was a week after I found the hobbles before I gave the information. I went to Melbourne and did not want to have anything to do with the police, because every move was in the paper next morning.

4490. Have you any doubt in your own mind that they were the outlaws' hobbles?—No.

4491. Did you give that information?—Yes. I did not give the information at once, because I would not have anything to do with it. I was frightened they would come down and murder me and burn my place.

4492. Were you frightened of the Kellys' friends?—Yes, I lived in a lonely place, and they could come and murder me there.

4493. You would not give the information because it would get into the papers the next day, and they would know it?—Yes. On account of my information Superintendent Nicolson sent for me when I was in Melbourne, and when I came back from Melbourne they asked for me to call at the police station at Benalla, and I called there and saw Superintendent Sadleir. I had a long conversation with him about the matter—about the outlaws—and told him about the hobbles.

4494. Was that after the cherry-tree affair?—No, after I was in the cherry-tree; it was the 14th May I was there, on Wednesday night, and I was there all night.

4495. What information did you give Mr. Sadleir?—About the hobbles, and I was quite sure the outlaws were there off and on; I was quite sure the outlaws were there off and on at that time.

4496. After that did you see any policemen looking at the place where the Kellys had been?—No.

4497. Did you go home after giving the information to Mr. Sadleir?—Yes.

4498. And then you watched the Kellys after that?—Yes.

4499. And saw them at Tom Lloyd's house?—Yes, that was from the 3rd of April until the 14th of May. I did not see anything of anybody about Tom Lloyd's place. I went every night to see if I could see them hanging up their horses.

4500. Did Mr. Sadleir ask you to do that?—Yes, he told me that I should keep a look-out.

4501. Did you ask him to pay you for that?—No.

4502. Did you tell him you would do it if he would appoint your son a constable?—Yes.

4503. Was that the reason?—I applied for my son to join the force in 1879, but Mr. Sadleir said he was too young.

4504. Did you say you would keep a sharp look-out if your son got into the police force?—The superintendent told me if I did anything for them my son would get the place.

4505. Is your son alive now?—Yes.

4506. Is he fit to join the police?—No, he has ruptured himself, and is not fit.

4507. What age is he?—Twenty-one years.

4508. Did you work any further for the police in connection with this matter?—Yes.

4509. Do you think the Lloyds or Kellys knew anything of your working for the police?—They suspected me ever since Mr. Hare had his horses in my paddock.

4510. Did you tell Mr. Sadleir their camp was there in the ferns?—Yes.

4511. Did he send any one out to examine that?—He did not that I know of.

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4512. Did you know that any party was sent out to watch this place?—They might have sent out for all I know.

4513. What kind of place was this camp in the ferns?—A whole big bush of ferns in the side of the creek, and there were logs and very high ferns.

4514. Did it look as if it had been used?—It was quite easy to see some one had been lying there.

4515. In June you saw Mr. Hare?—Yes.

4516. What occurred?—He sent a constable out to my place, stating that he wanted to see me on urgent business. That was on the 10th of June, and I told the constable I would see the Superintendent the next day, the 11th. He asked me if I could conceal a man in my house, and I told him if he would guarantee my safety I would be willing to do anything for him.

4517. What did you mean?—If any of the outlaws came upon me, that he was to guarantee to protect me.

4518. Did he send a constable then?—Yes.

4519. What name?—George Stephens.

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4520. Was that the man known as the groom from the Faithfull's Creek station?—Yes.

4521. Did that man go there?—Yes.

4522. Did he remain there?—Yes; he remained with me for a fortnight. He came to my place on the 14th of June. I worked with him every night after at Tom Lloyd's place. We thought we could do better if we could get a night-glass to look at Lloyd's house at night to see who came in it. George Stephens went into Benalla on the 28th of June, and when he got in there at night Kelly was captured, and he came back to me on the 29th, Tuesday, for his blankets, and I told him I was not satisfied with him leaving.

4523. Why?—He might have stopped there for a month after, as the men might have had suspicion of me harboring detectives.

4524. Was he removed?—Yes, he told me he would be in Melbourne that night.

4525. What became of you?—I was left there by myself.

4526. Did you stay then?—Yes, from June to the 17th October.

4527. Why did you come away then?—When the Kellys found that the man at my place was the groom at Younghusband's station, and he had also been in the law courts at Beechworth, and he had been stationed at Glenrowan three months as a porter on the railway, they told me. They called me all the names they could, and said I would harbor the police, and they came at night and often insulted me.

4528. Who came?—Patrick Lloyd came first, in the afternoon. He is brother to Tom Lloyd. He came riding past my paddock, I was sitting on top of my fence, and he said to me, "You b—— old b——, we will have it in for you." I did not say one word to him, and he said, "We will make it hot for you." This was on the 16th, Saturday night. Two other men came to my place. I did not know them because it was dark. I ran away into my paddock, through stones and grass in my place, and yelled out. I ran away and went in the morning at four o'clock. Walked 13 miles into Benalla.

4529. Have you been driven out of your place solely in consequence of what you did in the Kelly matters?—Most decidedly.

4530. Do you believe the outlaws kept about that quarter?—At times they came there very often.

4531. To Tom Lloyd's?—To Tom Lloyd's very often. I knew that all along they came there very often.

4532. Did you know Byrne?—I did not.

4533. But you knew Dan Kelly and Ned you say?—I never knew other than those two.

4534. What means of support has Patsy Lloyd; how do they occupy their time?—They never do anything but ride about.

4535. Did you ever hear of them as connected with horse-stealing, or anything of that kind?—I often heard them say so, but I knew nothing about it. I know that is what they are supposed to live on—they must live on something.

4536. They did not occupy themselves in any honest work—farming, and so on?—No.

4537. Is there much connection between the house of the Lloyds and the Kellys?—Yes, they are always back and forwards.

4538. Are there always a lot of people stopping at Lloyd's?—Yes, strangers.

4539. Are they residents, or were they strange faces?—They are all friends; that is, a meeting of the whole of the outlaws' friends.

4540. Have you received any remuneration from the Government for keeping Stephens?—Yes; he paid me eight shillings, and he went away. Superintendent Sadleir asked me in Benalla what he gave, and I told him, and he gave me £1 then. I got £1 8s. for that.

4541. And how much for the hay?—Thirty shillings. They were in my paddock two nights and two days.

4542. Did you bear a good character in the district?—Yes.

4543. Were you ever summoned by the police for any offence?—Never in the colony. I can say before this Commission, I am 29 years in this colony, and there is nothing against my character.

4544. Why did you wish to be examined before this Commission?—I wished to be examined because I suffered greatly, and so that I may get compensation from the Government for my loss.

4545. Were you on a selection?—Yes.

4546. How long?—Five years.

4547. Have you paid the rent?—Yes, every rent.

4548. What has been done with the land now?—Somebody else has got it now.

4549. Has it been re-selected?—No. I owed some money, and I am seven months in Melbourne now. A man named De Boos has got it now.

4550. You owed some money on this land?—Yes.

4551. In consequence of those difficulties did you pay your rent?—Yes.

4552. Did you owe some money to a storekeeper?—Yes.

4553. Who was that?—De Boos.

4554. Did De Boos sell your land under the sheriff?—Yes.

4555. Who was the purchaser?—He was himself.

4556. Would it have occurred—would you have been in debt and your land sold if you had been able to remain on it?—No, because I have three big sons, and they have to run away from the district the same as I have. £17 was all the debt I was in.

4557. Did De Boos sell your land for that?—Yes.

4558. How many acres?—Fifty-five acres.

4559. Then it was sold for that?—That £17 I was in debt.

4560. What improvements were on it?—There were improvements on it valued by the Crown lands bailiff at £106, and I have another receipt for clearing five acres valued at £20.

4561. Where are your sons now?—I do not know; I have not heard from them since the 17th October.

4562. They have cleared out?—Yes.

4563. Before that were they living with you?—Yes.

4564. What do you estimate your loss at?—Well, my loss is very great, if I estimate it. I lost my living and I lost my liberty.

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4565. Was not there some arrangement made between yourselves and the police to make use of it as a station?—Mr. Sadleir said to me, one time I was there, they were going to put up police stations, and he thought my place might be a suitable place to put a station on; and I said it was the best place they could have, because all the gaps in the dividing ranges coming from Mansfield and into Greta are near there, and it would answer well as the people travel that road mostly.

4566. Who travel that way?—Those outlaws and the horse thieves.

4567. That arrangement came to nothing?—No, it came to nothing; he said he would see what he could do, and that was the last I heard of it.

4568. How long have you been in Melbourne?—Seven and a half months.

4569. What money have you to live upon?—I came to Melbourne with very little money, £26, when I started from Benalla, but I had to give my son some, and I am indebted a good deal in Melbourne.

4570. What are you doing?—I have just got a situation to go to to-morrow.

4571. Did you get any employment since you came down?—No.

4572. How many sons have you?—Three.

4573. What ages are there?—One is 21 years, another is 20, and the other is 18.

4574. What were you doing before that, were you all living on the 50 acres?—No, my eldest son had rented a little farm from a man named Cass, at Glenrowan.

4575. Has he gone from his farm?—Yes, after Ned Kelly was captured there were some of the outlaws' friends round his place every night for about a month, and he had to call the attention of his neighbors to look out and help him to watch at night. He went to Glenrowan to the constable in charge there, and informed him of what had happened, but the constable said it was as much as they could do to look after themselves; there were only four constables in Glenrowan, and they could not look after him.

4576. You know Tom Lloyd's house?—Yes.

4577. Supposing you had seen the Kellys there in the evening at eight o'clock, and you had gone into Benalla and given information to Mr. Sadleir that they were there or in Patterson's paddock, would there have been any difficulty in the police getting there?—No, no difficulty if they were ready to go.

4578. How many miles is it from Benalla?—About twelve miles.

4579. Would there be any difficulty in finding Tom Lloyd's house at paddock if they got out at Lurg?—No.

4580. What is the road from Benalla to Tom Lloyd's?—You go to Kilfera station—the Kilfera road they call it.

4581. Up the main road?—Yes, the main surveyed road to Greta, and there is a cleared road up to within five miles of Tom Lloyd's house.

4582. Is it clear at his house?—No, a bush track the last five miles.

4583. Did you give any information to Mr. Hare, the time he sent out the man to stop at your house,

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*continued.*  
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that you had seen the Kellys about there?—I had a conversation with him.

4584. That you had seen them previous to the man being sent out?—No; I saw Ned Kelly about a month or two after he murdered the police, but I never gave information, for the reason that everything was in the paper next morning, and I would not run the risk.

4585. You are asked did you tell Mr. Hare that you had either seen the Kellys or were sure they were constantly about there?—I said to Mr. Sadleir and Mr. Nicolson, when I was in conversation, that I was perfectly sure they were at Lloyd's house on occasions.

4586. Occasionally?—Often.

4587. Could a party of police have gone out to that camp, to examine it, without you knowing it?—Yes, they may have been there without me seeing it.

4588. Are we to understand that you left that district after the capture of the Kellys from personal fear?—Yes.

4589. That you were afraid to remain in that district in consequence of it being known to the Kelly sympathizers that you were in communication with the police?—Yes.

4590. And had a shelter to one of the police to give information?—Yes.

4591. And that also applies to the case of your sons?—Yes.

4592. And in consequence that your selection of 55 acres and improvements were sold to a party you owed £17 to?—Yes.

4593. And that you have not received anything out of that?—Yes.

4594. Why was Stephens sent to your house?—He was a detective, on the information I gave to Mr. Hare, suggesting that Stephens be sent to my place to watch Tom Lloyd's place, and find out when the Kellys came there.

4595. And you had told Mr. Hare, previous to that, that they were in the habit of coming there?—Yes.

4596. Had you seen them there before?—I had not seen them.

4597. After the time you got up the cherry-tree, had you seen them?—No, I saw them before I got up the cherry-tree; I saw at one time thirteen horses tied up near Tom Lloyd's place.

4598. How long before Stephens was sent to your place, that you saw a number of horses there?—In March, and then we found the hobbles, but I did not give information at once.

4599. Had you seen any unusual gathering of horses between the time of the cherry-tree and the time of the conversation with Mr. Hare?—No.

4600. Is there a well-beaten track from the Lloyds' to the Kellys' house?—Yes; Mrs. Lloyd used to run there with her buggy.

4601. Is Kelly's house on the main road?—Yes, on the old Sydney road.

4602. The road from Greta to Glenrowan?—Yes, the main road from Winton's to Greta, there is no main road to Glenrowan—you have to cross the bush to Glenrowan there.

4603. Kelly's house is on that track?—Yes.

4604. What was the policeman doing while he was at your place?—At the time the Kellys were captured and the time I left the district, the police were twice at my place.

4605. No, I mean Stephens, the man who was at your place—did he go out often to look at Lloyd's place?—Yes.

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*continued,*  
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4606. How often?—Every night he could go out. There was a fellow ploughing at my place, and Stephens was prevented from going out, as we did not want any one to know it.

4607. But every night he could he went out?—Yes.

4608. Had you any crop on your place?—Eight acres of crop.

4609. Did you leave it standing?—Yes.

4610. What crop?—Wheat.

4611. What were your other two sons doing?—I had one son who was a servant with Mr. Bamford, who has been there two and a half years—a farm, near Benalla.

4612. Where is the other?—He was serving with a man named O'Horan, at Glenrowan.

4613. There was only really yourself living on the place?—That was all.

4614. *By Mr. Sadleir.*—When you informed me about the hobbles, how long were they there before you told me?—I think they were lying there after I was in Melbourne; there were three pairs of hobbles just as they were taken off the horses.

4615. I will read my note of the conversation I had with you. "Wilson called and reported that some month ago his sons found, under the Bald Hills, in a secluded cover, five pairs of hobbles; the ground was beaten about." The same visit you told about the wires being cut in the fence?—Yes.

4616. I have got it here that your story was that the hobbles had been there a month before you told me?—I did not know how long they were.

4617. Did you find the hobbles there before you came to Melbourne?—Yes.

4618. How long did you remain in Melbourne?—Yes.

4619. How long did you find them before you left for Melbourne?—The same Sunday, Easter Sunday, we found them, and on the Monday I went to Melbourne.

4620. By the Commission.—Did you go to Superintendent Sadleir on your return from Melbourne?—The very minute I came out of the train, on the 3rd of April, there was a note to call at the police station, and I went there at once to see Mr. Sadleir.

4621. Your statement is that you found, on the Easter Sunday, these three wires cut, and the hobbles?—Yes.

4622. They looked quite fresh?—Yes.

4623. You got a letter to go to the barracks?—No, a private message left by Sergeant Whelan.

4624. Did you tell him, when you saw him in that interview, that you saw the hobbles about a month before?—No.

4625. By *Mr. Sadleir*.—That is not what I said. I have got a note of your conversation here, written at the time on that. I find you called on the 3rd April, and it was your opinion that the hobbles were a month lying?—Some of them. There were five pair of hobbles; two pair looked as if they had been a month.

4626. How long were they lying there before you spoke to me about them?—I think only from the Sunday we found them.

4627. How long were they there before you got them?—There were two pairs looked like a month since they had been worn; but they may have not used them.

4628. When you told me (that was on the 3rd) you found the hobbles on the Sunday before, would it have been any use going to look for tracks?—No.

4629. Would it have been of the slightest use?—No.

4630. Or to go expecting to find the Kellys?—No. I only gave you information for you to find, that they came there.

4631. While you were in the cherry-tree how many men rushed by?—I only saw two men go by, whom I am confident were Dan Kelly and young Tom Lloyd; but I heard plenty on the other side of me.

4632. Were they the only two men that rushed after you?—There were a lot rushed after me, but I did not see them.

4633. By the Commission.—Did you recognize any other voice in that party?—No.

4634. Did you hear old Lloyd?—No. I heard footsteps of some one on the other side, but I cannot tell who they were.

4635. By *Mr. Sadleir*.—Did you see any arms with them?—I did not.

4636. And yet you think they were looking after the police—the outlaws?—I am certain sure it was the outlaws.

*Mr. Sadleir*.—I have a note of that visit too.

4637. By the Commission.—What did he tell about that?

*Mr. Nicolson*.—Not a word, not the smallest word. The note about it is simply “A visit from old Wilson, Greta.” His story was pretty much all as it is now. He was sure there were visits of people to the Lloyds, and that is why the action was taken.

4638. By the Commission.—Is there a date to that “A visit from old Wilson, Greta”?

*Mr. Nicolson*.—14th May.

4639. By the Commission (to the witness).—You could not have told on the 14th about the time you were up the tree?—Yes, that is the time I was up the tree, and I did not tell till the 16th. I was sick the day after; I was frightened to death. I told Mr. Nicolson and Mr. Sadleir both.

4640. Did you tell them you had to take refuge in a tree on the night of the 14th?—Yes.

4641. Did you see them take notes?—No.

4642. Did you tell them you had seen Dan Kelly and Lloyd together there?—I cannot tell that.

4643. By *Mr. Sadleir*.—Did you ever see Dan Kelly after that at Lloyd’s?—No.

4644. You saw Mr. Hare also?—Yes.

4645. Did you tell him about it?—No, Mr. Hare never questioned me.

4646. Did you tell him you had seen him?—I do not know whether I spoke to him about being in the cherry-tree or not, because I spoke to Superintendent Nicolson about that.

4647. Did you see Ned Kelly at Lloyd’s after that?—No, not Dan Kelly.

4648. By the Commission.—Did you see Ned Kelly after the murders of the police at Mansfield?—Yes.

4649. You said just now you could not say whether it was before or after the murders?—I said two or three months after the murders. I do not remember whether it was December or January when he crossed the road.

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4650. By *Mr. Nicolson*.—Do you remember seeing me once in the office?—Yes.

4651. You applied for your son about the police force?—Yes.

4652. And in the course of our conversation you told me something about mounted men coming to Lloyd’s house in the evening?—Yes.

4653. Did you not ask me to send a man there to watch there?—No; you asked me could I take a

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couple of men out, and that you would pay for them, and I said to you that I would be quite willing if you would promise me to protect me if anything happened, and you said you would, and it was all right, and it was a very dangerous matter for me to take a man there.

4654. Are you aware that just a day or two after that, that I met old Tom Lloyd in the road?—No, I am not.

4655. Do you remember one time in the Kilfera road seeing me talking with Tom Lloyd, both of us on horseback?—I remember it very well, but I did not know it was you then;—you had a big coat on.

4656. Do you remember, on that particular road, one afternoon seeing me talking with Tom Lloyd, both of us on horseback, and you went back?—Yes, I do, perfectly well. Tom Lloyd had a bundle of boots on his saddle. I did not know you, and I did not like to look much, because Tom Lloyd might be inquisitive.

4657. Are you aware that Tom Lloyd abused you to me?—No.

4658. He did abuse you as a personal enemy, and that he had his eye on you. I did not send two men there?—No.

4659. I did not send Stephens to you?—No.

4660. Are you aware that Stephens was a man very well known as working at the railway?—Yes, but I did not know that then.

4661. Are you aware when I proposed to send Stephens to your place that it was impossible, as he was almost as well known as you were there; was he not known to the people all about?—Yes.

4662. Was he not known to the Lloyds?—I do not know.

4663. Are you not aware that Stephens, the railway man, was known as a railway guard?—I know he was well known to them all about there as being a railway guard.

4664. Would it have been a proper thing of me to have sent Stephens to take care of you—a man so well known as a Government servant?—No, it would not be the proper thing to send him.

4665. Are you aware I was removed from the district soon after that?—Yes, in the latter end of May. I told you distinctly—“If you send men to my place, send dirty-looking men, who would not be detected as being policemen.”

4666. *By the Commission.*—Did Stephens go out in the day?—No, only night.

4667. He was not known to be there by the outlaws’ friends?—Oh, they knew that he was there. They knew there was a man, because I stated to them that there was a man stopping at my place. He was going up shooting—that was the yarn I gave them—and I allowed him to leave his horse in my paddock till he was ready to go up; and when the Kellys were captured this man disappeared.

4668. Did they know it was Stephens at that time?—No, they said where was the man gone that was stopping at your place. I said we ran out of provisions, and said he could go and stop where he liked. I made it up to clear myself.

4669. He came to your place on the 14th of June?—Yes.

4670. Did you know his name was Stephens?—Not till he told me himself.

4671. How soon did you know that?—The same day he came.

4672. To your knowledge did the people about there know he was Stephens that was in the pay of the Government in June?—Yes, they did, because he had been three months on Glenrowan railway station, and they were going up there with their produce, and he was helping to unload on the railway.

4673. Did the people round there know that he was in your house as Stephens. Did he show himself about the neighborhood that they would know?—Yes.

4674. You said they did not know he was there?—They knew it was Stephens, because two men ploughing my land knew him directly they saw him, and their names were Petersons, living at Greta.

4675. Did Stephens tell you he was dismissed from the railway service?—He told me, of course. I knew it when he came to me what he was. He told me he had been on the Glenrowan railway station, and that he was dismissed. McDonald did not know but that he was dismissed.

4676. Who was McDonald?—The publican.

4677. Did Stephens tell you he knew the Kellys by appearance?—No.

4678. Did he say he would know them if he saw them?—No.

4679. *By Mr. Hare.*—He saw them at Faithfull’s Creek?—Yes.

4680. Did he not say he knew the outlaws?—Yes, he said if I saw Byrne ever, he had a double lip.

*The witness withdrew.*

*Adjourned to Tuesday next, at Eleven o’clock.*

TUESDAY, 10<sup>TH</sup> MAY 1881.

*Present:*

Hon. F. LONGMORE M.L.A., in the Chair;

E. J. Dixon, Esq., J.P.,

W. Anderson, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.,

J. H. Graves, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.

Mr. Sadleir asked to make a personal statement in reference to question 1602 in Mr. Hare’s evidence. *The Chairman.*—You can take this opportunity of doing so.

*Mr. Sadleir.*—I refer to Mr. Carrington’s letter at the end of the question. That letter was put in as

evidence by Mr. Hare when I was absent from the Commission, and it is a letter containing some statements most damaging to my reputation. That letter was not received by Mr. Hare as he was speaking or

giving his evidence; he had it from the 19th of July last, so he had full time to consider its purport, and yet he calmly and deliberately places this before the Commission as part of his evidence. If this sort of thing is to be allowed the reputation of no officer in the service—no person inside or outside the service—will be safe.

4681. *By the Commission.*—Was that letter evidence?—(*Mr. Sadleir*) That was put before you as evidence.

4682. If it be evidence, is it not probable that Mr. Carrington will be called later on in this enquiry, and you will be able to cross-examine him then?—Yes; but it has been said, “If a lie gets twenty-four hours start,” &c.

*Mr. Dixon* submitted that it would be better for Mr. Sadleir not go on but to wait till Mr. Carrington was present.

*Mr. Sadleir.*—I am entirely in the hands of the Commission, and if I am not to be heard will sit down.

4683. *By the Commission.*—What is your complaint?—The incorrectness of the thing; and its being put in is contrary to every rule of evidence—that an *ex parte* statement from a man himself absent should be put in as evidence, especially where it reflects on the reputation and character of another.

4684. It is too late to excise it now?—I myself hold several letters casting reflections on people. I should think it most dishonorable conduct, unbecoming in an officer or a gentleman, if I were to offer those before the Commission, and especially in the absence of the man whose reputation was attacked. I do not ask it to be excised, because what has happened cannot be remedied; but I would ask your opinion whether witnesses are to be allowed to put in *ex parte* statements of this sort, affecting the reputation of others.

*By the Commission.*—I do not know how we could prevent this statement going in. The evidence will be all before you, and we shall be able to receive any statement you make, and will be able to see whether there is any truth in it. We do not take Mr. Carrington’s evidence as worth more than any other man’s.

*Mr. Sadleir.*—It is a very serious thing to have one’s reputation damaged, and for five or six weeks to elapse before one can give an answer to it. I thought it just to myself to call attention to the matter, and there I will drop it for the present.

4685. *By the Commission.*—You may be quite sure that you will get fair play; and, if I mistake not, in the last portion of your evidence you alluded to this matter?—I did, but I was under the impression it was not admitted into the evidence.

4686. And gave your opinion of Mr. Carrington very clearly?—I was not aware whether it was printed or not.

*Mr. Nicolson.*—I wish to make one observation with reference to Jacob Wilson, who was called before you at the last meeting, and laid before you an account of his losses through being employed by the police. I wish to repeat again that I altogether repudiate having any connection with that matter. What ever loss he sustained was not through me.

4687. *By the Commission.*—Under your responsibility, no action was taken in reference to this man at all?—None, whilst I was there.

Thomas Patrick Dowling further examined.

T. P. Dowling,  
10th May 1881.

4688. *By the Commission.*—Was Sherritt attached to the party?—Not that I am aware of; he was to show us the way over to Byrne’s house and back; that was what he was there for.

4689. Was he armed?—No.

4690. Was he to show the way always?—Yes.

4691. Was he supposed to be in the pay of the police at that time?—I did not know.

4692. You only got instructions he would show the way when you had to go there?—Yes.

4693. Was he always about the premises?—Yes.

4694. Had he arms in the house?—No, he was not armed. He had no arms at all, unless he used the ones we were supplied with.

4695. Did he do so?—No.

4696. When you returned from Byrne’s house in the morning, what did you generally do?—We went to bed.

4697. Which bed?—On the floor of the hut.

4698. Not to Sherritt’s bed?—No, in the kitchen we went.

4699. Was the door kept locked when you were in bed?—No, there were no locks on the door.

4700. Was it secured?—There was a stick on the inside.

4701. Was it shut in such a way as to prevent strangers coming in and seeing you?—No, anyone could come in and see we were there. They were in the habit of coming in there, but we were always on the alert and managed to get into the other room.

4702. Do you remember anyone coming into the room and seeing you?—No, not to see us.

4703. You never had any conversation with anyone who visited the house?—No, we had to remain in the bedroom for two hours sometimes.

4704. Did I understand you to say you were not aware of Sherritt's not being employed by the Government?—I was aware he was employed by the Government.

4705. But I understood you to say he was not fully employed by the party of which you formed a part?—No, I was not aware that he was.

4706. Was he engaged in any other sort of occupation whatever?—I believe he was engaged by the officers, I am not sure.

4707. I mean during the time you were resident in this house by day and down by the hut at night, were you not conscious that he formed one of the party, with the same object and purpose that you were employed for?—Yes, I was.

4708. You say you went into the bedroom frequently when strangers came into the kitchen?—Yes.

4709. Could you overhear the conversation?—We could.

4710. From that overhearing, were you led to believe that any of those persons who came to the house were sympathizers?—No.

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4711. There was no conversation of importance with reference to the Kellys and their sympathizers?—No.

4712. Was there anything to believe that the public knew you were in that house?—No; nothing passed by any of the visitors that came to the hut.

4713. Did they speak in a whisper as if some one was in?—They spoke in a very low tone of voice.

4714. Do you think that was to prevent anyone in the adjoining room hearing?—No; I do not know.

4715. Were the Byrnes there?—Paddy Byrne stood on the road the Sunday previous to Sherritt being shot.

4716. We have it in evidence that the old lady, Mrs. Byrne, used to go about—was Paddy Byrne the only one that seemed to be about there?—He was the only one I knew of.

4717. Did it occur to you that he was searching for the police?—I believe he was.

4718. Were the Sherritt and Byrne families on good terms?—Not that I was aware of; I never saw them holding any conversation.

4719. Where was Sherritt?—In the kitchen.

4720. Did he say "There is Paddy watching the place"?—Yes.

4721. And did he say "keep quiet" or anything?—He told us to keep quiet—that Paddy Byrne was standing on the road on a grey horse watching what was going on. Two or three days afterwards he came round to the back of the hut, and took stock of the back of the hut.

4722. It was quite possible for Joe Byrne and Dan Kelly to be in Byrne's house and you not know it?—It was.

4723. This was two or three days before the murder when he came to the back of the hut?—Two or three days prior to the murder, and about a night or two afterwards we saw him going away on this grey horse, about two o'clock in the morning.

4724. He was watching the house?—I believe he was going to give information that we were there and about the hut.

4725. How old is Paddy Byrne?—About 20, I should think.

4726. Do you think the object of those two visits was from the impression that he had that you were present there—do you think he had any information that you were in that building?—That I could not say.

4727. What was the impression on you and the men you were working with at the time as to that?—I believe he was to give them a description of the hut.

4728. Were they not of their own knowledge familiar with every spot surrounding the hut so that they did not require information from him?—I could not say.

4729. Was it a new hut?—I could not say it was new; I cannot say how old it was.

4730. How long had Sherritt been married?—About seven months, I should think.

4731. Do you know whether he resided there before he was married or not?—I do not think he did.

4732. Do you not know that he lived with his father?—Not that I am aware of.

4733. Seeing Byrne going, as you thought, to inform the outlaws, did it not occur to you to be more careful to set a watch and guard the place?—It made us more careful, and we gave information about his going away. I or Armstrong gave information to the sub-officer at Beechworth, and two black trackers were sent out under Constable Kirkham. I believe that Paddy Byrne had returned at daylight in the morning, and they did not take any notice of that, because he had returned.

4734. It would have been easy enough to track him where he went that night?—It would.

4735. They never attempted to follow him?—No, it was not our place to do so.

4736. Do you know, of your own knowledge, whether they did?—I know they did not come out to the hut and track Paddy Byrne.

4737. All you know is that you gave information that Byrne had been seen at two o'clock in the morning, but you do not know what was done in consequence of that?—No, I do not.

4738. You heard that two black trackers and Kirkham were sent out?—I saw them.

4739. Where?—At Beechworth. I had been sent in a night or two afterwards for something.

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*continued,*  
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4740. You heard from them that they had been sent out?—Yes.  
 4741. Did you see them out?—I did.  
 4742. Where?—At the Beechworth police station, in the hut there.  
 4743. Did you see them on the ground where you saw Paddy Byrne?—No.  
 4744. Could they have come to you or to the place where you saw Paddy Byrne, in front of Sherritt's hut, without you knowing it?—They might have done so, but I do not think they did. I heard Kirkham say they were going back the next day—that they were not going out.  
 Mr. Hare.—I gave evidence of that on page 89 of my evidence—that Armstrong reported there were no steps taken.  
 4745. *By the Commission (to the witness).*—Might Byrne's watching the hut have been more with the view of ascertaining that Sherritt was assisting the police than to find out that the police were really there?—I believe it was to give them the best way to come to the hut.  
 4746. Is what you want us to understand this, that you believe that man went there to set the hut to bring the outlaws there?—Yes, I believe he did.  
 4747. Did you think he did so at the time?—I have always thought so since, and did so immediately afterwards—after Sherritt was shot.  
 4748. Were you at Sherritt's house when the notice came that the Kellys were at Glenrowan?—No, I was at Beechworth; I came in the night previous there.  
 4749. Were you called away at once to Glenrowan in the morning?—Yes, I was knocked up about three o'clock in the morning to go there.  
 4750. What time did you arrive there?—Between eight and nine o'clock in the morning.  
 4751. Were the police surrounding the building when you arrived?—I believe they were.  
 4752. Did you hear any firing?—I saw one shot as I was coming along in the train previous to arriving at Glenrowan station.  
 4753. Will you state what you saw in as few words as possible, and what you did yourself. When you arrived were you ordered to any particular place?—We were ordered to go up and surround the Glenrowan house.

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4754. How many were there of you?—I do not know, I am sure; about five or six, I think.  
 4755. What officer gave you the orders?—I think it was Mr. Sadleir.  
 4756. What did you do when you received orders to go amongst the others?—We went up the hill and took up our post as close as we could to the hotel.  
 4757. In front or where?—It was the north of the building, I think, not the front.  
 4758. Do you know what portion of the building looks north—is it the back of the house looks north?—Yes, the back of the house; the side the chimney is on, I think.  
 4759. There is a chimney on each end, is there not?—That I could not say very well.  
 4760. There is the plan given to us—*[the witness looked at it]*—could you say from that the position you occupied when you were at the house?—We took our post at the end nearest Beechworth, that is the north of the hotel.  
 4761. Did you commence firing as soon as you got into position?—A few minutes afterwards we did.  
 4762. Had you any instructions how to fire at the house?—Yes, we received instructions from Mr. Sadleir that we were to fire about two feet above the level of the floor, as there were civilians inside.  
 4763. How would that affect your firing at two feet above the level of the floor—how would that save them?—Because they were lying down inside. Mr. Sadleir heard they were lying down inside, and gave us instructions to fire about two feet above the level of the floor.  
 4764. Did you see anything that occurred—did you hear of the civilians being called out?—Yes; I heard someone calling out on them to come outside.  
 4765. Was there any firing then?—I saw a handkerchief put out through the east of the building, and there was a shot fired at it by one of the black trackers; they kept inside then.  
 4766. Did the civilians come out then?—Shortly afterwards they did.  
 4767. Were you anywhere near where they came out?—Yes, I was just close to where they came.  
 4768. You did not know by whom this handkerchief was held out?—No.  
 4769. Did they say anything of what occurred inside?—I could not hear what they said. I was 15 or 20 yards away from them I should think.  
 4770. Did they say the outlaws were still living—you did not hear that?—I did not, but I heard they did say so.  
 4771. Were there shots fired at the building after they came out?—I saw one of the outlaws afterwards, I would not be sure there were shots fired. Yes, I believe they were.  
 4772. Where was he?—He came out into the back yard—that would be at the west of the building—he came outside and was tapping his chest.  
 4773. How did that sound?—I could not tell I am sure, but Constable McHugh fired and struck him, and I fired next; both shots hit him. I heard it strike on the armour—there were several afterwards and he went inside then.

4774. Then the shots had no effect?—No, they had not.

4775. What time was it you fired at him?—Two o'clock I should think, I am not sure, I could not form any idea what time it was; I had no watch on me at the time; it was after the civilians surrendered.

4776. Did you estimate the length of time they were there before they came out?—It was twelve or one o'clock, I should think, when they came out.

4777. Cannot you fix the time when you commenced firing—what time did you get down?—Between eight and nine o'clock.

4778. What did you do then?—We got out of the train and took up our position at once.

4779. Did you see Mr. Sadleir?—Yes.

4780. Where was he when you saw him?—At the railway station.

4781. Did he accompany you and place you in position?—Yes, he pointed to it from the railway station.

4782. You then left the railway and took up your position at the north of the building?—Yes.

4783. In a direct line with the building or facing it?—Partly facing it.

4784. That would be soon after nine o'clock?—Previous to nine.

4785. What did you do after you got to this spot?—A few minutes afterwards we started firing. I saw my other mates firing too.

4786. At the hotel?—Yes.

4787. Did you see anyone in the hotel at that time?—We saw someone come to the windows, I believe it was the outlaws. I removed my post about half-an-hour afterwards.

4788. To where?—That would be the west of the building, there was a window there.

4789. That would be round the back?—Yes.

4790. Was the building in the yard between you and the point you removed to?—Yes.

4791. Right at the back of the yard?—I was at the west.

4792. That was about half-past nine?—Yes.

4793. What did you see after that?—I believe I saw some of the outlaws come to the window at the west of the building.

4794. What did you do?—I fired on them.

4795. Do you think the shot had any effect?—They went away from the window.

4796. Did you continue firing from that out?—I fired about three shots as quick as I could after that.

4797. What did you do after that?—I went closer to the building.

4798. In the same direction?—No, more to the north, lower down again from where I moved back.

4799. What did you see then?—It was after that one of the outlaws came outside.

4800. That would be about ten o'clock?—I could not say very well what time it was.

4801. Can you say within a trifle by reckoning what you did?—I think it was after the civilians came out.

4802. Did you see them come out?—Yes.

4803. Describe under what circumstances they came out?—They came running out, holding up their hands, saying, "I will surrender."

4804. Did you see Mr. Sadleir then?—Yes.

4805. Where was he?—He walked towards the civilians.

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4806. Where was he standing before he commenced to walk?—Twenty or thirty yards on the north, lower down than we were, between us and the railway platform.

4807. Where did the civilians come out at?—At the east, I think it was.

4808. Facing the railway line?—Yes.

4809. Could you see them leaving the railway line?—Yes, I could see them pretty well.

4810. And you saw Mr. Sadleir there?—Yes.

4811. What had you done by the time you fired three shots—you saw the prisoners come out of the hut?—Yes, I fired some into the building.

4812. In the interval between your moving from the north point to the west of the building, did you receive any instructions from any officer to do any particular work?—No, I did not.

4813. After the prisoners left the hotel, where did you go then?—I walked closer up towards them.

4814. Doing what?—I was looking out to see if any of the outlaws were among them.

4815. Did you still remain about that spot?—Yes.

4816. All the day, up till later in the day?—Yes.

4817. When did you leave watching any portion of the hotel?—When we got word by the police that they were dead inside.

4818. You remained about that spot till the place was fired?—Yes.

4819. Did you see any one fire from the hotel after the prisoners were released—you were then within 20 yards of the hotel?—No, I cannot say I did.

4820. You were watching the building all the time, from the time you took up your position?—Yes, I am not sure. I believe I saw shots fired at Constable Williams.

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4821. Did you see any shots fired after the prisoners were released?—I think I did.  
 4822. It is not a question of thinking—did you or did you not?—I am not positive.  
 4823. Is it possible there were none?—There may have been, because there were shots fired by other constables from the other end of the building. I cannot say for certain.  
 4824. When you were placed in this position, from the north to the west, and back again, where were the other police stationed?—All around the house.  
 4825. Surrounding the whole building right round?—Yes.  
 4826. Were there shots fired from all directions?—Yes.  
 4827. Could policemen have fired from the back side, and you and others been under the impression that they came from the hotel?—No; we could judge pretty well.  
 4828. Was there any danger when you were firing to the persons at the back?—Yes, there was.  
 4829. Did you receive any instructions how to conduct your fire?—I got word from other constables, and I think it came from the officers.  
 4830. What word did you receive from the other constables?—That we were to be careful and hit the house, in order not to shoot any other constables on the other side.  
 4831. Whom did they say that order came from?—Mr. Sadleir, I think it was.  
 4832. Did they tell you who it was?—I cannot swear, but I was under the impression it was.  
 4833. Did either of those constables say that the orders came from Mr. Sadleir, or any one else?—No, they did not.  
 4834. Were you under cover of a tree or fence?—Some were out in the open, and some behind trees.  
 4835. How many police would there be surrounding the hotel, say at eleven o'clock in the morning?—I could not judge who were at the other side. I could not see any of those.  
 4836. Did you see any officer connected with the police at any time during the day for the purpose of giving information to the men placed in position?—I did. I saw Mr. Sadleir going round to them.  
 4837. Did he come to you?—No, I do not think he did.  
 4838. Or any other officer during the day?—I saw Mr. O'Connor walking around.  
 4839. Did either of the officers come to give instructions?—No.  
 4840. Did any sergeant or constable give you instructions?—No.  
 4841. When did you first see Mr. O'Connor—do you know Mr. O'Connor?—He was pointed out to me by some other constables.  
 4842. On that day?—Yes. I saw him walking up and down with the porters of the railway station immediately I arrived there.  
 4843. Was he on the platform when you arrived there?—I would not swear that I saw him walking up to the railway station. I think after I took up my post.  
 4844. Where were you when he was pointed out to you as Mr. O'Connor?—I was at the north of the building, he was farther back than me.  
 4845. Further north?—Yes.  
 4846. Did you see the black trackers?—I did.  
 4847. Where were they stationed?—They were further back than me, also some of them were more to the west.  
 4848. But were further back from the hotel than you?—Yes.  
 4849. That would be at nine o'clock?—No, after nine; about ten or eleven.  
 4850. Did you not see the black trackers till after you had been on the ground an hour?—Yes, I did; they were in about a line with me.  
 4851. You did not see them when you went to this point beyond the platform?—Yes, I did.  
 4852. Where were they?—A few yards further back from me.  
 4853. Nearer Beechworth?—Yes.  
 4854. Where was Mr. O'Connor at this time?—He was coming up with some of the reporters from the railway station.  
 4855. Do you know the reporters?—No.  
 4856. Would you know them if you were to see them?—No.  
 4857. How do you know they were reporters?—I heard some other constables say so.  
 4858. Where did he come to?—He came away up round to the west of the building.  
 4859. Come round from the railway station to the west?—Yes.  
 4860. Did you see what he did?—No, I did not take much notice

4861. Did you see him afterwards during the day?—I saw him several times going up and down to the railway station.  
 4862. From the west?—Yes.  
 4863. In going from Beechworth, taking up your position, did you go beyond the yard, or keep the yard still between you?—Yes.  
 4864. In giving your evidence to-day, in what way have you considered the building to face?—The verandah part would face the east.

4865. You have recognized that direction in all the questions you have answered?—Yes.

4866. Mr. O'Connor came from the platform round at the north end of the building, travelling round, and the black trackers were stationed at one point, or were they divided?—They were divided, and were all behind trees.

4867. In which direction were they stationed—one separately or two together?—I think there were two of them together in some places.

4868. Altogether they would be in three or four different places?—They would be in three different places to the west—that would be on the opposite end to the railway station.

4869. Mr. O'Connor was several times walking about during the day attending to his duties, having the black trackers under his charge, was that so?—I never saw him speaking to any of them; I do not know his motive in walking about.

4870. Did he give you any orders?—He did not.

4871. Did you see Mr. O'Connor from the time the prisoners were released at the hotel?—Yes, I think I did, once or twice.

4872. Where was he at the time the people came out and held their hands up and walked towards Mr. Sadleir; did you see him at that time?—No, I would not be sure I did see him.

4873. You saw him several times during the day?—Yes.

4874. Were you there when the house was set fire to?—I was.

4875. Did you hear any shots being fired from the building when the house was set fire to for some time?—No, I did not.

4876. Did you see the priest going into the house?—I think the first police to go in were Constable Armstrong and Constable Dwyer.

4877. I said the priest, not the police?—Yes, I did see him go in.

4878. Did he remain in long?—No, I should think he just walked through.

4879. Did he come rushing out again?—He just held out his hands and said they were all dead inside.

4880. Did any constables go to the building before he did that?—I do not think so.

4881. Did any of them move from their positions before that to rush the building?—Not that I am aware of.

4882. They rushed the building immediately after that?—Yes, I think so.

4883. How far were the police generally from the building when the priest went in?—I believe I and Kirkham were the nearest to it.

4884. About how far, according to your estimate?—About twenty yards, I should think.

4885. And no policeman passed you to try to get in until after the priest held up his hands?—No.

4886. Was it immediately after the house was set on fire the priest walked up to the building?—Yes, immediately after.

4887. Did he ask to be allowed to go in before it was set on fire?—I could not say that.

4888. Did you hear about any volunteer wishing to go in and rush the building before it was set on fire?—No.

4889. Neither police nor civilian?—No.

4890. Did you go down to the railway station to get lunch after you got there?—I went for the purpose of getting ammunition. I went to Mr. Sadleir and asked him.

4891. How many rounds do you suppose you fired at the house?—I might have fired about a hundred, perhaps.

4892. So many as that?—I think so.

4893. How many charges had you served out to you at various times—is it not customary to serve out a certain number of charges?—Not on that particular day; I do not think so.

4894. What was your arm?—A Spencer rifle and a revolver.

4895. Were you allowed to help yourself to cartridges or were they given out by any recognized officer?—No, they were not particular; you can go and help yourself. Mr. Sadleir told me to get them from someone; I do not recollect where it was.

4896. Can you recollect?—I got them from some place at the railway station, I cannot remember where now.

4897. Did you help yourself from the store without taking note of the quantity?—I did; I cannot say how many I took.

4898. You just took up a number?—Yes.

4899. You think it is probable you fired a hundred shots?—Yes, I daresay.

4900. Do you think any other constables there fired as many as you did?—I believe several of them did not fire so many.

4901. How many constables, do you estimate, as far as your knowledge goes, at this particular time were within your vision and would be firing?—There would be seven or eight, perhaps.

4902. Not more?—Not at the north of the building I should think, as near as I could guess.

4903. Do you think those seven or eight men had as much ammunition served out as you had?—I do not.

4904. How much do you think they had?—I do not know; they remained up in the one particular spot.

4905. Can you give any special reason why you should have fired so many more shots than your comrades?—We received orders on two or three different occasions to fire on the house.

4906. It would apply equally to your comrades as to the others?—Yes, but I had a Spencer rifle, with seven rounds, whereas the others had only two; they were armed with double-barrelled breech-loader shot guns.

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4907. Do you wish us to understand that there was such an indiscriminate firing into a house where there were only three individuals at most, and one of those known to be shot. What purpose could be served by that—did that strike you?—Well, there were some occasions when we thought we saw them at the windows. In fact, I know I saw them on one occasion.

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*continued,*  
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4908. Do you think the house was the object, or to fire for any express purpose?—I heard once that the outlaws were seen to put their heads out of the chimney, and we fired into the chimney then.

4909. From the outside?—From the outside.

4910. Did you fire through the boards so that the shots would go through into the inside of the chimney?—No, through the chimney; that is, into the bricks.

4911. Where was the head seen?—Out of the top. I did not see it I heard one of the constables say so.

4912. What hour was that?—I cannot form any idea.

4913. Did you expect the bullets to go through the brickwork?—We did—that after a few rounds they would.

4914. Did you see the effects of the shots disintegrating the bricks—powdering them down?—No I did not, take much notice. I saw dirt flying every time.

4915. How many shots were fired at the chimney?—Several; I could not say how many.

4916. Did you see any effect upon the chimney?—No, I did not.

4917. As far as your own feeling is concerned, if you had been ordered with the other men to surround the building, would the men have obeyed, and could they have rushed without any great loss, and prevented the delay that occurred?—I believe several of the policemen would have been shot, because the outlaws could have been in one of the centre rooms and seen them from either end.

4918. You were twenty yards from the building, exposed to fire; would you have been in greater danger in rushing and endeavoring to close with them?—Yes, I believe I would.

4919. You said you were exposed; is that so, or were you concealed behind a tree?—I was exposed at the time one of the outlaws came out of the building.

4920. But you could fall back behind a tree?—No, not at that particular time. I was standing, watching the house at that time.

4921. Were not you in quite as great danger at a distance of twenty yards by expert shots as if you had made a desperate rush on the building with your comrades?—I might have had a chance if I had lain down.

4922. You are a practised shot, I suppose—you have practised in the use of firearms?—Not since I came into the police. I might have fired five or six rounds at most, in Mooroopna, when I was stationed there.

4923. Then, from the small practice you have had, would you feel any fear of making sure of a man at twenty yards?—No, I would not.

4924. As sure as at ten yards?—Yes, I would.

4925. Then were not the men standing and firing at the house in as great danger as if they had closed and made that rush?—I do not think so.

4926. If you had not fired a single shot you could have kept the outlaws there till the present time?—No, I do not think so.

4927. Was there any chance of their escaping, suppose they had come out?—Not if they had come out in the light but I believe if they had come out at dusk they might have escaped.

4928. Could they come out at night and escape?—Yes.

4929. Was it what the police talked of as being likely that night would fall before they were captured and that they would get away?—I never heard them say so.

4930. At what hour did you afterwards see the last of the outlaws at the house?—It was one of them that came out after the people surrendered—I believe it was after; he came out in the back yard at the west of the building.

4931. Did you see anyone at the windows?—I did.

4932. Did you see any constable fire at that man when he came to the window?—I did.

4933. What constable?—I think Constable Williams or Williamson I fired also.

4934. Did you hear any constable say “There is Dan Kelly at the window”?—No, we could not tell them one from the other in armour.

4935. Were you present when Constable Johnson set fire to the building?—I was.

4936. Did you hear anything about a cannon being sent for?—I heard it spoken of by the other constables.

4937. That they were waiting for the cannon to blow down the house?—Yes.

4938. Do you know the reason the place was set fire to was because they thought the cannon would not arrive before dusk and the outlaws might escape?—No, I did not.

4939. Did you hear that said at the time?—No.  
 4940. Did you hear why the cannon did not come?—No, I did not.  
 4941. You said just now, I believe, that you received commands of what you were to do while you were there, after taking your position, from some officer of police—did you?—Yes.  
 4942. Were the orders passed from man to man?—Passed from man to man.  
 4943. Whom did you receive orders from?—I could not say.  
 4944. Did the orders pass from right to left or left to right?—Left to right, I think.  
 4945. Whom did you get your ammunition from?—We went to the railway station; Mr. Sadleir told us where to go.  
 4946. Did you go to him about it?—Yes.  
 4947. Did you leave a constable in your position when you left?—Yes, there were some not far away.  
 4948. Did you say to the next constable, “I am short of ammunition, I am going for a fresh supply”?—I think I said, “I will go the station for more ammunition.”  
 4949. Then when you went to the station whom did you see?—Mr. Sadleir was the first, I think.  
 4950. Did he see you serve out your ammunition?—No.  
 4951. Did you take it yourself?—Yes.  
 4952. What was it in?—I could not say what it was in now.  
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T. P. Dowling,  
*continued,*  
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4953. What did you say to Mr. Sadleir when you went down with your rifle and without ammunition—try and recollect what you said and what occurred exactly?—I had no more ammunition, he told me to go and get some off someone who was there.  
 4954. Did he question you as to what was going on in front, or give any instructions what you were to do when you went back to the front?—No, he did not. He was up there a few minutes previous to that. He only said we were to take up our posts as usual.  
 4955. You say he was up there; where was “there”?—Fifteen or twenty yards nearer to the railway station than where I was.  
 4956. Between your position and the railway station?—Yes.  
 4957. Did you see him come round to the men?—I did on a few occasions previous to that.  
 4958. Did you see Mr. O’Connor?—I did.  
 4959. Was he going round to the black trackers or to the ordinary men?—He was walking with some of the reporters.  
 4960. Was he armed?—I think he had a double-barrelled gun, I would not be sure.  
 4961. Had he a cap on his head?—That I could not say.  
 4962. What o’clock was that?—Previous to dinner time and after, I think.  
 4963. Did you hear one of the constables volunteer to go up to the hotel in Kelly’s armour?—No, I did not.  
 4964. You did not hear it talked about that there was one who volunteered?—Yes, I heard that Constable Dwyer offered to go and rush.  
 4965. In Kelly’s armour?—No, not in armour. I also heard that Constable Montfort volunteered to rush afterwards.  
 4966. Did you see Senior-Constable Kelly at all about?—No, I did not.  
 4967. Or Sergeant Steele?—Yes, I believe I saw Sergeant Steele.  
 4968. What distance apart were the men surrounding the building?—It might be ten or twelve yards.  
 4969. All round the house?—Yes.  
 4970. It was quite possible to keep the outlaws there without firing a single shot?—Not if it was dusk.  
 4971. Why?—Because they could have escaped, and we would not have known it was not one of ourselves.  
 4972. Was there no means of making fires to surround the building, so as to make a light and prevent them escaping at night?—Yes, you could have made a fire there.  
 4973. Was the feeling amongst the police, that what was wanted was to have them out some time before dark?—Yes.  
 4974. Was that the feeling universally amongst the police?—Yes.  
 4975. Because, after dark, they might get away?—Yes. There were some of the horses shot previous to that, so that they should not get away riding.  
 4976. *By Mr. O’Connor.*—You stated that I was pointed out to you when you got out of the train—what time would that be?—About ten o’clock.  
 4977. Can you remember how I was dressed?—I think you were dressed in a grey suit, if I do not mistake.  
 4978. Had I a long coat on?—You had long boots on. I am not aware if you had a long coat on.  
 4979. I think you must have been mistaken about me at that time. Do you remember whether I had a

long coat, nearly down to my heels—what they call an ulster?—Well, I am not sure.

4980. Can you tell me who the reporters were I was with?—No.

4981. Can you swear they were reporters—might they not have been police?—I think they were reporters.

4982. Can you state who the man was that told you?—No I heard several of the police say they were reporters.

4983. *By the Commission.*—Is that the gentleman—[pointing to Mr. O'Connor]—who was there on that occasion?—No I would not swear it is him now.

4984. *By Mr. Sadleir.*—How soon after you landed from the train did I speak to you?—I do not remember, I am sure.

4985. *By the Commission.*—Who came with you, in charge?—Senior-Constable Mullane.

4986. Did Mullane report you and your party to Mr. Sadleir?—Yes, I believe he did.

4987. Do not believe—do you know?—No, I would not swear he did.

4988. Did he bring you out together, as police are generally taken out, or one by one?—We got out one by one.

4989. Did he bring you up and show you?—I remember Mr. Sadleir telling us to take up our posts at the north of the building. That is all I remember.

4990. *By Mr. Sadleir.*—How long after you landed?—I think a few minutes after.

4991. Where were you then?—I was on the platform.

4992. You said McHugh and you fired at one of the outlaws, at the window?—Yes, the one outside.

4993. At what hour was that?—I think it was after the civilians had surrendered.

4994. You said you thought it was at two o'clock; do you think so still?—To the best of my belief, it was. I will not swear.

4995. *By the Commission.*—How do you reconcile that with your answer that you would not swear you saw a shot fired after the prisoners were released from the hotel; did this man outside fire any shots when he came out?—No, he did not. He had a gun lying across his arms.

4996. Did you see one of the outlaws outside?—I did.

4997. Was the outlaw that came outside out before the civilians left or after?—I am not sure; I believe it was after.

4998. Did you fire at him immediately?—I did. McHugh was the first, and I was the next.

4999. Where were you standing at that time?—I was within twenty yards of him at the time, facing from the hotel, he was in the back yard, at the west of the building, and I was at the north.

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5000. How long after the people left the hotel?—I am not positive whether it was before or after. I will not swear to that.

5001. *By Mr. Sadleir.*—You say it was about two o'clock when you last saw an outlaw?—Yes.

5002. Do you remember the occurrence when I was assured by a man in front that McHugh's last shot, and probably yours, brought down one of them—did you hear anything of that?—I heard some of them say one of them fell down in the chimney.

5003. Was that the shot you are speaking of now?—No.

5004. Can you say at what hour that occurrence was?—No.

5005. I suggest that it was about two o'clock—could it possibly have been about two o'clock?—It may have been. I would not swear, because I had no watch, and did not take notice at the time.

5006. Was there not a great confusion about the time that day. What time did you turn out that morning—were you in bed that night at all?—I was, for a little time.

5007. What time did you leave Beechworth—was it not very early in the morning?—It was. We arrived at Glenrowan between eight and nine.

5008. Is not that likely to confuse any man's notion of the hour of the day getting up at unusual hours?—Yes, it is.

5009. You cannot speak positively as to any hour you have given?—No.

5010. You have said that the prisoners were let out between twelve and one—would you be surprised to hear they were let out at ten?—I would not.

5011. Then time confusion as to the time I have spoken about would account for that?—Yes.

5012. You have stated that I gave you orders to fire two feet from the floor—where did you stand at that time?—Immediately after we came out of the train I think it was.

5013. Then Senior-Constable Mullane would be present. I saw him jump out of the train, and you all came with him—he must have been present when I gave those orders?—I could not say whether he was or not.

5014. Considering the confusion of the hours, is it possible that those orders were given to you after the prisoners escaped, and that the order had reference to Cherry, and who was supposed to be lying on the floor?—It is.

5015. *By the Commission.*—That occurs to you now from what the officer asks—that that is possible?—Yes.

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*continued,*  
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5016. *By Mr. Sadleir.*—You conscientiously think you may have been so far mistaken that the orders may have been after the prisoners escaped?—I do not recollect the hours. I had little sleep that night, and none for two or three nights before that.

5017. *By the Commission.*—And in such cases time might go quickly or slowly without your observing it?—I think it would go very slowly.

5018. You say you had a Spencer rifle on that occasion?—Yes.

5019. Had you much practice with the Spencer rifle previous to this?—I had none whatever.

5020. Had you much practice in firearms previous to this?—Previous to joining the force I had a little practice.

5021. When a Spencer rifle is loaded, and you know how to put the cartridges into the magazine, is there much trouble except pulling the trigger and holding it straight?—No.

5022. And then you have only to load again?—Yes.

5023. *By Mr. Sadleir.*—From your position, could you see the front door—that door facing the railway?—Yes.

5024. Were you not rather at the end and back rather than the end and front?—I was more at the north of the building all the time.

5025. That is taking the chimney as the north?—Yes.

5026. Were you not more north and west than north and east?—I was.

5027. *By the Commission.*—Were you stationed more towards the back fence or towards the front of the house?—I do not know the back of the fence.

5028. You know the verandah is on the front?—That would be the east.

5029. *By Mr. Sadleir.*—You could not look into the front door at any time without shifting your position?—I could see it on one or two occasions.

5030. Then you shifted your position so as to enable you to do so, because the house does not turn round?—I was moving about all the time.

5031. Where were you then when Father Gibney went into the building?—*(No answer.)*

5032. *By the Commission.*—Did you see him going in?—Yes.

5033. Did you see the door when he went in?—I saw him go in.

5034. *By Mr. Sadleir.*—He was approaching the building. Did you see him step on the verandah and go in at the door?—No, I did not.

5035. He was out of view for those few steps?—Yes.

5036. Did you see me during this time?—No, I will not swear that I did.

5037. You did not see me while the priest was approaching the building?—No, I did not.

5038. Might I not, from the other end, have rushed to intercept the police without your seeing it?—Yes, you might.

5039. Did you see anything going on at the other end of the building—did you see Johnson?—No; but I saw the priest approaching, and I think I saw Mrs. Jones.

5040. Did you know what was going on at that end?—No.

5041. Was not your first knowledge of the fire seeing the smoke?—It was.

5042. You heard a smart volley before the smoke appeared?—Yes.

5043. You did not understand what that meant?—No.

5044. You said you did not see Senior-Constable Kelly about at all?—No, not that I am aware of.

5045. *By the Commission.*—Did you know Senior-Constable Kelly by sight before you were at Glenrowan?—No, I will not swear that I did.

5046. You will not swear you saw him before that?—No.

5047. Could you swear to him if he were in plain clothes in the room now?—Yes.

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*continued,*  
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5048. Would you swear it was not Senior-Constable Kelly who was pointed out to you for Mr. O'Connor that morning?—I could not tell that.

5049. *By Mr. Sadleir.*—Where did you see Sergeant Steele?—I cannot say whether I saw him. I think I saw him in the morning.

5050. Are you not aware that Sergeant Steele got hurt on that occasion early, through Kelly falling on him, and never turned out again after that?—No, I did not know that.

*Mr. Sadleir.*—That was the fact, that he got injured through Kelly falling on him, and was not able to come out again.

5051. *By the Commission.*—As you were up very early that morning, and unable to account for the time during the day, is it not just as possible that the time you saw the outlaw at the back of the hotel may have been at ten or eleven instead of two?—It may have been.

5052. If some other constables say they saw this man at the back of the hotel, say at eleven o'clock, you are not in a position to contradict them?—No.

5053. *By Detective Ward.*—On what day did you leave Beechworth to join the party at Mrs. Sherritt's?—On the night of the 17th June.

5054. Who was in charge when you arrived there?—Constable Armstrong.

5055. Was Constable Duross with you at the time?—Yes.

5056. I gave you instructions to report yourself to Constable Armstrong, who was in charge of the party?—Yes.

5057. And sent a guide with you to show you the place?—Yes.

5058. You did receive instructions from him and accompany him to watch a certain place?—Yes.

5059. *The Chairman (to Detective Ward).*—We have got all that from him. Have you any point you wish to establish?

5060. *By Mr. Ward (to the witness).*—Do you remember the night I called at the house?—Yes, I do.

5061. Do you remember you were cutting wood in the bush at the time?—Yes.

5062. Did any person go for you, or were you returning of your own free will after performing the duty?—Mrs. Sherritt came up to where we were.

5063. After she did, did you see me some time after at the house?—Yes, a few minutes afterwards.

5064. Did you see me speaking to Constable Armstrong?—I did.

5065. You stated in your evidence the other day, I saw in the papers, that I told you and Armstrong to tell a lie. Would you remember now exactly what I did tell you?—No, you gave me no orders.

5066. That was Saturday the 19th?—Yes.

5067. On that night whom did you receive your orders from?—Armstrong.

5068. Will you be kind enough to tell the Commission what Armstrong told you. I never gave you any order at any time. I always communicated with the man in charge. Do you remember what Armstrong told you?—Yes, he said we were to go over and take up our stations at Byrne's house.

5069. *By the Commission.*—Have you been speaking about the case to your comrades or anyone since you were last examined here about the evidence you were giving?—No.

5070. Was that all that Armstrong told you. Did he assign any reason why you were to take up your posts there?—No, he did not assign any reason.

5071. He did not say he had been told anything?—No, he did not.

5072. You stated in your evidence that Mrs. Sherritt came and told you to go to Byrne's hut, and that she had been instructed to do so by Detective Ward?—Yes.

5073. Will you give the exact words that Mrs. Sherritt used to you when she came from the hut to you that night to where you were wood-cutting?—She said that Mr. Hare and Detective Ward were down at the hut, and that Ward sent her up to tell me and Armstrong to take up our posts as quickly as we possibly could at Byrne's house.

5074. Did she say anything else?—That was all she told me to do.

5075. In giving your evidence you stated that Detective Ward had sent her on purpose, first stating that he had told the two constables to state that you were at Byrne's house?—Yes.

5076. Did she tell you that?—Yes.

5077. Why do you not tell us that now. Give us the exact words?—I said there was no occasion to tell a lie.

5078. To her?—Yes.

5079. Did you meet Detective Ward again after that?—Yes, on our way down to the hut we met him.

5080. Did he give you the same advice that she had done?—Yes.

5081. He repeated that?—Yes.

5082. Did he say that he had told any other?—Yes, he said he told Constable Duross.

5083. To say what?—To say that I and Armstrong were over at the house in company with Sherritt, watching Byrne's house.

5084. In consequence of that, did you act in accordance with his instructions. Did you ever tell that lie he desired you to tell?—No.

5085. You acted on it?—We went to Byrne's house.

5086. And pretended you were there all the time?—Yes.

5087. Did Superintendent Hare see you?—I was sitting under a sapling when he came along.

5088. Did you get up?—No, I was going to, but Mr. Hare made a sign to me to remain where I was.

5089. Mr. Hare was under the impression that you had been there all the time?—I cannot tell.

5090. *By Mr. Ward.*—Who was wheeling the barrow of wood?—I could not say, I am sure.

5091. Had you your arms?—Revolver, I had I could not say about Armstrong.

5092. Could you go to Byrne's house without first coming to where I was?—We could have, but we would not have been properly equipped.

5093. Was I not aware on calling there that your arms were at Sherritt's house?—I could not say that.

5094. Did you ever go without your arms—without your double-barrelled gun there?—No, we did not. We were all armed but Sherritt.

5095. You stated in your evidence that Pat Byrne was seen at the back of the house some two or three days before the murder of Sherritt?—Yes.

5096. *By the Commission.*—Did you report upon that at all?—I think Armstrong went in and gave the information.

5097. Can you say for certain?—Only from hearsay.

5098. Can you tell whether Detective Ward knew anything at all about it from your own knowledge?—No, I cannot.

5099. *By Detective Ward.*—Do you remember the night of the 21st, four days after you went down (with reference to the night when Paddy Byrne was seen going away on the grey horse)?—Yes. I do not remember the date; I remember the circumstance.

5100. Was Aaron Sherritt with you on that night?—He was.

5101. Will you consider that matter over; I do not want to take you short?—Well, Constables Armstrong and Duross were on the opposite side of a sapling to me. I was the first to see him, and I said, “D—— it, here they are coming along.” And Armstrong ran out on the main road, and I told him to keep in where he was, and I do not remember seeing Sherritt there.

5102. *By the Commission.*—Did Constable Armstrong challenge him?—No. I was sitting by myself at the time, and the others were opposite to me. I could not see them because of the thick scrub.

5103. Did you see Pat. Byrne riding in the direction of Madden’s Gap on that occasion?—I did. That is at two o’clock in the morning.

5104-5. This is what Armstrong reports—“I beg to report that at 11.15 p.m. on the 21st instant Paddy Byrne left his house, riding his grey mare, and keeping off the road, high up the range, going in the direction of Madden’s Gap, which is situated in the Beechworth side of Mrs. Byrne’s house. The other constables and I who were watching the house did not consider it advisable to follow him, as he was riding at a half-trotting pace, and the night was so light we could be seen for several hundred yards off; besides being confident that it was Paddy, we thought it better to let him pass on than run the risk of being found out. We remained watching the house until 3.30 a.m., at which time he had not returned home. I may further add that the dog kept barking for the greater part of the night, so we were obliged to take our position almost at the foot of the range, far away from the house. On my return to camp I came into Beechworth to report the matter, prior to which I requested Moses to keep a sharp look out, and obtain all the information he could in the meantime.” Do you know who Moses was?—Sherritt, I believe.

5106. Must he not have been there then—was he there or not?—That was after we came home in the morning.

5107. Can you now say if he was there in the morning; was he there when Pat. Byrne went away on the horse?—I will not swear that he was.

5108. Or that he was not?—Or that he was not. He was there in the morning at his own house, and that was the time that Armstrong told him to keep a sharp look out.

5109. Do you recollect whether he was on duty with you during the night?—He was on at the commencement of the night.

5110. Do you mean he went with you to Byrne’s house?—Yes.

5111. But you will not swear whether he was there at the time that Paddy Byrne rode away or not?—No.

5112. But he was at his own house in the morning?—Yes.

5113. *By Mr. Ward.*—Are you aware that there was any special object in his being away—that there was some reason for it—that he should not be actually where he should be stationed?—No, I am not.

5114. You will swear that you positively heard me give that order that I told Duross to tell Superintendent Hare a lie—that they were at the hut——

5115. *By the Commission.*—He has not positively sworn that. (*To the Witness.*)—Did you meet Detective Ward when you came in?—On the way down to the hut we did.

5116. Did he speak to you or to your party then?—Yes; he said, “Go on, and take up your posts at Byrne’s house.”

5117. Did any of you say it was not necessary for you to tell a lie—to make a misrepresentation?—Yes, I did.

5118. *By Mr. Ward.*—Within my hearing?—Well, I do not know you heard.

5119. *By the Commission.*—If Detective Ward said to you, “Go and take up your place at Byrnes house,” without saying anything else, would that be for the purpose of deceiving your officer; would that not be for the plain purpose of deceiving your officer, without anything else?—Yes.

5120. Would not that be the effect?—Yes, it would.

5121. *By Detective Ward.*—Do you know what the orders were from me to the men in charge on any night at first?—No, I did not know the instructions we received at first.

5122. How do you know then that it would be deceiving your officer; do you know whether the order was to go out at eight, nine, ten, or eleven, from me to the constable in charge?—No, I never got any instructions what time to go out or what time to come in in the morning.

5123. *By Mr. Nicolson.*—The week before you were surprised at this post and Sherritt shot, did you receive any warning from head-quarters to be on the alert in case of surprise?—No.

5124. *By the Commission.*—Was it reported among your comrades that any order for special care had been promulgated among them; was it said among the men that there was to be special caution, or anything?—No, I never heard of it.

*Mr. Nicolson.*—May I ask for D 13 to be produced and read?

*The Chairman.*—It is a letter from John Sherritt to Mr. Inspector Hare, Sheep-station, dated June 20th 1880:—“Dear Sir,—I would like very much to have seen you yesterday, as the outlaw Byrne does be frequently and sleeps in ——’s haystack on Sebastopol. I cannot see how it is that he is not caught before

now. His brother Patrick does be out all night and sleeps all day. Mrs. Byrne has their winter flannel and socks all ready to go to them, and she has provisions for six families stored by in her house. Sir, I don't want to dictate to a gentleman of your ability, but the plan I would suggest is this—for Patrick Byrne to be watched minutely day and night, as this is a particular time. As long as Aaron has the men down there, they will never do any good, as to my knowledge he lets too many of his mother-in-law's children to his house, and his mother-in-law herself will go there night after night, and will stop

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*continued,*  
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sometimes until two o'clock in the morning, and this will be the means of discovering the police, as the Barry children and the Byrne children go to the same school and are on friendly terms. Dear sir, the reason I send you these few lines is this—anything I say up here, they will not listen to it; therefore I would like to explain matters to yourself. I am certain before long they are going to make another raid; I have not heard yet what it is. I am very busy now, but if you don't succeed, sir, I have a grand plan made up that I think will carry through. I remain yours most respectfully, JOHN SHERRITT, junr."

5125. *By the Commission (to the witness).*—Do you remember any of those children coming about when you were there—the Barry children?—I remember one coming into the hut on one occasion.

5126. Did you go out of that room when the children came in?—No.

5127. Did you hear what was said?—No.

5128. How many was "we"?—Four of us.

5129. How old was the child?—About eight years.

5130. Do you believe, from hearing that letter read, that the child was likely to meet the Byrne children at the school—do you know whether he did meet them at the school?—No, I could not say.

5131. Do you know the haystack alluded to there—you used to go on duty to Byrne's house at night; do you know where that haystack is?—No.

5132. Used Mrs. Barry, the mother-in-law, to stay at night, as that letter says, and go away towards morning?—Not that I am aware of.

5133. Did she live permanently in the house with her daughter?—No, she did not; she visited her daughter every night very nearly.

5134. How did you know that?—I saw her coming in.

5135. Were you not away at Byrne's hut?—Not at the time she came in; she came in previous to our going.

5136. She must have known you were there?—Yes, perfectly well.

5137. Was the reason she came at night to keep her daughter company while you and Sherritt were out?—I believe it was.

5138. Have you any doubt of it?—I could not say.

5139. Did your hear Mrs. Sherritt say that?—No.

5140. You only suppose that was her object in coming?—Yes.

*Mr. Nicolson.*—I would also draw the attention of the Commission to Detective Ward's evidence, on page 90, where there is a warning as to Patsy Byrne—that is dated 23rd June.

*The witness withdrew.*

Alfred John Faulkiner sworn and examined.

A. J. Faulkiner,  
10th May 1881.

5141. *By the Commission.*—What are you?—Mounted constable, stationed at Oakleigh.

5142. Where were you at the time of the search for the Kellys?—On the 28th October 1878, two days after the police murders, I received instructions at Oakleigh to proceed to the North-Eastern District in search of the gang.

5143. Were you there during the whole time they were there?—Yes.

5144. What were you doing particularly?—I was out in search parties.

5145. Under whom?—I arrived in Wangaratta on that evening, and joined Sergeant Steele's party on the 29th. We started in search to the King River, and from there into Mansfield, and arrived there on the 3rd November.

5146. Had any of the party you joined under Steele been out with the party at the time of the murders?—I do not think so. They were principally men who had come from other districts.

5147. Were they principally strangers?—Yes.

5148. Were you engaged after the murder of the constables?—Yes.

5149. In search parties?—Yes.

5150. Under whom?—Sergeant Steele.

5151. You continued under him?—For a time. We arrived in Mansfield on the 3rd November, when we received a telegram to return to Benalla. On our arrival there a special train was waiting to convey the party of police from there to Beechworth.

5152. That was in November 1878?—Yes. We left Benalla about eight p.m. that evening *en route* for Beechworth in the special train.

5153. What parties were you out with?—Sergeant Steele's was the first party. I think I was then told

off for special duty—watching the bridge over the Mitta Mitta, near New South Wales. I was there to January 1879.

5154. You were watching that bridge?—Yes.

5155. After January 1879 what were you doing?—We made a report stating that we thought it was useless carrying on the duty we were at, as the traffic was so much on that road, and asked to be relieved; that was Constable Deacon and myself. I was accordingly removed to Rutherglen, and received a telegram there to report myself at Benalla.

5156. When was that?—I should think that would be some time about the 13th or 14th of January.

5157. Did anything particular happen about that time; any robbery or anything?—During the time I was stationed over the bridge of the Mitta Mitta the Euroa robbery took place.

5158. Did anything occur soon after you were stationed at Rutherglen?—No, nothing.

5159. We have it that on the 10th of February the Jerilderie bank robbery took place. Were you at Rutherglen then?—No, I was not.

5160. How long did you remain?—I think I returned to Benalla about the 14th of January.

5161. Do you recollect the Jerilderie robbery?—Yes.

5162. Where were you then?—We were at the Murray. I returned to Benalla, and there joined Senior-Constable Mullane's party, and travelled some distance up the Murray, the other side of the Corryong. After some time we returned to Wodonga, after searching the place up there, when we heard of the Howlong wires being cut.

5163. What time was that?—I should think about a week or ten days after the Jerilderie robbery.

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5164. Is that the Howlong in New South Wales?—Yes.

5165. Where were you on the 3rd of November 1878?—I was at Mansfield.

5166. There is something about a special train?—A telegram to return to Benalla, and on our arrival there there was a special train to convey us to Beechworth.

5167. What was the object of that special train?—It was to distribute the search parties round towards Beechworth.

5168. Do you remember, or were you one of those that went with Mr. Sadleir, Captain Standish, and Mr. Nicolson to Sebastopol?—Yes.

5169. You started from Beechworth?—Yes, and searched the ranges into Yackandandah on the 4th; and on the 5th searched the ranges into the Gap; and on the 6th Mr. Sadleir met a large party of police at the Gap. I am not quite certain of the date.

5170. How do you know that Mr. Sadleir met them; was he with your party?—He was not with any party, but he came to Sergeant Steele's party.

5171. You were at the Sebastopol business?—Yes.

5172. Where did you start from to go to Sebastopol?—Myrtleford.

5173. Who was the officer then in charge over you?—Mr. Sadleir thought this one party was too large, and divided them into two, placing so many under Flood and so many under Steele. Flood's party went to the Gap and Steele's party went on to Myrtleford. A despatch was sent from Beechworth ordering the two parties to return to Beechworth. The despatch reached us about two a.m. in the morning, but it was in the middle of the night.

5174. Will you describe the Sebastopol business. Captain Standish's evidence at page 2 is:—"I arrived there about eight o'clock, had supper with Mr. Nicolson at one of the hotels at Benalla, and, whilst we were talking over matters afterwards, we received an urgent despatch from Superintendent Sadleir, who was up at Beechworth, saying that they had received information from a person in Beechworth that the Kellys had been at Sebastopol, and believed they were there now. I immediately ordered a special train, and proceeded, with Mr. Nicolson, nine mounted constables, and one black-tracker, to Beechworth." Were you one of that number?—No.

5175. Where did you meet this party?—We met them in Beechworth that day, late that morning, in clear daylight.

5176. Where did you go then—how many were there altogether?—About 40, I should think, by a rough guess.

5177. Did you march in open order?—In open order.

5178. Make a great noise?—Well, of course, 40 horses would make a noise.

5179. Were you told to load your arms?—No; we never knew what information we were going on.

5180. Were your arms loaded?—Yes.

5181. What were they?—I am not certain—the Martini-Henry or the gun.

5182. Had you revolvers?—Yes.

5183. Swords?—No.

5184. You were one of the party of 40 from Beechworth to Sebastopol?—Yes. We travelled on the main road for some little distance, and then turned off to the right. I suppose Sherritt's is about six miles from Beechworth; and when we came within view of the place the party halted, and Mr. Nicolson picked out five or six—some of the men who knew Kelly.

A. J. Faulkner,  
*continued,*  
10th May 1881.

5185. Were you near enough to the three officers to hear who gave the orders?—Yes, I was in front. I understood it to be Mr. Nicolson, on account of going with the men.

5186. What officer was in charge in your opinion?—I think it rested between Mr. Nicolson and Captain Standish.

5187. A sort of divided responsibility?—Yes.

5188. When you came in front of the hut, and the men were selected, what was done?—They rushed the house with Mr. Nicolson, and through some accident a shot went off against the door. As soon as the men in the distance heard this shot (I was one), we all rushed the house, and after some delay there, finding the outlaws were not there, we went on to Mrs. Byrne's, a distance of three miles.

5189. What was the opinion?—That they were not there.

5190. Was it the opinion that they had been there?—I do not think so. I heard Senior-Constable James having some argument with Sherritt, but Sherritt declared they had not been there.

5191. Which Sherritt?—Old Sherritt, the father.

5192. Is that Senior-Constable James of Mansfield?—Yes.

5193. Then, on your way to Byrne's hut, did you see anyone after leaving Sherritt's, and before you arrived there?—No, I do not remember seeing anyone.

5194. You knew Aaron Sherritt?—Yes.

5195. When did you first see him?—I saw him that morning when we rushed Mrs. Byrne's house. I think he had an axe on his shoulder, and had been cutting wood a little way from the house.

5196. Was that the first time you saw him?—Yes.

5197. Did you notice anyone speaking to him?—No.

5198. You did not see Captain Standish speak to him?—No.

5199. Or Mr. Sadleir?—No, I did not see anyone speak to him—I was in front of the house.

5200. You were in advance?—Yes.

5201. *By Mr. Sadleir.*—How many men were in Sergeant Steele's party?—I should think about nine or ten.

5202. As many as that?—I would not swear exactly to one.

5203. And how many were in Senior-Constable Flood's party?—About seven or eight.

5204. Would thirteen have been the total of the two parties?—It might have been.

5205. *By the Commission.*—Were there any other parties except those two named?—Only those two that came from Myrtleford and the Gap.

5206. There were others at Beechworth besides those?—Yes.

5207. How many besides those two parties?—Well, I could not really say; I should say between 30 and 40 police altogether.

5208. Was there anybody else?—Yes, some reporters.

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5209. Was there not some special informant?—Yes, he was there with his face blacked.

5210. *By Mr Sadleir.*—You know the number of men in Beechworth that night?—I have not the slightest idea, because I had not been in Beechworth since the 4th of November.

5211. You say there might have been only 13 in the party?—Yes.

5212. With nine that Captain Standish brought up that would make 22?—Yes.

5213. *By the Commission.*—Do you know that Captain Standish brought that number?—No.

5214. You had come to the time of the Jerilderie bank robbery; where were you then?—I was at the Upper Murray.

5215. Will you just go on with the personal things that came under your notice, and give us the dates as well as you can. Then came the Howlong wires?—Yes. We returned then to Benalla, and were continually out with parties.

5216. That brings you up to about March 1879?—Yes.

5217. What were you doing during the early part of 1879?—We were continually out on information, and in search of the gang.

5218. Who was in charge in the early part of 1879, do you remember?—I think Superintendent Hare.

5219. Was Captain Standish up there?—Yes, he was occasionally, I believe, but I could not really say whether he was always there, because I was continually out.

5220. Was Mr. Hare there in the early part of 1879?—Yes, I believe he was.

5221. Then both Captain Standish and Mr. Hare were there at that time. How many used to go out in search parties?—Mr. Hare formed a search party, about eight or nine of us.

5222. Had you any pack-horses?—Yes.

5223. How many usually?—Mostly two pack-horses, sometimes three.

5224. What did you carry on them?—We mostly had hammocks and some provisions.

5225. And cooking utensils?—Yes.

5226. Could you, as a rule, get clear of the roads very much, with that large party?—At times, when we received information, we generally went nine or ten miles in a different direction, if we went in the daytime at all, so as to avoid meeting people.

5227. And did you return at night?—Yes, but sometimes in a different direction.
5228. Would not the country be very difficult to go through with nine or ten, off the roads, through the bush?—Well, we would separate 150 or 200 yards, and keep in view of each other.
5229. At night?—We never travelled at night that distance apart.
5230. Do you remember hearing any remarks about the noise and dust kicked up by those parties?—No, I cannot say I do.
5231. Were you ever out with Superintendent Hare?—Yes.
5232. Did you, during the early part of 1879, when you say you were continually out, ever come anywhere near the Kellys, so far as you knew?—Yes. I will just refresh my memory—[*looking at a paper*]. On one occasion, when searching for the gang, without information, we were camped in the ranges, about five p.m.
5233. What date was that—fix it, if you can?—I suppose about April or May 1879; I cannot exactly remember. Two young men rode up to us; Mr. Hare asked them their names; they replied with a sneer, after giving some impertinence to Mr. Hare, showing their sympathy for the Kellys. Mr. Hare at once placed two men in charge of them.
5234. What did they say?—I could not say exactly. I could hear them muttering to Mr. Hare, and he was vexed with them at the time, and told them he had a mind to arrest them, and sent them home with the constables. A short distance from home they were observed by their parents, who took one of the constables to be Ned Kelly and the other to be Steve Hart. The father called out for the constable whom he took to be Hart—he was in the waterhole, bathing, at the time (the old man was)—to come to him. One of the constables remained there, and the other came back to tell Mr. Hare of what the father had said to him, taking him to be Hart. Constable Canny and I left that morning about two a.m. to go into Wangaratta to bring out men to watch the place whilst Mr. Hare's party searched the ranges.
5235. What did the old man say?—I cannot say what he said, but he found his mistake when the constable went to him. The party arrived before daylight that morning, and they watched the house whilst Mr. Hare's party searched the ranges. We also came across a stable built three-quarters of a mile away from the premises, in the bush paddock, which caused much suspicion. On a second occasion, when searching without information—
5236. What date?—Prior to Mr. Hare being relieved for the last time. I think it was the last time he was out with a search party.
5237. It would be about June or July 1879?—Yes. We came across a hut near Lloyd's, in the small bush paddock, and no person at home. We searched the place, two or three of us—I could not say which of us—I think Constable Canny and I, and I think Constable Lawless, and found three or four saddles hanging up that had been recently used, noticing they had sureingles on made by a saddler at Wangaratta. The person who occupied the place was a man with one hand, a bachelor, which clearly showed that he had not a use for four saddles.
5238. Did you speak to him?—I think Superintendent Hare spoke to him.
5239. Did you hear him say anything?—No, I could not hear him say anything; and, as he was looked upon as a sympathizer, this made us still more confident that the gang were still about. When the Kellys were captured, and the horses and saddles brought to Benalla, I identified those saddles as the ones I had seen hanging up in the house near Lloyd's, and sent in a report to that effect, but did not hear anything more about it further than, I believe, some of the Kelly friends claimed them. I would not be certain of that, but I have heard it. This was the last search party Mr. Hare had for the outlaws prior to being relieved by Mr. Nicolson. I was then in Benalla, up to the time of the Lancefield robbery.
5240. What time was it; was it a month after that?—Yes, about that. That day I was told to saddle up and go off to the train. I did not know what was wrong till I got near to Kilmore, when I learned that the Lancefield bank had been robbed. We arrived at Kilmore that evening—Mr. Sadleir, Mr. O'Connor, Senior-Constable King from Lancefield, five or six trackers, and four police. After we had had tea and the horses had fed, Senior-Constable King asked me if I would go with him to see Mr. O'Connor, to

allow us to go on to Lancefield that evening, and make an early start in the morning from there. Senior-Constable King left to go to the township to see Mr. O'Connor, and when he returned I asked him the result of his interview.

5241. Was Mr. O'Connor in charge?—No, I could not say he was; he was in charge of the trackers. He said we would have to remain here to-night, and go to Lancefield in the morning. King asked me if he took the trackers would I go with him. This I refused, telling him that it was a good man that would do as he was told. We left Kilmore next morning, and arrived at Lancefield about nine or ten.

5242. Was Senior-Constable King in charge of you?—No, he was second to Mr. O'Connor with the trackers.

5243. Who was really in charge of the party?—Mr. Sadleir, I believe, was relieved at Kilmore by Inspector Baber. Mr. Hare was then at Lancefield. He said I would have to remain behind, and, after he started the trackers, he asked me how it was we did not reach Lancefield last night. I replied I did not know.

He asked me if the horses were not able to travel that distance. I replied that it could not have been that, as the horses were all fresh. I had had to ride my horse half a mile behind to keep him steady. Constable Deacon and I were then told off to go in a certain direction to search for the robbers of the bank. When we arrived at Kilmore we were informed that the men had been captured. I returned to Benalla and was there till November, when I was told off for special secret duty, watching the house of Mrs. Byrne at night-time and sleeping in a cave through the day.

5244. Was Mr. Nicolson in Benalla at this time?—Yes, he was in Benalla, but the day I arrived to go to this duty he was in Beechworth.

5244a. Who was the officer in charge of the cave party?—While it lasted it was between Detective Ward and Senior-Constable Mullane, that is the senior officer; of course Mr. Nicolson was at the head.

5245. But not yourself?—No.

5246. Who was the recognized head of the cave party?—It was always the senior man; they were relieved at times, and the senior man was always at the head.

5247. Who were in the cave party?—Constable Alexander, Constable Canny, Constable Armstrong, and Constable McCall. That night I think Constable Alexander was in charge.

5248. Will you give the date you went?—The 15th of December, I think.

5249. That will be 1879?—Yes.

5250. *By Mr. Nicolson.*—You did not go out with the first?—No.

5251. Did not Canny go out with you?—He had been up before me. The instructions we received with reference to this duty were that four of us would be told off with Aaron Sherritt as a guide in watching the house (Mrs. Byrne's place) at night-time. If possible, we were to try to capture Byrne alive, to stick a handkerchief in his mouth and bring him in to Beechworth. We were to try to capture the others if they came to the place. The duty I had to undertake whilst with the watch party at the cave was that Aaron Sherritt had the power, if he wanted a man to go to any place, he was to take me, which he did, to go out through the day, occasionally. I was introduced to people by his wife as a friend from New South Wales.

5252. Were you enjoined to secrecy with regard to being secreted in the cave?—Yes.

5253. What were you told about it?—To confine ourselves to the cave during the day, and about whatever time it suited to go down to this house at night. We were boiling our tea with spirits of wine, so as to cause no smoke, and living on bread and fish.

5254. And told not to let anyone know where you were secreted?—Yes.

5255. All the men had that instruction?—Yes, we received those instructions from Mr. Nicolson before we left Beechworth.

5256. *Mr. Nicolson.*—May I read this note I made at the time—"Arrange for a party of four constables, with five days' provisions, to proceed to cave near Mrs. Byrne's, to rest during the day and come out at night, and watch Mrs. Byrne's hut for Joe, to capture Joe outside going to or fro, without creating a noise, if possible; if that cannot be managed, to take him in the hut; and, in that case, arrest all those in the hut, the mother and all, and convey them as quietly as possible to Beechworth." Were those the instructions?—Yes.

5257. There is nothing about a pocket-handkerchief?—That was the stopping of his mouth. I did this duty during the day, and watched the house of Mrs. Byrne during the night. After nine or ten days of that duty we would be relieved for four or five days, returning to Beechworth. The duty I had to undertake, when relieved from this cave duty for a few days, was—I was sent out a distance of about twenty miles all round Beechworth, serving summonses, attending inquests, and other police duty by myself, and, on one occasion, I was sent to a place so close to Mrs. Byrne's that one of her sons held my troop horse whilst I went to the house with a despatch. I was under the impression that if I complained to my officers they might think it was cowardice on my part. At the same time I thought it was unfair to be sending me as a constable to a place where I was doing secret duty, but I did not complain. I was four or five weeks doing secret duty with Aaron Sherritt, in the house he was shot in, but I was not there at the time he was shot. I was at the cave duty from December 1879 to April 1880.

5258. *By the Commission.*—How many days was it before you were sent back to the cave again after this Beechworth duty?—Four or five days.

5259. And after being at the cave for another nine or ten days you were relieved again as before?—Yes, and went back to do ordinary police duty.

5260. And this was continued with you from December to April 1880?—Yes, till the party broke up.

5261. You took your turn all that time?—Yes.

5262. Did you hear that the fact of your being in the cave was known to persons outside?—I did.

5263. You heard it reported amongst the men that were with you in the cave?—Well I, heard it, of course, speaking outside of the cave duty.

5264. Apart from the police altogether?—Yes.

5265. From civilians?—Yes.

5266. How do you suppose this information got out?—Well, I took it to be that there were so many mixed up in it.

5267. More besides the four that were in the cave?—I do not mean the police, but the people outside the police.

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5268. How many police were there—different police—from the time you went in December till April?—I suppose about nine or ten different policemen.

5269. Were there any others besides Aaron Sherritt and those nine or ten men that knew of their own knowledge that you were watching the place?—I think on one occasion Mr. Nicolson held an enquiry as to how it had got talked about—called the police together at Beechworth.

5270. About what time?—About a couple of months before it broke up—it was spoken of in Wangaratta.

5271. About February or March?—Yes.

5272. How many police were present when he conducted the enquiry?—I think three or four of those that had been at the cave.

5273. *By Mr. Nicolson.*—Was not the enquiry you allude to into the fact that some of the neighboring police had attempted to pump you when you were down the country?—I understood it was that it had been talked of in Wangaratta.

5274. That some of the police had tried to pump you?—The question you asked me was had I mentioned it or seen anyone in Wangaratta that had mentioned it. I said not; but, at the same time, a person leaving the station like that, when they returned, and were asked what duty they were on, it was not for them to say what duty they were on.

5275. That is not the question—what was the enquiry about. Was it not about some police attempting to find out what duty you were on?—I understood they had found out, and it was your desire to find out who it was.

5276. What made you think that?—Constable Cox was under the impression that it was. He was blamed for speaking of it, because he had been in Wangaratta.

5277. *By the Commission.*—What was the result of the enquiry?—I believe it was not known who spoke of it.

5278. They could not find out whom the information came from?—No.

5279. No one suspected?—I could not say that; there might have been some. Constable Cox was under the impression he was suspected. Sergeant Steele had spoken to Cox, I believe, when he was in Wangaratta. That was what made me think why Mr. Nicolson held that enquiry.

5280. Did you hear that it was known at the Melbourne dépôt?—I could not say.

5281. You did not hear that amongst your own comrades?—No.

5282. Did you hear that Captain Standish had written up to say it was known there?—No, not at that time, not till this enquiry took place.

5283. After your enquiry were you sent back to the cave again?—Yes.

5284. Besides the police, was there any of Sherritt's family knew you were concealed in the cave from December to April?—Yes, Sherritt's family altogether, and Mrs. Barry.

5285. Knew you were confined in the cave and watching at night?—Yes.

5286. How did they obtain that information?—The provisions were sent to old Sherritt's place, and we had to take them from there to the cave. I went to Sherritt's place, and took them from there to the cave.

5287. At the time you were introduced as being from New South Wales, did Mrs. Sherritt know you were there doing duty on the search party?—Oh, yes.

5288. Then, as far as the possibility of keeping this secret was concerned, it was known to others besides the police actively engaged?—It was.

5289. What did you do after you left the cave party—did you send any communication to any one stating you were in the cave party, and it was generally known you were in this cave party, to any private person or anyone in the force?—No.

5290. No communication whatever?—No.

5291. You kept that secret?—Yes, until such time as the cave party was about to be broken up and we were called upon for reports. On April 2nd I furnished a report to Senior-Constable Mullane, which is as follows:—"North-Eastern District, Beechworth, 2nd April 1880. Report of Constable Faulkiner, relative to special duty in the bush.—I respectfully report, for the information of the Superintendent, that this day I was called on for a report by Senior-Constable Mullane relative to the special duty in the bush near Beechworth. As I am at a loss to know what to report about, as I am under the impression that the Superintendent is well aware of the ditty I have been engaged in, and how it was carried out; and as I am returning to Benalla this evening, I will be most willing to answer any questions put to me by either the Assistant-Commissioner of Police or the Superintendent." On this Senior-Constable Mullane made the following memo.:—"I have called on Constable Faulkiner for a report whether it has come to his knowledge that the outlaws' friends are aware of the party of police camped in the Strathbogie ranges." On this I made a second report—"I respectfully report, for the information of the Assistant-Commissioner of Police, that it would be impossible to say that this secret duty has been carried out unknown to the outlaws' friends, as persons who are well aware of this party of police camped in the bush are continually visiting Mrs. Byrne's place, and sleeping there; and, from what has come under my notice, this duty must be well-known to the outlaws' friends." That is on the 2nd April.

5292. This is the reply by Constable Mullane to the Acting Chief Commissioner of Police from Beechworth, dated 5th May 1881:—"No reports were received by me that existence of cave party was known at depôt, or that any person gave information of the party. Reports were submitted by cave party that they believed Mrs. Byrne knew the police were there. These reports were given to Detective Ward, and returned to the constables who wrote them." Are you pretty well done with the cave party now?—Unless you have any questions to ask. My reason for keeping a copy of this report was because my first report was not, forwarded to the Superintendent or Mr. Nicolson, as it should have been. Had this been done, Mr. Nicolson would not have been surprised at Captain Standish's ordering the cave party to be discontinued.

*The witness withdrew.*

*Adjourned to to-morrow at Eleven o'clock.*

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WEDNESDAY, 11<sup>TH</sup> MAY 1881.

*Present:*

Hon. F. LONGMORE, M.L.A., in the Chair;

E. J. Dixon, Esq., J.P.,  
J. H. Graves, Esq., M.L.A.,  
J. Gibb, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.,  
G. W. Hall, Esq., M.L.A.,  
W. Anderson, Esq., M.L.A.

Alfred John Faulkiner further examined.

*The Witness.*—I would ask to be allowed to make a few corrections in my evidence as reported in the Age.

The Chairman read the report referred to, and the Commission agreed that the report was not correct in the particulars named.

*The Witness.*—Through cross-examination, in the first part of my statement I omitted to state two or three different things I would now like to bring under the notice of the Commission.

5293. *By the Commission.*—Who was it that supplied you with provisions in the cave?—The provisions were sent out from Beechworth to Mrs. Sherritt's, the old lady's, and we conveyed them from there to the cave.

5294. How?—In a bag, on horseback.

5295. If it was stated that a man named John Sherritt was employed for the purpose of carrying the provisions backwards and forwards, would that be true?—He did occasionally, once or twice.

5296. If he did say he was entrusted with that duty, would it be false?—I believe he did come to the cave with provisions.

5297. Did you see him?—I believe I did.

5298. That is young John Sherritt?—Yes. As to the business I spoke of on the 3rd of November 1878, when we arrived at Benalla, when the special train was waiting to convey the party of police from there to Beechworth: when passing through Wangaratta we were informed that the Kellys had passed through that morning *en route* to the Warby ranges. This information I believe was given by one of the railway officials to Constable Twomey, who was stationed at Wangaratta. He came to the train to give this information so that the police should remain there instead of going on further. I believe myself, from the facts that afterwards transpired, that had this information been followed up at the time it was given, the Kellys would have been captured about the 7th or 8th of November.

5299. Was that the time that Mr. Brook Smith was out with them?—Yes.

5300. Were you with that party?—I was at Wangaratta at the time he came in with the horse belonging to the police.

5301. Do you recollect hearing that a party under Mr. Brook Smith, with Constable Johnson, had followed the Kellys into the Warby ranges, and ran them so close that they found the police pack-horse, that is Sergeant Kennedy's?—Yes.

5302. Did you see that horse?—No.

5303. Did you hear they ran them so close that they had to abandon that pack-horse, and it was recovered and brought into Wangaratta?—Yes.

5304. When was that?—About the 9th or 10th November.

5305. Was it about the time that the Kellys crossed the railway towards the Warby ranges?—That was on the 3rd November.

5306. Can you fix the time of the horse being found?—About the ninth or tenth.

5307. Could they get across the line in that portion without crossing over the line. I mean, below Euroa, the roadways go under culverts in some cases. Could the Kellys get from the Mansfield side to the Warby ranges without crossing over the railway?—No, they could not.

5308. Therefore the probabilities were that they did cross then?—Yes I believe the river was very high at that time, and they swam their horses through under the bridge, and out on the other side, somewhere close to Wangaratta.

5309. The time you think, if they had been followed up, they might have been captured was about the

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*continued,*  
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time the pack-horse was found?—That was about the time.

5310. Have you any knowledge of where they went after they could not cross the Murray?—No I believe they remained about that place. We were always under that impression, when searching under Mr. Hare, that they were.

5311. He was not in charge then; you are speaking of the 3rd November, say within a month after that—do you know where the gang were?—I could not say because I was sent to the Upper Murray.

5312. From your own knowledge was any reliable information obtained as to where they were for the month after, from that time to sticking up the Euroa bank?—No, I cannot. Some time, I think, in February or March, Superintendent Hare's party received information that Joe Byrne was going to run a horse at the Whorouly races. Three of us were told off in disguise, Johnson, Lawless, and myself. We went on to the course separately. After being there some time, I recognized Aaron Sherritt as the party whom I had seen at Byrne's house the morning that we rushed the place. This was the man who was, I believed, to ride a horse for Byrne. I passed the remark to Senior-Constable Johnson that if this was the man we could consider the information a hoax either on the part of Sherritt or Byrne. I said it was not at all likely that a man twelve or thirteen stone weight was going to ride in a country hurdle race when Byrne and Hart had brothers of their own, good horsemen. I believe from the remark Mr. Hare made afterwards that Johnson must have told Mr. Hare what I had said. We remained for the two days' racing. On our way home Mr. Hare asked me how it was I did not approve of the information he had received with reference to the Whorouly races. I gave Mr. Hare my reasons the same as I gave to Johnson, I also replied that I could bowl Sherritt out in a week.

5313. Meaning by "bowl" that you would find how truthful he was?—Yes, Mr. Hare replied, "You are clever, Faulkner; how is it I have been sleeping with this man in the bush this last three weeks, and I cannot bowl him out, I have always found him and proved him to be true."

5314. Was it the fact that Sherritt did ride the horse?—No; that was all I omitted to state.

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5315. Have you been accustomed to horses?—Yes, since I was born I have been with horses.

5316. Are you aware that bushmen in the bush, when they want to ascertain who is about, police or otherwise, that their first attention is drawn to the horses?—Yes.

5317. Is it not the first thing they enquire about to trace?—Yes.

5318. Do you recollect any horses you had at Whorouly races?—Yes.

5319. Were they distinctly branded?—No, none of them had brands on.

5320. Were there horses there that were bred in the district of particular brands?—Yes.

5321. Did you see a horse there branded "G. V. S.," a brown-colored horse?—There was a brown-colored horse that Johnson was riding; I do not remember the brand.

5322. Would you consider it unlikely if, before the outlaws or anyone could have recognized you and Johnson as policemen, it was said on the racecourse, "Here are the troopers, because there is the G. V. S. thoroughbred horse that was bought the other day"?—No, because there were policemen on the ground doing duty there.

5323. Was Johnson riding that horse?—Yes.

5324. Was he in uniform?—No.

5325. Did you take your horses up to the ground?—They were tied to the fence, a distance out from the racecourse.

5326. The public could see them?—Yes, only the main thing is they had not a Government brand on them.

5327. Had they Government saddles and bridles on them?—Yes, but not the kit bridle, but rusty stirrups and rusty bit.

5328. Did we understand you to say that you mistrusted Sherritt all through?—Well I did at the first, when I heard of this information about riding a horse, but afterwards I did trust to him.

5329. Now the whole thing has passed, and, reflecting over your experience in the matter, do you consider that Sherritt behaved faithfully to the Government in the position he was employed in?—Well, I believe he was not friends with Mrs. Byrne, and that was the only thing that led me to believe he was in with the police.

5330. Had you occasion to believe at any time that he was acting ostensibly in the interests of the Government and at the same time serving the outlaws?—No, I had not.

5331. In the main your opinion is he behaved faithfully?—Yes, because he was not friends with Mrs. Byrne. If he had been that would have led us to the conclusion he was in league with the outlaws. She had a great down on him.

5332. Will you go on with anything further?—On handing Senior-Constable Mullane my second report Detective Ward and he had a conversation together. Mullane must have given my reports to Detective Ward, as he came to me with them and asked me to withdraw them.

5333. That is your reports with reference to the cave?—Yes. He stated that those reports would never suit Mr. Nicolson, and urged me to withdraw them, which I refused. He said Mr. Nicolson only wanted the report so as to make a favorable entry on my record sheet.

5334. Is that your third report—[*handing a paper to the witness*]?—Yes—[*reading as follows:—*]

“Special duty near Beechworth.—I respectfully report for the information of the Assistant Commissioner of Police that I have been doing secret duty in the above-named place since November 1879 to April 1880, and that I have at all times carried out the instructions received from the Assistant Commissioner of Police relative to that duty. Though unsuccessful, this duty has been carried out with the greatest secrecy by the members of the force who were engaged on that duty.—A. J. FALKINER, constable 2784. 2nd April 1880.” I replied I had sent in the report Senior-Constable Mullane called on me for. I also remarked at the time I believed had I sent in a report stating that this duty was unknown to the outlaws’ friends it would have been forwarded.

5335. What do you mean by that?—Because my first report was not forwarded. That was the conclusion I came to.

5336. If your cave party had been a secret it would have been forwarded to head quarters?—Yes, because my first report was a straightforward report, and should have gone to head quarters; and, had this been done, Mr. Nicolson would have no doubt known the cave party was known.

5337. How did you know that this report was not sent officially?—I believed, had it been sent—

5338. To whom did you give it?—Senior-Constable Mullane.

5339. What evidence have you then to speak positively that this report was not transmitted?—Detective Ward came with the report in his pocket, and asked me to withdraw it, and stated it would not suit Mr. Nicolson, and asked me to send up a report altogether different—that was the second report.

5340. You forwarded it to Mr. Ward?—Yes.

5341. What transpired afterwards to lead you positively to assert now that that was not transmitted officially?—Because they were not forwarded.

5342. How do you know that it was not forwarded after you sent it again?—Not the one report, but the two reports he came back with.

5343. You handed in those three sheets yesterday?—Yes.

5344. Those are copies of the three reports you forwarded?—Yes.

5345. This is the first?—Yes.

5346. And this is the second?—Yes.

5347. That was forwarded back to you by Constable Mullane. I will read the memo, by Mullane “I have called on Constable Falkiner for a report whether it has come to his knowledge that the outlaws’ friends are aware of the party of police camped in the Strathbogie ranges.” That one was sent back to you?—Yes.

5348. Therefore you know that was not forwarded on to Mr. Nicolson?—Yes.

5349. You forwarded this second report then?—Yes.

5350. And you say you know that was not forwarded, because Detective Ward brought it to you?—Yes.

5351. The original report?—Yes.

5352. So you knew it had not been forwarded to Mr. Nicolson?—Yes.

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5353. On the representation of Ward you sent in that third one?—Yes. It was about two o’clock when Detective Ward came, and I was unable to make it out at the time. I made it out at Benalla, and dated it from Beechworth, and sent it the next morning to Detective Ward to forward to Mr. Nicolson.

5354. Than this last report is the one in the hands of the Police Department?—Yes.

5355. Do you say that that is a copy of the report that you sent to Senior-Constable Mullane—this first one?—Yes.

5356. Do you swear that the original of that was destroyed by you?—I swear it was not.

5357. Will you swear the original is not in the hands of the police?—No, I will not do that.

5358. You then sent in that report?—Yes.

5359. It was brought back by Detective Ward?—Yes.

5360. And this third one was substituted in place of those two?—Yes.

5361. When this came back from Mullane, what did you do with it?—I made a second report relative to it.

5362. Was the original left in your hands?—Yes, it was given me from Senior-Constable Mullane back again.

5363. And you kept it?—No, I made a report relative to his memo, on the back of it, and I forwarded the two together afterwards.

5364. You again then forwarded this third from Benalla?—Yes.

5365. I take it that in the first place you were called upon to report upon whether you supposed it was known that the cave party was known to the outlaws or their friends?—Yes.

5366. You sent that report number one?—Yes.

5367. Mullane sent that back again?—Yes.

5368. You then sent the report number two?—Yes.

5369. That was not satisfactory?—No.

5370. That was returned through Detective Ward?—He came with it in his pocket, but did not give it to me.

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*continued,*  
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5371. And you wrote a third?—Yes.

5372. And that is the reason that you say if the cave party you thought had not been known outside, that first one would have been forwarded to Mr. Nicolson?—Yes.

5373. Then you report to the Commission that you wish us to understand that your impression is that those reports were required to be made to order?—Yes.

5374. Will you take those in your hands.—[*the reports*]?—Yes.

5375. Are all three reports made by you there?—Yes.

5376. What are the dates of those three reports?—The 2nd April.

5377. All bearing the same date?—Yes.

5378. Were they written on the same day?—No.

5379. About what time elapsed between writing the report here (marked No. 1 and No. 3)?—It was on the following day—on the 3rd, I think, I sent up the report from Benalla.

5380. What is the first report shortly?—Relative to the duty in the bush.

5381. What information does it give?—As Senior-Constable Mullane did not call on us for any one particular thing, I made out my report accordingly, stating that I was at a loss to know what to report about, and asking to go before Mr. Sadleir or the Assistant Commissioner to explain.

5382. Did you get that back from the officer you sent it to?—Yes.

5383. Who?—Senior-Constable Mullane.

5384. Did you see his original memo. on your original document?—Yes.

5385. Is that a true copy?—Yes, it is a true copy.

5386. The statement made in No. 1 was accurate?—Yes.

5387. Why did you make No. 2?—On account of Mullane's memo, relative to that and the attached report; that was my own first report.

5388. Under what circumstances was the third report made?—Detective Ward, when he came back with my two reports, told me to send in a report with reference to duty, as Mr. Nicolson wanted a report to put a favorable entry on my record sheet.

5389. In consequence of that you wrote No. 3 report?—I did.

5390. There is a memo, here from Constable Mullane:—"No reports were received by me that the existence of the cave party was known at dépôt, or that any person gave information of the party; reports were submitted by cave party that they believed Mrs. Byrne knew the police were there; these reports were given to Detective Ward, and returned to the constables who wrote them.—5/5/81." If this statement of Mullane's is true that those reports were given to Ward, and returned to the constables, then it would be accurate to say that Mullane knows that the constables got those returned reports?—I could not say that Mullane would know that Detective Ward was not on the station when I handed in those reports to Senior-Constable Mullane.

5391. If he says those reports were given to Detective Ward, and returned to the constables, would it be true that Detective Ward, if he had them, did return them to the constables?—It would be untrue that he returned them.

5392. How then did you get it?—That is only a copy.

5393. Therefore, if he got them from Mullane, and did not return them to you, but spoke to you about them, he must have had them in his possession?—He had them.

5394. He must have been aware, if Senior-Constable Mullane's statement is true, that he got instructions from Senior-Constable Mullane to return them to the constables?—Yes.

5395. Did Detective Ward tell you he had the reports in his pocket?—Yes, he did.

5396. But did not give them to you?—He did not. He asked me to withdraw them.

5397. And kept them in his pocket?—Yes.

5398. You said you would not withdraw them?—Yes, said I would not; I refused.

5399. Then you have not at the order of any officer altered the true character of your reports?—No.

5400. You have stated the truth in all your reports?—I have.

5401. Constable Armstrong was in charge of the party at the cave?—At different times, and Constables Alexander and Barry.

5402. How was it that you were called upon to report?—I was not the only one. We were all called upon.

5403. Individually, to report to the officer next in charge above you?—Yes.

5404. Is the practice of the department under such circumstances for the constables to report to the officers next in charge?—Mostly the officer in charge reports, but in this case I suppose it was the intention to hear each person's opinion on it.

5405. What was your idea at the time, that you were to report to the officer above you, or to the department?—To the department. My reports were addressed to the Assistant Commissioner, and the first one to Superintendent Sadleir.

5406. Then those reports being returned, did it strike you that the object the department would have in requiring reports of that kind was frustrated; and did it strike you as being desirable to send them direct to

the department—reports you thought so important—so that the information should be in the possession of the department?—No; I considered that was the duty of my officer in charge.

5407. Having been returned by that officer, did you consider it would be an act of insubordination for you to send it direct?—Yes, it would; because we must send through the officer.

5408. Did it not strike you that those reports being returned in that sort of way was an act that was indicative of anything but good discipline and the best interests of the service?—They were not returned. I did not withdraw them. They asked that, but I did not; and as long as I furnished them, that was all I had to do with it.

5409. Those reports were returned to you—did you retain them then?—No; I still left them in the hands of the officer.

5410. As a matter of fact, the department are in ignorance up to the present time of the existence of those reports, until yesterday you produced them?—I could not say that. I have sent in reports myself, and have had no reply; for instance, about the saddles seen near old Wilson's place, and I did not hear any reply to that.

5411. You sent that report direct to Senior-Constable Mullane?—Yes.

5412. He wrote that memo. on the back?—Yes.

5413. You then wrote this No. 2, with this first report attached?—Yes.

5414. These were forwarded also to your superior officer at Beechworth, Senior-Constable Mullane?—Yes.

5415. Detective Ward came to you then?—Yes.

5416. And then mentioned to you he had those two reports in his pocket?—Yes.

5417. Did he show them to you?—He partly drew them out of his pocket, and said, "Whatever did you send in reports like that for? Those are not the reports Mr. Nicolson wanted; he only wanted a report from you of what you had been doing, so as to put a favorable entry on your record sheet."

5418. You then wrote a third?—Yes.

5419. Did you post that to your superior officer at Beechworth?—I did.

5420. Those two documents are now recognized by the commission as official documents; did those documents ever come into the possession of the Police Department?—No; these are copies of them.

5421. What did you mean by "made to order"—are we to gather from your reply to that question that you must frame those reports in accordance with the wishes of the officers, or in accordance with the truth?—Not at all. I had to make a report with reference to this cave duty, so as Mr. Nicolson could put a favorable entry on my record sheet.

5422. That is not an answer to the question; are we to understand that you were to frame your reports in accordance with the truth of the facts, or in accordance with the wishes of the officers?—Well, I was under the impression that any sort of report I forwarded like that would have been forwarded.

5423. That is not an answer. There are two meanings to be gathered from your answer to that question just now, and one is, that you were to frame the reports in accordance with the wishes of the officers; and the other, that you had to frame the reports, perhaps coloring the reports?—It was to be a truthful report.

5424. Of the facts as they were?—Yes.

5425. Not to be in accordance with the wishes of the officers?—No.

5426. Your reports were not presented, and the reason was given?—No reason was given, only that they would not suit Mr. Nicolson.

5427. You say the reports were not forwarded, and the reason given was they were not in accordance with what Mr. Nicolson required?—Yes.

5428. Was that because they were untrue?—I cannot tell that.

5429. Was it because your report was untrue of what took place in the cave?—No; it could not have been that.

5430. Then what was the motive—was it because they were not in accordance with Mr. Nicolson's wish of what he wanted in the cave?—It will be seen that I asked to go before Mr. Nicolson or Mr. Sadleir, and it appears what was meant was that I was to give in writing what I wanted to give verbally.

5431. In the second report you state the fact of the cave party must be known to the outlaws, but in the third sheet you make no allusion to that fact; both may be truthful, but there is a great difference between Nos. 2 and 3. No. 2 report reads—"I respectfully report for the information of the Assistant Commissioner of Police that it would be impossible to say that this secret duty has been carried out unknown to the outlaws' friends." The third report is "relative to that duty though unsuccessful, this duty has been carried out with the utmost secrecy by the members of the force who were engaged on that duty." Both of those may be true, but there is a wonderful difference between the two; what is the reason why you omitted to state in the third report the fact of the party being known?—Because we were asked for a report of how we carried it out ourselves.

5432. The secrecy as far as the police were concerned?—Yes.

5433. Was there a Constable Robert McHugh in the cave party?—Yes.

5434. This is his report:—"North-Eastern district, Beechworth Station, 3rd April 1880. I beg to report that I was for some time engaged on special duty, watching Mrs. Byrne's house at the Woolshed, and during that time I saw nothing to indicate that Mrs. Byrne or her family knew that the police were watching her premises." Could you say that truthfully?—No, not Mrs. Byrne's.

5435. The question was, could you send in that report truthfully, Mrs. Byrne or any of her family?—No; I could not.

5436. Here is a report from Detective Ward, telling all that occurred. He does not say anything about that he believed the cave party was known, or that he had any report from that; and he sends in the reports of all the men who are of the party, bearing the date the same day as your reports here or the day after, and he says that he sends in the reports with the exception of constables Cox and Faulkner, who are away from here. What day did you see Detective Ward with the report that you say you believe was not forwarded, and of which you produce a copy to us?—On the 2nd of April.

5437. In the ordinary course of police duty, ought not your report to be amongst your brother constables' reports?—Yes.

5438. You have never seen these papers before?—No.

5439. Is your report amongst them?—(*The witness looked through the papers.*)—No, it is not.

5440. Detective Ward says: I have the honor to report, for the information of the Assistant Commissioner with reference to attached memo.—Section 3. I am pleased to be able to state that the conduct of the constables named in the margin has been everything that could be desired.”—Constables Alexander, Hagger, Armstrong, A., Barry, Alexander, R., McHugh, Cox, Faulkner, McCall and Dixon. Were those all the men?—Yes I think that would be about the number.

5441. And your report is not there?—It is not.

5442. This is dated 3rd of April; supposing that is written on that date, and that those reports of your brother constables were in Ward's hands, can you say of your own knowledge that if that was written on the 3rd your report would have also been in Ward's hands?—It should have.

5443. What day was it he had it in his pocket?—On the 2nd.

5444. You were asked, do you infer that you were required on that occasion, or any occasion, to write a report that would suit the officer giving the order. Now put the officer aside altogether—you are sworn. Do you believe that when you wrote those three reports and had a conversation with Detective Ward, that Ward expected you to write a letter which he thought would be pleasing to Mr. Nicolson?—A suitable report.

5445. Would not that be writing to order, making a misstatement or suppressing the truth?—It would be.

5446. Is that what you meant by giving that answer when you were asked did you believe that Detective Ward expected you to write a report to order?—That was it.

5447. Without referring to Mr. Nicolson at all, your oath is that when you were requested by Detective Ward to amend or alter the two reports that you were required to write one which he said would suit?—Yes.

5448. Was the character of that report either to misstate the facts with regard to the cave party being known or to suppress it?—It was altogether to keep out the cave party being known in it.

5449. Either to suppress it or make a misstatement about it?—I understood that to be it.

5450. You could not have written truthfully the same report as your brother constables did, that it was not known to Mrs. Byrne?—No; how possibly could I?

5451. I suppose when constables are doing such a dangerous duty as this together, they are in the habit of talking together?—Yes.

5452. I do not ask you to particularize men, but can you solemnly say as to whether the opinion you hold that the cave party was known was held by the constables doing duty with you?—Yes.

5453. Well known and spoken of?—Yes.

5454. By all of them?—I could not say all.

5455. You would be in regular conversation with all of them?—I have heard some of them express their opinion, but not all.

5456. Was it the general opinion?—It was.

5457. Do you mean to tell the Commission that you believe that evidence will be brought before them that Mullane instructed men to make that report?—No; I mean that mine is only a copy; and there are men who have got the originals, with Senior-Constable Mullane's own writing on the back.

5458. Do you mean that there are men who have made similar reports to yours that have been altered?—That have been returned; I would not say altered.

5459. Who?—Constable Daniel Barry.

5460. Here is one of the 2nd April, of Constable Barry:—“I beg to report, for the information of the Assistant Commissioner of Police, that I have been engaged on special duty from 3rd December last to 17th March last, watching Byrne's house at Sebastopol. During that time, so far as I could judge, none of that family were aware of our being in the vicinity. The instructions received from the Assistant Commissioner of Police were strictly carried out, and the greatest possible precautions were used by the party to prevent our being discovered.” What you now voluntarily say is that you believe that there was another report sent in by this man, and returned by Mullane?—Yes.

5461. Was that your belief?—Yes.

5462. Have you, from conversation with Barry, reason to believe that he also believed as you did, that the party was known to anyone?—He did.

5463. And, therefore, if he was spoken to as you were, would that be the kind of report that Ward wanted you to write?—Well it would.

5464. Do you know whether it is probable that the Commission will get the original of Barry's report from him with Mullane's memo, on the back of it?—I believe they will.

*Constable Barry* was called, and he handed in two documents with Senior-Constable Mullane's endorsement on the back.

5465. *To the Witness*.—Were you in the habit of making reports the same as this every time you were out on a search party?—I never made one before.

5466. What was the reason you were called upon for this?—The cave party was about to be discontinued.

5467. It was not in reference to the secrecy only?—It might be on the part of the officers, but I could not say that. I thought it was merely because of the cave party being broken up.

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*continued*,  
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5468. "I have called on Constable Barry, 2710, for a report relative to how the special duty at Sebastopol was performed." What was the character of the special duty; was one of the particular matters of the special duty positive secrecy?—It was to be kept secret.

5469. That was the special duty?—Yes.

5470. Was it a positive instruction for you to perform your duty with the utmost secrecy?—It was.

5471. Was there any other special instruction?—Nothing else that I am aware.

5472. Your special duty was to remain in the cave, and keep your position secret?—Yes.

5473. Was the energy of the police and the attention of those that attended them to be directed to that purpose to keep the secret, that any of your movements should not be known?—Yes.

5474. Would you say there was any other special duty referred to in that memo. of Mullane's but the secrecy—does that convey to you that meaning. You had better read the report and the memo. [*The witness read the same.*] Was the special duty there secrecy?—Yes. I would consider a man could make two reports on that memo.

5475. Was there a minute sent to you by Constable Mullane to report, or did the instructions come verbally?—Verbally, by Constable Barry.

5476. From Senior-Constable Mullane?—Yes.

5477. You have come now to the 3rd of June—where were you then?—I was in Benalla on the 3rd of June.

5478. Had you any further connection whatever with the cave party?—No; nothing more after that.

5479. Were you told off to go up the Murray then?—I was then in Benalla, up to the time Mr. Hare relieved Mr. Nicolson, some time in June 1880. On the 11th June Superintendent Hare sent for Constable Canny and me, and directed us to take a tour round the country, and see if we could not get some information of the outlaws. Mr. Hare said we could go where we pleased, giving us his private address, that when we found it convenient to send him a few lines, we could do so, and that we could go where we thought best. We came to the conclusion that it would be best not to carry firearms so as not to cause suspicion; and if anything urgent was to turn up, to come to the nearest telegraph office and speak to Superintendent Hare.

5480. Were you on horseback or on foot?—I am coming to that. Constable Canny left Benalla on the morning of the 12th June, and went to a station some distance out of Benalla, and got the use of two private horses. On the 16th or 17th I wrote to Mr. Hare from Cotton-tree, that we had been informed, on good authority, that the Kellys had been seen coming home frequently.

5481. Where is Cotton-tree?—Somewhere about fifteen or twenty miles beyond Bethanga, giving the names of the persons who had seen them, and the directions they were coming from. I stated that we had been informed that the gang were getting provisions from the Chinese store, and that we intended, on our return, to see if this statement was correct. That was the contents of the first letter. In the second letter I stated that we had received all the information we could, and intended to return and see if this information was correct.

*Mr. Sadleir*.—I would ask for those letters to go in as evidence.

*The Chairman* read the three letters referred to (dated respectively 16th, 22nd, and 23rd June). (*Vide Appendix.*)

5482. Did you or Canny know the appearance of the Kellys?—Canny did; he knew them from their childhood.

5483. Did he identify them among this number of men as being the Kellys?—No; he identified one as a friend of his own. We then went to the Chinamen's camp, and employed some of them to come and wash sheep. We asked them if they were not frightened of the Kellys. One of them replied that they were too far away; he said that they were getting their provisions from the Chinese store at the Buckland Gap, and had pack-horses to carry it away. He said they came down from the ranges, two at a time; this, he stated, they did frequently. I asked him why he did not tell the police. He replied that the police were too frightened to go near them. He asked me not to tell the police; that they had been threatened if they told the police they would be shot and then burnt. We told the Chinamen that we were living on the sheep station. We then returned to

Wangaratta, and, on the 25th, I sent a telegram to Mr. Hare, from Wangaratta, stating that Constable Canny and I would be back to Benalla in the evening, and wished to see him, as we had made arrangements for Mr. Hare to see these Chinamen.

5484. Did they specify any time that they had been by; was it about the time you were speaking to them that they spoke of?—We did not cross-question them too much, and through that Mr. Hare sent me back a second time. We then made arrangements by buying 100 cabbage plants for him. The information was that good that we wanted Mr. Hare to see the Chinamen himself. On our arrival at Benalla, we informed Mr. Hare of the information we had received, and the arrangements we had made for him to see the Chinamen. Mr. Hare replied then that it was the best information he had received, and he was well satisfied with our trip. We were away seventeen days, and travelled about 500 miles. On the morning of the 26th June 1880, Mr. Hare ordered me to his office, and told me that he would not be able to go and see the Chinamen, and, as I had gone so far, I could finish it. He said I would have to return to this place and get the name of the Chinaman keeping the store, and when the Chinaman who gave the information was at the store last. Mr. Hare said, "Constable Canny can go with you, if you choose." I said I thought it did not want two of us. I left Benalla at eleven a.m. on the morning of the 26th, and went by myself to see the Chinaman, to the Chinaman's place, on the 27th, and got all the information I required, and was returning to Benalla on the morning of the 28th, when I was informed of the fight with the police and the Kellys at Glenrowan. I reached Glenrowan that evening, and returned to Benalla in the same train that Ned Kelly and the body of Byrne were brought to Benalla in. On the receipt of this information (I believe that the Kellys were seen frequently coming home), Mr. Hare placed men in such positions as to prevent their being able to visit their friends, or their friends being able to supply them with any information.

5485. How do you know that?—The evening we were returning from being out on the 26th we passed two of the police parties. We called at Wangaratta and Glenrowan, and two of the police parties were there, thereby cutting off their communication, through which means, I believe, the gang were compelled to come out, and use some means to evade the vigilance of the police, which finally resulted in their own capture.

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5486. That is your opinion?—That is my opinion.

5487. That they were fairly driven out?—Yes, I think so. I returned to Benalla then, and was in Benalla until such time as I returned to my station at Oakleigh; that was some time in August, I think. I was then told off to escort Edward Kelly from the Melbourne Gaol to Beechworth, on his trial. Would you like his statement on the way up?

5488. You had better give it?—On his way up he expressed himself with reference to the police and the officers; he said if he had a tail (that is, a Chinaman's tail) he would go home to China, as one Chinaman was worth all the — Europeans, and he would rather trust his life to them than any — European living. From the manner in which he expressed himself with reference to the Chinamen, he clearly showed he had received some sympathy or assistance from them. He then began to speak with reference to the officers.

5489. About the Chinamen: did you hear, when you were up in that district, that Byrne and Kelly were supplied with provisions by the Chinese storekeeper at Sebastopol?—Yes, I heard of that. He said, "The idea of Hare, being a picked man, being sent up to catch me. I can tell you every place his party camped in the Warby ranges, and who used to get up the horses."

5490. That is in the morning?—Yes.

5491. There was a man sent out to bring in the horses?—Yes, Lawless and I were sent off for that.

5492. Were the horses hobbled?—Yes. He said, "I would have liked to have caught the fat —." He said, "What was Nicolson doing at Benalla, pulling my friends into his office, and giving them money to do your lazy —s' work."

5493. Meaning the spies?—Yes. He said, "The Government could have given them all the money they possess, and then they would not have sold me."

5494. To whom did he allude; the agents?—Yes, I suppose that was it, that was all.

5495. Were there any men by when he said that to you?—I think so when he spoke about the Chinamen, but one could not hear what he said to the others because of the noise of the van.

5495a. Did he speak to them?—Yes, he was speaking to them and singing all the way up from the time he got in the train.

5496. Did he appear to sing out of bravado?—It was a song made up about themselves.

5497. And their exploits?—Yes, "The brave Kelly gang," during their time in the mountains, and something of that sort.

5498. Did he give you the idea of being a courageous man or a coward?—I believe he was a very plucky man and a very good man if he had put it to better use.

5499. Did he give any idea where they were?—No, except the reference to the Warby ranges.

5500. You stated you believed he was there during the first week in November, when the horse was found?—Yes.

5501. You also stated that he knew who was to bring in the horses in the morning?—Yes.

5502. That could only be acquired by a person on the spot?—Yes.

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*continued.*  
11th May 1881.

5503. Did he mention who it was brought them?—No.

5504. You do not know whether it was only brag?—I believe it was true because it was two men's work, and he said he knew the men who brought up the horses every morning.

5505. You did not ask for the names?—No, if I began to ask a question he stopped at once; if I began to ask a question he thought I wanted to know too much.

5506. He would not allow himself to be "pumped"?—No. With reference to the time the information was received on the 3rd of November, I believe it to be correct, that they would have been captured on or about that time; I had not this information given directly to myself, but I believe that.

5507. Did you see Senior-Constable Johnson on your way through Wangaratta at that time?—No, after we came back from Sebastopol then we saw him.

5508. Did he tell you anything about his trip through the Warby ranges?—No, he did not.

5509. Are you aware he was the constable with that party?—Yes.

5510. How long had you been at the cave party before you formed the opinion of the probability of your existence there being known to Byrne's family and others?—Well, I formed it gradually; after I was there a couple of months or so, I heard more and more, which convinced me towards the latter end.

5511. Do you remember any circumstance that first suggested to your mind that your being there was known?—I could not exactly say to a month.

5512. Was there any special circumstance about the first time that led you to that belief?—Simply because there were too many women mixed up with this cave party, Mrs. Barry and Mrs. Sherritt, and Mrs. Sherritt's family were continually visiting Byrne's.

5513. Was that the case from the first time you went to the cave?—Yes; Sherritts and Barrys I noticed.

5514. Were you called upon at any time, by either of your superior officers, to express an opinion whether you thought that your presence there was known or not before the time you were asked to send in that report?—No, never.

5515. So far as you were concerned you kept it a profound secret?—Yes, I communicated to no one.

5516. When you went back to Beechworth, during the nine or ten days, did you have any complaints?—No.

5517. Did you write to anybody during that time to tell that?—No, never.

5518. At no time no communication, written or otherwise, passed from you that you were engaged in that secret cave party?—No.

5519. You stated that the two families that you mentioned, in your opinion, were aware of the cave party being there?—Yes.

5520. You said they visited from place to place?—Yes.

5521. What women were in Sherritt's house?—I think three young girls and one grown up girl.

5522. Are those girls in the habit of being constantly in Beechworth; are they doing business there?—One was at a dressmaking establishment there.

5523. Then if it became known to her, are not the probabilities that it would be generally well known about the party?—Yes; in fact she is a claimant for the reward.

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*continued,*  
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5524. What age were the other three?—I suppose one would be about 18, and another 16, and another 12, and there are some boys between.

5525. Was the one about 12 attending State school?—Yes, at Sheep-station, I believe.

5526. Supposing that the girl became acquainted with the fact of the cave party and the police in the district, do you think a thing of the kind could then remain unknown?—No. I doubt if the secret of the cave party lasted for five or six weeks; that was the longest it could last. Any secret duty like that it would be impossible to keep it secret longer than that; that is my opinion.

5527. There is a mention made here in Constable Ward's report, when he sends in the reports of the cave party, with reference to constables Cox and Faulkner, that they were away from here on the date of his sending it in; where were you upon the 3rd of April?—In Benalla.

5528. Where was Cox?—I think he was at Rutherglen.

5529. Then that statement, "away from here," would be true?—Yes.

5530. Were the other men at Beechworth to your knowledge?—Yes, I believe they were; Dixon had left with me.

5531. Can you inform the Commission as to whether, to your knowledge, Cox shared your opinion of the cave party being known?—To the best of my belief he did.

5532. Can you state, in your opinion, was there a single man of your party who did not share in that opinion—you were constantly thrown together—did you read?—We mostly slept, and one kept watch.

5533. You constantly, during the day, talked of your special duty?—Yes.

5534. Do you think the idea that your presence there was not known was held by any one of the party?—They did not like to express themselves of the opinion that it was known—that was my own opinion.

5535. Did you hear them express the opinion that the cave party was known?—I did, some of them.

5536. Where were you on the 2nd of April?—I was in Beechworth.  
 5537. And you came away upon the evening of the 2nd?—Yes.  
 5538. Then that portion of Detective Ward's report where he says Constable Cox and yourself were away would be true for the 3rd?—Yes; that is if he sent it on the 3rd.  
 5539. Did you have any conversation with Mullane besides the order upon the fact about your views upon that point?—When I handed him my second report he read it as relative to my first and the memo., and I insisted upon it being sent; he seemed rather surprised; that is all he said.  
 5540. Did he intimate a single word about the cave party being known?—No.  
 5541. Cross-question you?—Never said a word about it.  
 5542. What time did you leave the cave?—The morning of the 2nd of April.  
 5543. And then made your report?—Yes.  
 5544. Where did you write No. 1 report?—In the Beechworth barracks.  
 5545. Where No. 2?—Beechworth barracks.  
 5546. Where No. 3?—Benalla.  
 5547. When would that third report reach Beechworth?—I suppose on the morning of the 4th.  
 5548. Then if he did not get your final report, which is not here, and if those reports were in the possession of his officers on the 3rd, he could not have been in possession of yours?—No.  
 5549. But he would have had Nos. 1 and 2 if they were to be sent?—Yes.  
 5550. Did you see Mr. Nicolson when you came to Benalla?—No; I remember seeing him prior to the cave party being broken up.  
 5551. After the cave party being broken up on the 3rd or 4th?—Yes, some time after we arrived.  
 5552. Did he speak about the cave party?—No.  
 5553. Whom did you report to at Benalla?—Sergeant Whelan.  
 5554. Did you speak to him about the cave party?—No.  
 5555. Did you see Mr. Sadleir?—I think I did.  
 5556. Did you report to any of your comrades, senior-constables, or sergeants your opinion about the cave party being known after the 3rd?—I could not say I did.  
 5557. Did you before?—No.  
 5558. Then all the information you gave on the matter is detailed in those letters?—Yes.  
 5559. Were there any other members of the force left at the cave after you came away?—No, I was among the last that left.  
 5560. You knew then that the cave party was broken up?—Yes; the cave party was removed to Aaron Sherritt's house.  
 5561. You knew it was broken up when you left on the 2nd?—Yes.  
 5562. Then they went direct to Aaron Sherritt's house, a portion of the men?—Yes, soon after Mr. Hare relieved Mr. Nicolson.  
 5563. You stated you used to put your food in a bag and take it from Sherritt's house?—Yes.  
 5564. Was that old Sherritt's house?—Yes.  
 5565. Did young Jack Sherritt occasionally bring food there?—Yes.  
 5566. Did he do it at night?—Mostly about dusk.  
 5567. What food did you get, tinned fish?—Yes.  
 5568. Did he remove the empty tins or anything, and try to hide the appearance of your being there?—He might, but not to my knowledge.  
 5569. How did you get water?—Aaron Sherritt brought it in water-bags—I went a few times, but he generally brought the water.  
 5570. Was there any other man, except the two Sherritts or the women, that supplied you with provisions that you know of?—No.  
 5571. Do you think that all those three girls at Sherritt's house, and Aaron Sherritt, and young Sherritt, and John Sherritt all knew of the existence of the cave party?—Yes, certainly.  
 5572. Did you see Mrs. Barry there?—Yes.  
 5573. She knew of it?—Yes.  
 5574. Where did she live?—Opposite the hotel—that is facing the cave; the cave is away up in the hill.

5575. Has she got a family?—Yes, one or two little ones. Aaron was married at this time, living with Mrs. Barry, in the house.

5576. He had not gone to his own house?—No.

5577. *By Mr. Hare.*—You say the supplies came from Sherritt's house?—Yes.

5578. Who took them there?—Allan, the storekeeper, from Beechworth.

5579. What distance is that?—About between five and six miles.

5580. Did they know whom the supplies were for?—Not to my knowledge.

5581. Do you know who paid for the supplies?—Yes.

5582. Who?—The Government.

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5583. And Allan conveyed them to Sherritt's house?—Yes.

5584. *By the Commission.*—How do you know the Government paid?—Because we had a note out from Detective Ward that the cart would be out in the evening with the provisions, and we had to write to Ward for the provisions when we required them.

5585. Still you did not know of your own knowledge that some one else may not have paid the storekeeper?—I suppose it was the Government.

5586. You arrived at that conclusion because you sent to Ward and he sent to you?—Yes.

5587. Do you know Allan's store in Beechworth?—Yes.

5588. Do you know that any officer of police is in the habit of going there and ordering provisions?—No.

5589. *By Mr. Hare.*—Who ordered provisions?—We wrote to Detective Ward.

5590. Did any of the Sherritt girls ever visit the cave?—I think not, but young Mrs. Sherritt did. None of the daughters did during my time; but Mrs. Sherritt—Aaron's wife—did on one occasion.

5591. Do you know that the Sherritt girls used to visit Mrs. Byrne's house?—One of them told me that she had slept at Mrs. Byrne's.

5592. Where did you see her?—At Sherritt's.

5593. You used to go there?—Yes.

5594. You stated that Ward stated that an entry had been made in your record sheet; do you know whether there was or not?—No.

5595. With reference to your performing duty at the cave?—I cannot say that there was.

5596. You were out with me in the Warby ranges?—Yes.

5597. How often were you out with me?—I think with every party you went out.

5598. Were you out at the Woolshed when I was watching Mrs. Sherritt's place?—No.

5599. With that exception, were you out with every party?—Yes.

5600. Do you think that we were wasting our time when we were there?—I always thought that we were there on information. We had as good a chance as anyone.

5601. Do you know one day we lost when we were out?—No.

5602. What did we do?—Any time we went out on information we went out nine or ten miles in a different direction and after dark returned another road to within a couple of miles of the suspected place, and tied the horses up and walked the rest and surrounded the place before daylight; but when out without information, we used to separate about 150 or 200 yards, as far apart as we could well reach, and cover the range across or the side of a hill.

5603. Did we keep on roads?—No, except we could not really help it.

5604. Between Warby ranges and Benalla?—No.

5605. Are there any roads in the Warby ranges?—No.

5606. Did we go near a road for several days?—No, we kept the range, camping in the bush.

5607. *By the Commission.*—Is that to the eastward of the Taminick station, or at the back?—At the back. There are no roads in the ranges.

5608. *By Mr. Hare.*—Do you know a road going across to Wangaratta?—Yes.

5609. *By the Commission.*—Do you know where a road comes out at Bryan's orangery?—Yes.

5610. Did you keep along that road?—We might have crossed it.

5611. Supposing the outlaws were there in those ranges, unless you came across them by accident, would it be very difficult to find them there?—The only chance was to come across their camp.

5612. Might they not be close, within pistol shot in the rocks, and you not see them?—Yes.

5613. *By Mr. Hare.*—What distance apart did we walk?—Sometimes twenty or thirty yards, and in flat country as far as we could see each other.

5614. Do you think there was a chance of catching them in the mountains in the way that we worked?—I was under that impression myself.

5615. Were all the party under that impression?—Yes.

5616. *By the Commission.*—Is there much of that rocky country?—There are very high ranges, and the rocks very steep.

5617. *By Mr. Hare.*—Describe to the Commission how we used to work, say from the Taminick station towards Glenrowan. Do you remember going down there one day especially, when Sergeant Fegan was one of the party?—Yes.

5618. Describe that?—When we came to the foot of a hill, Mr. Hare would start so many men round one side, and so many on the other, and so many straight to the top.

5619. *By the Commission.*—Then, if that was done, they could not be there without your finding them?—Yes.

5620. *By Mr. Hare.*—If they were in the gullies, if one man did not catch them another would?—Yes.

5621. *By the Commission.*—You have been all through that district up the Mitta, and all round the Kelly country, as it is called?—Yes.

5622. Have you come to any conclusion as to what the movements of the Kellys were. Do you think they remained, being fed and provisioned, round about the Warby Range, Greta, Glenrowan, and their own homestead and the Fifteen-mile Creek, or do you think they remained away from that?—I think they were somewhere in the Warby ranges, from Greta across to Fifteen-mile Creek. That was their general track and their stronghold.

5623. There in one circle of twenty or thirty miles?—Yes.

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5624. Round Glenrowan, where they were captured?—Yes.
5625. *By Mr. Hare.*—Before I came there, were you in other search parties?—Yes.
5626. Did they work in the same way?—Yes.
5627. Did they think they were throwing away that time?—No.
5628. *By the Commission.*—Was it pleasant work?—I think not; some very cold nights.
5629. It wears the clothes out quickly?—We were in plain clothes.
5630. Is it not considered very rough work on them?—We used to put on any old clothes.
5631. *By Mr. Hare.*—You remember the night I watched Bryan's place?—Yes.
5632. Describe the state I was in that morning?—That evening we watched the place with Mr. Hare, Canny and I; we stayed up in a potato field till about 2 a.m. in the morning. The other men were all round the house. Then Mr. Hare instructed Canny and me to go to Wangaratta. We got a party of police, and brought them back. We met Mr. Hare coming back, and he spoke to me. I would not speak to him at first. I did not know him, because his whole face was covered with icicles from the hoar frost. We watched there till daylight, and as soon as daylight we saddled up the horses and started to search the ranges.
5633. And were out the whole day then?—Yes.
5634. Do you remember going to some tracks up a hill?—Yes.
5635. And we followed them?—Yes, some five or six miles.
5636. The following day going up do you remember some information of a fire on the top of the hill?—Yes; we went to the top, and there was a fire and some stones removed, as if the men had lifted the stones, and the fire had got the start of them and spread on the hill. We thought it was a place no one would go unless they were compelled to go.
5637. Did you see any marks of people going up?—I think we saw the marks of stones.
5638. Do you remember we camped on a swamp that night?—Yes.
5639. Next morning did we see any indications of anything?—Yes; we were going up the hill, and we came to a little pool of water, and we went to look at it, and there were three or four footprints there.
5640. What sort of footprints?—A very big foot.
5641. Anything about the heel of the boot?—I do not remember.
5642. *By the Commission.*—It was stated in evidence when the ploughshares were stolen about Greta there were footprints with very high-heeled boots; was there anything remarkable about the foot prints?—I could not say; the sand closes up.
5643. Was it at the springs on Bruno's selection?—No.
5644. *By Mr. Hare.*—We continued searching those hills?—Yes.
5645. Do you remember going up to —, and his taking us up to the place where he was?—Yes.
5646. Do you remember seeing any indications there of anything?—We came across a tent and no person at home, and a couple of bags of chaff and a pair of hobbles and cooking utensils outside.
5647. Any marks of horses?—Yes.
5648. Shod or unshod?—I think shod.
5649. We watched that place some time?—Yes, we did.
5650. Do you remember going on any other hill when seeing indications of stones being turned?—I think we went on two.
5651. You stated that as you were riding through Wangaratta you got some information that the Kellys had gone through that day?—Yes.
5652. Who was in charge of that party?—Sergeant Steele.
5653. Were you going on any particular duty?—Not that I am aware of.
5654. Where were you going to?—To Beechworth.
5655. Did you hear the information given to Sergeant Steele?—I could not say I heard the information given, but the information was talked of in the train.
5656. About information that the Kellys had gone through Wangaratta?—Yes.
5657. You went in the Mansfield direction also?—Yes, to Beechworth.
5658. Why did not you stop?—I think Steele would not take the responsibility at the time. I believe Inspector Smith was there at the time.
5659. *By the Commission.*—How do you know?—I only heard.
5660. He might have been out in the ranges at the time?—He might.
5661. Then your answer to Mr. Hare is that, in your opinion, why Sergeant Steele did not act was he was under special orders to go to a certain place, and he felt it his first duty to do that?—That is my opinion.
5662. *By Mr. Hare.*—When you went there what did you do?—We went out and searched the ranges, and from there into Yackandandah. This was on the 3rd November, and on the 4th we searched the ranges from Beechworth into Yackandandah.
5663. Was Canny removed from the cave party before you?—He was.
5664. For how long?—I suppose he was removed for some time—for a few days—and then sent back again; for what time I could not say.

5665. Where did he go to then?—To Wangaratta.  
 5666. How long did he remain away?—Five or six, perhaps seven, days.  
 5667. What was the object?—I understood that he had been speaking of the cave, or that he was put away. That was his impression, and he was told he had been speaking of the cave party.  
 5668. But he was sent back again?—Yes.  
 5669. Did he remain there as long as you did?—Yes, till the removal of the cave party.  
 5670. *By the Commission.*—By whose orders would he be removed?—By Mr. Nicolson's, I suppose.  
 5671. Through whom?—Directions coming through Ward.  
 5672. *By Mr. Hare.*—Did you get any important information from a Chinaman?—I received the information that he had been at this place of late, and also the names of the Chinamen keeping the store.  
 5673. *By the Commission.*—Before you leave, you volunteered a statement about Whorouly races. You said you doubted Aaron Sherritt?—Yes.  
 5674. The reason of your doubt was that he stated that he was going to ride Byrne's racehorse, and that it was not likely they would put a thirteen-stone man on that racehorse at Whorouly?—Yes.

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5675. A long time elapsed between that and the last time of your seeing Aaron Sherritt?—Yes.  
 5676. You had an opportunity of seeing him daily when you were in the cave party?—Yes.  
 5677. Did you see him after you left that cave party ever?—No, I did not.  
 5678. Of course it is a matter of opinion—have you formed any opinion as to whether he was true to the Government, or was all through acting a friendly part towards the Kellys?—I believe he was acting true to the Government.  
 5679. Though you did not think so at the Whorouly races?—Yes.  
 5680. What train of circumstances induced you to alter your opinion of him from the Whorouly races to the time you last saw him at the cave party?—He used to speak so against Mrs. Byrne, and used never to visit her; and I thought if he was not friends with her he must be enemies.  
 5681. The brother, Jack Sherritt, did you think he was true to the Government?—I could not say much about him.  
 5682. What is your opinion?—He was more inclined to drink and knock about amongst other people, so I had not such a good chance as with Aaron to form an opinion.  
 5683. Did you ever hear him mention he was in the habit of meeting the outlaws—did he ever talk to you of ever having seen any of the outlaws?—No, he did not mention it.  
 5684. Was he familiar did he say with their appearance?—Yes, he said he knew them well.  
 5685. Do you think that during the time you were on duty up there, or previously or subsequently to this, that the Kellys were in the habit of visiting Byrne's?—Well, I doubted it. I did not see what they wanted to come home for. I thought they could easily get their provisions elsewhere. They might occasionally visit the place, I have no doubt, but not frequently.  
 5686. Do you know the origin of the unpleasantness that occurred between Mrs. Byrne and Sherritt—was it connected with the Kelly party. You said Sherritt did not agree with her?—I believe he had been courting one of the girls at one time, or something of that sort.  
 5687. Have you formed any opinion as to why Aaron Sherritt was shot?—Because he was in league with the police.  
 5688. That is your opinion?—That is my opinion.  
 5689. Do you think that private vengeance in connection with his family had anything to do with that?—I do not.  
 5690. How do you account for the fact of it being known to Joe Byrne that the police were there. Is it from information supplied by his brother?—Yes, I daresay it would be. I have no doubt they would hear it as well as I heard it myself.  
 5691. Outside the police?—Yes.  
 5692. Do you think the information you received came from any members of the police force or a knowledge acquired from the parties themselves?—I think it would be the latter. I do not think it would be to the interest of the police to speak about it.  
 5693. Did you ever see any reluctance on behalf of the men from doing duty that they were not ready to meet the Kellys?—I have never.  
 5694. Did, to your knowledge, the officers and sergeants test the courage of the men in picking them for this duty?—No, I do not think they did.  
 5695. Would you be surprised to learn that the sergeants always did test the men?—I have no doubt they formed an opinion.  
 5696. Do you know they tested them by sending them on difficult duty; do you know that of your own knowledge?—No.  
 5697. *By Mr. Sadleir.*—You stated that there might have been thirteen men in the party from Taylor's Gap?—Yes.  
 5698. Where did they meet the party?—A short distance out of Beechworth, on the main road.  
 5699. Which of them were you with?—Sergeant Steele's party.

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5700. You did not meet in Beechworth?—No.  
 5701. Is it not nearly two miles out of Beechworth?—I could not say it was not.  
 5702. A little way on the main road before we turned into the bush?—Yes.  
 5703. When Mr. Nicolson was rushing the house did you see me that morning?—I could not say I did, I think I did, I fancy you were up to the front.  
 5704. You said that Mr. Nicolson rushed?—Yes.  
 5705. What men were with him?—I think Constable Ryan, but I am not sure, and Bracken.  
 5706. Was Bracken with Mr. Nicolson?—Yes.  
 5707. Are you quite sure of that?—Yes.  
 5708. Not with me?—I cannot say that.  
 5709. You say he was with Mr. Nicolson?—I say he rushed the place, and I believe Mr. Nicolson was with him.  
 5710. *By the Commission.*—Will you take upon yourself to say whether Mr. Sadleir was with that party or not?—I will not.  
*Mr. Sadleir.*—What is the good of my asking questions if he does not know I was there?  
 5711. *By the Commission.*—In your evidence you said that Mr. Nicolson led the party?—I believed it was he.  
 5712. Are you sure now?—Well, I would not be. I understood it was he that picked them out.  
 5713. Do you now take upon yourself to assure the Commission that Mr. Nicolson was the officer in charge of the party that rushed the house?—No, I cannot.  
 5714. Do you know whether Mr. Sadleir was there or not?—I believed he was, but I do not know for certain.  
 5715. Can you swear positively as to any of the men that were there?—Constable Bracken.  
 5716. Any others?—No.  
 5717. How many accompanied the, officer?—Four or five.  
 5718. And the only one you identify is Bracken?—Yes.  
 5719. *By Mr. Sadleir.*—Did you not see me take a party and start with Mr. Nicolson?—No; I might have taken you to be a constable.

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1878. 5720. Might have taken me to be a constable—how long were you in the district?—Since October  
 5721. Had you seen me before?—I do not think so.  
 5722. Were you in the service in any other district?—No.  
 5723. How many men there did you see that you knew?—Lawless.  
 5724. Would you know the district men?—No, I did not.  
 5725. You say your party, Steele's, and Flood's joined about two miles out of Beechworth?—I cannot say the exact distance.  
 5726. Did you see another party start at the same time?—I saw a party go out at the lower side of the creek.  
 5727. How many men?—I think Steele was in that lot. I went to the other side, that was the party I went with.  
 5728. *To Mr. Sadleir.*—Is the evidence true; did Mr. Nicolson lead one party against the house or not?—Yes.  
 5729. Was Bracken one of that party?—No, he was with me.  
 5730. *By Mr. Nicolson.*—You must remember Bracken coming to the door with me, and Bracken's gun going off—*(to the witness)*—did you hear the gun go off?—Yes.  
 5731. Was it Bracken's gun?—Yes.  
 5732. *By the Commission.*—How long before that did you recognize Mr. Nicolson as leading that party?—Just when they began to pick the men out I understood it to be Mr. Nicolson.  
 5733. Did you know Mr. Nicolson's appearance?—No, I could not say I did; but I was told it was he.  
 5734. And you saw somebody picking out the men?—Yes.  
 5735. And this body of men advanced, and Bracken was amongst them?—Yes.  
 5736. And you heard a gun go off?—Yes; and the two horses they had dismounted galloped off through the old shed.  
 5737. *By Mr. Sadleir.*—Is the witness to be tied to that, that Bracken was with Mr. Nicolson's party at starting?—I know he was at the house.  
 5738. You said that Mr. Nicolson picked four men, and Bracken was there?—I believe he was.  
 5739. You said you had no instructions that morning?—No.  
 5740. Was not Captain Standish there to give you instructions?—He was there, but he did not give any.  
 5741. Did you require any instructions on the hill side?—I thought we might have been informed of the information we were going on.  
 5742. Is it an easy thing to inform thirty or forty police in the bush?—I should think it was a thing

that ought to be done (not wishing to be impertinent) whether it was easy or not.

5743. *By the Commission.*—You would not see any difficulty in informing forty or fifty men?—No.

5744. In conversation with Mr. Hare, and in connection with the Kellys, when you came down for final instructions to go back to that place, did Mr. Hare tell you anything about the probability of the Kellys attacking the police in armour?—No.

5745. Did you know amongst the police that it was known amongst the officers of the force that the Kellys would likely meet the police in armour?—No.

5746. If it was known to the police officers that the Kellys were going to meet the constables in armour, as a matter of opinion, would you consider that it would be desirable, in order that you should know how to act in the matter, that you should be informed of it?—Yes, I should.

5747. Supposing that you had the knowledge now that the men were in armour and going to attack them, would that deter you from doing your duty?—It would make me more careful, still I would endeavor to arrest them.

5748. If you were informed that the four men were going to meet you in armour would you approach them and endeavor to capture them in a different way from what you would if they were on equal terms with you?—Yes.

5749. Would you attempt to rush them?—No.

5750. How would you act?—I would have an idea to fire low, or something of that kind, to hit them in the legs.

5751. Did you ever hear it said?—No, never a word.

5752. *By Mr. Sadleir.*—Do you know what officers were aware that the Kellys were likely to be in armour?—I do not.

5753. You have heard a great deal since from later information. Have you any notion what officers knew?—No further except I saw about the letters of the “diseased stock,” received by Mr. Nicolson.

5754. Are you not aware that I knew equally well with Mr. Nicolson?—No.

5755. And Mr. Hare knew?—No.

5756. You say it was about the 9th November that Mr. Smith found the police horses?—Yes.

5757. You said the Kellys dropped the horses because they were pushed?—That is what I believe.

5758. Did you see the horses after they were found?—No.

5759. Then you cannot tell that it was that the horses were completely done, or that the Kellys were pushed by the police?—No.

5760. What police were there there to push them?—Johnson and his party and Inspector Brook Smith.

5761. Would you be surprised to find, from Inspector Smith’s statement at the time, and Mr. Nicolson’s evidence since, that the marks on those horses were over a week old, from the time they were let loose till they were found?—I would not be a bit surprised at that.

5762. *By the Commission.*—Could anyone tell?—They might imagine.

5763. *By Mr. Sadleir.*—Cannot you tell by whether the marks are wearing out whether those are marks of yesterday or several days ago?—Yes.

5764. *By the Commission.*—If there were sweat marks?—Yes.

5765. If I ride a horse to-day, and turn him out to-morrow, can you tell whether I rode it the day before by sweat marks?—No.

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5766. *By Mr. Sadleir.*—That is not the question at all. If you see a horse that has been turned out from under the saddle, can you not say by seeing him next day that it is very recent?—Yes I could form an opinion.

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5767. *By the Commission.*—Could a party not rest a day, or two days, and leave a horse behind?—Yes, they could.

*Mr. Sadleir.*—My purpose is only to show those men were not pushed.

*By the Commission.*—In your opinion.

5768. *By Mr. Sadleir.*—To show the fact. You could tell the difference between the marks a day old and a week old?—Yes, but not after rain.

5769. Suppose there was no rain?—I would be able to make out.

5770. Pretty well?—Yes.

5771. On the 3rd November you say there was information about the Kellys crossing?—Yes.

5772. You never saw the original report?—No.

5773. Have you any idea whether the Kellys were said to have crossed, or some men supposed to be the Kellys?—Said to be the Kellys?

5774. Are you not aware that Inspector Brook Smith reported fully in the matter?—No.

5775. Your first letter to Mr. Hare was in June 1880. You reported that some person told you that the Kellys had been seen coming on the Fifteen-mile Creek, and living on a Chinaman at a certain place—where is that certain place?—I do not think I reported that.

*By the Commission.*—The letter states what did occur.

5776. *By Mr. Sadleir.*—Or information to that effect?—Not living with a Chinaman, getting provisions from a Chinese store.

5777. You have mentioned in that letter that they got those provisions from Chinamen, at a certain place; did you mention the place to Mr. Hare?—No, I did not.

5778. What was the good of that information to Mr. Hare, then?—Because we had not at that time seen it. We had only been informed they had been getting provisions, and intended, when we could, to see if the information was correct.

5779. That was on the 16th, and your next letter the 22nd?—Yes.

5780. Was this very valuable information lying idle all this time?—We called on the Chinaman. He was not there, and we could not wait.

5781. What was the value of that information, I ask you, as a sensible man—that they were getting provisions from a Chinaman at a certain place; what officer could make any use of that?—They could make no use of it as I furnished it, till I got further particulars.

5782. Did you furnish it on the 22nd, “The best thing that we can do is to return”—could get no information—is there any fresh information there?—Yes.

5783. Then your third letter of the 23rd June is to this effect—a party of armed men being seen in the neighborhood of Rutherglen?—Yes.

5784. Is not your third letter entirely about that, and nothing else?—Yes.

5785. So that this valuable information you never thought any more about?—No.

*By the Commission.*—He told Mr. Hare verbally.

*Mr. Hare.*—Mr. Sadleir was not in the room when he gave me full particulars about it.

5786. *By Mr. Sadleir.*—When did you come back to see your officer?—On the 25th.

5787. That was nine days afterwards?—Yes.

5788. You reported first on the 16th, that you had this valuable information about the Chinaman, and the first time you mentioned the case to Mr. Hare was the 25th. You did delay explaining fully to Mr. Hare about it till then?—Yes, I did.

5789. That was very valuable information?—Yes.

5790. What was the value of it?—That they were getting provisions from a Chinese store. This information we received on the 15th or 16th, but our reasons for not being able to give the full particulars were that we called, and the Chinaman was not at home.

5791. It might have been valuable, but it was not because you had not full information at the time?—It was not full.

5792. Then it was not valuable?—It was, but we could not follow it up.

5793. *By the Commission.*—Was it of value to let Mr. Hare know where the Kellys were?—We had first to see the Chinaman, before we could inform Mr. Hare, and he was not there, and would not be home till about the end of the week.

5794. *By Mr. Sadleir.*—What was the “certain place”?—Either the Buckland Flat or Gap.

5795. *By the Commission.*—Did you ever go to the place you heard they were being supplied at?—No.

5796. *By Mr. Sadleir.*—Or any one else?—No.

5797. Then the information was of no value as it stood?—As it stood.

5798. Is this what you mean. In your application for the reward, did you state about giving the valuable information?—Yes.

5799. Is that the valuable information?—Yes, that and seeing the Kellys coming home frequently.

5800. Is that in your letter?—Yes; the first letter, I think.—[*The letter was read and examined by the witness.*]

5801. Where was that written from?—The Cotton-tree.

5802. That is some seventy miles from Greta?—Yes.

5803. And the Fifteen-mile Creek—is it not some forty or fifty miles long itself?—I cannot say.

5804. *By the Commission.*—Is what is called the Fifteen-mile Creek the place that is called Mason’s station?—I think it is.

5805. If you talk of the Fifteen-mile Creek, would it not be Mason’s station, at the back of Greta?—Yes.

5806. You would understand that?—Yes.

5807. And when you wrote the letter, and mentioned Fifteen-mile Creek, did you mean forty miles up, or the Fifteen-mile Creek near the Kellys’ place?—Constable Canny got the information, and he is well acquainted with the different rivers.

5808. Did you mean that they were coming from the immediate neighborhood of the Kellys’ own home?—Yes.

5809. *By Mr. Sadleir.*—Is not the Fifteen-mile Creek forty or fifty miles long?—I could not say.

5810. Does it not run into the Ovens, near Wangaratta?—Yes.

5811. Does it not run up close to Wombat?—Yes, I believe so.

5812. Mr. Hare would be probably aware of that?—Yes.

5813. *By the Commission.*—Does not the Fifteen-mile Creek indicate a certain radius of country?—Yes. They must have been close to home, or else this person would not have formed the opinion they were coming home.

The object of Mr. Sadleir's question is to show that the information conveyed in that letter was not of such a character that it would be of any use to the officer.

*Mr. Sadleir.*—Yes.

5814. *By the Commission.*—The principal point, it appears to my judgment, is that the evidence was very indefinite as to the time they were getting the provisions?—He said recently.

5815. *By Mr. Sadleir.*—Those letters contain all the information of value conveyed to Mr. Hare, then?—Yes.

5816. What action did he take?—I said I believed that on the receipt of that information that was the reason why men were put to watch this house of Mrs. Kelly's and Hart's.

5817. Who was put to watch Mrs. Kelly's house?—Constable Cornelius Ryan, Constable Barry, and Constable Wallace, I think.

5818. When did they go there?—I have not the slightest idea. I do not think they had been above five or six hours—not days.

5819. Were they there before the 16th?—After the 16th.

5820. You are sure of that?—Yes.

5821. How long were they kept there?—To the Saturday night prior to the capture of the gang; on the Sunday night, the 25th, I think.

5822. That was the day you gave that information?—No; it was the day I gave the information about the Chinaman.

5823. You imagine that those men were sent in consequence of that information of yours?—Yes.

5824. Is there any indication of Hart's place in this?—No; that they were seen coming home.

5825. Had they not a home at Beechworth—Joe Byrne had?—Yes.

5826. Was it in consequence of that information that the party was sent there?—I would not say that.

5827. You said all this was done because of your information?—I said I believed it was.

5828. *By the Commission.*—You have arrived at this from something you heard or saw?—Yes.

5829. When you wrote the letter on the 16th instant whom was it directed to?—To Mr. Hare, under a false name, according to directions—J. M. Davis, Benalla.

5830. Therefore, if it came into his hands, and he took action about it, how do you then arrive at that knowledge—from what he told you or one of the constables?—One of the constables said to me, that Mr. Hare said he expected to hear something good from us; and on our way down we passed those two parties of police. I was not aware that at any time there were parties of police watching Byrne's and Hart's and Kelly's together.

5831. Were those the places when you wrote that letter, after conversation with Canny, were those the homes that you spoke of, that you informed them they were working to?—I meant Hart's and Kelly's.

5832. Mr. Sadleir asked you as to the appearance of a horse which you did not see, and therefore it was all hearsay?—Yes.

5833. Did you hear your brother constables discuss at that time, or about that time, of the officers bringing the men in from that duty?—Yes, I did.

5834. What was their opinion about it?—That Mr. Brook Smith was not capable of taking charge.

5835. *By the Commission (to Mr. Hare).*—Did you act upon the receipt of this letter in consequence of the information in it?—No.

5836. That is the letter of the 16th?—No, I did not.

5837. *By Mr. Sadleir (to Mr. Hare).*—In supporting Constable Falkiner's claim to the reward, what was the valuable information he brought in?—I think Mr. Sadleir is under a little misapprehension in this matter. He was out of the room when Falkiner gave his evidence with regard to the interview with me. I considered the information in those letters of very little service, but I considered the information he brought in by word of mouth to me of great importance, and upon that I sent him back again, because he was not certain whether it was the Buckland or some other place close by that those men came and got their provisions at, and I sent him back upon that.

5838. *By the Commission (to Mr. Hare).*—Did you send any of those men out in consequence of your conversation with him?—No I had sent him out before.

5839. Then simply Faulkiner was under a wrong impression?—Yes.

5840. *By the Commission (to Mr. Sadleir).*—About the reward, you have spoken of that—did not all the constables in the district more or less consider they were entitled to this reward?—No I think there were only two who were not present, or three, who sent in a claim.

5841. Faulkiner's name was sent in?—Yes, and I considered it in my report, and it was accompanied with a report by Mr. Hare that he had given very valuable information; while I have to show from my statement that his information was of no value, which Mr. Hare confirms.

*Mr. Hare.*—In that respect alone, but the information he subsequently gave would have been of great importance if the Kellys had not been caught the next day.

*Mr. Sadleir.*—It had no actual value whatever.

*Mr. Hare.*—No.

5842. *By the Commission (to the witness).*—Did you put in a claim?—Yes.

5843. Is your name down for anything?—No.

*Mr. Hare.*—His name was amongst the number who were put down as deserving the reward. The information was this:—That there was a storekeeper at Buckland Gap, or some other place close by,

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I think Harrietville, that both Falkiner and Canny could not give a decided answer about it. They said that this man and one of the outlaws used to come down from the mountains and get the provisions from this store, and that the others remained some distance back with pack-horses. They took their supplies from that store—that it was necessary they should say nothing to the police about. They looked upon them as some residents in the district. Did not know they were police. They bought some cabbage plants there, and he told me that, and I should find the exact spot, and how long ago it was that the Chinaman ——

5844. *By Mr. Sadleir (to Mr. Hare).*—Were you not aware that you had that information when you were in the district before?—I cannot say that for certain.

*Mr. Sadleir.*—Instead of three days, it was twelve months or more old.

5845. *By the Commission (to Mr. Sadleir).*—This very information?—That Chinamen, or one or two, were supplying the outlaws.

5846. Is the information, that you say was twelve months old, that they were getting provisions from Chinamen, or that they were getting them at the Buckland?—Yes, at the Buckland, and it was a twelve-month old; they had been searching about, and the Chinese detective had been employed; a Chinese handbill was issued about it.

5847. Had you reason to believe the information was accurate?—We always thought it was a most probable thing for an occasional supply.

5848. Have you positive information now that makes you believe now that they did get provisions from Chinamen, or not?—I believe they did, once in a way.

*Mr. Hare.*—They might have continued it till a later date.

5849. *By the Commission (to Mr. Sadleir).*—Is that the case?—We had exactly similar information.

5850. Is it the same information?—We had exactly similar information.

5851. *By Mr. Sadleir (to the witness).*—Coming to the information about the four persons reported upon by the Rutherglen police?—Yes.

5852. The impression there was that they were the four outlaws?—Yes.

5853. Had you not reason to believe that you met the four men that were seen?—Yes.

5854. That they were not the outlaws?—Yes.

5855. You say you started with the escort with Ned Kelly?—Yes.

5856. Were you the only man?—No.

5857. Were you in charge?—No.

I thought you were, from what you said.

*The Chairman.*—He distinctly said he was one of the men, and he was talking to him, and they were at different times.

*Mr. Sadleir.*—His words were, that he was sent for to escort Ned Kelly.

5857A. *By the Commission (to the witness).*—Directed to?—Directed to.

5858. *By Mr. Sadleir.*—You say you were out with every party but one with Mr. Hare?—Yes.

5859. I have, before the Commission called a work of that sort going out in search parties fooling—I ask you to state what object those parties started with; give one case where you had any information that the Kellys were in front of us?—I think I gave that in my statement. We had no information before we started, only our own opinion, except the officers did.

5860. I ask what you knew; you never knew of any information before you started from the barracks?—Sometimes after we got fourteen or fifteen miles away Mr. Hare, if he had any information, I have known him to call us together and tell it.

5861. Give us what he told you at any time?—Once, I remember, they were supposed to be in Cleary's place.

5862. I know that was the fact; now was there any other occasion when you had information?—Not that I can remember well; there might have been.

5863. You have described your manner of working with Mr. Hare—take the working of the Warby ranges—you would work across so as to leave a very small space between each man?—Yes.

5864. When you got to the top, clear of all timber, how many other hills could you see?—Well, I could not say; you would have a good view.

5865. Would you not see a hundred—perhaps fifty?—Perhaps so.

5866. Did you try all those ranges?—All that were supposed to be in the Warby ranges.

5867. What was to prevent their being on the Strathbogie; you were without information?—There was nothing to prevent it.

5868. You saw a fire on the top of the hill?—Yes.

5869. Is that a likely place for the Kellys to be found?—I would not say it was a likely place for them to light a fire.

5870. Are you not aware that this fire and these tracks were left by Mr. Newcomen's men, searching

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continued,  
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for sheep?—I was not.

5871. Are you aware that was stated by Mr. Newcomen?—I was not.

5872. *By the Commission.*—Which would you sooner do, if you were there again, to work hard like that with Mr. Hare or remain in Benalla, as Mr. Sadleir suggests?—I would rather remain in Benalla.

5873. That is a queer expression. Do you mean for the sake of your own ease, or do you consider if you ever were an officer in charge of a responsible party, and you became a senior constable, and were in charge of eight or ten men in a district, and in a district where you would be responsible for seeking the men in your district, would you, if there were outlaws in your district now, from your experience, keep them on the move and try to secure them, or would you stay at your head quarters, and try to get them by secret means?—I would go out.

5874. Then you would not stay in Benalla?—No.

5875. If it was simply a question of your own ease, would you be rather under Mr. Nicolson and remain in Benalla, or be out with Mr. Hare searching the bush?—I would rather remain in Benalla.

5876. If you had a desire to catch the Kellys?—I would rather go out for these reasons. I think that we had as good a chance of seeing the Kellys as the people who were getting paid for bringing in the information that they had seen them.

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*continued,*  
11th May 1881.

5877. *By Mr. Sadleir.*—How many people did you hear were bringing reports?—I could not say. It was mostly all reported to the officers.

5878. *By the Commission.*—Did Jack Sherritt tell you he met Byrne at a certain place near Wangaratta?—He did at some place.

5879. In open daylight?—Yes.

5880. By appointment?—I cannot say that.

5881. Did he tell you he did meet him?—He did.

5882. *By Detective Ward.*—You remember the morning of the 2nd April, with reference to those reports?—Yes.

5883. Where was I on that morning?—I believe you had just returned to Benalla, and were at Benalla that morning. I fancy you were somewhere in the train.

5884. Could you tell what time I returned?—I suppose half-past two.

5885. What time did you receive instructions with reference to those reports?—About eleven or twelve, I should say.

5886. Whom from?—The instructions came from Senior-Constable Mullane through Constable Barry to the men in barracks.

5887. Then I was not there?—You were not there when those instructions were given.

5888. *By the Commission.*—Barry was the man who brought you the first instructions to report?—Yes.

5889. From Mullane?—Yes.

5890. About eleven o'clock?—I think so.

5891. *By Detective Ward.*—Was I there when the second report was asked for?—No.

5892. At half-past two, when I returned, was there some unpleasantness between the Senior-Constable Mullane and the men who had been in the cave party?—Yes, there was with reference to returning their reports.

5893. *By the Commission.*—With reference to those very reports?—Yes.

5894. The asking of them?—Not the asking of them, through him wishing to return them back.

5895. *By Detective Ward.*—Did I say if I had been at home there would have been nothing like this occur?—Yes, you did.

5896. *By the Commission.*—Meaning home where?—At Beechworth.

5897. That this unpleasantness would not have arisen?—Yes.

5898. *By Detective Ward.*—Did I say to you, “These are not the sort of reports required; all I want is a report of the duty you were doing in the cave, of what you know yourselves personally, as I wish to recommend you to the officer in charge for the services you have rendered during your time in the cave. I will forward my remarks to the Assistant Chief Commissioner, who I make no doubt will put a favorable entry upon your report sheet”?—That is something of it but not in all.

5899. Say it yourself?—You asked us how it was we came to put in such reports as those, that is Constable Barry and myself, and other constables. “Had I been here this would not have happened.” You had my reports then with you, you half drew them out and showed them to me; you said, “These reports would never suit Mr. Nicolson.” These were the exact words, “I want a report from you so that Mr. Nicolson could put a favorable entry on your record sheet.”

5900. Of what you knew yourself, did I say that?—Yes, of what I knew myself.

5901. That would be about a quarter to three, at all events—you left by train at three that same day?—Yes.

5902. Before your leaving, after my telling you this, what did you say?—You asked me then to

forward that report with reference to how we had carried out the duty ourselves, the secrecy of it. I remarked to you I had not time to make out a report just then, and that I would forward you one from Benalla. I made the report No. 3, and forwarded it to you on, I believe, the 3rd of April.

5903. Then when this conversation occurred, when I asked you what would I do with the other two reports, what did you say?—I said I would have nothing to do with them, to destroy them.

5904. *By the Commission.*—Did you mean that you would not withdraw them?—Yes.

5905. And that you would not take them back?—Yes.

5906. On your mind was the idea that you were to report, and that it should be said by the men that the party was not known?—Yes.

5907. Was that the point in your own mind, and you absolutely refused to withdraw them?—Yes.

5908. And that was solely your objection?—Yes, so that I could go before Mr. Nicolson and speak of it.

5909. Did you tell Ward to destroy those Nos. 1 and 2 reports?—No.

5910. Or say anything to leave that impression on his mind ———

5911. *By Detective Ward.*—Did you ask me to forward them?—I had given them to Mullane to forward them.

5912. *By the Commission.*—You meant that the whole three should go forward?—I did. I attached the one to the other, and said I would forward the third to Benalla.

5913. *By Detective Ward.*—The order I gave to you, what order did I give you; did I tell you to tell a lie?—No, you told me to make a third report with reference to the secret duty, so that Mr. Nicolson could put a favorable entry on our record sheet.

5914. *By the Commission.*—From anything said by Ward did he convey to your mind that you were not to allude to the fact that outside people were there?—It was to make a report with reference to ourselves, nothing outside at all.

5915. *By Detective Ward.*—Do you know I handed Constable Barry back his report?—No.

5916. Did you tell me to forward those reports?—I could not tell you, because I had passed them into Senior-Constable Mullane's office.

5917. You said you saw them with me?—Yes.

5918. What did I say?—You asked me to withdraw them, and I said I would not.

5919. Tell what I did say?—Detective Ward came into the office, he had then seen Senior-Constable Mullane, I knew by his bringing my reports back—they must have been in Mullane's possession.

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5920. *By the Commission.*—Is that what Mullane alludes to when he says he gave them to Detective Ward to give to the men?—Yes, Detective Ward came up with those reports in his pocket, up to the barracks, and he said, "Whatever do you mean by sending in reports of this sort, these reports will never suit Mr. Nicolson, you had better withdraw them," and I said I would not.

5921. In what way "suit"?—He told me Mr. Nicolson only wanted a report to make a favorable entry on my record sheet.

5922. *By Detective Ward.*—Did I tell you to send a report about the party and yourself as to the secrecy of it, as you each knew yourself?—Yes, I have said that.

*Detective Ward.*—That is the only thing that I thought I was at liberty to tell them, or anything else, the same as I gave them to the other men.

5923. *By the Commission.*—After listening to Mr. Ward's statement, taxing your memory with what took place on the 2nd April, do you still swear you refused to take back Nos. 1 and 2 reports from Ward?—I do positively.

5924. *To Detective Ward.*—Did you ever send in No. 3?—I did not know about that, because I forwarded my report on the 3rd, and made my remarks about them.

5925. *To the witness.*—When did you post your No. 3 report from Benalla?—On the 3rd of April, at Benalla.

5926. At what time of the day?—He would get it either that evening (I cannot recollect the time exactly) or the next morning at the latest.

5927. To whom was that addressed?—Detective Ward, Police Station, Beechworth.

5928. Not to Sergeant Mullane?—No.

5929. Whom were your reports Nos. 1 and 2 directed to?—The first one is directed to the superintendent of police—[*examining the papers*].

5930. You were under Mullane at Beechworth?—Yes.

5931. And you reported yourself and came under Sergeant Whelan after that?—Yes.

5932. Would it not be your duty to make the report to the officer you did before, why to Detective Ward?—Because those cave reports were supposed to come through him, as I had not time to make it out at Beechworth.

5933. Was it in consequence of something he said to you, before you left, about your reports that you changed the direction from your officer to Detective Ward?—It is not directed to Ward.

5934. I thought you said it was?—I sent the envelope to him.

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*continued,*  
11th May 1881.

5935. To whom were those reports addressed?—The first to the Superintendent, the second to the Assistant Commissioner of Police, and the third the Assistant Commissioner of Police.

5936. And it was to be sent through Ward?—Yes, it was to be sent through Ward.

5937. Where was the Assistant Commissioner of Police on the 3rd?—In Benalla.

5938. And you were under a different officer; you had reported yourself to Sergeant Whelan and left Senior-Constable Mullane's position altogether?—Yes.

*Mr. Nicolson.*—The fact of the matter is I was in Melbourne on the 3rd.

5939. *By the Commission (to the witness).*—You addressed your envelope to Detective Ward because he had the two other reports, and asked you for the third?—Yes, that is it.

5940. Did you expect, when you sent the third, that the whole three would have gone forward in the ordinary course?—Yes, I did.

*The witness withdrew.*

*Adjourned to Friday, at Benalla, at Eleven o'clock.*

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*(Taken at Benalla.)*

FRIDAY, 13<sup>TH</sup> MAY 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;	
W. Anderson, Esq., M.L.A.,	E. J. Dixon, Esq., J.P.,
G. W. Hall, Esq., M.L.A.,	G. R. Fincham, Esq., M.L.A.
J. Gibb, Esq., M.L.A.	

James Whelan sworn and examined.

James Whelan,  
13th May 1881.

5941. *By the Commission.*—How long have you been in the service?—I joined it in 1856.

5942. What position did you hold?—I was promoted to the rank of senior-constable in 1862, and the rank of sergeant in 1868.

5943. How long have you been stationed here?—Since November 1864.

5944. Do you remember the instructions that were given to Constable Fitzpatrick on the day of the shooting?—Yes. On the 12th of April 1878 a telegram was received from Inspector Brook Smith, from Wangaratta, directing that Constable Fitzpatrick be sent to Greta station to take charge there in the absence of Senior-constable Strahan, who was going on six days' leave. I think Constable Fitzpatrick was absent at Cashel at the time on temporary duty, and did not return until the 14th. On the 14th, he not having returned in the forenoon, I sent Constable Healy to Greta, and directed him to return—to make a patrol back the next day, in order that I could send Fitzpatrick when he returned.

5945. What day did Fitzpatrick go then?—At one o'clock on the 15th April, Healy returned from Greta, and I despatched Constable Fitzpatrick at two p.m. He received the direction to remain and take

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James Whelan,  
*continued,*  
13th May 1881.

charge of the station. Mrs. Strahan was there with her family, and was to remain till Strahan returned, and then return back to Benalla station.

5946. Was there anybody in charge of the Greta station?—Strahan was in charge, but was on leave, so that was weakened then when he was sent, it was weakened because the other man had returned on patrol, as directed.

5947. Where did he go to?—At two a.m. the next morning he returned to Benalla and rapped at my quarters, and told me that he had been shot at by Ned Kelly and wounded in the arm. That was on the morning of the 16th. I examined his arm and saw a mark like a bullet wound; sent for Dr. Nicholson and had him attended to. I took his statement at the time. I was present at the Police Court here when his evidence was taken at the Petty Sessions, and also at the Court of Assizes at Beechworth, and he did not prevaricate in the least from the statement he first made to me.

5948. How did he come in contact with Ned Kelly at that time?—He stated when he was going to Greta that he rode across and went into Mrs. Kelly's, and when there about—some short time, half-an-hour—he heard some chopping, and asked if Dan was at home, and was told by Mrs. Kelly that he was not. He heard some chopping on the hill, and got his horse and rode up to the top of the ranges where he heard the chopping, and found Williamson there, and asked where Dan Kelly was, and he said, "Out riding." While speaking he saw two men riding into the paddock, and asked Williamson who they were, and he said he did not know. Fitzpatrick said, "I think that is Dan Kelly's mare," and went down and found Skillion with the saddle off his own horse.

5949. Had you a warrant for his arrest then?—No; there was a warrant at Chiltern, but not here. He

saw the Gazette notice that this warrant was issued.

5950. Was it his duty to go there without a warrant?—I think he was wrong in going there, as he knew the characters they were, as he had assisted to arrest them at Wintons previously for an outrage before.

5951. Do you consider he fulfilled instructions in going there instead of Greta?—He was going in charge of a sub-district, and there was at that time, perhaps, one man only to several stations, and a man is master of his own movements, and according to the regulations of the service he is bound to arrest an offender, and according to law without a warrant or not. There is a penalty under the Police Offences Statute if he does not do so, and while he was in charge of a sub-district he would be in charge, but would be responsible for any crime while he was there, and if he was reported as passing a man who was there without a warrant he would be punished by his officer and by law.

5952. What occurred in consequence of his being shot?—Warrants were issued against Ned and Dan Kelly. Williamson and the others and Mrs. Kelly were arrested, and Skillion, and they were dealt with, but the other two were at large.

5953. What was done with reference to them?—There was search made for them. There were no extra men sent to the district, I think, at the time, but there were a few on the 24th October. Superintendent Sadleir sent a party from here to Mansfield, Constables Scanlan, the deceased, and the late Constable Lonigan, from Violet Town, to form a party with Kennedy at Mansfield, to go out to the Wombat, and sent Senior-constable Strahan with the party from here, and they were to meet up about the head of the King River.

5954. What occurred?—I remember that on the 26th October, Saturday, the murders on the police were committed at Wombat.

5955. Had Ned and Dan Kelly been out then all that time?—They had.

5956. Do you remember anything of the bank robbery at Euroa?—Yes.

5957. Personally were you present?—No, I was not present; it is only from hearsay. I know that on the evening of the 10th of December 1878, Mr. Nicolson and Mr. Sadleir left for Albury by the eight o'clock train. About half-past nine Mr. Wyatt came to the gate of the police station here. I met him at the gate.

5958. Were you in charge?—Yes. He came with a piece of wire and an insulator from the telegraph line in his hand. He said that he had been at Violet Town at court, and went down by the three p.m. train that day to Euroa, and when going down he found that the wires were cut on both sides. He did not say they were down entirely. When he went to Euroa he had but a few cases, and he thought that he would drive out to see the place, as he thought it was a storm that had blown them down. He got a horse from a publican named Hart, and it turned out to be a very bad one.

5959. Did Mr. Wyatt tell you this?—He did.

5960. You can leave out the details of that. What did you do in consequence of what Mr. Wyatt told you?—I went to the telegraph office with him, as he requested me, where he sent a telegram to Captain Standish. I then asked the telegraph-master to call Chiltern, as I intended to send a message to Mr. Nicolson to ask him if I would send a patrol to see about the wires. We could not get Chiltern. I then had to wait until the train got into Albury. I sent a telegram to Mr. Nicolson telling him what Mr. Wyatt said, and asked if I would send Detective Ward with a party down, but before I got an answer, about a quarter to twelve, I received a telegram from Captain Standish saying the Euroa bank was stuck up, and directing me to recall Mr. Nicolson at once. I repeated it to Mr. Nicolson, and the message came that he was getting the special train to come back.

5961. Was that the first time you heard of the bank being stuck up?—It was.

5962. Was there any of the force at Euroa who saw the bank stuck up?—There was one constable there, and he arrived just at the time. After I came down from the telegraph office, Constable Anderson came and said the bank was stuck up. He could get no details before he left; he only heard of it, and at once jumped into the train and came off.

5963. Is that what Anderson told you?—Yes, that he could give no details about it, as he only heard it at the railway platform just as the train was starting, and he only had time to jump in and come on to report it. I then sent a message to Mr. Nicolson and ordered a special train, and ordered the men—there was but one party on the station—and went with them to the train.

5964. Who were they?—Detective Ward was in charge; Constables Johnson, McDonnell, Hodgson, Graves—I forget the others—and two trackers, and constables Barry, Bell, Hedberg, and Anderson.

5965. What hour was that?—At two a.m.

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5966. On the 11th?—On the 11th. There were no horse trucks, and I had to get two of those old luggage-vans. There was some difficulty to get in the horses, but Constable Johnson rode them into the van. Mr. Wyatt went down with that party and returned again. I then met Mr. Nicolson at the station.

5967. At what time?—I think between seven and eight. The special train came down the next morning—that is, the 11th. Mr. Wyatt was there, and said I need not go into details of telling what was done—that he would go back to the place where the wires were cut and tell Mr. Nicolson all about it.

5968. Mr. Nicolson came back by the special train as soon as you telegraphed?—He came back he replied and said he was looking for the special train, and when he got it he came back. Mr. Wyatt, in his

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evidence—if I might mention it to the Commission—said that when he came to the station with the insulator, that the sergeant turned pale. Well, I met him outside in the dark, and it was impossible he could see whether I was red or pale.

5969. What hour was that?—Between nine or ten o'clock p.m. We afterwards went into the office, and I took the wires and insulator from him.

5970. Were you present at the Glenrowan capture?—I was.

5971. Were you there all the time?—No; I went up to the train with Mr. Hare's party, and saw them away at two a.m. on the night of the 28th June 1880, and then returned.

5972. What time did you get to Glenrowan?—About five in the morning—arrived at five o'clock in the morning.

5973. Was it daylight?—No, it was moonlight.

5974. Can you state what was going on at the time?—Everything was quiet as possible when the train stopped at the station—not a shot fired or anything. We got out of the train, and Senior-constable Kelly and Constable Walsh, from Wangaratta, came up and spoke to Mr. Sadleir. He did not come with Sergeant Steele. I may mention Mr. Sadleir asked Senior-constable Kelly how the house was surrounded, and where the men were. He said that the north-east end (not in those words) was well guarded, and the front, but he said the back, or the south-west end, was unprotected.

5975. You had better give it in his language?—He said, "The lower end of the house and the back is unprotected."

5976. Was that the end nearest Benalla?—Yes, nearest Benalla.

5977. That was the south end of the house?—Yes.

5978. And the back was unprotected?—Yes. Mr. Sadleir said, "Where is Mr. O'Connor?" and Kelly pointed and said, "He is down here in front." Mr. Sadleir said, "I must go and see him to see how things are. You let the men take up their positions in the place that is unprotected." We then extended in file in front of the railway gate and in front of the house—Jones's house—and immediately we got in front there was a volley heard of one, two, three, right as we passed out of the house, and the balls struck the posts. It is a wire fence, but they struck the posts and tore up the sand as we went along; so we took up our position round about the house and had it quite secure. Daylight very soon came, and the horses that were in the yard were shot.

5979. By the police?—Yes.

5980. In Jones' yard, that is?—Yes; and some of the men said that Ned Kelly had been seen, and that he had been trying to mount his horse previously to that, and it was suggested then to shoot the horses as a precaution against their securing them and getting off.

5981. Who gave the order to shoot them?—I cannot say, but I know it went round that it was better to shoot the horses. It was agreed to by the men.

5982. Had you no idea who gave the order?—No, I could not say.

5983. Was it the officer's order?—No, there was no officer there; Mr. Sadleir was up at the upper end.

5984. Was it simply an agreement between the men that it would be better to shoot the horses because of having heard that Ned Kelly was trying to mount them?—Yes; and they went round, and the horses were shot.

5985. That was a little after daylight?—Yes, when the horses could be properly seen and known to be the Kelly horses.

5986. How is it there was no officer there to give the orders?—There was only Mr. Sadleir, and he could not be there and up at the upper end too.

5987. Where is that?—Nearer to Wangaratta. That is where Ned Kelly came out afterwards.

5988. Where was Mr. O'Connor at this time?—I had not seen him at all at the time. He had the black boys up—I understood so from Senior-constable Kelly—partly in front of the house at the other end but I did not see him as we marched up to take up our positions as I have described.

5989. Here is a plan of the place; will you look at that?—*[The witness did so.]*—This is about where Mr. O'Connor would be, I think—*[pointing]*.

5990. Do you know where he was?—I do not know myself, but I know the place that was pointed out.

5991. Do not say anything about what you do not know yourself?—You have asked me before about what Fitzpatrick told me, and I thought perhaps it was admissible what Senior-constable Kelly told me in the presence of Superintendent Sadleir, and told Superintendent Sadleir in my presence.

5992. That is quite admissible, but you must state you heard it from so-and-so?—I did so.

5993. What did you hear from Senior-constable Kelly?—He said to Mr. Sadleir, when he asked where Mr. O'Connor was, he said, "He is down here in front," and that was only a very short distance from where we were standing.

5994. Anything further?—No. Mr. Sadleir went away with him, after he directed us to take up our positions at the lower end.

5995. Went towards Mr. O'Connor?—Yes.

5996. Were you present all through from the time of your arrival?—I was present all through from the time of my arrival until I brought down Ned Kelly and the bodies with Superintendent Sadleir at night to the lock-up.

5997. Was there much shooting after you took up your position?—There was. There were several

shots came from the lower end of the house from the building, from the outlaws supposed to be, because there were no others in after the people got out.

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5998. Was there heavy firing upon the house by the police?—There was.

5999. All round?—All round; but it was sung out, round about from one to another, “Fire high That was before the people came out.

6000. What time were the people let out?—I think about ten o’clock, as near as I can go. After that several shots came out of the window; rifle balls passed close to where I was, and used to hit the trees, and the men who had rifles fired into this window several times, and up to half-past one, between one and two, I think, there was firing from the window.

6001. You are sure it was “Fire high” was the order?—Yes; I heard it pass round several times, and each time we used to sing out, “Come out, come out,” for the people to come out, and that they would not be touched or interfered with.

6002. You say they came out about ten o’clock?—I think about that, I am not quite sure as to the hour.

6003. Did any officer give the order to the men?—It might have come from an officer. It came round the lines where we were. I could not say whether it came from the officers. I sang it out myself and Senior-Constable Smyth, and passed it round.

6004. Was that the way an order was carried round the line usually?—I do not know what orders Mr. Sadleir might have sent round; there was another man went round, named Dwyer. I saw him going round, but I do not know what orders he had.

6005. Did you give the order to shout for those people to come out?—I did.

6006. And the men round about shouted?—Yes.

6007. Did those people tell you how many were in the house when they came out?—I was not in the place where they did come out, because I did not leave my post.

6008. Where was your post?—At the lower end of the house, opposite the window, towards Benalla.

6009. On the south side?—Yes.

6010. Had you any doubt about the place being occupied when there was no firing for several hours—did you not think—was it not possible the men were out?—Well, you could not tell, I could not be sure.

6011. Was there any suggestion to rush the house?—I did not hear it.

6012. What side was the house fired from?—From the corner—the lower corner nearer to Benalla. I had changed my position afterwards, and I was speaking to Mr. Sadleir before it was fired.

6013. Did any of the officers go round and give orders to the men?—There were only Mr. Sadleir and Mr. O’Connor.

6014. Did they go round and give orders?—Mr. Sadleir had a meeting, I understand, before I went up, of the sub-officers and the men about the firing of the house, and when I came up he told me they had agreed to it, and I saw Johnson going round with a bundle of straw and kerosene, and Mr. Sadleir was up at the end of the house, and the men were prepared to fire when Johnson was lighting it.

6015. Were you present then?—Yes.

6016. When the arrangement was made to set it on fire?—No, I was not. Mr. Sadleir said there was plenty of daylight, and there was a clergyman about going in, and he would not send the man in. He was sure of getting them, and he would not risk any life, and would not send in any man while they had armour on, and he would take them without loss of life later on.

6017. Did he lead you to understand that he knew there were only the outlaws in the house?—Yes, that was well understood, because the parties who came out said there was no one but Cherry, who was in the back house, and by lighting the fire in the front house there was ample arrangement made to take the man out of the back house; and I went up with Mr. Sadleir and the clergyman, and he was taken out before there was any danger of his being touched by the fire.

6018. You remember seeing the clergyman going in?—Yes.

6019. Did he remain in?—A very short time.

6020. Did any of the police go near the house before he came out?—Several of them were up close. Mr. Sadleir and I were up close, and several other men I could not name, there were so many there, and Byrne’s body was out in about perhaps three or four seconds after the priest came out. It was brought out.

6021. How near were you?—As near as from here to the centre of the street—*[pointing through the front door of the court house]*; about twenty yards.

6022. You did not rush to the house before the priest let you know they were dead?—From the place where I was standing I could not get any nearer the house until the priest did come out.

6023. Do you mean in safety to yourself, under cover?—No.

6024. What prevented your getting nearer?—The length of time. He just went inside the door.

6025. Did you remain standing till he came out?—I remained standing till we saw him coming out.

6026. And then as soon as he gave the signal you all rushed?—He sang out the men were all dead, and we all rushed up to take them out before the fire would take effect.

6027. And you did not succeed?—Not with all of them.  
 6028. Did you see Superintendent Hare that morning at all?—I did.  
 6029. Where?—Between the bridge and telegraph office, after I was called, here in Benalla.  
 6030. Did you see him after that?—No, that was after he returned wounded.  
 6031. He came up here before you went away?—Yes, he was coming up to the office, and did not wait to get the wound dressed; the doctor followed him up to the office, he told me. I had sent for Mr. Sadleir, and left the man to receive the message at the office, and it was this constable who called me, and I sent him for Mr. Sadleir, and Mr. Hare said, “Turn out every man in the place,” which I did, except the watchhouse-keeper, who had a lunatic in charge; and Mr. Sadleir came over and we all went.  
 6032. Did you see Mr. O’Connor during the day?—I did not see him till the afternoon.  
 6033. What time?—I think it would be after two o’clock when I came round, as I never left the lower part of the building until about two o’clock. I kept down with the men and did not let them leave their posts. Some were rushing to see Ned Kelly after he was captured up at the upper end, but I did not go away till two when I saw him, and saw Mr. Sadleir and Mr. O’Connor.  
 6034. Were you there when he was captured?—Not on the spot.

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6035. You were on the ground?—Yes.  
 6036. Are you pretty certain about the hour?—Yes.  
 6037. Have you a watch?—I have.  
 6038. What time was Kelly captured, do you know?—I could not say exactly the time, because I did not look at the watch; there was too much excitement to pull out your watch. It was a good bit after daylight, about seven o’clock I should think, but I did not look at the time, nor was I thinking of the time.  
 6039. Who arrived at Glenrowan first, you or Mr. Sadleir?—We arrived together, at the same time.  
 6040. Who was in charge at the time you arrived?—That I do not know.  
 6041. Who was the first officer or sub-officer you spoke to or heard Mr. Sadleir speak to after arriving?—Senior-constable Kelly.  
 6042. Did he at that time appear as if he had taken charge prior to your arrival?—Yes, he appeared to know where the men were posted, and he was the senior officer of Victoria.  
 6043. And he apparently had charge?—He was bound according to the regulations to take charge.  
 6044. I do not want to know what he was bound to do—what did he do?—He met us at the train, and told us the position of the men.  
 6045. How many men?—Seven went with Mr. Hare and remained, and Mr. O’Connor and six black trackers, that would be the number there. Constable Walsh had arrived from Wangaratta, he was there, and I do not know whether there were any more. I did not see any others.  
 6046. What did you do immediately after arrival, after hearing from the interview between Senior-constable Kelly and Mr. Sadleir?—We were not more than a minute on the platform. Senior-constable Kelly was telling Mr. Sadleir as we were getting out of the train, and Mr. Sadleir told us to take up our positions at the place Senior-constable Kelly said was unprotected, and we extended in file down in front to take up our places.  
 6047. In front of the hotel?—Yes; there was not any firing at the time, and everything was quiet.  
 6048. You must have crossed a certain drain that has been referred to in the evidence?—I have never been there since that night.  
 6049. You do not remember crossing that drain?—No; I think we followed down the track from the railway. We crossed a drain when we got a little below the house.  
 6050. What do you call a little below?—Say about twenty or thirty yards—we crossed to get to the back of the house. I know I got my foot wet in it.  
 6051. You went to the end of the house nearest Benalla—is that so?—Yes.  
 6052. You did not see Mr. O’Connor and his men during the time you were passing from the railway station to where you took up your position?—No.  
 6053. Did you see any men at all?—No, we could not see them at all.  
 6054. Did you see any constables before you took up that position except Senior-constable Kelly, whom you saw at the station?—None whatever.  
 6055. Do you know what Mr. Sadleir did immediately after your leaving the station?—I could not say what Mr. Sadleir did immediately after leaving the station.  
 6056. When did you next see him?—At the time Ned Kelly was taken, when he was going up towards the station. I was not within speaking distance of him—I was not up at the place—I could see them taking him up towards the station-house; it was sung out that Kelly was arrested.  
 6057. What position were you in—were you still in the same position you took up early in the morning?—Yes.  
 6058. The lower end of the hotel?—Yes, the Benalla end.  
 6059. How far would it be from where you were first stationed to where you saw Mr. Sadleir with Kelly?—I am under a disadvantage, not having been there since to measure—I think about 200 yards.  
 6060. What time was that in the morning when you saw Mr. Sadleir with Kelly?—I did not say I saw

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him with him—I said I saw him at the time Ned Kelly was taken to the station-house, I could see him going to the station-house.

6061. How far from the station?—Not far.

6062. Close to the station?—Yes.

6063. Who gave you orders afterwards during the day—what officer?—I received no orders until the time that the house was going to be fired, because I was not up close.

6064. Did any officer come round to you during the day and instruct you to do particular work?—No.

6065. No officer at all?—No.

6066. Were you the next senior officer below Mr. Sadleir?—I was next in command to Mr. Sadleir.

6067. And no one came to you the whole day till just before the house was fired?—That is so.

6068. Do you remember the time Mr. O'Connor arrived in Benalla with the black trackers?—Yes.

6069. You remember his being here?—Yes.

6070. He was pretty constantly in Benalla—stationed there?—Yes.

6071. All the time then he was engaged on active duty here in connection with the black trackers?—Yes, he used to go out with black trackers—he and a senior-constable from Queensland and six trackers, together with our men.

6072. After moving from the end of the hotel where you first took up your station, you remained there till after daylight?—I did.

6073. In which direction did you next move?—The next move I made was up to the place where Ned Kelly was—the room where he was in at the station.

6074. Did you come back in front of the hotel, between the hotel and the railway station, to come to the platform?—I went up behind the station-house, as there were rifle balls.

6075. What do you mean by behind?—I crossed the railway.

6076. What time was that in the morning?—Not until about I think after one o'clock.

6077. And then you remained almost stationary from five in the morning till after one in the day in that particular position?—Yes.

6078. From the position you had taken up, had you a view of all the surrounding land between the front of the hotel and the railway line and the railway platform?—Yes, except there is a creek or gully.

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You could not see into that from where I was. You could see the front of the house. I had a view of the front of the house and the back, also the window that faced me, so that I had a good view of the house and any one going in the place back or front.

6079. And also you could see the railway platform?—Yes, the station-house.

6080. Who was the nearest constable stationed by you in the north?—Senior-constable Smyth, Constable Hewitt, and Constable Wilson, and Constable Dwyer came round and Constable Gascoigne.

6081. How many were stationed there?—They were the next to me.

6082. They remained pretty stationary, the same as yourself?—Yes, Constable Mullane was there firing a rifle into the window.

6083. Did those constables, or most of them, remain stationary in the same positions, the same as you did, all the morning?—I think Mullane was not there first.

6084. Were there any of those constables that remained stationary, as you did, during the whole of the morning?—Yes, Smyth and Hewitt. Wilson was higher up I think he remained I think he was there when I went up to see Ned Kelly.

6085. Were those constables under your immediate control and command?—All the men that were junior to me in rank were under my command.

6086. Those men were junior to you?—Yes.

6087. Then they were under your control?—Yes.

6088. Did they take orders from you?—Yes. I directed firing into the window after the people got out where those shots were coming from, as I had a gun that was no good to fire into the house.

6089. What did Dwyer do—what was his object in coming round?—He brought refreshment on one occasion to some of the men from the station, and the other time he brought ammunition.

6090. Did he bring it to you?—Well, I got none from him, because I did not want ball ammunition.

6091. Did he take it to others?—I did not see him, but I heard it.

6092. Did he come to you and ask if you wanted any?—No.

6093. Did you see him go to either of those constables immediately under your control?—I saw him go up past me, round at the back of the house, and I heard he had brought some ammunition and divided it, but I did not see him divide it.

6094. During the whole of that morning, from the time you took up your position, and after day-light, did you see anything of the six black trackers under Mr. O'Connor?—No, I did not.

6095. Not one of them?—No.

6096. If they were in front of the hotel, and between it and the station-master's house, could you have

seen them?—If they were on the rising ground I could have seen them.

6097. If they were in the gully you could not?—No.

6098. You would have known Mr. O'Connor, I suppose, at an equal distance to what you would know Mr. Sadleir?—Yes.

6099. You were as well acquainted with his general appearance as with Mr. Sadleir's?—Yes; I would know either of them at a distance.

6100. Do you know of your own knowledge where Mr. O'Connor and his black trackers were from daylight up to the time you say you first saw him?—Not of my own knowledge.

6101. Where was he coming from when you first saw him at two o'clock?—That was after I went round.

6102. Where did you first see him?—I think it was close to the station-house. I will not be positive.

6103. Could any number of men be concealed in that trench without your being able to see them?—I took very little notice of the trench, because I was too busily engaged in the afternoon when this was over. I had to get the horses and baggage and bodies in. I was responsible for everything, and I had no time to go and see the place. I have never been there since, so I cannot speak as to position well.

6104. Did you see any large amount of firing from the direction of that particular trench or gully towards the hotel during the morning?—Yes, there was a good deal of firing.

6105. Coming from the gully?—From the front of the house. I could not tell exactly whether it came from the gully or not, but the front of the house.

6106. Were there other police stationed in front of the hotel within your view during the morning?—Yes, but I do not remember who they were.

6107. Most of them for their protection would get behind a tree?—Yes, trees were a good protection, because were it not for the trees a good number of men would have been shot, not from the outlaws alone, but from our own rifles, because we were all round the place and were firing—the balls of the Martinis used to go through the house and into trees.

6108. All the police did as far as possible get behind trees for protection?—Yes, you could take aim from behind the tree and fire at the house. The men all kept as much as possible under cover.

6109. You are very positive about the time, because you had your watch and could refer to it?—Which time?

6110. Any time during the day?—I do not speak positively as to the time Kelly was arrested, because I did not look at my watch every hour or half-hour.

6111. All important events that took place that day you could tell within a reasonable space of time. Would you be surprised if it was sworn by those on the ground that there was not a shot fired after eleven o'clock that day from the hotel?—It would not be correct.

6112. Did you look at your watch between eleven and twelve o'clock?—I looked at my watch after one o'clock and I saw shots come from the window afterwards. I was opposite to it.

6113. Did you see the smoke from the firing?—I saw that there was no one at the house.

6114. You understand the difference between a shot being from the window, fired by some one inside, and from some one the other side of the house?—Yes.

6115. Will you swear positively that a shot was fired from that window after one o'clock?—I believe it was.

6116. Will you swear it was?—There was no one else to fire a shot from the house.

6117. I ask can you swear that after one o'clock a shot was fired from that window?—I believe it to have come from the window.

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6118. You are on your oath; can you swear that a shot was fired from that window after one o'clock?—I cannot swear positively, but I believe it, and there was no place else for it to come from.

6119. The other constables would be in as good a position, those you have mentioned, as you would be yourself to express an opinion on that firing?—Equally, I should think.

6120. Will you explain what you meant by that you understood. You stated just now that you had been informed that Mr. Sadleir held a meeting after your arrival with the sub-officers; who gave you that information?—No I said that was a short time previous to the setting fire to the house.

6121. I misunderstood you. How near were you to Mr. Sadleir between the hours of one and three; what was the time the house was fired?—About three or half-past.

6122. How long before three had you seen Mr. Sadleir?—I was speaking to him just a few minutes before the house was fired, and he told me where to take up my position in case any one left the house.

6123. Before that had you seen Mr. Sadleir and spoken to him?—I had, when I went to the station-house to see Ned Kelly he was there.

6124. Did you at any time during the day hear any of the police or others propose to rush the hotel?—I did not.

6125. Not after the public came out?—No.

6126. You did not see Mr. O'Connor until what time?—About the time I went up to the station house, I think between one and two o'clock.

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6127. Did you see the prisoners released from the hotel?—I did.

6128. Did you see Mr. Sadleir when they came out?—I saw him in front of the house when they came out, but I was not close to him; I could see him.

6129. Was he standing in the open space?—Well, there were no trees exactly where they came out.

6130. Where Mr. Sadleir was?—He was not behind a tree.

6131. He was standing in an open space?—Yes.

6132. How great a distance from the hotel?—Not far from where they first came out.

6133. How many yards, about?—About thirty yards, I should think—I had only a side look at it.

6134. Who was standing near Mr. Sadleir?—There was a whole crowd standing near Mr. Sadleir.

6135. Within thirty yards of the hotel Mr. Sadleir was standing in an open space?—I could not say exactly the distance, but I think it would not be more.

6136. Within this further fence?—Yes.

6137. A rifle would kill three times that distance?—Yes.

6138. And there was a large number standing round Mr. Sadleir at the time, and all standing in an open space?—It did not last long, because, as soon as they were examined, they were passed on between those who were prisoners.

6139. Where did Mr. Sadleir go then?—I cannot say.

6140. Was there any number who stayed at that spot where Mr. Sadleir was?—No, they all cleared off when they got free.

6141. How long were they there?—Just as long as to see they were not sympathizers, and then let go.

6142. Would it take ten minutes?—I think not so long.

6143. How soon after you saw those prisoners were released was a shot fired from the hotel?—The shot from the window was long after.

6144. How soon after the prisoners were released did you see a shot fired from the hotel?—I cannot remember.

6145. Was there any shot fired after that time till those shots after one o'clock?—There were several shots fired from that window afterwards.

6146. You have also told us had a view of the front of the building?—I could not see along the front, but if there was a shot fired at the front or back I could not tell whether it was from front or back.

6147. Then, in point of fact, you could not tell that about the window?—That is quite different from looking along the front of the house. I could tell from the end where I was, where I was opposite.

6148. You could see it came through the window?—Yes, because I was right opposite.

6149. Could you not tell any shot also, in the position you stood, that you could see the front and back of the house, the railway station, and the platform, could you not see any number of shots fired from the front?—A shot might come from the front, and so at the end you cannot see the ball going, nor from the back could I see it either.

6150. Did you see the one through the window at the end?—Yes, because I was point-blank in front of it.

6151. Was that like a ball coming through?—No; I saw a flash inside.

6152. Was that like a ball coming through?—I could hear firing; I could not tell from our own men or the others.

6153. In point of fact you are not in a position to say whether any shots were fired from the hotel, except from the window, from the time the prisoners came out till after one o'clock?—No.

6154. Who served out the ammunition?—I served out the ammunition and the arms the whole time.

6155. What were the men armed with?—Some Martini long rifles, some with double-barrelled guns, some with Spencer rifles, the black trackers had Sniders, and I think Mr. O'Connor had a Snider.

6156. There was a variety of ammunition required for those various weapons?—Yes.

6157. How many rounds of ammunition did you supply to each man?—The regulation number was 20 balls Martini, 24 for guns, 18 for revolvers; but they got some extra ammunition, the men that went out first. The ammunition was sent up by train, afterwards to be divided, but I did not divide it.

6158. Do you know what quantity was provided?—I could not tell without the returns.

6159. You know the quantity served to each man?—Yes.

6160. Did you get more than the one supply you started with?—No; the guns were not discharged much, because it was useless to discharge them unless the outlaws came out. It was no use firing those pellets at the house.

6161. How many cartridges would you have?—Twenty-four.

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6162. How many do you think any of the men had?—They all had the regulation number.

6163. What was the most—how many for the man with the Spencer rifle?—Twenty-one—three sevens, one seven being in the magazine of the rifle.

6164. You were in charge of the ammunition?—I was in charge of everything—ammunition, horses, and men—that came in.

6165. How many supplies were given of ammunition to any of the men?—When they were going to Glenrowan?

6166. No, during the day's engagement?—They took the regulation number of rounds first; then there was fresh ammunition sent by train; but I did not divide that, and do not know how much each got.

6167. Not at the railway station?—No.

6168. You did not go for the second supply?—No, I think the men with guns did not require any more; but with the Martinis great deal was taken. My gun was a double-barrelled breech-loader.

6169. What was the order of firing; was any man allowed to fire indiscriminately according to his will, or was any order given?—Well, I do not know of any distinct order being given; there might have been without my knowing it.

6170. When did the firing first commence?—The firing commenced immediately we took up our position. The first firing came from the outlaws, as we passed down the front of the house, and we returned it.

6171. And the force were scattered round the building?—Yes.

6172. So that, if it was left to indiscriminate judgment of the men, there was not only danger of shooting the outlaws but the men?—There was no time to make any arrangement, because as soon as we got out of the train the firing from the outlaws began, and we had to take up our positions.

6173. Do you think that the capture could have been effected without this setting fire having been attempted at all?—I do not.

6174. You quite approve of the course taken in endeavoring to take them?—I quite approved of it, and I never expected, from what I knew of them, that they would all be taken together.

6175. When you went down in the morning you say you went between Jones's house and the railway station?—Yes.

6176. You saw no one there?—No.

6177. What position were the men in when you went down?—Senior-constable Kelly had us at the front of the house. Mr. O'Connor and the trackers were at the upper end of the house, and part of the back of the house was guarded, but he said the lower end, next Benalla, and a portion of the back, were unprotected, and then Mr. Sadleir directed us to go on to take up our positions there as I have said.

6178. At that time there was no firing at all from the police?—None whatever, till the firing came from the outlaws first, just as we were going down. They could see us plainly getting out of the train, and we were just in front of the house—you can see the gate where we were passing.

6179. This fire was not returned from the front of the house where Mr. O'Connor was supposed to be?—No; it was not returned, not till we got our positions.

6180. When the prisoners came out of the house, who examined them?—I was not there; Mr. Sadleir was there; I was not close enough to see; I heard afterwards.

6181. Did you see Mr. Sadleir with them?—I saw him there, but I was too far to see or hear what he did; but I saw two of the prisoners McAuliffes who were there, well-known sympathizers, who were detained, and after the capture Captain Standish came up and they were brought before him, and he said under the circumstances he gave them a caution and discharged them.

6182. Were they made to fall on their faces when they came out of the house?—I was not close enough to see.

6183. If they had been on the ground, and a number of constables round them, and the outlaws in the house, it would have been quite easy for the outlaws to fire?—I think they could; it was near enough for them to hit from the position they were in.

6184. What is your opinion of the two different systems of endeavoring to catch the Kellys? Do you know the two systems?—Yes; the first system was when Mr. Nicolson came up to take up search parties before we had trackers. We had trackers from Coranderk. He used to go out with parties himself. He went to the Watehbox Creek and Fern Hills and down to the Murray, where the outlaws were supposed to be, and where he was very close to them, it was ascertained, near the Baumgartens' place.

6185. Do you know that of your own knowledge?—I heard of it. Mr. Hare came then; and I think his system was very good at the time, because there were a great number of men in the district.

6186. Mr. Nicolson after that adopted a different system altogether?—Yes; allow me to give the reason. I think it was a good system at that time, because he harassed the outlaws, and kept them in the back country. Mr. Hare's search parties were out in all directions. He sent a party at night to the Strathbogie Ranges to watch a friend's place where they were supposed to go, and they remained there for a week. They used to send their provisions out at night, and another party was sent out to the Quarry Hills at night, and the outlaws were harassed and kept back. That was necessary at the time, and if it had not been done the public and the press would have been crying down the police, and hinting that the police were afraid to meet them. The only men I heard grumble when a chance came was the men left behind grumbling at not going out. Then they got the Jerilderie money, and Mr. Nicolson returned, and at that time I think his was a good system, because he had a great number of spies or agents, and it would prevent the outlaws having the chance of keeping back in the back country, and give a chance of our capturing them on that account. I think both the systems at the different periods were good.

6187. Do you know anything of the time that Inspector Brook Smith was supposed to be on the outlaws—were you at Benalla at that time?—He was not stationed here; he was at Wangaratta, and used to go out from there.

6188. Did you ever hear the constables complain they were not allowed to follow on the trail of the outlaws?—I heard some underhand talk, but I could not say exactly what it was or who it was. I often have

heard the men in the office speaking, and I have been an unwilling listener, and I could not tell who they were.

6189. Was Mr. Smith removed?—He was removed after Mr. Nicolson came, and then he was changed after Mr. Sadleir came and sent to Horsham.

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6190. Was not that in consequence of alteration of districts?—Yes, but he remained under Mr. Sadleir for a long time.

6191. With regard to the different systems, in your opinion the systems pursued were the right ones at the time they were pursued?—I think they were.

6192. In fact, if Mr. Nicolson had attempted to pursue his system when he first came up here after the murders of the constables at the Wombat, it would be tantamount to doing nothing, because he would not have had his agents?—Yes, if he had remained in with his men, and even suppose he had his agents working, both the press and the public—

6193. I am asking this: Would it be possible to carry out the arrangements Mr. Nicolson did at the end of March—could he have done it at the first?—No.

6194. Would he have had agents at that time?—He could not have got so many.

6195. Then you were asked as to Mr. Hare's system; you say that was to harass the men and keep them in the back country. Now supposing that Mr. Sadleir had not come down to Benalla; you stated, I think, that the constable who is in charge, or the sergeant in charge of the district, is by the regulations accountable to arrest offenders with warrants against them?—Every man in charge is responsible for the sub-district.

6196. What does that responsibility consist of?—To prevent crime and arrest offenders—to prevent it if possible.

6197. It is to make them amenable to justice?—Yes.

6198. Was Benalla Mr. Sadleir's head-quarters?—Yes. I telegraphed to him, and he arrived here at eleven o'clock, and rode to Mansfield on his horse at once.

6199. He was in charge of the district at the time of the murders?—Yes.

6200. Were you in charge of the district at the time of the first warrant for Dan Kelly?—Yes, sub-district.

6201. Was Greta in your sub-district?—No, in the Beechworth district.

6202. If you were in charge of the district and had to commence again the search for the Kellys, what system would you pursue—by search parties and harassing or by endeavoring to get them by secret service?—If they had not got a bank and had not plenty of money, I would run them down. They would have to clear out of the district, and if they did we would catch them; but having plenty of money from the bank, and having so many friends, not only blood relations—too many for the game.

6203. How many years have you been in this district?—After I joined the service in 1856, I went to the Upper Ovens.

6204. How long have you been about Benalla?—I have been about going on seventeen years.

6205. You stated in your evidence that when Mr. Hare left the field at Glenrowan, as a matter of usage and according to the regulations, Senior-constable Kelly being the senior, upon him would devolve the charge of the Victorian police?—That is my opinion.

6206. Was it the case that Mr. O'Connor was not then in the Victorian police?—He was only then in charge of the troop of trackers, as far as I know.

6207. As a volunteer or as an officer of the Victorian police?—I do not think he was appointed an officer up to that time.

6208. Had he ever been an officer of the Victorian police before that?—Not to my knowledge.

6209. Could he have been without your knowledge?—I think not. I have seen the gazetted list of all the appointments.

6210. Were his head-quarters Benalla?—Yes.

6211. Were you the second officer in charge after Superintendent Sadleir?—Yes, I was the next.

6212. After he went away, you would be in charge and give orders?—Yes.

6213. Was Mr. O'Connor, during the time he was here with his trackers, recognised and known among the force—did you know him as a Victorian officer?—I did not.

6214. Then, as a matter of fact, Senior-constable Kelly would be in command without any order at all?—According to the regulations, the next in rank has to take it and is held responsible.

6215. About Mr. Wyatt, you say the first information you got of the Euroa robbery was from the telegram from the Chief Commissioner?—Yes.

6216. How soon afterwards did the constable come and inform about the Euroa robbery?—When I was at the telegraph office repeating the message to Mr. Nicolson, at Albury, Constable Anderson came to the station, and when I returned down from the telegraph office to the police station I found him there, and asked him what he knew.

6217. Did he tell you the bank had been robbed, from information he had received from parties who had been robbed?—He said he heard it at the railway station; and I said, "You have very little information;" and he said he came up to the station and heard the bank was robbed. The train was going, and not having

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time to telegraph, he jumped into the train and came here and came off, and I returned him with the other men to Euroa.

6218. About this information; you said he jumped into the train and came here—where did you see him?—At the police station.

6219. What o'clock?—About a quarter past twelve.

6220. How long from the information he gave did you conclude he had heard the information of the bank robbery?—The train takes an hour and a quarter from Euroa, and the train is due here at half-past eleven or a quarter to twelve.

6221. Did he tell you that, after the bank was robbed, and before they knew the actual robbery, that it had been reported to him in Euroa that something was wrong with the bank because the doors were open?—No.

6222. Would you be surprised to learn that the people at Euroa had informed him early in the evening that seeing no lights in the house, and seeing the doors open, they thought something was wrong; did he tell you that?—No.

6223. Did you hear that?—No.

6224. Then all he reported to you was that the bank was robbed at Euroa?—Yes, he heard it on the railway station.

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6225. Did he inform you that any civilians offered to come up and give the news and leave him to do his duty there?—No.

6226. Did he say he had seen the bank manager before he came up?—He appeared to know nothing about it.

6227. Then if he did know more than that he would not have been doing his duty in not informing you?—No, he would not.

6228. You said Mr. Wyatt said in his evidence you turned pale; you are of a pallid complexion?—Yes.

6229. You did not feel pale on that occasion?—No.

6230. Did Mr. Wyatt directly or indirectly intimate to you, or did you in your mind gather from anything he said to you, that he believed that this was done by the Kellys—that this matter was something connected with them?—I would have thought so, but the fact of him telling me he went to Euroa. The wires were supposed to be cut at two o'clock and he was there making enquiries, stopping next door to the bank in the hotel, and did not leave Euroa till seven o'clock.

6231. How do you know that?—He told me he got a horse at Hart's, that he passed the bank—passed up under the windows of the bank after the court—that is when the bank was supposed to be closed.

6232. Did he tell you this at the first interview?—Yes; and then the fact of the bank being closed, the wires cut at two o'clock in the day, and Mr. Wyatt being there, and also at Violet Town, and Mr. Sadleir and Mr. Nicolson being gone up to Albury, as I thought, on some important matter (they did not tell me what it was), I thought very little about the wires then—nothing being done.

6233. Then the information he gave you would not have the effect of making you pallid?—No.

6234. You swear from nothing Mr. Wyatt said to you, did you believe there was anything of importance with reference to the Kellys?—I thought it might be in connection with the Kellys, but I thought it might be a trap. That was my opinion at the time.

6235. You were asked about the position of the black-trackers and Mr. O'Connor?—Yes.

6236. Mr. O'Connor stated in his evidence, "I then followed the drain or gully down until I came to the position, which I never left until I was superseded by Mr. Sadleir"—when Mr. Sadleir superseded him at this drain, had you any knowledge of the position of the drain or gully alluded to then?—I knew the drain, where it runs, but on account of it being dark when I passed, and then in the afternoon engaged in other work, I took not much notice, and have not been there since, so I cannot state positively the position more than the passing by at the time, and there was a good deal of excitement, and not much time to take notice of anything.

6237. Would you expect from Mr. O'Connor's position in the police force, according to your interpretation, that he would have taken a more active exercise of duty than he did on that occasion—did you think it remarkable his not coming more forward?—Well, I could not say, because Mr. Sadleir of course took, when I got there, command, and I could not say what Mr. O'Connor did before I went there.

6238. Then Mr. O'Connor, in your opinion, in the discharge of his duty after Mr. Hare left, would not be according to the regulations in charge of the Victorian police?—I think the man next in rank belonging to the Force would. For instance, if anything happened to Mr. Sadleir I would assume command as a right.

6239. That is part of your duty as a right?—Yes.

6240. Then Mr. O'Connor would not be in charge of the white police?—No.

6241. Then after Mr. Sadleir came on the ground any action through Senior-constable Kelly's seniority would cease?—Yes.

6242. Then Mr. O'Connor's duty was to keep in charge of the black trackers?—Yes.

6243. Then if he kept charge of those men he would be honorably discharging his duty in your opinion?—Yes, if Mr. Sadleir did not order something else.

6244. Would he be bound to obey Mr. Sadleir?—I should think so, on account of receiving pay from the Victorian Government.

6245. Did he receive pay then?—Yes.

6246. How do you know?—He used to sign the pay-sheets.

6247. I refer to after the day he volunteered to come back from Essendon?—I know merely from his getting his pay at the office.

6248. Did he receive pay to your knowledge after the time that he left Benalla—supposed to be for good—and the Glenrowan matter?—I cannot say. I mean previous to that, from the time he came to the colony.

6249. After Mr. O'Connor had left the Victorian service, and had gone to take the black trackers home, and was not amenable to any Victorian rule except public opinion, would he be responsible for anything except his own men?—I did not know he was relieved.

6250. If he was relieved, and was on his way back to Queensland, and volunteered with his black trackers, and of his own free will and accord came up to assist, would he be then answerable for any act of any Victorian police with him?—No, I think not.

6251. Would he be merely answerable for his own men?—I think so.

6252. Do you know anything about this drain at all?—I do not. I must candidly say I do not.

6253. Did you read the remarkable answer that Senior-Constable Kelly made at Beechworth, at the preliminary examination of Ned Kelly. When he stated that Mr. O'Connor had remained in a drain the whole time?—I may, but I do not remember it.

6254. Have you heard any constables commenting upon Mr. O'Connor on that occasion?—As I told you already, I have heard a good deal of talk, but nothing plain or sufficient for me to take notice of.

6255. It might have been mere rumour?—Yes.

6256. None about the firing; the back of the house is to the north?—North-west.

6257. The front to the railway station to south?—Yes.

6258. You call it the end now for the sake of explaining. I will call it the west, nearest Benalla. You were opposite the west window?—Yes.

6259. You swear that at or about one o'clock the last shot was fired from that window, which you recognized as from the outlaws?—Yes; there was no one else in the house.

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6260. You were cross-examined closely as to that. If another constable says that the last shot was fired from the house at eleven, and it was the back window towards the stables, would not your evidence be as true as his?—We might both think we were telling the truth.

6261. That is not what I mean. There is the house, if you were opposite the window there where that is, and you swear that the last shot fired from the house from that window was at one o'clock, and the constable out here towards the stables swears eleven o'clock, is it not quite possible that it might be true. Could you see a shot fired there?—No.

6262. Therefore it might be true as to that other window?—Yes.

6263. If he swears eleven o'clock from that window, that might be true?—It might be.

6264. And if he swore that was the last shot, is it not quite possible that he would not know anything about the shot fired towards you?—He could not see that.

6265. So that both might be true?—I think so.

6266. It has been stated that there was a great quantity of ammunition uselessly expended there. One man, I think, said he charged his Spencer rifle three or four times; that would be three times seven, and another constable swore that he fired over 100 rounds of ammunition. Have you any idea of the quantity of ammunition expended on that occasion?—I could not say, because there was one of those small casks with Martini-Henry and carbine rifle ammunition—a good portion of that was used, together with a lot of loose ammunition.

6267. How much did a cask of that hold?—About 500 rounds.

6268. What weight?—I could not say, but there was not much of that used, but there was a good deal of loose ammunition.

6269. Do you know Constable Dowling?—Yes.

6270. What party did he come with?—From Beechworth I think.

6271. Do you know at what hour Mullane came with that party?—I cannot fix the hour; it was pretty early. I saw him before the Violet Town men.

6272. You said you could not tell the hour Kelly was captured, but you think about seven o'clock?—It might be more.

6273. Was Dowling on the ground after that?—Not on the ground at that time.

6274. Mullane did not come on the ground till after the capture of Kelly?—I did not see him.

6275. You said the instructions were to fire high?—Yes.

6276. They commenced firing at what o'clock?—Immediately after we got there.

6277. And then the order was to fire high till the prisoners were let out?—Yes.

6278. That was circulated about?—Yes.

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6279. Who gave the order to fire high?—I gave it.

6280. What was the object of firing high?—So that the people who were kept in prisoners by the outlaws would not be shot, and to frighten them to let out those innocent people, and not have them shot.

6281. Do you know that that very firing was what prevented the prisoners from coming out?—I have not heard that.

6282. Would you be surprised if one of those men swore that they were coming out, and were frightened by the firing?—I cannot be surprised at many things I hear.

6283. How soon did the real business of firing commence?—The firing was commenced after the volleys came down on us when we passed through the gate.

6284. How soon after the prisoners came out—about how soon did you know the Kellys were going to fight you?—We got not intimation they were going to fight.

6285. How soon did firing commence?—One man commenced very soon.

6286. A quarter of an hour?—I should think so.

6287. Was there a change in the orders given to fire low?—I do not remember that.

6288. Then the men might still continue that high firing?—There was low firing after the prisoners came out.

6289. How was that altered?—I do not know whether Mr. Sadleir gave the order or not.

6290. You do not?—No.

6291. You did give the order to fire high?—Yes.

6292. Do you know that any order was given for any systematic firing after that?—I did not hear of that.

6293. Did you get instructions from your officer, or did you watch the men that were right and left of you, and give them any instructions what they were to do?—Yes, I told the men with rifles to fire into this window where the shot was coming from.

6294. You were there from what hour?—From about five up to the time that I went to see Kelly.

6295. You were curious to see if it was the man or not?—When I went there were plenty of men to secure the place, and there were only two inside.

6296. During that time did you receive personally from your officers or by message any instructions of what you were to do?—I knew what I was to do.

6297. I asked did you receive any instructions?—I did not.

6298. When you came down to see Kelly did you receive any?—Yes; Mr. Sadleir told me he had been speaking and arranged with some of the sub-officers and some of the old hands that they would fire the house.

6299. What did he say?—I saw Senior-constable Johnson bringing round the straw, and he went up at the Wangaratta end of the house; and I was speaking to Mr. Sadleir, and he said he had had a consultation before I came up with the sub-officers, and that they had agreed to set fire to the house at the lower end, and if the outlaws were in it they would come out, and that there would be no difficulty; and Senior-constable Johnson, he said, wanted to rush the house, but that he saw there was plenty of daylight and plenty of time, and he had lost no men, and he did not intend losing any men; he intended capturing them without losing any men.

6300. He told you that Johnson wanted to rush the house, but he did not consider it advisable, as he had not lost any men, to run the risk of losing any men?—He did.

6301. Then after Johnson first proposed to rush the house, as you were told, did you see any indication on his part that that was his intention?—When he was carrying this bundle he was a short distance away.

6302. I suppose he had then given up the idea of rushing?—Yes; he was going to set fire.

6303. What position did Mr. O'Connor occupy with regard to his late position in this district? Mr. Nicolson was in command here: did he discharge the ordinary duties of the district or only in connection with the Kelly matters?—Mr. Sadleir was in charge of the district, and Mr. Nicolson, being Assistant Commissioner, would be in charge of both and each of the parties of the general police. I think Mr. Sadleir would be under his command.

6304. For instance, if a report came in from the district that a constable was drunk on duty, would that be dealt with by Mr. Sadleir or by Mr. Nicolson?—Where it is a breach of discipline Mr. Sadleir would deal with it, and submit his decision to the Chief Commissioner in Melbourne if it was a serious charge.

6305. What would you call a serious charge?—Say a constable assaulted a man, that would be far more serious than drunkenness.

6306. Suppose it was reported that a constable violently assaulted a civilian, that would be sent to the barracks?—Yes.

6307. Whom first to?—To me.

6308. What would you do with it?—Send it to Superintendent Sadleir.

6309. What would he do with it?—As both were in one office, I expect they would both consult and give a decision.

6310. Was that the usage in the office?—I do not know of any similar case cropping up that I could give an opinion about.

6311. Do you know as to whether Mr. Nicolson joined Mr. Sadleir in the general discipline of the force and management of it, or did he confine himself to the Kelly business?—I think principally the Kelly business; but I think he would aid and assist Mr. Sadleir, as being superior officer to him.

6312. Suppose a report came in that way, you would receive it, and note it, and your name would appear on it?—Yes.

6313. And you would forward it to Mr. Sadleir to deal with?—Yes.

6314. Would he report on it?—It might be a matter that was ordered before the Bench.

6315. If not a matter that was ordered before the Bench it would be dealt with by him or Mr. Nicolson?—I have not known a similar case, and cannot give an opinion.

6316. In what exact position was Mr. Nicolson, in your opinion, in the district—you cannot say how the duties were divided, whether he undertook the whole management of the district by superseding Mr. Sadleir, or whether he joined him?—I think Mr. Sadleir still retained charge of the district the same as before, but Mr. Nicolson was in charge of all the Kelly parties, and I think he would aid and assist Mr. Sadleir with his advice besides.

6317. I want to ascertain who was responsible if there was anything wrong?—When Captain Standish was here first Mr. Sadleir was under him, and I have frequently seen Captain Standish deal with cases of discipline brought into the office.

6318. That might be, because it would naturally go down to Melbourne?—Yes; he was still the Chief Commissioner. I know Mr. Nicolson was Acting Chief Commissioner in Melbourne.

6319. Did the Acting Chief Commissioner remove the responsibility from Captain Standish of being the head in Melbourne by his coming here?—No, I think not.

6320. You stated that Mr. O'Connor, in your opinion, was not an officer in the Victorian Police Force—now, Mr. O'Connor in his evidence says as follows, "On Monday the 10th, Senior-constable King and the six troopers arrived at two p.m. from Wodonga at Benalla. On the 11th of March Captain Standish ordered us out on our first trip, but had me sworn in previously a member of the Police Force of Victoria." What is the meaning of "a member of the Police Force of Victoria," in your opinion?—To be sworn in is when he would be one. I think he should be gazetted. I never saw his name in the Gazette.

6321. Not as a member of the police force, a constable, or any position?—No.

6322. Does a man sworn in the police force indicate to your mind that he was sworn as an officer—made as an officer?—I cannot say.

6323. What do you think?—I think he would certainly retain his rank as an officer as he came, as an officer from Queensland, and there would be nothing to alter that here, as he was sworn in.

6324. You think that having come here as an officer in charge of trackers, and being sworn in as a member of the police force of Victoria, he would occupy the same position?—Yes. I think he would have no power here without being sworn in.

6325. His power would be what?—As a sub-inspector.

6326. "And your men?—No; only myself and my senior-constable. The black trackers did not take the oath ever they are enlisted." Then Captain Standish says, "Although you are Superintendent of Police, do not think you are over Mr. O'Connor." Mr. O'Connor swears that Captain Standish said to Mr. Sadleir, that although he (Mr. Sadleir) was "Superintendent of Police, do not think you are over Mr. O'Connor"?—That might mean as far as the trackers are concerned.

6327. "Prior to leaving" (on his first duty) "I told Captain Standish that I only required two of his men," but this, I was told was not sufficient, and I must take not less than six Victorian constables with me, Captain Standish informed me, in the presence of Mr. Sadleir, that I was to be in charge of the party." What would be your interpretation of that if that evidence is correct?—My interpretation would be that Mr. Sadleir would be in charge of the white men, and Mr. O'Connor of the trackers.

6328. Would you consider those other white Victorian police that were attached to the trackers under him—"Captain Standish informed me, in the presence of Mr. Sadleir, that I was to be in charge of the party," and then he says what the party were—his own black police and six Victorian constables?—I think Mr. Sadleir would be in charge. Mr. O'Connor never assumed any authority or interfered with us at the station at all.

6329. Were there six Victorian police attached to his party?—Yes, the time they went up Ryan's Creek, towards the King River.

6330. If that evidence is correct, of Mr. O'Connor's, as to what Captain Standish said, he actually would be in charge of the black trackers and certain members of the Victorian police?—He would be in charge of the black trackers who came from Queensland, and Mr. Sadleir in charge of the six white troopers from here.

6331. Irrespective of what Captain Standish told him?—Yes, Mr. Sadleir would be able to answer that,

Superintendent, and would retain charge of the white party.

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6333. How long was Mr. O'Connor here in charge of the party?—He came some time in March. I think the 10th or 12th, and remained here until the 25th of June. I mean in 1879 he came here, and remained till the 25th June 1880—sometime about that.

6334. You were here all that time, and your superior officer was Mr. Nicolson or Mr. Hare, when they were here in charge?—Yes.

6335. The next in the district would be Mr. Sadleir?—Sadleir, yes.

6336. Who would come next to you?—Senior-Constable Maud.

6337. First, there is Mr. Nicolson—then Mr. Sadleir; who comes next?—I do.

6338. Were you ever told that Mr. O'Connor was your superior officer, and you were to obey his commands any time he was here?—I never received any orders from him.

6339. Would you have considered him your superior officer without that instruction?—No, I would not.

6340. Then as a matter of fact you never received any intimation from Mr. Sadleir, Mr. Nicolson, Captain Standish, or Mr. Hare, that Mr. O'Connor was your superior officer, in virtue of being an inspector of Victorian Police?—I never did.

6341. And he never gave you any orders in that position?—He never did.

6342. How many black trackers did he bring?—Six. One died, and then he enlisted one that came up from Corranderrk.

6343. How many went away belonging to the Queensland Police?—Five. We retained the Corranderrk man that was attached to Mr. O'Connor's troop when the parties left here, and he is here still.

6344. How many black trackers are there here now?—Six.

6345. How long have they been here?—They have been here since July, 1880.

6346. That is nine months or ten?—Yes.

6347. Had you the opportunity of daily seeing the conduct, discipline, and general efficiency of the trackers that Mr. O'Connor brought here?—Yes.

6348. Have you had daily knowledge of the character, and discipline, and general efficiency for the service of the present ones?—I have.

6349. How do you compare the two?—The later ones are more obedient. They were not as well disciplined at first, but I think they are as well, or better, now than the others, in my opinion. I cannot say as to their efficiency when out tracking except from hearsay.

6350. What will their duties be?—They have been tested, and the reports have been very favorable by the constable in charge of them.

6351. What is his name?—Kirkham.

6352. Had he a thorough knowledge of the others?—He had charge of them after Constable King was sent back to Queensland under Mr. O'Connor, and held charge of them till they went away, and then took charge of those taken when they were enlisted by Mr. Chomley. Constable Kirkham was then appointed in charge by Mr. Sadleir, and he has had charge of them under me since.

6353. Are you daily in the habit of seeing those trackers, and hearing Kirkham's reports on them?—Yes.

6354. How long have you known Kirkham?—He came up about October, 1878, shortly after the Kellys broke out.

6355. Is he competent to form an opinion as to the two parties?—I think he is.

6356. Do you remember when Mr. Hare relieved Mr. Nicolson at the final matter a few weeks before the capture of the Kellys?—Yes.

6357. Do you recollect—have you read the report of this inquiry in the papers?—Some of them, in the Age, but they are not given fully in the Age.

6358. Do you know of your own knowledge that there is some misconception, or whatever it may be called, as between the present Assistant-Commissioner of Police and Mr. Hare, as to full information being given to him when he assumed the final command on the 2nd of June?—I do not know what information Mr. Nicolson gave Mr. Hare, but I know each of the officers at that time—any information I got or knew of—

6359. I did not ask that. Do you know there was any misconception between the two?—I heard of it.

6360. Did you know or were you informed at that time that the Kellys were likely to meet your comrades in armour?—Yes, I heard it.

6361. Who informed you? Do not give the name if it is an outsider?—I had better not give the name, as it is from outside.

6362. Did you communicate, or had you any conversation about the fact of their appearing in armour with any of your officers?—I took the informant to both my officers, Mr. Nicolson and Mr. Hare.

6363. Did you believe yourself that, whenever you were called upon to meet the Kellys, you would meet them in armour?—I did not consider it was an idle report, on account of mould-boards being stolen, but I came to the conclusion, and Mr. Nicolson thought so too, that they had made a stronghold, and were lining it, as they were afraid of being tracked by black trackers. This man, the informant, said the armour was being made to fit them to ride in. I did not believe it; and Mr. Hare, the same week they came to Glenrowan, was told it too, and I came to the conclusion

6364. What week would that be?—After the 20th of June; in fact, the informant was here, and we both saw him.

6365. Did he mention about the armour in your presence?—No; he told me he had told Mr. Hare.

6366. Did Mr. Hare have a conversation with you that led you to believe Mr. Hare believed it?—That he did not believe about it; I think it was on the Thursday, and they broke out on the Sunday evening.

6367. Be very cautious about these dates. I understand you to say that you were aware, from a conversation with Mr. Hare, that at a certain period Mr. Hare, was aware that the Kellys were to appear in armour?—It was not stated that they were to appear in it, but that they had it, merely making it.

6368. Try and fix the time you had that conversation with Mr. Hare?—I am almost positive it would be the same week the Kellys broke out at Glenrowan—between the two Sundays.

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6369. Did Mr. Hare seem from his conversation with you to be then for the first time informed of it?—I am not sure. I could not say, but he did not appear to believe it; and he pooh-poohed the idea; and he thought that this informant—he said, “Well, he has only the one story every time he comes”; and I had a great opinion of the informant at the time; I said, “Well, I have only told you I believe, and I think that the man will tell nothing but what he hears and believes to be true; but, of course, he may be misled.”

6370. Are you aware it has been given in evidence that a letter was accessible to Mr. Hare with the information upon his coming into the district that the Kellys were preparing armour?—I did not know of that.

6371. You cannot possibly say whether that appeared to take Mr. Hare by surprise?—Mr. Hare did not believe it, and I did not believe they could have had it out of the mould-boards to ride in; I believed the informant thought so; I did not think he wanted to mislead the police.

6372. You cannot form an opinion whether Mr. Hare had heard the information before?—No.

6373. Did you know that this informant had informed Mr. Nicolson and Mr. Hare about the armour?—Yes, Mr. Nicolson was aware of it.

6374. Was that by verbal communication or letter?—I took the informant to Mr. Nicolson’s office after he told me about it, and he told me after that he told Mr. Nicolson; I was not present.

6375. You said there were orders given to fire high at Glenrowan?—Yes.

6376. Did you hear any orders given to fire low?—I did not.

6377. If orders had been given to that effect, you would have heard them?—No; orders might have been given up where Mr. Sadleir was, and I could not hear it, unless I passed along the line. I might not have heard it, because there was a good distance between us.

6378. Were there any orders given about firing beyond that one occasion to fire high that you know of?—Yes; I directed the men about to fire at the window where I saw the balls coming from; that is the end window where I was opposite. I had no rifle myself, and I told Senior-Constable Mullane and other men with rifles to fire. Walsh had one of those old rifles given out to the police, and he fired at the window.

6379. It has been given in evidence that one of the outlaws was supposed to have appeared at the top of the chimney on one occasion?—That would be at the other end of the building, near Wangaratta.

6380. Did you see it?—No.

6381. Did you hear the men say so?—I heard it talked of that they were seen, I think it was, going into this chimney, and that instructions were given to fire at this fireplace.

6382. That would not be what I refer to—that was not at the top of the chimney?—No.

6383. Did you hear from any member of the force that he had seen the head of one out of the chimney?—No, I heard they were in the fireplace, at the bottom.

6384. About how far from the hotel were the nearest police from your observation when the priest came out of the hotel?—They were up pretty close just as he came out, because a few of the men and a good many civilians were approaching it as the priest went in, and he was out very quick, before there was time to advance much on the house; but some of the men were pretty close.

6385. How much?—I should think about as far as to the centre of the street from the court house here when the priest came out, and we ran on up to the building where Cherry was, and he was got out, and some more of the men got out Byrne’s body.

6386. I think you said you remained still till after the priest came out?—Yes, I said the priest was not more than a few seconds from the time he entered the front door till he was back, and then we moved up as he came back.

6387. When you saw the priest come in, you all remained stationary; you did not stir till the priest came out and held up his hand?—I do not think there was any advance until he came outside the door. Mrs. Skillian, a sister of Ned Kelly, was moving up, and some other parties, but they did not get near the house, the priest was out so quick.

6388. In your opinion, were the police efficient in the use of the arms served out at Glenrowan?—I think they were very efficient the whole time, because I had a knowledge of the efficiency here. I issued all the arms to the men here. They were all instructed in the various kinds of arms except the Martini. I did not understand them myself at first, and the late Sergeant Porter was sent from the dépôt to instruct us. After that I could instruct the men as they were issued.

6389. The men in this district?—Most of the men passed through here before they went out on search parties.

6390. Then you speak in a general sense?—Some of the men have not been here, but I speak for the greater number of them.

6391. You are not aware that a few of the police stated they had not used arms and had had no practice?—There was an instruction for men having Colt's revolvers to discharge them once a week, to put in new ammunition, which is necessary; and the men having other weapons with this patent ammunition it is not necessary, it retains its effect without firing off. There was a great deal of practice by order of the Chief Commissioner. Mr. Nicolson gave up charge the day or a day after, and Captain Standish and Mr. Hare assumed charge then.

6392. Did the police occasionally go to officers for instructions during the engagement, or the officers to go to the men for instructions?—There was very little instruction required, because all the men were posted. Ned Kelly was captured and Byrne was shot, and the only thing was to watch the building for the other two, and whatever arrangements would be made to rush them or get them.

6393. How did you know Byrne was shot?—The parties who came out stated so.

6394. You were continually firing on the house, I believe, after Ned Kelly was captured?—Yes; but, as I mentioned to you, the firing was high.

6395. There were no instructions beyond that, by any officer to the men, as to how they were to proceed?—There might have been at the other end; I do not think it.

6396. To your knowledge, were any arrangements made to have a medical man on the ground, in case of his services being required?—Mr. Sadleir detained the train to get Dr. Nicholson, who was attending Mr. Hare, so as to have him on the spot. He dressed his wound here, and came with us, and attended Ned Kelly, and was there to attend any one wounded.

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6397. Would he have attended any of the police who might have been shot?—He came for that purpose.

6398. Did you hear any man offer to go to the hotel in Kelly's armour before the place was set on fire?—I did not, but it might have occurred without my knowing.

6399. Did you hear of any civilians offering to go and storm the place?—No.

6400. Do you know a Frenchman named Amidie?—Yes.

6401. Did you hear that he offered to go and storm the house?—This is the first time I have heard of it.

6402. Were you perplexed in any way in capturing the outlaws, by your superior officers?—Not at all. It was reported in the papers outside that we were hampered—such was not the case. When the men went out they had perfect liberty, if they had anything valuable, to follow it up; but to communicate, if possible, with their officers, with some one who would bring them in, but to follow up the scent of any information they got. Both from Mr. Sadleir, Mr. Hare, and Mr. Nicolson they had that.

6403. Do you think, from your knowledge of the district, there are any fears of an outbreak from any associates of the gang?—I would respectfully beg not to answer that, if not forced. I will give any information as to the past, but I would respectfully ask not to give any opinion as to the future, as I think it would interfere with the public interests. I shall be very happy to give it to the Chairman of the Commission privately.

6404. What is your opinion of the services of the black trackers in their special calling?—I think they are very good, but I think so many as six should not be sent together, as six horses have to go, and at least two pack-horses—that makes eight; and a constable in charge, a white man—that makes nine. Well, if they came up with any offender, there is only one man to fight—we cannot trust much to the trackers to fight—there is only one man to fight, and nine horses, which make a great noise and bulk in the bush; so I think two or three at any time is sufficient to go out.

6405. Still you think their services are useful?—Yes.

6406. Can you assign any particular instance of their ability?—I can. They have in the late murder case at Wunghnu. They have tracked there, and I believe it is from their tracking there was circumstantial evidence—there was no positive proof of the murder—but sufficient evidence was got up, and the man was convicted and sentenced to death the other day at Beechworth.

6407. Who was in charge then of the black trackers?—Constable Kirkham, and Sub-Inspector Baber was out taking charge of the case.

6408. Do you remember any case where Mr. O'Connor was in charge?—Mr. Sadleir was with them, I was not, and I heard Mr. Sadleir speaking very highly of Mr. O'Connor's "boys."

6409. You remember the instance of Mr. Little losing the watch?—I remember, at the Agricultural Show, in the mud and in the wet, a pin was lost, and some three or four days afterwards he or some one came and got the services of the black trackers, and they found the pin. There was another case at Violet Town, where they tracked a man from the station-master's garden up to his house.

6410. Is that your present trackers?—Yes; and there was a case at Shepparton also.

6411. You do not remember this instance of the watch?—I think it was a pin.

6412. You are speaking of another instance at the station-master's house?—Up to his own house, and the man was convicted. Constables Kirkham and Johnson, I believe, arrested him.

6413. You are speaking of the present party altogether?—Yes.

6414. You do not say anything with reference to the old party?—No; Mr. Sadleir was generally with

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them I had nothing to do with them.

6415. Do you know any other case?—Well there was. I have the things entered in a book, and I forget them all now.

6416. You said you were in the habit of serving out the arms and ammunition to the men?—Yes.

6417. And most of the search parties passed through Benalla, and were under your immediate observation?—A great number of them.

6418. I think you stated the bank robbery in Euroa was in December?—10th December 1878.

6419. And Mr. Nicolson was relieved by Mr. Hare and Captain Standish?—Mr. Nicolson's eyes got sore on the trip to Fern Hills, and he was relieved after the trip to Euroa.

6420. When Captain Standish and Mr. Hare came up here, you say that Sergeant Porter came up here?—Yes.

6421. For what purpose?—To instruct me in the Martini rifle; I knew all the others.

6422. Anybody but you?—The men in the station, they were called into my office, and he instructed them; and me particularly in them, so that I was capable of instructing others.

6423. Mr. Nicolson says (Question 1003), "You say, On your return to duty in July 1879, were they all inefficient—you have your mind's eye on some particular men?—Yes, the men at Benalla." Is it within your own knowledge that the men became inefficient in the use of arms from December, when Porter came up here, to the time the Superintendent-Inspector returned to duty in July?—The Martinis did not come up until December; the guns were sent up first.

6424. I will quote again—Mr. Nicolson says, "When I took charge at Benalla in July, relieving Mr. Hare and Captain Standish, I found the men, notwithstanding their seven months' work, very ignorant of how to use their arms—the rifles—the most important arms of precision (the Martini-Henry), and other weapons with which they were armed. Some of them had lost their ramrods, others their sight-guards; some of them had never fired a gun in their lives (so they stated), and they had all the appearance of it." "Ramrods are used for cleaning those guns?—Yes; they are fastened in the usual way. The guns are breech-loading." "What were those men you alluded to?—Policemen." "Were those the men you had selected for this special service, or were they there by accident?—They were the men left in my absence to continue the work." "Those men you say, on your return to duty in July 1879, were they all inefficient—you have your mind's eye on some particular men?—Yes; the men at Benalla."—Can you account for that inefficiency during the seven months?—I think the men were efficient, not inefficient.

6425. But you cannot account for any inefficiency?—No; there was one ramrod lost, to my knowledge, by Senior-constable Irwin.

6426. Would the loss of the ramrod make a man inefficient with arms?—No.

6427. Is the Martini rod used only for cleaning?—Yes.

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6428. So, except for cleaning, it would not render it useless?—No.

6429. Did the men, in your opinion, deteriorate from December 1879?—No; I think not.

Cross-examined by *Mr. O'Connor*.

6430. You stated when you were at Glenrowan you did not see me for a considerable time?—Yes.

6431. Will you state what time you first remember seeing me?—The first time I remember seeing you was when I went round to see Ned Kelly at the station-house, and after leaving it I saw Mr. Sadleir, and then I saw you between the railway station and that drain.

6432. What time about?—Between one and two, to the best of my belief.

6433. When the prisoners were coming out, were you in a position to see them come out?—Yes; from the door.

6434. You could see Mr. Sadleir?—Yes.

6435. Did you see me?—You might have been there; I did not see you.

6436. Will you state to the Commission what you consider requisite to be a member of the police force—would swearing in simply make a man a member of the Victorian police force—is it necessary to be specially appointed?—Decidedly, and then sworn in.

6437. Then he must be appointed first?—Yes.

6438. Then it would be irregular if he was officially appointed before being sworn?—A man could not be. A man is appointed a constable, he has certain questions he has to write, and it is signed by the Chief Commissioner, to see if he is a fit candidate, and then he is ordered in, and told certain things he has to do.

6439. I want to find out is there a form—an official document—does a constable, when he is sworn in, or any man, have an official document to show for his appointment?—Yes, there is a form; he has to answer certain questions.

6440. He may be a member of the force without an official document?—Yes.

6441. If I was sworn in by Captain Standish under those circumstances, would I be, in your opinion, a member of the Victorian police force?—If you were sworn in as sub-inspector of the police of Victoria.

6442. I could not be sworn in as a sub-inspector?—Whatever rank, you would be sworn in to act and carry out the duties that would devolve upon you, and you would be gazetted in the *Government Gazette*.

6443. Is it the same oath to a constable as to an officer?—That I cannot say.

6444. Is it the same to a sergeant as to a constable?—Yes. The sergeant is first sworn in as a constable, and he rises from that usually.

6445. Were you re-sworn in as a sergeant on the passing of the new Police Act?—Yes, I think so.

6446. Do you know positively that I was sworn in?—I never knew it. I heard it from the evidence that I saw in the papers.

6447. Oh! no, I mean at the time I was up here?—I did not; but I thought it would be only reasonable, that you would have no power to act without it.

6448. Did you ever, after Glenrowan, hear any policeman or officer question my being an officer of the police force?—No; I always understood you had charge of the troop that came across, and that you were an officer from Queensland.

6449. A volunteer?—No, not a volunteer.

6450. I must be one or the other?—You would be sent by the Chief Commissioner of Queensland, and might be sent without being a volunteer.

6451. I want to find out was there a doubt in the minds of any in the police force as to my being a Victorian officer of police—did any man state that to you?—I never knew you were appointed to the Victorian police. You were only remaining with the trackers till such time as the gang were captured. That was my idea, and I never heard anything to the contrary.

6452. When Constable Kirkham was attached to the trackers, was I not his officer?—Yes, after King went away. I believe Mr. Sadleir gave you one of our men to take charge of them.

6453. Could I have given any orders to that man if I had not been a recognized officer of the force?—Yes, decidedly. Mr. Sadleir had given you that man; you certainly took all powers over him then.

6454. That is of course in your opinion?—Yes.

6455. Do you remember the police enquiry, after Glenrowan, reading or hearing of any evidence that Senior-Constable Kelly gave?—Yes; but I do not remember.

6456. If I remind you of the words he said you may remember it. He swore in his evidence that the firing, the heavy firing, the indiscriminate firing, was altogether on the part of the Queensland police—do you remember ever seeing that statement?—I am not sure.

6457. I only saw it in the Argus, but do you remember hearing of it?—I do not remember now. I might have. I never put anything in the papers.

6458. Would it be the truth according to what you saw?—I could not say. There was no indiscriminate firing on the part of you and your men.

6459. As far as you saw?—I did not see you or the boys from the position I was in, and I could not tell what they were doing at all.

6460. Not the whole day?—No, not up to half-past two.

6461. After that?—There was very little firing after that.

6462. Were there not some heavy volleys while the house was being burnt?—Yes.

6463. Do you think that the Queensland native police fired indiscriminately while you were there, more than the other people?—I did not see them.

6464. You were asked if, in your opinion, I should not have been more active at Glenrowan, will you explain what you mean by being more active?—

*Mr. Graves.*—No, the inference is perfectly wrong; I asked whether he considered you were at all in charge at Glenrowan; then I said that, of course, if you were not a Victorian officer, would he consider that, if you were in charge, you ought to have been more active.

6465. *By Mr. O'Connor.*—You were asked if I should not have been more active at Glenrowan?—I do not recollect that question. He asked me if I thought you were in charge, and not Senior-Constable Kelly.

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6466. I ask you now myself, from what you saw of me, do you consider I did as fair a share of work as anybody else, as far as you saw?—Yes; I was not then in the neighborhood where you were, and it was impossible to see everything from my position.

6467. *By the Commission.*—Then, in reality, your reply must be you cannot tell, because you did not see?—No, I did not see.

6468. *By Mr. O'Connor.*—If you took charge of the position, as the officer in charge of the party, and took up the position the most important and dangerous you considered on the field, would consider it wrong to leave that position if you had as I had my native troopers with me, would you consider it proper to have left that position till you had been relieved?—Yes, if I had charge of both white men and troopers.

6469. If you had a man under you who was going round bringing ammunition, taking your orders, would you consider it most important for you to remain in that position?—With which troop?

6470. Suppose you are in charge of both?—If I was in charge of both, I would certainly consider it my duty to go round and see that both were doing their duty.

6471. And what would you do at the time, at the most exposed dangerous part of the house, which it was, to leave that place, if you had at the same time a man to go round and carry orders?—If I thought everything was not secure, the men not properly posted, I would leave the next in charge of the trackers, and

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go round myself.

6472. If you had reason to believe everything was correct?—Circumstances alter cases, and I do not know what I would do, if I was there in charge.

6473. Where were you when the priest came out of the house, can you explain?—I was at the north-east corner, the Wangaratta end of the house, where Mr. Sadleir had posted me and some others, at the time that the firing was to be on the house, while Johnston was setting fire to it.

6474. Do you remember where Mr. Sadleir was?—Very close to me at the time.

6475. When the priest came out of the house?—No, he moved from that down. Mrs. Skillian made the attempt to go to the house, and Mr. Sadleir, I believe, went down and stopped her, and then came back, and as the priest came out he ran up towards the house, and I was close behind him.

6476. Did you see Kate Kelly or Mrs. Skillian come up to go into the house, appearing to?—Yes, she did not get up quite near.

6477. Near Mrs. Skillian?—Yes.

6478. Where was Mr. Sadleir from her position?—I think he stopped her from going any further, to the best of my belief; I cannot remember everything.

6479. Did you see me alongside of Mr. Sadleir?—You were up after the fire took place, at the time the priest came back; I saw you then.

6480. The women went back, and almost immediately the priest went forward; did you see him come forward out of the crowd?—I did.

6481. Was it near where Mrs. Skillian was?—I think the priest passed up near where Mr. Sadleir stopped Mrs. Skillian.

6482. Nearly in the same ground, a few yards?—Yes.

6483. Mr. Sadleir was in the same position, very near, as when the women attempted to go up?—Yes.

6484. Did you see Mr. Sadleir remonstrate with the priest?—Yes.

6485. Did you hear his words?—No, I did not hear what Mr. Sadleir said to the priest until after I was going to attend the sick man.

6486. You saw the priest make the advance, and go back, and then advance again, when the crowd called him?—Yes.

6487. Did not you see Mr. Sadleir, myself, and several men follow the priest up at a distance of a few yards, say four or five?—I think it was not so close as that. I think at the time the priest came out we were perhaps thirty yards away.

6488. You saw that I was with Mr. Sadleir?—Yes, I know you were up at the house at the time Cherry was brought out of the house.

6489. Do you remember when I was in Benalla, I cannot recollect the date, but after some races there, that Mr. Little, the butcher's brother in Benalla, lost a very valuable gold watch, worth fifty or a hundred guineas, on the racecourse; did you ever hear anything about that?—I do not remember hearing of that; I might have heard it, but I do not remember it.

6490. You do not remember two of my men going out and finding the watch five days after, and getting £5 note as a reward, and of Mr. Little promising another £5 note the next day, when he got change?—Yes, I remember it now.

6491. Did you hear anything about my police work at Lancefield?—I heard about their going up towards Wild Duck Creek.

6492. You never heard of their tracking there from Mr. Baber or any one?—No.

6493. *By Mr. Hare.*—During the time that Captain Standish and myself were stationed at Benalla did not the men practice constantly with firearms?—Yes.

6494. Daily, nearly?—Whenever there was a party in, they were practising with guns and revolvers, in the little paddock we had rented near the station, and it was found the Martinis used to carry too far.

6495. Were they not practising constantly with the arms they had to use?—A good deal.

6496. Were they proficient in the use of their arms?—Yes.

6497. Mr. Nicolson says that when he returned the second time, he found some of the men unaccustomed to the use of arms; do you know who they were?—No; there was never a mistake with the arms, though they used to have to turn out silently and hurriedly at night, excepting that once of Keen's.

6498. You did not attribute that to the want of knowledge of the arms?—No, because in loading his "Spencer" he put those cartridges in the magazine, and it appears you raise a spring which is the trigger-guard as well, and he did so, and looked into the barrel, and would see no cartridge, for except you look while it is being shut down you would think the weapon is unloaded,—as you eject one cartridge shell it throws the next one into the barrel.

Benalla;—I mean while Captain Standish, myself, Mr. O'Connor and Mr. Sadleir were there. Did you see any jealousy arising out of anything here between the officers?—No I daily saw you, and every night at the telegraph office,—sometimes up to 12 o'clock at night, to get orders.

6501. Did you see any altercations between officers?—No; I thought you were the best of friends.

6502. Do you think we threw away any chances through jealousy?—I would be inclined to say positively that was not true.

6503. And you had a thorough knowledge of the parties and of the orders given through you?—Yes.

6504. *By the Commission.*—Would you say that on behalf of any officers?—I would say that the officers were all on the best of terms. They were always together. The three used to come up to the office on the wettest of nights; they used to come there, and I had to go there to receive orders.

6505. The public service did not suffer by any misunderstanding between the officers?—Certainly not.

6506. Did you see any?—No.

6507. Would that apply to the whole time Mr. O'Connor was there?—Yes. I never saw any disagreement there or apparently after Mr. Hare came back in June 1880. Mr. O'Connor used to come with him to the post-office at night.

6508. *By Mr. Hare.*—You spoke about the blacks,—you thought they were too large a number to work in the mountains. Have you had much experience in the mountain work?—I have not been out.

6509. Had you a knowledge of them?—Yes.

6510. Do you think the blacks, as worked in a body, would ever catch the Kellys?—Not with a party of nineteen horses, as I have said before.

6511. The last time they went out, what number had they going up to Beechworth?—The order was not to be less than six men.

6512. How many horses went on that occasion—the last troop that Mr. O'Connor and Mr. Nicolson went out with?—I cannot tell from memory now. Six troopers, because, if they came in contact with those offenders it was necessary to have men to fight.

6513. What do you think the best way to work the blacks according to your experience; in a body of six, or a couple of blacks with a party of police?—I should send only two, the same as I had when I followed Power and got Mr. McBean's mare.

6514. Do you know whether that is the practice in New South Wales?—No, I do not.

6515. Do you see any necessity for six going out?—I think it is too many.

6516. Do you not think it would be better to have two at the different stations—Beechworth, Wangaratta, and here, if you had a party to go with them?—I think it is better to have them together. It is easy to send them by railway as quick as they are required at any time.

6517. Would it not be known then?—No; you can send them away without notice being taken of them—they are frequently travelling on the line; because one man can take charge of them, and if you separate them it would take three constables.

6518. *By the Commission.*—Were you aware that Mr. O'Connor objected to such a number of Victorian police going out?—I heard it in the evidence.

6519. Suppose they had not gone, would the black trackers have been fit to cope with the outlaws?—I think they would have had a very poor chance.

6520. *By Mr. Hare.*—You were asked, with reference to two systems of working, the one by searching the country, and the other by agents, do you think that by the system I adopted, in harassing the men and sending them into the back country, they would have had more difficulty in getting provisions than if left alone and watched by agents?—Yes, I should think so.

6521. I ask whether the system itself, of keeping the men in the back country and giving them difficulties in procuring provisions was not better than allowing them to remain near their friends and blood relations?—Yes; but so long as they had the banks' money they had a sufficient number of sympathizers and blood relations even to keep them away from you; but certainly it would entail more hardships.

6522. That would entail the provisions being carried a further distance?—Yes.

6523. And have to hire more agents to carry them?—Yes.

6524. Take it that they lived on the Greta swamp, one man could provide provisions altogether?—Yes, easily.

6525. But suppose they had to live on the King River, he would have to pass different places, and have to ride at night?—One man could not do it then.

6526. So it would take a large number of agents to convey provisions to the back country?—Yes.

6527. You said also they would be driven away and caught; do you think if they left this part they would have been caught immediately?—Yes, I know it too. I think if they were to leave their own den they would be caught very quickly, four men together.

6528. *By Mr. Nicolson.*—How long did Sergeant Porter remain up here?—He only remained one night, I think, and left the next morning.

6529. To instruct the men in the use of those Martini-Henry rifles. What was it, to instruct them in the shooting or the mechanism?—For the loading and use of the arm.

6530. Did he instruct them in marking, as a marksman?—No.

6531. There were some extracts read to you about the shooting of the men, their knowledge of the use of arms. Do you remember soon after I came up a class being formed of the men for shooting?—I do.

6532. Why was that done?—Because you used to send them out to the Reef to practise with the

Martinis. There were some times two parties here, and not much doing in searching, and they were kept practising at the Reefs.

6533. Did they require it?—Men always improve on practice.

6534. Were not some of the men ineffective, as far as actual practice went, though they knew how to handle the weapons?—The practice in the Martini is required, and is required frequently

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6535. *By the Commission.*—Were the men efficient in the arms. I said, and I understood you to say it was in the use altogether?—Good marksmen?

6536. Yes?—I used to go out with the men with the double guns, but not with the men to the Reefs, so I could not say which was the best. Afterwards Mr. Nicolson gave prizes, to see which was the best marksman; a man can be efficient with arms and practice them all his life and not be a good shot, but be efficient and use them thoroughly, and without danger to himself or anybody else.

6537. *By Mr. Nicolson.*—Are you not aware that one of the men, when a weapon of that kind was placed in his hands, at that very time, and he was sent out on that duty, stated he had never fired a gun in his life. One of the men, Phillips?—I think he was one of the party who used to go out for shooting.

6538. Yes?—I do not remember he ever said that.

6539. Did you not report that to me yourself?—No.

6540. That was the case, at any rate. Then with reference to that very rifle, the Spencer. A man opening it, and finding it had no cartridges in it—would not a man efficient in the use of that weapon know that?—I made that remark, with the exception of that.

6541. Was not it a very gross error, showing great ignorance in handling that weapon, when he pulled the trigger, and, not seeing the cartridge, to say there is none in?—I made the exception with him and others. He should never have acted as he did. This particular man I mentioned.

6542. You spoke just now about the search parties in pursuit dispersing the outlaws. Are you not aware that in the Kelly country there are tier upon tier of ranges, and parties looking for those men they might go down one of those spurs and ride down among their friends ten miles behind the party pursuing?—Yes, but it kept them moving.

6543. Are you not aware of that?—Yes, within 100 yards of the party.

6544. Could they not have returned just where the police started from?—Yes, they could.

6545. With reference to this work of driving them away back, compelling them to have the use of more agents and sympathizers to bring provisions?—Yes, I consider it would.

6546. Had they not plenty of sympathizers?—Yes, plenty; there was no scarcity. And the more money they had the more they could get. I said the system of letting them come down would give the spies a better chance of seeing where they were.

6547. While they had money?—They had money all the time after the Euroa bank robbery. I said the more money they had the more sympathizers they would have, even outside their blood relations.

6548. Had they money after the Euroa affair?—Yes.

6549. Had they money after the Jerilderie?—Yes.

6550. Were not search parties kept up after Euroa and Jerilderie?—Yes, and before Euroa.

6551. After Euroa and Jerilderie?—Yes; search parties were kept up all the time, but not so many the last time.

6552. After Euroa and Jerilderie the system was discontinued?—To a certain extent; but you took a party one time, and went to Wangaratta with some information, and came back by Greta.

6553. That was only once?—Yes, and Mr. O'Connor—

6554. That was a false alarm?—Yes.

6555. *By Mr. O'Connor.*—You stated as a reason why it was bad for our party to go out was on account of so many men being in the party—nineteen horses and men you said?—Yes, I think it was too many.

6556. What was the number of Mr. Hare's party—the largest party he ever went out with without mine—not with me?—I think he generally took six or seven men.

6557. Could you not find the records in the office?—Yes.

6558. Are you aware he ever took out eleven men?—I do not remember; he might.

6559. Supposing I took out my six men, with one or two Victorian constables, that would not be too large a party?—No; but there would be only three then to fight.

6560. No matter; you did not know what the men were capable of when I brought them over—would that have been too large?—How many horses?

6561. Nine armed men on horses and two pack horses?—I think, if it could be avoided, it was too much.

6562. Why was it not avoided in the parties that Mr. Hare took out?—I do not know.

6563. If it was good for one, it was good for the other, in your opinion?—Decidedly.

6564. You are not aware that I objected to taking out so many white constables?—No.

6565. *By the Commission.*—Was Superintendent Sadleir at the side of the house where you were or the opposite side?—The opposite.

James Whelan,  
*continued,*  
13th May 1881.

6566. Consequently you did not see much of him?—I did not.

6567. About the efficiency of the men; were the men inefficient who were left here by Mr. Nicolson; did he find them inefficient or more so after Captain Standish had left and Mr. Hare returned?—I did not observe any difference I think the men were all efficient, willing, and courageous.

6568. If I understood Mr. Nicolson on his direct examination to say, as to the men he left in his absence (that is, his absence after December and on to July, to continue the work at Benalla), that he found those men when he returned in July inefficient, would that impression be incorrect—that is, that they became inefficient during his absence from Benalla; was there a great change in the men during Mr. Nicolson's absence?—I was going to ask, was it the same men Mr. Nicolson left that he found on his return; if so, I know there was a great change.

6569. The question I ask is this: would I be correct if I had formed the opinion that there was evidence before this Commission that the men left in this district, in Mr. Nicolson's absence, to continue the work became inefficient during the temporary command of Captain Standish and Mr. Hare. We objected that his evidence did not contain any such thing, and he thought it was not a fair question?—I think not.

I will read the question as given here:—"Some of them had lost their ramrods, others their sight-guards; some of them had never fired a gun in their lives (so they stated), and they had all the appearance of it." "Ramrods are used for cleaning those guns?—Yes, they are fastened in the usual way, The guns are breech-loading." "What were those men you alluded to?—Policemen." "Were those the men you had selected for this special service, or were they there by accident?—They were the men left in my absence."

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James Whelan,  
continued,  
13th May 1881.

*Mr. Nicolson.*—That last is a misprint.

*The Witness.*—There was more practice with the Martini in Mr. Nicolson's time than in Mr. Hare's.

6570. *By Mr. Nicolson.*—Did not the men improve very much?—Yes, they got more practice.

6571. Was there a necessity for doing so at that time?—Yes, to make them good marksmen.

6572. In coming into contact with that gang, was not that of importance?—Yes. I think all the men were efficient in arms.

6573. *By the Commission.*—Were they capable of going through all necessary manouvres with the firearms?—They were.

6574. It was simply a question of steadiness of nerve whether they shot steadily?—Yes, and a good deal of practice.

6575. And they practised sufficiently to be good shots?—Yes.

6576. Would I be correct if I formed the opinion that there was evidence sufficient before me to satisfy my mind that the police of the colony of Victoria were inefficiently trained in the use of arms?—I cannot answer for the whole colony, but the men that were here under my command I found were all well able to use their arms; and it is very little difficulty in instructing a man to load a double-barrelled gun loaded at the breech; and being loaded with pellets it is easy to hit with it; but the Martini and Spencer rifles are quite different and need more practice.

6577. And those were new arms?—Yes.

6578. *By Mr. Nicolson.*—Had not I and you to teach the men how to dismount with those Martini Henrys?—Yes, you instructed me to do so. The horses were paddocked, and the men were drilled to see how soon the men could be got out properly.

6579. Were they not taught how to sling the rifle behind them, and so on?—After they were issued they had to be instructed in all those things.

6580. *By Mr. Hare.*—Do you mean that the men did not know how to do that before Mr. Nicolson came up, to mount with those long rifles?—Some of the men had not been there before at Beechworth.

6581. My party that went out, did they not?—Your party could do it, but there were some strange men that came.

6582. That was not the first instruction the men got?—(*No answer*).

*Mr. Sadleir.*—I understand that I shall have an opportunity of cross-examining this witness at a future time.

*The witness withdrew.*

Thomas Reilly sworn and examined.

Thomas Reilly,  
13th May 1881.

6583. *By the Commission.*—What are you?—A foot constable.

6584. Were you at Glenrowan?—Yes.

6585. What time did you arrive at Glenrowan?—After five o'clock in the morning.

6586. You came on from Benalla?—Yes.

6587. Where were you stationed?—At the Benalla end of the house, about 150 yards from the house.

6588. You are stationed here?—Yes.

6589. Had you any opportunity of seeing what was going on towards the front of the house?—Yes, I could see the front of the house from my position.

6590. You could not see into it?—No, along the front of the house and back.

6591. Did you see the position occupied by Mr. O'Connor on that occasion?—No, I did not see him

during that day until about a quarter of an hour before the house was fired, when he came round with Mr. Sadleir.

6592. You have heard the evidence given by Sergeant Whelan with reference to the fighting at that house; is there anything particular that you can add?—I do not think it.

6593. Did you hear any instructions by any officer that day?—No, I cannot say I did.

6594. No officer came to you to give you any instructions?—No, no officer came to me to give me any instructions from the time Mr. Sadleir gave us general instructions when we were on the platform to go down, keep single file, and surround the house as soon as possible.

6595. Did you understand from Mr. Sadleir or anyone speaking to you that there was a portion of the house unguarded?—Yes, we were sent to that part, and I took up my position there.

6596. How far from Sergeant Whelan?—About 10 or 15 yards from him.

6597. What weapon were you using?—A double-barrelled breech-loader.

6598. You were not supposed to fire into the house?—I could not; it would not take any effect.

6599. You were simply watching for any of them to come out?—Yes.

6600. How often did you fire during the day?—I did not fire at all, it was no use.

6601. You simply stayed there and watched?—Yes.

6602. What time did you see Mr. Sadleir after that?—I saw him at different times during the day further out.

6603. Where was he?—At the further end of the house, and partly in front.

6604. How far from the house?—About 100 yards from the house.

6605. Did you see Mr. O'Connor at all?—I did not see Mr. O'Connor at all till the afternoon, when he came down with Mr. Sadleir.

6606. Would you have seen him if he came round—I would have seen him, if he was on the field, as well as I saw Mr. Sadleir.

6607. What do you call the field?—Round the house.

6608. Did you see the black trackers?—I saw them come out of the drain once, just as the people rushed out of the house.

6609. What time was that, do you estimate?—I could not exactly say, I took no time whatever.

6610. Did you see Mr. O'Connor with the black trackers then?—No.

6611. Not until the people were let out?—Yes.

6612. Where was he then?—With Mr. Sadleir.

6613. Where was Mr. Sadleir?—At the south side, the Melbourne end of the house, and he came round.

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6614. And the people came out of the front?—Yes.

6615. What time did you see Mr. Sadleir?—At a distance, when the prisoners came out at the other end of the house, the Wangaratta end; but before the house was fired I saw him come to the south end.

6616. When you saw him with the prisoners Mr. O'Connor was not with him?—I did not see him with him.

6617. Do you know when the last shot came from the house by the outlaws?—I saw one of the outlaws at a window facing this end, about twelve o'clock.

6618. Do you know which it was?—I could not say, but he hit something against his chest, and I heard the armour ring.

6619. Did you see any shots fired after that from there?—Yes, from the window, at one o'clock.

6620. If people at the other side of the house had not seen any shots fired, and said there were none, might it be true, so far as they were concerned; we have it in evidence from some witnesses that there were no shots fired after eleven o'clock?—I would not be sure there were shots fired after that.

6621. One of the police has sworn he was at the back, and no shot was fired—might it not be true of the back of the house?—Yes; a man might fire there, and I not see him; or a man fire from the front, and the others not see him.

*The witness withdrew.*

Thomas Kirkham sworn and examined.

6622. What are you?—Mounted-constable of police, stationed at Benalla.

6623. Do you remember the day of the attack on Mrs. Jones's house?—I do.

6624. Were you there?—I was.

6625. What time did you come?—I went by the special train with Mr. Hare, from Benalla.

6626. What time was that?—We left here between one and two.

6627. What time did you get in?—As near as I could remember, about three o'clock.

6628. Did you understand immediately you arrived at Glenrowan that the Kellys were in that house?—Yes. When the train got within a little distance of Glenrowan somebody came and told us the Kellys were there waiting for us.

6629. So you were there from the very first?—I was.

Thomas Reilly,  
*continued.*  
13th May 1881.

T. Kirkham,  
13th May 1881.

6630. At what time did the firing commence?—Shortly after I got there.  
 6631. It would be somewhere about half-past three?—Yes, or a little before that.  
 6632. What were the orders given to you?—We had not been on the platform a very few minutes when I was holding half a dozen horses, and I heard Mr. Hare call out, “Let go the horses and come on,” and I let go the horses and went towards the house.  
 6633. What happened then?—I saw Mr. Hare running up towards the house, and Mr. O’Connor started shortly after him, they had not gone far when Mr. Hare got in advance and got across the fence, and I followed up and got across the fence too, and then the firing commenced.  
 6634. Where was the firing from?—From the house.  
 6635. Inside or outside?—I think from the verandah.  
 6636. Did you hear anybody calling out then from the house; did the outlaws call out?—The volley was returned by the police.  
 6637. What occurred then?—I saw Mr. Hare shot then, and sitting on a log, and I went further round to the left.  
 6638. You did not go to speak to Mr. Hare?—Yes, I did. I asked him what was the matter, and he said he was shot on the wrist, and I left him sitting on a small log that was close by.  
 6639. Was he not in a dangerous position sitting on the log, exposed to their fire?—Yes, he was exposed to their fire.  
 6640. Do you know whether he left the ground then?—No, I do not. I do not know when he left. I went round and took up a position by a tree, and I saw Phillips and Gascoigne. I think they came shortly after.  
 6641. What quarter of the house?—The Benalla end.  
 6642. That is to the south?—Yes.  
 6643. What arms were you using?—The Martini-Henry rifle.  
 6644. Did you fire very often?—I did.  
 6645. Who gave you instructions after you took up your position?—Nobody.  
 6646. Before you took up your position?—When I left, Mr. Hare said, “For God’s sake do not let them get away”; that was all the orders I received from anybody.  
 6647. Did you see Mr. Sadleir or Mr. O’Connor?—Mr. Sadleir had not arrived then.  
 6648. Did you see Mr. O’Connor?—No, I did not. I saw him running after Mr. Hare while crossing the fence, but did not see him again for some time. He went from the railway station towards the house, but I did not see him again for some time.  
 6649. Where did you see him next?—After the first firing ceased. I had no ammunition.  
 6650. What time was that?—I suppose about three quarters of an hour after our arrival on the ground.  
 6651. That was about half-past four before Mr. Sadleir arrived?—Yes, before that.  
 6652. What did you do then?—I told Phillips and Gascoigne that I was going to the railway station to try and get more. I got down towards the station, and I met Senior-Constable Kelly and asked him what he had done, and he said he had sent to Benalla for more men; and I asked him if he had any more ammunition, and he said, “No, he had none to give me.” At that time a woman came out of Mrs. Jones’s, and some more women. Mr. O’Connor challenged them.  
 6653. You saw him then?—No, I heard him.  
 6654. Where was he?—The other side of the fence from me.  
 6655. Nearer the house than you?—Yes.  
 6656. Nearer Mrs. Jones’s?—Yes, nearer the front door.  
 6657. You did not see his position at all?—I did not.

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T. Kirkham,  
*continued,*  
 13th May 1881.

6658. Did you return to the railway station for more ammunition?—Yes.  
 6659. Did you get it?—On the way Mr. O’Connor called me, and asked me if I was going to the railway station, and I said, “Yes, I was”; and I asked him if he had any word to send to the railway station; and he asked me to see how the ladies were that were in the carriage, and I went over to the railway station.  
 6660. What ladies?—Mrs. O’Connor and another.  
 6661. Did you get ammunition?—No, I could not find any.  
 6662. What did you do?—I got a lot of bread off the platform, and went back to where Mr. O’Connor was.  
 6663. Where was he then?—He was then standing in what has been talked of since as a drain so I intended to return from there to where I came from, but Mr. O’Connor said he would recommend me to stay there.  
 6664. Was it a secure place from the shot?—Yes, it was a very good position.  
 6665. Were the black boys close to him?—I only saw two at that time on his left, round the other side of the fence where I came from.  
 6666. How many rounds of ammunition had you used at this time?—Twenty.  
 6667. Have you any idea how many you used the whole day?—No, not the slightest idea.

6668. Did you use forty or fifty, or upwards?—I may have used forty.

6669. Where did you get fresh from, and what quantity?—I got some ammunition about eleven o'clock, I think.

6670. Not before?—No.

6671. What quantity did you get then?—I think I got twenty—two packages, ten in each.

6672. You used up the whole of it?—I do not think I did quite.

6673. Did you stay beside Mr. O'Connor all this time?—Well, I think I left him shortly after Mr. Sadleir came. Mr. Sadleir sent me over to the railway station to get provisions for the men, to send it round.

6674. What time?—About half-past five in the morning, as near as I could say. I arrived at three. We were confused all day about the time.

6675. Just about daylight?—Just about daylight he sent me to get provisions.

6676. Where was Mr. Sadleir at this time?—Talking to Mr. O'Connor.

6677. In the drain?—Yes.

6678. You were standing together?—Yes.

6679. Did you carry provisions round without being under cover in any way?—I brought some from the station, and gave it to some of the men,

6680. What men?—I do not know. I think they all refused it but one, that was Constable Kenny. It appeared they had got some, before I got there, from somebody else.

6681. Was there any danger in going round with provisions?—There was danger; you were exposed to the fire of the outlaws.

6682. Did the outlaws fire very rapidly from the building?—Yes. When I left for those provisions, I think Mr. O'Connor and the trackers gave them a volley from there, at the window, so that the outlaws should not get a shot at me when I was going.

6683. Did the outlaws fire very rapidly?—Not at that time I would not say very rapidly.

6684. What were your instructions with reference to firing high?—I think the first instructions from Mr. Sadleir were to fire high.

6685. What was the meaning of firing high?—I think some of the men had learned before this that there were civilians in the house, and they were lying on the floor.

6686. Could you fire with that accuracy, so that you could know whether you were firing high or not at any part of the morning?—I think so. It was not very dark.

6687. To fire within six inches?—You could see the windows, and fire.

6688. Did you fire just at the windows?—Yes, we fired higher than the windows.

6689. Would you not fire over the men's heads possibly?—It was possible, certainly.

6690. Did you see the marks on the building to see how the bullets told on it?—The building was one perfect mass of riddles.

6691. Did you hear anybody calling upon the Kellys' prisoners to come out?—Yes, I heard several people calling on them to come out.

6692. Did the firing cease when they were coming out?—I think there was some firing going on when the women were coming out.

6693. But when the men came out, at about ten o'clock?—As near as I can remember, that was the time.

6694. When did the women come out?—They came out earlier—about daylight.

6695. Was there no firing while the men were coming out?—None, as far as I remember.

6696. From either side?—No.

6697. Did you see Mr. Sadleir or Mr. O'Connor then?—No, I did not.

6698. Did you shift away from your position when they were coming out?—Yes.

6699. In what way?—Ran up towards them.

6700. Were you in front at the time?—I was in front at the time.

6701. You were with Mr. O'Connor?—No, not then.

6702. Where was he at that time?—I do not know, I am sure. I think Mr. O'Connor left and went away with Mr. Sadleir. I would not be sure.

6703. Immediately Mr. Sadleir came on the ground?—I would not be sure whether he went away then or not.

6704. You did not see him?—No.

6705. Were you in that so-called drain?—I was there with Mr. O'Connor for awhile.

6706. Where did you go from there?—To the railway station.

6707. Where were you when you came back?—I came back to there with the provisions.

6708. Did you see Mr. O'Connor then?—Yes.

6709. How long was he there after you returned?—That I could not say.

6711. How long were you away from the drain after you came out of it for the bread?—I may have been half an hour, or more.

6712. Were Mr. Sadleir and Mr. O'Connor there when you came back?—I think so, but I am not sure.

6713. You say they left about that time—do you know which way they went?—I think they went up towards the Wangaratta end of the building.

6714. Was that where Kelly was captured?—Yes, at the north end.

6715. Do you know the time he was captured?—I think about half-past six.

6716. Where were you then?—With Mr. O'Connor.

6717. At the front of the building?—Yes.

6718. Was that in that drain?—It was.

6719. How long after that was it before you saw Mr. O'Connor when he left with Mr. Sadleir?—I would not be sure about his leaving with Mr. Sadleir.

6720. How long after that was it that you saw him; when did you see Mr. O'Connor after half-past six, when you were with him?—That is about when Kelly was captured?

6721. Yes?—He was there then; I saw him then.

6722. When did you see him again?—I next saw him talking to Mr. Sadleir, at the north end.

6723. When was that?—I think it was eleven o'clock. I would not be sure of the time; we were up all night.

6724. Was it after the prisoners came out or before?—After.

6725. Had you been in the drain all that time?—No, I had not; I had been all round the house.

6726. Were there any other policemen moving about?—They were changing positions.

6727. Often?—Yes.

6728. Have you any recollection of where Mr. Sadleir and Mr. O'Connor went to after the Kelly business?—No, I did not see much of them after that. I saw Mr. Sadleir on the railway station, sending telegrams away and so forth.

6729. What time was that?—Shortly after Kelly was taken.

6730. When did you see him again after that?—Next time I took particular notice of him I think was when the house was being fired in the afternoon.

6731. I thought you said you saw him when the people came out of the house; did you see the people coming out?—Yes.

6732. Did you see Mr. Sadleir then or Mr. O'Connor?—I think I saw Mr. Sadleir up where the men were being drafted, Constable Armstrong and Mr. Sadleir and one or two more. They were all lying on their bellies for safety, and they were being drafted.

6733. *By Mr. Sadleir.*—Who were lying that way?—The civilians.

6734. *By the Commission.*—Did you receive any order from any of the officers after the women came out?—I do not remember receiving any orders particularly.

6735. When you rushed up to the house at first, was it Mr. O'Connor who gave you orders to surround the house, or who?—No, Mr. Hare.

6736. What did Mr. Hare do then—you did not see him after?—I saw him sitting on a log, and I asked him if the wound was much; and he said he was shot, and said, "For God's sake, surround the house, and do not let them get away; do the best you can with them."

6737. When Mr. Sadleir came on the ground was there any firing?—There was a little; my ammunition had gone.

6738. The other constables were firing?—I would not be sure about that. I think Mr. Sadleir, when he came, gave us an order to fire a volley at the house, but to fire high.

6739. Who first informed you there were any civilians in the house at all?—Constables Gascoigne and Phillips went down about a man who came out of the front of the house, named McHugh. He said, I believe, "You can fire away for a month; the fellows are all in iron, and the place is full of civilians."

6740. Was there not a woman came out of the house, before Mr. Sadleir arrived, with a wounded child?—McHugh, a man, came out with the child.

6741. What time was that?—I could not say.

6742. Whose child was it?—I think it was Reardon's child.

6743. You knew at that time that civilians were in the house?—I did not know there were till McHugh came out; Gascoigne and the others found it out from him.

6744. Where did he come?—Straight in front of the house and down the railway line.

6745. Towards the station?—Towards the gate-house.

6746. Who was supposed to be in charge of the police at that time?—Senior-Constable Kelly, I suppose.

6747. Kelly was one of the first party that arrived?—Yes.

6748. And he seemed to take charge of the party after Mr. Hare was wounded, and was the most active in placing the men around the house?—When he came to me and I asked him for ammunition, he said he had been round to the back; and I asked if there were any men there, and he said, "Yes," there were men at the back.

6749. Did you not see Mr. Sadleir before the civilians came out, calling on the civilians to come out; you say you were in front of the house at that time?—No, I cannot say I did.

6750. You rushed up as soon as they came out to where they were?—Yes.

6751. And Mr. Sadleir was there then?—Yes.  
 6752. And Mr. O'Connor?—I cannot say I saw Mr. O'Connor then.  
 6753. You got no orders from Mr. O'Connor, in any shape or form, but to remain in the drain?—He said, "Kirkham, I recommend you to stay here."  
 6754. Did Mr. Sadleir seem to be taking charge of the men when he arrived?—Yes, he did.  
 6755. Did you hear Mr. O'Connor calling out to cease firing at any time?—No I heard one of our own men.

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6756. Did you hear that cry go round the house?—I heard Gascoigne singing out, "Look out for the women, cease firing, mind the man."  
 6757. Could Mr. O'Connor have called that out and you not have heard it?—I think there was more than one called it out.  
 6758. You are not sure about it?—No.  
 6759. Were you long beside Mr. Hare after he was wounded?—No; I went away.  
 6760. Who was with Mr. Hare?—I do not know.  
 6761. You did not see whether he continued firing or not?—No, I did not.  
 6762. Mr. Hare was shot in the wrist immediately he got on the ground?—Yes.  
 6763. The first volley?—Yes.  
 6764. When Mr. Hare called to you to let the horses go and follow him, who was with you at the time; what constable came away with you?—I did not see anybody.  
 6765. Were you first or Mr. Hare first?—Mr. Hare was first.  
 6766. And you followed next after?—No; Mr. O'Connor was next behind.  
 6767. How did you come—who came next?—I think I did.  
 6768. Were any of the black boys with him?—I did not see them.  
 6769. What other constables were with that party, with Mr. O'Connor, yourself, and Mr. Hare—was Gascoigne?—Yes, and Phillips.  
 6770. Then you said you came on, and at the first volley Mr. Hare was shot?—Yes.  
 6771. And then he said "Surround the house," and you went beyond him to get round the house?—Yes.  
 6772. What two constables were with you then?—I think Gascoigne and Phillips came immediately after.  
 6773. Then you were most advanced towards the house?—Gascoigne was most advanced, but Mr. Hare sang out to surround the house before I saw him sitting on the log.  
 6774. Then you were all together?—All of a heap.  
 6775. After he was wounded, you went on to complete that order?—Yes.  
 6776. Were you leading them, or Gascoigne?—I think I was there before Gascoigne.  
 6777. Who was near Mr. Hare at the time of his being wounded?—I could not say.  
 6778. Gascoigne was in front of you, and after Mr. Hare was wounded, you fired on the house yourselves?—Yes, I fired on Ned Kelly when he came out.  
 6779. Did you recognise him as Ned Kelly?—I thought it was Ned Kelly, he came out in advance of the other three.  
 6780. And you fired?—Yes.  
 6781. Did any of the other constables near you fire?—Yes, Phillips and Gascoigne.  
 6782. What occurred then, did they retreat?—After those shots had been fired they ran in again.  
 6783. What did they say?—I thought Ned Kelly said, "See, I am ball-proof. Come on you ——— dogs."  
 6784. What did you do?—Continued firing, and remained there for a short time.  
 6785. Was it in that position that you expended your twenty rounds of ammunition?—I could not say "expended." I either expended them or lost them.  
 6786. As soon as you were short of ammunition, did you say you were short?—I told Gascoigne and others, and said I was going to the railway station.  
 6787. You went to the railway station?—Yes.  
 6788. Did you pass Mr. O'Connor going there?—Yes.  
 6789. Where was he?—In the so-called drain.  
 6790. It was after you came back that Mr. O'Connor asked you to remain there?—Yes.  
 6791. Was it in consequence of your having no ammunition, or why; did he assign any reason?—No, he said, "I would recommend you to stop here."  
 6792. Then how long did you stop there; did you stop till you heard Mr. Sadleir's party come?—Yes, I was there when they came. I heard their train come up to the station.  
 6793. Did Mr. Sadleir come to you where you were, or did you go towards him?—I think Mr. O'Connor was going to send me over to tell Mr. Sadleir to come.  
 6794. Did he tell you to?—Yes.

6795. Did you do so?—No, I do not think I did.  
 6796. You remained there?—Yes.  
 6797. Did you see Mr. Sadleir talking to Mr. O'Connor?—Yes.  
 6798. Did you see them talking together?—Yes.  
 6799. Did they go away then out of this trench?—As far as I remember, that is when Mr. Sadleir sent me for provisions.  
 6800. How long before you took round the provisions was it that Ned Kelly was captured?—I could not say.  
 6801. Was it long before that?—I do not know.  
 6802. Did you occupy, any time during the day, any position round the house with ammunition—did you go back to the same position?—No, I went to the end where Kelly was captured.  
 6803. Did you not see Mr. O'Connor again, or when did you see him again after leaving Mr. Sadleir in the trench?—I think it was nearly eleven o'clock; they were both talking at the Wangaratta end of the building.  
 6804. Before or after the prisoners were out?—After.  
 6805. Did you speak to Neil McHugh?—No.  
 6806. So what you heard about him was hearsay?—Yes, from Phillips, I think.  
 6807. Did you receive any orders from either of those gentlemen—either Mr. Sadleir or Mr. O'Connor—after you were in the drain with the food?—I do not remember any, only the one from Mr. Sadleir to “fire high.”  
 6808. Who gave you instructions to go round the building?—Nobody.  
 6809. Did you do it on your own account, as you thought best, or anything of that sort?—I did it on my own account. There were a lot of men then, and they were changing about.

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6810. Did you look upon Mr. O'Connor at any time as giving you instructions after he said, “You had better remain here?”—Mr. O'Connor gave me no orders at all.  
 6811. While he was in the drain did he lead you to believe he had charge of the party?—No, but I considered he was my officer at that time inasmuch as I was given over to him by the Victorian Government to look after his boys. I understood I was to look after his boys there.  
 6812. You left the railway platform with Mr. Hare and Mr. O'Connor?—Yes.  
 6813. How far did you move in the direction of the hotel when you three were close together; Mr. Hare was in advance, Mr. O'Connor second, and you third?—Yes.  
 6814. How long had you proceeded from the railway before you saw Ned Kelly or any of the gang come out on the verandah?—A very few minutes.  
 6815. Do you remember the first volley fired?—Yes.  
 6816. Where from?—From the verandah.  
 6817. Were you in a position to see Mr. Hare or Mr. O'Connor fire in return?—I was in a position to see Mr. Hare.  
 6818. Did Mr. Hare fire?—All fired.  
 6819. Did you see Mr. Hare fire any shots in the direction of the hotel at that time?—Yes.  
 6820. How many?—I could not say.  
 6821. About how many?—I could not say.  
 6822. There were only three of you at that time, cannot you form some idea of the number fired by you three?—I could not.  
 6823. How long had Mr. Hare been on the ground from the first shot that was fired until you saw him sitting on the log?—Perhaps five or six minutes, or more.  
 6824. Did you see him at any time of the morning after that?—I did not see him from that particular time till I saw him to-day.  
 6825. Did he appear to be suffering extremely from the wound?—He did.  
 6826. To such an extent that he was then incapable of taking any active steps in the way of firing or otherwise?—That I could not say.  
 6827. I want you to express your opinion that you formed at the time you saw him sitting on the log?—He was apparently in great pain from what I saw.  
 6828. Had you previously known Mr. Hare?—Yes.  
 6829. Had you been with him in any search parties?—I was.  
 6830. Are you under the impression that the position you saw him in when he was complaining of being shot, that he would not have done that unless he was suffering extremely from the shot he received. In other words, was he acting the coward?—Not for a moment, no.  
 6831. Do you believe he was actually suffering from severe pain from the wound he received?—Yes.  
 6832. You did not see Mr. O'Connor from that time (the first volley) until on your way to the railway station?—Yes.  
 6833. How long after the first volley did you return to the railway station?—Perhaps three-quarters

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of an hour.

6834. Did you see Mr. O'Connor on your way to the railway station at that time?—Yes.

6835. Where was he?—In the so-called trench.

6836. Did you see him earlier in the morning going into that trench?—No.

6837. Did you see him when calling out to Mrs. Jones when she was leaving the hotel—had you seen him before he called on Mrs. Jones then?—No.

6838. But you had heard him. I ask whether you had seen Mr. O'Connor before he called out to Mrs. Jones, when he challenged her on leaving her hotel?—No, I did not.

6839. You heard him, you said, calling out to challenge Mrs. Jones when she was leaving the hotel?—No.

6840. I have taken down the very words; did you hear him calling out to anyone?—I heard him challenge McHugh and a woman.

6841. Not Mrs. Jones?—I could not say.

6842. What time did the woman come out of the hotel with McHugh—was it daylight?—I think not.

6843. How do you know then it was McHugh and a woman?—Gascoigne—

6844. How did you know?—I did not know.

6845. It is from information you obtained?—That I heard him challenge?

6846. Yes?—I heard him.

6847. Did you know McHugh?—No.

6848. Did you see Mr. O'Connor?—I heard his voice.

6849. How long did you remain at the station on that occasion?—Half an hour or more.

6850. What kept you half an hour at the station—this was before daylight?—I was looking for ammunition.

6851. Had you previously met Senior-Constable Kelly at that time?—Yes.

6852. Had he told you that there was no ammunition?—That he had none—there was no Martini-Henry ammunition.

6853. Whom did you see on the platform after passing Kelly?—I think I saw one reporter.

6854. Did you see Mr. Sadleir there?—He had not arrived at that time.

6855. On your return from the railway station at that time you went to Mr. O'Connor?—Yes.

6856. Did you know at that time that Mr. Hare had left Glenrowan?—No, I did not know where he was.

6857. No one told you at the station he had gone to Benalla?—No.

6858. When you got to the trench what time would it be?—I could not say, I had no idea of the time.

6859. You had been three quarters of an hour there before you went to the railway station, you remained there half an hour or more, now just see if you remember what time it was when you got back to Mr. O'Connor?—I could not say.

6860. How long was it from the first volley fired until you came to the railway station for ammunition?—Perhaps half an hour or three quarters of an hour.

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6861. That would make one hour and a quarter—what time would that make it?—A quarter past four, but the time was confused.

6862. What were the exact words that Mr. O'Connor said to you in the trench?—He said, "Kirkham, I recommend you to stay here."

6863. Did he assign any reason?—No.

6864. Did you tell him you had no ammunition?—Yes.

6865. Had he any suitable ammunition for you?—No, I think the Snider was his.

6866. He recommended you to stay in consequence of being short of necessary material—is that to be inferred?—I could not say.

6867. Could you see the hotel from where you and Mr. O'Connor were then?—Yes.

6868. By sitting down?—No, by standing up.

6869. Would it require him to stand up to see?—Yes.

6870. You could not see it sitting?—No, I think not.

6871. Was it sufficiently light for you to see who was in the trench beside Mr. O'Connor?—I think there was no one there but Mr. O'Connor and the two black trackers.

6872. Was it light enough to see any one else?—Yes.

6873. About how great a distance could you see anybody else—how far in the trench could you distinguish anyone else?—There might be people up the trench further, and we not see them.

6874. As far as you commanded the trench, at what distance could you see?—We could not see up the trench at all.

6875. Why?—The trench comes up at a bend there, and goes off where we were.

6876. Was it in consequence of its bending there that you could not see?—Yes.

6877. Not in consequence of the darkness of the morning?—I think not.

6878. Was it moonlight?—Scarcely any moon, I think.

6879. This would be about a quarter past four?—how long did you remain, about, in that trench with Mr. O'Connor?—I may have been there an hour.

6880. That would be about a quarter past five; where did you go then?—Mr. Sadleir was there then.

6881. Where did you go after you had been in the trench an hour with Mr. O'Connor?—When I went back from the railway station I stayed with Mr. O'Connor till Mr. Sadleir came.

6882. Mr. Sadleir came to you in the trench while you were with Mr. O'Connor in the trench—you will swear that?—Yes.

6883. Was it daylight then?—I think it was about daylight.

6884. What time was it daylight at that time of the year?—I could not say.

6885. This was June?—Perhaps half-past five.

6886. Is it daylight now at six o'clock, and we are in May?—Hardly, I think.

6887. Could you see a little after five in the latter end of June?—(*No answer.*)

6888. When Mr. Sadleir came, what did you do then?—We talked there for a few minutes, and then he sent me for provisions.

6889. And you went round, and came back to where he was?—Yes.

6890. Did he send you for provisions for himself?—No, for the men.

6891. How many of the men were at that spot?—Only myself and two black boys, Constable Canny, and Mr. O'Connor.

6892. Did any of you take any of those provisions you brought from the railway station?—I think the boys had a bit of bread.

6893. How long did you remain in the trench after that?—Half an hour or an hour.

6894. Did you see the women leave the hotel and the civilians?—Yes.

6895. Where were you at the time they left?—Standing about ten yards further down from where Mr. O'Connor and I had been.

6896. In the trench?—No, out of it.

6897. Exposed to the fire of the outlaws from the hotel?—Yes.

6898. With nothing intervening between you and the hotel to prevent you being shot?—Only a three-rail fence.

6899. Was there any great firing from the hotel, from the time Mr. Sadleir came until the women were released?—I do not think there was.

6900. Did you see the women coming from the hotel?—Yes.

6901. You were then about ten yards from Mr. O'Connor?—No, not then.

6902. Where were you?—Away from Mr. O'Connor, at the Benalla end.

6903. What time was it the women came out?—

6904. *Mr. Sadleir.*—Had the women come out before I arrived?—As far as I can recollect they came out shortly after the first firing.

6905. Did any of them speak to you?—No.

6906. Then after Mr. Sadleir came and you went back with the provisions, that would be some where about daylight in the morning; you remained in the trench till daylight, was that so?—Yes.

6907. What were you doing between daylight in the morning and eleven o'clock?—I was talking to some of the men at the Wangaratta end, and changing about at that end.

6908. What was the use of your changing about; were you sent with instructions from the officers to talk with those men?—No.

6909. What practical use were you then between daylight and eleven o'clock; you stated you had no ammunition served out till eleven o'clock, and you were from about four in the morning till eleven without a single charge?—Yes, only my own two revolvers.

6910. Did you fire those?—No.

6911. What practical use were you on the ground if you were not instructed by the officers to give instructions to the men, from daylight till eleven o'clock?—I was on the Wangaratta end at that time.

6912. Did you tell Mr. Sadleir when he arrived you were out of ammunition?—I do not remember.

6913. Did you go down at eleven to see if any had arrived?—I did not, I heard that some men did.

6914. Did you stop behind a tree or anywhere till that time?—I was with the men.

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6915. You were on the ground all day, from the early morning till the hotel was fired in the afternoon?—Yes.

6916. All the time?—Yes.

6917. You saw the firing from the hotel, when you arrived in the morning?—Yes.

6918. How long was that continued from the hotel from the first thing in the morning, because you were a close observer, you had no charges yourself and could see whether the firing was coming from the hotel?—I could not say when I saw the last firing from the house.

6919. When did the male prisoners leave the hotel?—About ten.

6920. Was there any firing immediately before that?—I think there was.

6921. Can you swear whether there was or not?—I cannot.

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6922. Were you in a position to observe that?—They may have been firing without my knowledge.

6923. Were you not watching?—Yes.

6924. And you cannot say?—No.

6925. Was there any firing after they came out?—I think there was, but I cannot swear.

6926. At what time were you placed in any position to take charge of the black trackers, I mean the O'Connor trackers?—I got charge of them at Heathcote, at the time of the Lancefield robbery.

6927. That would be in the month of August 1879?—Yes.

6928. And you remained in that position till the time that Mr. O'Connor left?—Yes.

6929. You have also been in charge of the black trackers brought from Queensland since?—Yes.

6930. Do you think, from the experience you have gained in connection with the trackers, that you are now competent to take charge of them for a similar purpose to that for which they were first brought here?—I think so.

6931. Would the black trackers of themselves be of any practical use in tracking a gang like the Kelly outlaws, if they came upon them for the purpose of attack, would they fight?—Not without white police, that is my opinion.

6932. Then would you, from the knowledge you have gained, take say six of those black trackers for the purpose of tracking a gang similar to the late Kelly gang?—No.

6933. What mode would you adopt under similar circumstances as those during the Kelly business?—I consider two of them quite sufficient for a party.

6934. If you thought you were on the tracks of four desperate men, like the Kelly outlaws, what other force would you take besides the two trackers?—Six or eight whites.

6935. Men that have had experience in bush life—just describe the six or eight men you would like to take, suppose you were after them in real earnest?—Men used to the bush.

6936. And any other requisites?—Men of known courage.

6937. Good horsemen, men of known courage, and good shots?—Yes.

6938. Then you do not believe in the system of taking six blacks, and only one or two Europeans for the purpose of tracking a gang like the Kellys?—I cannot say I do; I say I consider two sufficient for a party.

6939. Do you think, from the information and from the knowledge you have gained of the trackers now, that you could, under circumstances similar to the Kelly business, conduct a band of men with two black trackers for that purpose—you have some opinion of your own pluck and ability?—A little.

6940. Do you think you could pick out another half dozen men and two black trackers, and be efficient for that work?—Yes.

6941. Equally with any other officer who has been in charge of those black trackers?—Yes.

6942. You do?—Yes.

6943. You have had some experience of the ability of those men for tracking purposes under ordinary circumstances?—Yes.

6944. What is the conclusion you have arrived at either as to Mr. O'Connor's or the present lot?—Well, I saw a good deal of both parties, and from what I saw of Mr. O'Connor's "boys" and the present lot, I must say I think the present lot superior to Mr. O'Connor's "boys," as far as tracking goes.

6945. Are some individuals superior to others in tracking?—Yes.

6946. I suppose you cannot account for that?—No.

6947. Are those men abstemious men?—They are.

6948. Total abstainers?—Almost, they will drink nothing.

6949. In that respect how do they compare with Mr. O'Connor's men?—Mr. O'Connor's "boys" touched nothing, unless he gave it himself.

6950. In that respect they are both about equal?—Yes.

6951. Did you, during the day you were at Glenrowan, hear any one volunteer to rush the hotel?—Yes.

6952. Who?—Constables Dwyer, Montford, and Armstrong.

6953. To whom did they make that proposal?—I think Dwyer went to Mr. Sadleir with that proposal.

6954. Was it a matter of conversation among the police round the hotel that the place should be rushed during the day, and as to sending that proposal to Mr. Sadleir?—I did not know of it.

6955. Did you suggest it to any of the constables who spoke to you in the morning when you had no ammunition?—No; not till the four of us spoke together; I did not mention it myself; we asked Dwyer to go to Mr. Sadleir, and he went and came back and said he said, "No."

6956. Dwyer went to Mr. Sadleir?—We asked him to go, and I think he went.

6957. Did he return and say Mr. Sadleir did not consent?—Yes, that we were not to go.

6958. About what time of the day was that?—Some time before the house was fired.

6959. Would it be an hour before?—Yes, if not more; as far as I could judge.

6960. How early in the day did you become acquainted with the fact that Byrne lay dead in the hotel?—I heard that after the civilians came out.

6961. Then you knew, as far as you know, no one was in the hotel but Hart and Dan Kelly?—As far as I knew.

6962. Did you know about the man Cherry being on the premises?—I heard he was lying in the back of the premises.

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6963. Did Mr. Sadleir, as far as you observed, take active service from the time he arrived till the hotel was burnt in the afternoon?—Yes.

6964. Did you see him going round from policeman to policeman round the hotel; the hotel was surrounded, was it not?—Yes.

6965. Did you see him taking a circuit round from man to man?—I did not see him.

6966. When did you see him after early in the morning?—At the Benalla end of the house, when Father Gibney was going in.

6967. After the hotel was on fire?—Yes.

6968. Did you see him at the time the male prisoners came out at eleven?—I saw him when they came out.

6969. Did you see him any time during the day taking an active part, going round to the men?—He may have gone, I did not see him.

6970. Who was the officer left in charge before Mr. Sadleir arrived?—Senior-Constable Kelly, as far as I know.

6971. Suppose that Senior-Constable Kelly gave you instructions, on the one hand, and Mr. O'Connor on the other, you knowing that Mr. Hare was away, which of them would you have obeyed?—I think I should have obeyed Senior-Constable Kelly, he was our officer of Victoria, and I know, as far as the regulations go, he would have been in charge after Mr. Hare left.

6972. Did you recognise Mr. O'Connor as an officer of the Victorian police at the time of the Glenrowan capture?—I could not say.

6973. I mean your opinion; did you know of yourself he was an officer of the Victorian police?—No,

6974. Did you know at any time he was an officer of the Victorian police?—I could not say whether he was or not.

6975. Were you at Benalla before the affair at Glenrowan?—Yes.

6976. How long had you been stationed at Benalla before that?—About eighteen months, or more.

6977. And a long time under Mr. O'Connor?—Yes.

6978. As mounted constable along with the Victorian police?—Yes.

6979. Would you recognise any instructions given you by Mr. O'Connor—I mean, Mr. O'Connor being here in charge of the black boys, and you being with him, would you obey his instructions?—Well, I would obey his instructions as far as I could. I was given over to him.

6980. By whom?—By Mr. Sadleir.

6981. Specially appointed to take the duties of another man who had been relieved?—Yes.

6982. Were you not informed by Mr. Sadleir that Mr. O'Connor was your superior officer in that position?—No, I think not.

6983. Then, in point of fact, though you were there to do duty with the black trackers under Mr. O'Connor, you would recognise Senior-Constable Kelly as the superior officer; as far as you alone were concerned, was not Mr. O'Connor your superior officer?—Yes.

6984. Would you, if Mr. O'Connor gave an order, disobey it if Senior-Constable Kelly gave another order?—Under those circumstances I would scarcely know what to do.

6985. Did you consider Mr. O'Connor your superior officer while you remained here with the trackers?—Yes.

6986. Did you ever enquire with yourself whether Mr. O'Connor was your superior officer or not?—No, I just obeyed; I did not enquire that.

6987. Mr. O'Connor having gone out of the district, and, so far as you knew, being about to sail for Queensland, would you consider yourself under him when he came back with the black trackers to Glenrowan, or would you consider yourself under Senior-Constable Kelly?—If Senior-Constable Kelly had given me orders I should have obeyed them.

*Mr. Hare.*—This man has only been in the force about eighteen months or two years, before this. He was a recruit at that time.

6988. *By the Commission.*—You looked upon Mr. O'Connor, at all events, as having left the Victorian police when he was going to Queensland?—I did.

6989. You said you saw Mr. Hare sitting on a log, wounded?—Yes.

6990. Did he ask you to render him any assistance?—No.

6991. Or to go for the doctor?—No.

6992. Or to send for anybody?—No.

6993. You considered him badly wounded?—Yes apparently he was.

6994. Did you suggest anything to him?—No, I did not.

6995. If you had been called upon to rush this house, you would have been perfectly willing to have gone with a party before it was set on fire?—When we got orders to that effect we would have obeyed them.

6996. With regard to the black trackers and Mr. O'Connor, you were out frequently with them?—Yes.

6997. And you had many conversations with the black trackers?—Yes.

6998. Had you any conversations with the black trackers after Mr. O'Connor left, I mean the Queensland trackers?—They went with him.

6999. Were you out with them without Mr. O'Connor, ever?—Yes, on plenty of occasions.

7000. Did you have any conversation with them with regard to Mr. O'Connor, as to his ability and how they liked him?—No, never.

7001. They never expressed an opinion?—No.

7002. Never made any remark of what they thought of Mr. O'Connor?—No.

7003. Do you think they liked him generally?—Yes.

7004. They always obeyed his directions at that time or any other?—Yes.

7005. You are now in charge of the black trackers in Benalla?—Yes.

7006. Have those men here now been with the other trackers, or do they know nothing of them?—They know nothing of them.

7007. Have you had much practice with firearms since you have been in the force?—Yes a lot of practice.

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7008. You consider yourself a good shot?—I do.

7009. Are you supplied with plenty of ammunition for practice?—Since I have been in the district I have had a lot of practice; since I joined the force.

7010. You are supplied with plenty of ammunition. How do they serve it out to you; in what quantities?—At the present time I have twenty rounds regulation with the Martini-Henry rifle, and I have eighteen for my revolvers.

7011. How long is that to last?—I am supposed to keep that always on hand; I am not supposed to use that.

7012. Except in active service?—Yes.

7013. Then there is none given you for practice?—There is none served out and allowed to fire it off without orders.

7014. Suppose you were to use those twenty rounds you have now, what would be the result?—I should have to account for it.

7015. If you told them you had used it for practice you would be supplied with other twenty?—Yes.

7016. Would you have to pay for it?—I should not use it without orders.

7017. If you applied for instructions, would they give you orders to use it?—Yes, I think so.

7018. And give you more?—I think so.

7019. You have not been restricted at all?—No, I have not.

7020. Have you ever heard of an order being issued restricting ammunition?—I did hear of such in Benalla.

7021. That is for practice?—I heard something to that effect.

7022. By whom?—I could not say.

7023. There was no order to you to be careful?—No.

7024. You were never restricted?—No.

7025. Do you know if any members of the force buy ammunition for themselves out of their own pockets?—Yes.

7026. Why do they do that if you say there is no restriction?—They may have bought it to have more practice on their own account.

7027. Because they are afraid to ask for more?—I could not say whether they have been afraid to ask for more.

7028. Do you not think if you had plenty of ammunition you would be very foolish to go and buy some out of your own pocket?—Yes; but I know of constables who, when we were getting plenty of practice, have sent to town for boxes of ammunition on their own account. For instance, before Mr. Nicolson left.

7029. Did they tell you why they did it?—Those men sent for that to make themselves perfect shots.

7030. Did you ever use more of your ammunition than what you were instructed to use by your superior officer for practice?—No.

7031. Did you receive instructions to use a certain quantity when you went out and no more?—Yes. When we go for practice we may get instructions to use six rounds, and we do that, and then we come back and get them renewed.

7032. How often is that—once a month?—I do not think there is any time stated. I have had a lot of practice during Mr. Nicolson's and also Mr. Hare's time, and since I have had a lot of practice in the force.

7033. You had plenty when Mr. Nicolson was here?—Yes.

7034. And plenty when Mr. Hare was here?—Yes; because I was in charge of Mr. O'Connor's boys, and we went out often by Mr. O'Connor's order.

7035. Did you see other members of the force having plenty?—I could not say.

7036. You did not go out with the other members?—No, bar one or two occasions. I went very often with Mr. O'Connor's boys, by Mr. O'Connor's orders.

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*continued,*  
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7037. Were the boys good shots?—Two of them were—the others very bad.  
 7038. Did they practice with the rifle?—Yes, always.  
 7039. Which party was that?—Mr. O'Connor's boys, who have gone.  
 7040. Your own boys—are they good shots?—They use the revolvers so far; they have not used the gun yet. They do very well with the revolver.  
 7041. If they would not fight, what use would be the revolvers or the rifles?—I did not say they would not fight; I do not know whether they would fight or not.  
 7042. You think they would fight better with whites than without?—Yes, I think they would fight with whites.  
 7043. *By Mr. O'Connor.*—When you were handed over to me, did you not understand from Mr. Sadleir that you were to be under my orders?—Yes, I understood I was to be under your orders.  
 7044. Did you ever receive orders from anybody else, except through me?—I could not say I did.  
 7045. Cannot I bring to your recollection, when you applied for ammunition and it was refused you, my order got it for you?—I do not ever remember applying for ammunition.  
 7046. How did you get your ammunition; would Sergeant Whelan give you ammunition without my order for my party or not?—He would for me; he would not for your boys to practice without your order. I do not ever remember his refusing me for my own use for practice.  
 7047. You state that the last time you saw Mr. Hare, till to-day, he was sitting on a log; where abouts was this log?—In front of the house.  
 7048. Which side of the fence from the railway station?—The Benalla side.  
 7049. You state that you did not see Mr. Hare leave the ground, I believe?—No, I did not see him leaving the ground.  
 7050. Can you inform the Commission how long after the first shot the two engines left the station; you heard them pass down?—Yes; I could not say how long it was from the first shot till those engines left.  
 7051. Could not you make a very good guess at it—everything I know was guess-work; but was it in an hour or half an hour, or what time?—It may have been under an hour—I could not say; I would not say what time it was.

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7052. It might have been half an hour?—As far as I can remember, it was more; but I would not say as to time.  
 7053. Could you see whether Mr. Hare loaded his gun again, or do you think he could load his gun again with the bad wound he had—you stated you thought it was very severe—was it possible for him to load his gun and fire?—I do not think he could.  
 7054. Did you see him do it?—No, but he may without my seeing him.  
 7055. Would you not have been in a position to see him do it?—I might have been very close to him and yet he load it without my knowledge.  
 7056. Did he immediately leave the log and go to the station?—He was sitting on the log when I left him.  
 7057. When was it you first heard the women had left the house?—I saw the women leaving.  
 7058. Did you hear anybody call out to them to cease firing?—I heard two or three people call out to cease firing.  
 7059. Did you recognise Mr. Hare's voice?—I only recognised Gascoigne's voice.  
 7060. Did you recognise Mr. Hare's voice, telling them to let the women out?—I cannot say I did.  
 7061. Did you recognise my voice?—No.  
 7062. You said so to let the women out?—I do not think I said that. I said you challenged McHugh.  
 7063. Do you remember my calling to you, you were on my left hand side, in a line nearly with me, and I called to you to see that the Kellys did not come out amongst the women. Do you remember that?—No. I heard you challenge McHugh as I came down.  
 7064. Not by that name?—No, I did not know the name then.  
 7065. The challenge was, "Who goes there?" not "McHugh"?—Yes, that was it. I learned afterwards who it was.  
 7066. I think you cast a doubt upon my statement, in reference to taking my men out, and considering them sufficient with two white constables. You stated you did not think them, I understood you, good by themselves or reliable unless they had white men with them. Did you ever have any reason to doubt really the courage of my men. Have you ever had any occasion to doubt it?—Well, I suppose I am on my oath and must speak the truth, only on one occasion, and that was at Glenrowan.  
 7067. *By the Commission.*—What caused you to doubt it; what action was it?—When those civilians came out in the morning there were two or three or four of them, instead of coming out when Constable Wilson and I called them, went to get under the culvert.  
 7068. That is the trackers?—Yes.  
 7069. *By Mr. O'Connor.*—Went to hide under the culvert. Where was this culvert, please?—Running under the road.  
 7070. Were you near them?—A little way from them, Wilson and I.

7071. And you both saw them go under the culvert?—Yes.  
 7072. Did they remain there any length of time?—No.  
 7073. How long?—I could not say; we asked them to come out, and they said they had no ammunition.  
 7074. Which men?—I could not say; and I told them to come out and show their empty rifles, whether they had any ammunition or not.  
 7075. You never mentioned that to me during the whole day?—No. You just now asked me to give an instance.  
 7076. That is the first time you ever had any occasion to doubt the courage of the men?—The first and only one.  
 7077. ‘We had been out before on tracks that we thought were the outlaws’ tracks, our first and second trip—were you with the men at that time?—No, I was in Beechworth with Mr. Hare, in the cave party, behind Mrs. Byrne’s house.  
 7078. *By the Commission.*—I suppose you understand that they fired away as long as they had ammunition?—I think they did.  
 7079. *By Mr. O’Connor.*—Did you notice anybody else show what you might consider cowardice at Glenrowan?—I do not know that I did.  
 7080. Can you say decidedly?—I did not see anybody.  
 7081. In your opinion do you consider I had a good position in the front of the house?—Yes, I do.  
 7082. *By the Commission.*—In what sense do you mean the word “good”?—A safe position.  
*Mr. O’Connor.*—No, I refer to the outlaws.  
 7083. *By the Commission.*—How far from the house?—Thirty or forty yards.  
 7084. You are on your oath, and will you now say what you mean by a safe position—tell us really what you mean?—I mean he had a safe position; unless he stood upright in that hole he would not show his head above—it was a safe position.  
 7085. *By Mr. O’Connor.*—That was not an answer to my question—my question was, was it not a good position to do the work we were supposed to be doing, endeavoring to arrest the outlaws and prevent them escaping till we got more assistance; was that not what we were doing?—Yes.  
 7086. Was not that position a good one for that?—Yes, for the command of the front of the house.  
 7087. *By Mr. Hare.*—How far was I from the house when I was shot—about?—I have not taken any notice of the ground, but I should say about thirty yards.  
 7088. Who was nearest to me when I was shot?—That I could not say.  
 7089. Who was up near me; what persons did you see near me when I was shot; whom do you remember seeing there?—Kenny and Barry.  
 7090. Were you near me—how far were you from me when I was shot?—Ten or twelve yards.  
 7091. Behind or in front?—Behind you.  
 7092. Did you see Mr. O’Connor when I was shot?—No, I did not.  
 7093. You say you saw him leave the railway station and follow me, did he go up to the house with me?—When you and he left the station together, I ran behind him, and, as far back as I can remember, I think you were very soon twenty yards in advance of him.  
 7094. Where did he go?—I do not know. I never saw him after. I cannot say.

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7095. Did he go up to the house with me?—I did not see him.  
 7096. Mind you said you left behind him—did you not see him leave from behind me?—I saw him leave the platform with you; where he went I do not know.  
 7097. Did he go up to the house with me?—I did not see him.  
 7098. How many rounds of ammunition did you take with you from the train when you started?—Twenty.  
 7099. Where did you expend that ammunition?—Most of it between Phillips and Gascoigne.  
 7100. Was that in the front or left?—On the Benalla side.  
 7101. That is the left of the house?—Yes.  
 7102. Do you know how long the men were firing before I called out, “Surround the house”—how long after I was shot—to prevent the Kellys escaping?—I do not remember that.  
 7103. *By the Commission.*—Just a moment, when you spoke to Superintendent Hare, and you said he seemed to be suffering much, how long was that after the first volley was fired?—Three or four minutes.  
 7104. Did he not then tell you to surround the house to prevent the Kellys escaping?—Yes, to do the best I could, for God’s sake not to let them escape.  
 7105. *By Mr. Hare.*—Whereabouts is this log situated, was it between the fence and the house?—To the front and left.  
 7106. How far was it from the place I was shot at?—It may be fifteen yards.  
 7107. Nearer the railway station or the hotel?—Nearer the station.  
 7108. Had I retreated?—As far as I remember.  
 7109. Do you remember Ned Kelly and all the outlaws retreating into the hotel?—Yes.

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*continued.*  
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7110. Was I standing opposite the hotel when they retreated?—I could not say.

7111. *By the Commission.*—Did you see Mr. Hare standing there when they retired?—I could not say. I was further round to the left.

7112. *By Mr. Hare.*—I suppose you were excited a little during the firing?—I was.

7113. Did you take notice of anybody who was next to me, or whether I fired many shots?—No, I could not say.

7114. Had you not enough to do to look after yourself?—I had enough to do to look after myself.

7115. Was my hand bandaged when you saw me sitting on the log?—No.

7116. I had not been to the railway station then?—No, I think not.

7117. Are you sure of that?—Whether it was not bandaged?

7118. Was there not a handkerchief on my arm?—I could not see it.

7119. You do not know whether it was after my hand was bandaged or not?—No.

7120. *By the Commission.*—You stated in your evidence it was about six minutes after you left the platform you saw Mr. Hare sitting on the log?—I do not remember saying that.

7121. How far would Mr. O'Connor be in the drain from where Mr. Hare was wounded?—It might be twenty-five or thirty yards, as far as I know.

7122. You did not see Mr. O'Connor after you left the railway, and Mr. Hare went to the front?—Not till I was going to the railway station for ammunition.

7123. How far was it from where Mr. Hare was wounded?—Twenty-five or thirty yards, I should think.

7124. Did you see Mr. Hare wounded; did you know he was shot when the volley was fired?—I heard him say he was shot.

7125. Did you see him sit down on the log at once, or did you see him twice?—I did not take particular notice at the time; he said he was wounded.

7126. You say it was three or four minutes after the volley was fired you saw him sitting on the log?—Yes.

7127. Did you see him before he was sitting on the log?—Yes; I think he was talking to some of the men before he was sitting on the log.

7128. Some little time after he was wounded?—It might be three or four minutes.

*The witness withdrew.*

Charles Johnston sworn and examined.

7129. *By the Commission.*—What are you?—A senior-constable of police.

7130. Where are you stationed?—I have been in charge of Violet Town station until last Tuesday, when I was relieved.

7131. How long have you been in the force?—Eighteen years on the 12th of the present month.

7132. Where were you stationed immediately before the taking of the Kellys at Glenrowan?—Immediately before at Violet Town.

7133. What time did you arrive on the scene that morning?—About half-past eleven, as near as I can recollect, in the forenoon.

7134. Then you were not there at the time the people were all got out?—I was not.

7135. Were you in the district during all the time the Kellys were at large?—Yes.

7136. And you were out with many search parties?—Yes. On the 28th October 1878 I received a telegram from Senior-Constable Maud, clerk in Mr. Sadleir's office, to proceed to Benalla at once, re the Kelly gang.

7137. Where were you stationed before?—At Tatura, in the Goulburn Valley.

7138. I may tell you at once, that it is not the intention of the Commission to go into the general question to-night; you may be under examination again; it is really the Glenrowan matter they are going to deal with now. You arrived at Glenrowan about half-past eleven?—Yes.

7139. Was there any firing at Mrs. Jones's hotel when you arrived?—There were no shots fired on my arrival.

7140. For how long?—I dare say it would be about a quarter of an hour after I arrived.

7141. Were the shots that were fired fired by the police?—They were; and some by the outlaws from the hotel.

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7142. How long did the firing continue from the hotel after your arrival, as far as you know?—I think there were about three shots fired at about a quarter to twelve, and about one o'clock there were two fired.

7143. Those were the last?—About one o'clock were the last from the hotel.

7144. Did the police continue shooting into the building?—At times they did. They would cease firing for a short time, and then again fire.

7145. And there was no reply?—No reply to them; not from a quarter to twelve till about one o'clock.

7146. That was the last?—That was the last shot I heard from the hotel.

7147. Did you know shortly after you arrived that there were only two of them living?—I was told on my arrival that there were only two of them living.

7148. Was there any proposal made at all to rush the hotel?—There was. I had proposed to Mr. Sadleir to rush it. I was told there were others. Armstrong and Dwyer also requested it.

7149. Was the front door of the hotel open at this time?—It was.

7150. During all the afternoon, when the police were firing in occasionally, as the case might be, did you receive any impression from no shots being fired back that it was possible the outlaws were dead?—I knew they were not dead, for about two o'clock I saw one of them come to the back door. I and Constable Wilson were on the north end of the hotel. We had a view of the back door, and one of them came to the back door.

7151. Could you see whether he had his armour on?—I could not, but I believe he had.

7152. Did you recognise which one that was?—I did not.

7153. Did you see his features?—No, we only saw the form of a man coming to the door, as if he was looking out.

7154. Was there no offer made to them to come out?—There were, several times; the police called on them to come out frequently.

7155. Did they say that their lives would be spared for the time if they came?—I did not hear the word used.

7156. And they did not come out?—They did not.

7157. Did they reply at all?—I did not hear them reply at all.

7158. Not even a reply to the firing?—No, I did not hear it.

7159. Were you present when the proposal was made to burn the house?—I was; I made it.

7160. Had you any idea at the time that you would be burning the bodies, or did you think it would drive them out?—To drive them out.

7161. Did you expect it would injure any human beings besides them?—I did not. I was not told there was any other person in the hotel.

7162. You were not told at that time that Byrne was lying at the hotel dead?—I was not told where he was; I was told he was shot.

7163. Were you present at the consultation about burning?—I was. I went to where Mr. Sadleir and Mr. O'Connor were standing, and I said to Mr. Sadleir—I asked him what he was intending to do, and he said, "I have sent for a cannon to Melbourne, to be here about three o'clock."

7164. The proposal was to batter the house down?—Blow the house down with cannon. I said, "Surely you will not send down for a cannon; cannot you take other means to get them out." I said, "Why not fire it?" Mr. Sadleir said, "How would you do that?" I said, "By getting some straw and kerosene and to get at the windward of the building it could be fired, and perhaps they would come out then."

7165. Was that agreed to?—Not immediately. Mr. Sadleir said something to Mr. O'Connor, which I did not hear at the time, and he then said to me, "Well, in the name of God, do it"; but, if it is done, we will get a younger man than you to do it."

7166. What did you say?—I said that anything I proposed I would carry out, and if it was done at all I would do it myself.

7167. You got the straw and kerosene?—Yes, and I saw Mr. Sadleir on the platform, when I said, "All ready."

7168. Was he on the platform when this proposition was made?—No, on the ground, on the north side of the hotel.

7169. Was it arranged then?—I went away towards the range, and Mr. Sadleir met me, and he told me he would go and make arrangements to have a party to fire into the building while I would go up and set fire to it.

7170. And that was done?—Yes.

7171. When you came from Violet Town, what officer did you see upon the ground?—The first I saw was Mr. Sadleir. He was the only officer belonging to the Victorian police there. He was on the platform.

7172. Did you speak to him?—I did.

7173. Did he give you any instructions?—What he said first to me was, "Johnston, you will have to keep quiet and not irritate the men."

7174. What did you understand by that?—I suppose Mr. Sadleir thought I would likely make a rush where the outlaws were. He said they had captured Ned, and Joe Byrne was shot, and the other two in the hotel they would get before night.

7175. Do you consider his object was to spare the police?—I think it was.

7176. *By Mr. Sadleir.*—What men were not to be irritated? Was it to "excite" or "irritate"?—To irritate or excite.

7177. What men?—The police.

7178. The police with you—the party you brought?—Yes; the police in general, I took it to be.

7179. *By the Commission.*—Is it generally known amongst the officers that you are of an impetuous temperament?—I am not aware of it.

*Mr. Sadleir.*—That is the man's nature—he is very impetuous and very hot-headed.

7180. *By the Commission.*—Did you see the police round the house while the fire was catching it?—Yes, they were all round the building, at some distance off.

7181. Did any policeman attempt to go into the building, or to go near it, before the priest went into it?—No.

7182. Did the police follow the priest up or remain till he came out?—They were closing on the building as the priest went up. The priest went in at the front door and came out at the back, having gone right through the passage. The police at this time were closing on the building.

7183. Not rushing?—Not rushing, closing up.

7184. Did you see the motions of the priest as he came out?—Yes; he said, “They are all dead.”

7185. And then?—Then the rush was made up to the house.

7186. To bring out the bodies?—To bring out the bodies.

7187. Was Cherry injured at all by the fire?—No, not at all. Cherry was in the detached kitchen.

7188. And of course it did not matter for Byrne?—He was not injured; the other two were charred.

7189. Did you notice the position of the bodies as they lay, the two that were charred?—I did.

7190. Had they got the armour on?—No; neither.

7191. Was the armour laid on one side?—The armour was lying about a foot and a half from each of them. I might explain the room they were in. There was a double bed in it, and as soon as the fire had burnt down the bed so that I could get to see them, I got a pile of brick and timber away from the wall, and got out the bed; then I saw the bodies, and the manner in which they were lying.

7192. It struck you then, I presume from what you say, that they had not their armour on when they died?—No, they had not.

7193. Because even though the upper portion of the armour might be disturbed and put away from the body the portion they were lying on would surely be under the body?—The helmet and body-pieces and all were lying alongside.

7194. Not on?—No.

7195. Could not have been on?—Could not have been on.

7196. Did they present the appearance of having murdered one another?—No, I do not think they did.

7197. Could you account for their lying together?—They appeared to me to have laid down in one another’s arms—the left arm of one of them was not so much burnt as the right, that is, it appeared to be underneath the other.

7198. Then the impression on your mind was they did not shoot one another, but they had been wounded and lay down to die?—And been suffocated—that they were under the influence of drink and were suffocated.

7199. And not shot at all?—I do not believe they were shot.

7200. Did you see Mr. O’Connor during the time you were there?—Only once during the day, when I went to speak to Mr. Sadleir, about half-past two, about setting fire to the place.

7201. Where were Mr. Sadleir and Mr. O’Connor then?—They were on the north side of the building, about fifty yards from the railway fence.

7202. How far from the house?—About, I daresay, over fifty yards from the hotel.

7203. That is to say on the Wangaratta side?—On the Wangaratta side.

7204. Did you receive any instructions after you came, other than those that you mentioned, from Mr. Sadleir when you arrived?—I did not.

7205. Did you see the officers visiting the men?—I saw Mr. Sadleir go about among the men.

7206. You did not see Mr. O’Connor?—I did not, only once.

7207. You would have known him—Oh, yes.

7208. Were the two officers standing out in the open when you saw them?—No, Mr. O’Connor was standing with his back against a tree, with his back towards the building, and I think it was the Argus newspaper he was reading, and Mr. Sadleir was standing in front of him, the tree sheltered them both.

7209. Do you think the place could have been taken much sooner without great risk?—I think if we had been allowed to rush the place we might have got them.

7210. Do you think there would have been much chance of men being killed in the attempt?—There might have been some of us wounded.

7211. After all it was the most merciful proceeding not to run the risk of their lives?—No doubt it was.

7212. You did not arrive there till eleven o’clock?—About half-past eleven.

7213. Then you were perfectly cool and collected at that time?—I was.

7214. You had not been hurried up early in the morning?—I had been up previously the whole night.

7215. You were not like those who came in the first rush in the morning?—No.

7216. You stated there were three shots after you arrived fired from the hotel?—There were three shots fired at about a quarter to twelve, and two about one.

7217. Do you think you were in a position to judge whether any shots were fired after that time from the hotel?—I know there were no shots. I do not believe after one there were shots fired.

7218. Was it possible, from the way in which the police surrounded the hotel, that shots could have

been fired and some of the members of the police have been under the impression that they came from the hotel, before or after that time?—The shots I heard, I am satisfied were fired from the hotel, from the report.

7219. I am asking was it possible for the shots fired by some members of the police to have been mistaken by other members to have come from the hotel?—It might have been so.

7220. After one o'clock?—Not after one o'clock.

7221. At what time did you see one of the supposed outlaws come from the hotel, on the last occasion, at the back door?—As near as I can fix the time it was about two o'clock, it was after that that we heard a noise as if they were taking off the armour, or putting up a barricade. We heard that noise, and I believe it was then they were taking off the armour.

7222. At what time did you propose to Mr. Sadleir to allow you and others to rush the hotel?—Some time after I arrived on the ground, for I had gone round to see the position of the men.

7223. Was it after the last shot was fired?—Before the last shot was fired.

7224. Will you tell the reply that Mr. Sadleir made to you?—The reply was, "Wait awhile, Johnston, we will have them without any risk."

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C. Johnston,  
*continued,*  
13th May 1881.

7225. Do you know whether you or any other member of the police proposed to Mr. Sadleir to be allowed to rush the hotel before the fire was proposed?—I did it, and I was told others did it too.

7226. Was that the second time or only once?—It was before the shots were fired at one o'clock.

7227. Did you propose it a second time before the house was fired?—Not when I saw him about the firing.

7228. Did you and other members of the police engage in conversation as to the advisability rushing the hotel, outside of the officers?—I did, I had conversation with several of the men about it.

7229. Were they of the same opinion?—There were several said they would go if I would.

7230. And you were prepared to go even before the last shot was fired?—I was.

7231. Did you know at the time it was proposed to fire the hotel that Mr. Sadleir had sent for a cannon?—I did not know Mr. Sadleir had sent for a cannon until I proposed the firing of the hotel.

7232. And then Mr. Sadleir would not consent at that time for you to set fire—about what time did you propose to set fire to it?—I think about a quarter to three. He consulted with Mr. O'Connor. I did not hear what the conversation was.

7233. And at that time they were standing at the tree?—Yes.

7234. You set fire to the hotel on the side nearest Benalla, was that so?—Yes.

7235. Is that the opposite side of the hotel from where the chimney was situated?—There is chimney at each side.

7236. A chimney at the end you set fire to?—Yes.

7237. After setting fire you remained at some distance?—After setting fire I went back to Mr. Sadleir where he was, against the tree.

7238. Did you speak to him then?—No; Mr. Sadleir said to me—"Well, if it does not take fire, it is not your fault. I do not know where I left your rifle." I had left it with him when I went up. I think he said, "It is standing at the tree," so I went round the rank of men to get my rifle.

7239. Then you returned to the position opposite to where you had set fire to the building?—No; that was on the north side where I had left my rifle. I got down partially in front of the building then.

7240. When did you come back to the position where you were able to knock away a portion of the building?—After we had got Cherry out of the building.

7241. That was after the priest had been in?—Yes, some time after.

7242. How far were the bodies lying from the wall that you set fire to?—They were in a different room to the room I set fire to, back on the skillion, on the same side, but in another room, the skillion at the back.

7243. Was there any window looking out from the end of the hotel that you set fire to?—No; there was one from the detached building.

7244. They were not in that?—No; there were none in the end of the building. There was a window in the back.

7245. Was it possible for you to have made a mistake about their being in armour or out of armour before they were dead?—I am satisfied they were out of armour before they were dead.

7246. You saw the two burnt stumps that remained before they were removed?—Yes, I removed them myself.

7247. Was any portion of the armour underneath those stumps?—No.

7248. On which side was the armour lying—on the innermost portion of the building?—Lying towards the door and bedstead, across the end of the building—that is where I set fire to the end of the bedstead—across, with the side to the end of the building; and the bodies were lying on the other side of the bed, between that and the door leading out on to the passage.

7249. And where was the armour lying?—Between the bodies and the passage.

7250. Altogether distinct and removed from the two stumps?—Yes, about a foot between the bodies and the armour.

7251. Do you think it is possible for those two men to have died in armour, or either of them?—It was not possible.

7252. You have no hesitation in saying now that those two men must, of their own accord, have taken off their armour before they died?—They did.

*Mr. Sadleir.*—Is not this examination departing from the purpose expressed to-day. If you go on to this, I must crave the permission of the Commission to cross-examine. I did not wish to do it.

*The Chairman.*—Has he stated anything materially different from other witnesses?

*Mr. Sadleir.*—He stated things very different from my own representation of the evidence.

7253. *By the Commission.*—Did you see anything of Mr. O'Connor from the time you arrived at eleven o'clock until you saw him in the position described by you behind the tree, when you asked about setting fire?—I did not.

7254. Were you in a position, from eleven till a quarter to three, to see what was done by the two officers, Mr. Sadleir and Mr. O'Connor, between eleven and a quarter to three?—I saw Mr. Sadleir go round frequently amongst his men, but Mr. O'Connor I did not see at all, except the time I have stated.

7255. At the time you saw him had he the black trackers immediately under his control?—No.

7256. Do you know where they were at the time?—I did not see them.

7257. Did you see them?—I only saw them in the afternoon, after the place was burnt.

7258. Not before?—Not before.

7259. What time elapsed after the police went towards the hotel before they entered?—That was when the priest went in?

7260. When the police went to the hotel, what time elapsed before their entry?—After the hotel was fired?

7261. Yes?—They ran as fast as ever they could up to the hotel.

7262. When the priest came out?—Yes, when the priest came out; they pulled out the body of Byrne and then got Martin Cherry out.

7263. But the place was on fire at the time?—Yes.

7264. And they ran in while the place was on fire?—It was as much as you could do to get in when we got up to it, with the smoke and fire through the house.

7265. You could not get the other bodies out?—No, it was impossible to get in at that time.

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7266. What distance were you from the hotel when the priest entered?—About twenty yards.

7267. Were you as near the hotel as any of the police?—I was.

7268. None of the police were nearer than you were?—No, but we were all closing in on the hotel.

7269. You were at that distance when the priest came out?—Yes; we were not that distance when he went up first.

7270. How far then?—Thirty yards, I daresay, the nearest then.

7271. Arrangements were made for your protection at the time you went up to the building to set fire to it?—A body of police were to cover me while I went on foot.

7272. Did they fire at all while you went up?—Yes.

7273. And they protected you while you approached the building to fire it?—Yes.

7274. How far were they off when they were firing?—I think Mr. Sadleir was the nearest, I should think thirty yards away. He took up a position to watch the back between the two buildings, so that he had a good view if they came out at the back.

7275. Was he directing the men in the firing?—He was.

7276. Did you hear any orders he gave?—Yes.

7277. What?—They slackened the firing, and I heard him sing out, "Keep up the firing," when I was going towards the building.

7278. Did you hear of any civilians offering to rush the place?—I did not.

7279. If you were left to yourself would you have rushed the place sooner?—I would have rushed the place, undoubtedly, sooner.

7280. Along with the other men?—Yes.

7281. Could you go from the main building to this place where Cherry's body was lying without going through the place; was it entirely detached?—Yes, there might be three feet or more between the detached building and the dwelling-house.

7282. You did not know how Cherry had got into that?—No.

7283. Suppose the outlaws had been alive, do you not think they could have escaped into the shed behind when the fire came?—They could.

7284. *By Mr. Sadleir.*—Did not that take fire afterwards?—Yes.

7285. They would have had to come out of that afterwards?—They would have had to come out of that afterwards.

7286. *By the Commission.*—Could they have got in without exposing themselves to the fire of the police?—Not very well; Mr. Sadleir would have seen them from his position, passing from the passage to the other building, and on the other side there were other men.

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*continued,*  
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7287. *By Mr. Sadleir.*—That shed took fire afterwards?—Yes, after Cherry's body was removed.
7288. *By the Commission.*—From all points were the police sheltered, or were some exposed?—Some were exposed; I saw Constable Dwyer standing down near the railway fence without cover.
7289. How many were exposed within a distance of thirty yards?—I saw Dwyer once.
7290. Within a distance of thirty yards, exposed to shots such as those men were reputed to be, do you not think a man would be certain to have his life in danger as much as he would by rushing the building?—Had the outlaws been out of armour and free from drink he would, but I do not think they could do it in armour.
7291. You think they were prevented from shooting straight by the weight of armour?—Yes, they could not get proper sight by the weight of armour.
7292. In that case would not the danger have been much less in rushing while they had the armour than while they had not?—I think that it would have been safer to rush them with the armour on than off.
7293. Did you get that impression at the time or since?—That was not my opinion at the time, because until I got on the ground I never knew they had armour.
7294. How soon after you arrived did you discover that?—Shortly after I got on the ground, I was taken in and shown Ned Kelly's armour.
7295. That was about a quarter to half-past eleven?—Between half-past eleven and twelve.
7296. Then the impression you derived was that the others were enclosed in similar armour?—I was told they were.
7297. Was your impulse at that particular period to rush the building as being the best method?—No, I did not come to any conclusion about rushing the building until I saw the position.
7298. Do you now think it would have been attended with less danger, and the whole proceeding consummated better by rushing the building?
- Mr. Sadleir.*—I had no time to think; he has had eight months to think.
- The Chairman.*—The object of the Commission is to know whether everything was done at the time.
- Mr. Sadleir.*—Under the circumstances at the time, this is quite another thing.
- The Chairman.*—No; the witness says he was prepared to rush the building at the time.
7299. *By the Commission (to the witness).*—Did you consider that at the time?—No, not at the time, for I had come to this conclusion afterwards that it would be safer to rush with the armour on than without.
- Mr. Sadleir.*—That is my impression too.
- The Witness.*—That if the outlaws were free from drink they could have shot several of the police; had they not the armour on they could have shot several of the police.
7300. Even as it was?—As it was.
7301. Do you think the safety of the police, as we may put it, lay in the fact that the men were drunk and had armour on?—Well, I could not form an opinion then.
7302. Was there any portion of the person of any policeman exposed when he was firing?—Yes. If you are standing against a tree some portion of you must, in taking aim, be exposed.
7303. One-half exposed?—Yes.
7304. Do you think that had you been in the position of those men in the house, with the windows and doors open to fire from, you could have shot some of those men who were not under cover?—I am satisfied I could.
7305. *By Mr. Sadleir.*—If you were in armour?—No.

7306. *By the Commission.*—What I want to ask you now is this: had you been in that house beleaguered by the police, and had the same opportunities that those three men had that were in the house, could you not have shot several of those outside?—I could.
7307. Then your opinion at the present moment is that it was the armour and drink that saved the police?—The armour, I believe, was the cause of assisting the police to a great extent.
7308. Do you not think that drink was another cause?—I think when they had access to drink they would indulge in it very freely.
7309. Of course it is not evidence that you can swear to, but did you hear at the time whether those men were under the influence of drink or not from any prisoner?—I did not see any of the prisoners; they were all out before I got there.
7310. Did you hear anything during the next two or three days?—I was told they were drinking but that was from some of my own comrades—that the prisoners who got out said they were drinking very freely.
7311. Is it your opinion now that drink was to a very great extent the cause of their being in trouble in the way they were?—Well, from what I have heard of them, I think that where the drink was so plentiful about them that they would be likely to take advantage of it.
7312. With regard to the position you took there, suppose Mr. Sadleir had been away at the time, to whom would you have looked for the command as to the course you should take?—The second officer.
7313. Who would be the second officer?—I believe Sergeant Whelan was on the ground. I did not see him.
7314. Did you look upon Mr. O'Connor as properly constituted as a sub-inspector to give orders at

this time?—I think I would not.

7315. Would any of the men?—I do not know what any of the men would do, but I never did consider him an officer of the Victorian police.

7316. You would have taken them from Sergeant Whelan?—In the absence of Mr. Sadleir.

7317. Or Senior-Constable Kelly?—Yes; he was senior to me.

7318. *By Mr. Sadleir.*—Sergeant Steele was there?—Yes, but I did not see him.

7319. *By the Commission.*—We understand that had you gone there, and Mr. Sadleir not come up, you would have looked to the inferior officers of the Victorian police as your superiors in command?—Yes; and would have taken any order from them.

7320. After eight months' thought over the matter, although at that time you did not know that the two outlaws inside the hotel were in armour or out of armour, suffering from drink, or otherwise, still at that time, on the spur of the moment, you proposed to rush the hotel in preference to setting fire to it?—Yes.

7321. You had not got eight months to arrive at that conclusion?—No.

7322. You say that there was another constable besides yourself who saw some one come out at the back door?—Constable Wilson.

7323. Any other?—I do not know. Wilson and I were together at one tree.

7324. This was after the last shot was fired?—After the last two shots were fired, about one o'clock.

7325. Were the shots fired out of the back window or not?—I could not say, but they were fired from the house.

7326. Did you see the flash or the smoke?—From the report; and, I came to the conclusion, I am satisfied it was from the building, because there were none of the police about the house to fire so close that you would take it to be one of the police firing.

7327. When you went round, what distance were the men apart surrounding the house?—There might be some of them five yards apart, and then perhaps ten yards; at another tree, where there would be one or two more.

7328. Then some of those other constables might have seen those men come to the door as well as yourself?—They might have.

7329. *By Mr. Sadleir.*—When you went up to the building did you think it child's play to fire it?—I did not, indeed.

7330. Do you not think it would have been more dangerous to have sent four or five men down the passage of the hotel to look for the outlaws than to fire it?—Well, yes; there would be more risk going into the rooms than there would be walking up to the building to fire it.

7331. Considering you were covered by the firing party?—Yes.

7332. Would it not be still more risky if you did not know what part of the house they were in?—I did not know what room they were in. I was given to understand they were in the front of building.

7333. Who knew that?—I was given to understand that.

7334. Could any person know that?—I believe they were there when the prisoners came out, and by seeing one of them at the back my impression was he was in the front building.

7335. I am not speaking of the front building, but could you tell what part of that five-roomed house they were in?—No.

7336. Will you just imagine for a moment—suppose I had sent five constables down the passage—they could not fire while they went to rush the house?—They could not tell which room they would be in.

7337. Could the covering party help them outside?—No.

7338. Suppose you put your head into a room, you would have to look round to see if there was an outlaw waiting to shoot you?—Undoubtedly.

7339. And into the other rooms to look?—Except you sent four in at the front and four at the back.

7340. Suppose, under the circumstances you say of sending four in at the front and four at the back, what would their position be if they had to come to fire; would they not shoot each other?—Well, they might.

7341. Could they avoid it if they came to fire and they came into the passage at the two different doors; if they fired, must they not shoot each other?—Except they pounced on the outlaws at once when they got their eyes on them.

7342. But they might have to search four rooms first?—By-the-bye, I said four in the front and four at the back; two could go to each room, and I know two of the men would be good enough for two of the outlaws,

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7343. *By the Commission.*—Was it not broad daylight?—Yes.

7344. And the windows open?—Yes.

7345. *By Mr. Sadleir.*—Suppose I had sent the four in, and the outlaws dropped a couple and wounded one or two of the others, and those who were able to retire had to retire, what would our position be then outside?—I do not know what you could do.

7346. Would not the end of that business be worse than the first?—Yes.

7347. Our hands tied for firing?—Yes, some of our comrades being in it.

7348. Dead or dying?—Yes.

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*continued,*  
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7349. That would have to be repeated—send four more men in?—Yes.
7350. Suppose the same happened to them, would not the position be still worse?—Yes.
7351. You say Constable Dwyer was just as much exposed for a time, not covered by a tree; did you not hear me desiring him to take cover again?—I did.
7352. How long was he exposed?—Perhaps a couple of minutes I saw—a very short time—and I heard you give him orders to take cover.
7353. *By the Commission.*—Did you see other constables passing to and fro?—Yes, men were walking round from tree to tree.
7354. *By Mr. Sadleir.*—Were you the only member of the force that touched those bodies with the stick, or anything else?—I was the only member of the force who touched them till they were taken out of the fire.
7355. Do you not remember stooping down with me near the end where you set fire, and trying to get a glimpse of those bodies?—That was prior to the place being fired.
7356. Do you remember going again and trying to get another view?—Yes, you and Captain Standish.
7357. And going to see Cherry?—I saw him in the yard when he was taken out.
7358. How do you know other police did not try to reach those bodies when you were with me?—They could not, because the end of the house was not burned enough. I was not able to get them out when I tried first.
7359. From the position of the plates of armour, were they not lying within a foot of the bodies?—Yes.
7360. Was it not possible, suppose those men had lain upon their sides, locked in each others arms as you say, that when the heat caught or burnt the thongs, that those plates might have fallen in the position you saw them?—They could not possibly all have fallen on one side.
7361. I will put it another way—had you such a good view from the very first as to see that there were none of the plates between them, or lying underneath them?—I had not a good view till I got the bedstead out. The bodies were not moved.
7362. Were they not covered by the cinders and the fallen stuff from the ceiling?—They were some of them covered with the rafters.
7363. Was there not a dog?—Yes, lying near the bed.
7364. Could you tell what it was?—No. I thought it was a third person, a human body, at first.
7365. Till you stirred them up with a stick?—Yes; with a forked stick I got out one, and with an iron rod the other.
7366. Was there no possibility of your shifting those sheets of armour turning them over?—No there was not.
7367. Were you at any loss for any instructions during the day after I gave you the first instructions?—No, I could not see I was at any loss, for I understood what was to be done myself.
7368. Were there not five times the number of men there that were necessary?—I believe there were.
7369. And it was not necessary for the officer to see further than that all points were covered against an escape?—The building was well covered, so that they could not get away.
7370. Do you consider my movements that day would give proof they were covered enough?—Yes; and I considered you moved about very freely during the day amongst the men.
7371. *By the Commission.*—You were out in the search parties?—I was with Mr. Nicolson and with Mr. Sadleir.
7372. You will be called again in regard to that?—Yes.

*The witness withdrew.*

*Adjourned to to-morrow at Glenrowan.*

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*(Taken at Glenrowan.)*

SATURDAY, 14<sup>TH</sup> MAY 1881.

*Present:*

Hon. F. LONGMORE, M.L.A., in the Chair;

J. H. Graves, Esq., M.L.A.,

E. J. Dixon, Esq., J.P.,

G. R. Fincham, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.,

W. Anderson, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.

William Canny sworn and examined.

William Canny,  
14th May 1881.

7373. *By the Commission.*—What are you?—A mounted constable.
7374. You remember the morning of the day on which the Kellys were taken at Glenrowan here?—Yes.
7375. Where are you stationed now?—At Greta.
7376. What time did you arrive on the ground?—At twenty minutes to three.

William Canny  
continued,  
14th May 1881.

7377. Then you were amongst the first that arrived?—Yes.
7378. Did Mr. Hare and Mr. O'Connor arrive at the same time?—Yes.
7379. They came in fact by the special train?—Yes.
7380. Do you remember what occurred immediately after you arrived?—Yes.
7381. State it?—When we came to the station, Mr. Hare ordered the horses to be got out, and we were in the act of taking them out, and had some out, and Constable Bracken came running there and said the Kellys were at Mrs. Jones's; and I asked Mr. Hare what we would do with the horses, and he said "Let them go"; and he said, "Come on, boys," and we followed him to Jones's hotel. Immediately after we got through the wicket gate with Mr. Hare, the Kellys came out north of the house by the chimney; and I believe Mr. Hare was the first man who fired after the Kellys fired, and there were about forty shots fired between the two parties, and I heard Mr. Hare say he was wounded in the wrist.
7382. How long after the first volley was that?—I cannot tell; there were about thirty or forty shots fired, and I heard him say he was wounded.
7383. Was Mr. Hare sitting down?—No, not at that time—standing up, going towards the hotel.
7384. Would it be five minutes after you arrived?—I could not tell about the time.
7385. I mean in front of the house?—I dare say it would be; it might be more.
7386. You were near Mr. Hare?—Yes, close on the right-hand side.
7387. Did he not say he was wounded immediately after the first volley?—Yes; thirty or forty shots fired.
7388. Were the black trackers and the police firing?—Yes; but I did not see the black trackers at this time.
7389. Were they any of those that fired?—I dare say they were; I could not say who was firing.
7390. They were in the train with you?—Yes.
7391. Did you see Mr. O'Connor at this time?—No, not at that time. I heard Mr. Hare sing out to Mr. O'Connor to fetch the boys, and to surround the house.
7392. What happened then?—After that I came back over the fence, and took up a position in front of the house. I could hear Mr. O'Connor speaking to the left of where I was in the drain.
7393. Speaking to his boys?—I suppose it was that.
7394. Do you remember about what time the women were let out of the hotel?—They came out after the first fire, after Mr. Hare left.
7395. About what time?—Four o'clock I think, as near as I could guess.
7396. How many came out?—I could not tell how many. Mrs. Jones came out for one, and Mrs. Reardon I believe was also one of them.
7397. Did you continue firing?—We ceased firing, as Mr. Hare told us to stop firing and surround the house till daylight.
7398. Did you stop firing till daylight?—No. Immediately after Mr. Hare left one man came out, who I believe was Ned Kelly, and he fired in the direction of the men on the Benalla side, and I fired at him two or three shots, and one of the trackers who was with me, named Barney, fired too, and this man retreated back.
7399. You did not see that the shots took any effect?—I could not tell that.
7400. Did you remain in the front until the men were let out?—Yes.
7401. About what time was that, do you think?—Twelve o'clock, I should think.
7402. As late as twelve?—Eleven or twelve; I could not be positive as to time.
7403. Did you see Mr. O'Connor giving any orders between the time Mr. Hare left and those men coming out?—No, not to the police. I received no orders.
7404. Did you see him at all?—Yes; he was in the drain at the time.
7405. What distance from you?—Ten or fifteen yards, I should think.
7406. Could he not give an order without your hearing?—No; I must have heard him.
7407. Where next did you see Mr. O'Connor—did you say you saw him when the men were let out?—I saw him when the men were let out; he was with Mr. Sadleir then on this side of the house.
7408. Had he passed you in the drain?—I do not know which way he went. I think Mr. Sadleir sent a man for him to say he wanted him.
7409. Where did he meet Mr. Sadleir?—I think on the north side. I beg your pardon, I believe Mr. Sadleir went to Mr. O'Connor first in the drain. I saw him go to him. Then Mr. Sadleir went to where Constable Gascoigne was, and I could not see where he went then.
7410. Was Mr. O'Connor with him when he went round to see Gascoigne?—No.
7411. Was Gascoigne further on the Benalla side; Yes, he was on the Benalla side when Mr Sadleir arrived.
7412. Did you receive any orders at all from Mr. O'Connor during the day?—No.
7413. Did you act under his orders at all?—No? I took up the best position I could. After Mr. Hare was wounded I saw no one to give orders.
7414. Did you see Mr. O'Connor after the interview with Mr. Sadleir; what time would that interview be?—I could not say the time exactly; about eight or nine, perhaps.
7415. Did you see him after the Kellys' prisoners were let out of the house?—Yes, several times.
7416. Where was he?—On the Wangaratta side of Jones's hotel.
7417. How far away?—About. 60 yards, I should think.

7418. Was he taking any active part in the fight?—Oh yes, at that time.  
 7419. Was Senior-Constable Kelly on the ground?—Yes, he was there.  
 7420. Did he give any orders?—I received none from him.  
 7421. Was he considered by the men as the one who should give orders?—Yes, I considered so.  
 7422. You all looked upon him as your superior officer when Mr. Hare was away?—Yes.  
 7423. *By Mr. Sadleir.*—Was that after I arrived?—I mean before you arrived.  
 7424. *By the Commission.*—Where was Mr. Sadleir during this time—after he arrived?—He first went to the other side of the house, where Gascoigne was, and I could not say where after. I suppose he must have gone round the house after that.  
 7425. Where did you next see him?—Here, at the north side of the hotel.  
 7426. Was he near the hotel?—Yes, he was within about 50 or 60 yards of the hotel, at this end.

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7427. Did you consider that the Kellys were kept much longer in the house than they were needed to be; would you have been willing to rush the house?—Yes; if we had orders, I would have made one.  
 7428. You did not propose it to your officer?—No.  
 7429. Do you know that a proposal of that sort was made?—I heard so. I never heard it made.  
 7430. Did you remain in that one position all day?—Till the prisoners came out, and then I went out to them, to where Mr. Sadleir was, on the north side.  
 7431. Was it far from where Kelly was caught that you saw Mr. Sadleir?—Just about the same place. I was not there when Kelly was captured. I know whereabouts it is.  
 7432. Was Mr. O'Connor with Mr. Sadleir then?—When the prisoners came out, I think he was.  
 7433. Did you see anybody or hear of anybody taking orders from Mr. O'Connor on that day?—No, I did not.  
 7434. Did you consider yourself that Mr. O'Connor had any standing on that day?—No, I did not with the Victorian police.  
 7435. Were you present when Senior-Constable Johnson offered to fire the house?—No, I was not there.  
 7436. You arrived with Mr. Hare in the morning, at Benalla?—Yes.  
 7437. Do you remember leaving the platform here?—Yes.  
 7438. Who left with you?—Constable Gascoigne.  
 7439. Who else?—Mr. Hare was in front of us.  
 7440. Who was second?—I could not tell you; there were three or four—a lot.  
 7441. Where was Mr. O'Connor at that time?—I did not see him at that time. I did not see him leave the platform.  
 7442. He was not in advance of you?—No.  
 7443. You saw Mr. Hare go through the wicket gate?—Yes.  
 7444. Did you also pass through the gate?—Yes.  
 7445. With who else?—Constable Gascoigne.  
 7446. Any others?—Yes; but I do not know who.  
 7447. Did you see Mr. O'Connor?—No; he was not amongst that number.  
 7448. Did you see Mr. O'Connor any time outside that one-rail fence until later on in the day?—No.  
 7449. At what time did you see him at any time outside that fence?—I could not tell the time, but it was after Mr. Sadleir arrived.  
 7450. You did not know at the time the first volley was fired where he was, whether this side or the other side of the fence?—He was on this side.  
 7451. Did you see him at any time at any of the watercourses?—Yes.  
 7452. Which one?—The one down by the culvert—the road culvert.  
 7453. What time?—At four o'clock.  
 7454. Soon after your arrival?—Yes, about an hour.  
 7455. And after Mr. Hare had left the ground?—Yes.  
 7456. Did you see Mr. Hare after he was shot?—I saw him but I did not speak to him.  
 7457. Do you remember the engines leaving this station?—I heard them leave.  
 7458. How long would that be after the first volley was fired from the hotel?—A good long time. I could not tell.  
 7459. Could you fix it within something like a reasonable time?—Three quarters of an hour to an hour.  
 7460. There were two engines left—was it the first or second?—I do not remember whether there were two; it must have been from three quarters of an hour to an hour.  
 7461. It could not have been within ten minutes after Mr. Hare was shot?—No.  
 7462. Or a quarter of an hour?—No, I think not.  
 7463. After Mr. Hare was wounded did Gascoigne pass towards the Benalla end of Jones's hotel and you came back to the Wangaratta end?—Yes.  
 7464. I suppose you took your position then at this side of the house?—Not this side; I was in front

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of the house.

7465. What I want to ask is this, would Mr. O'Connor's position in the drain be between you and Gascoigne?—No, he was further down towards the railway line.

7466. Supposing his black trackers fired at the front of the house would their fire reach that house between your position and Gascoigne's?—Yes, it would.

7467. Therefore, as far as the front of the house was concerned, Mr. O'Connor was in front of the house between your position at the railway and Gascoigne?—Yes.

7468. You stated that you received no orders from Mr. O'Connor—that he gave you none?—Yes.

7469. And that you did not consider him, as far as you were concerned, as your officer in command of you?—Yes.

7470. Did you receive any orders after Mr. Hare left the ground from any one—any person you considered your officer?—No, I did not.

7471. Did you receive any orders from Senior-constable Kelly?—No.

7472. Did you see him?—No, I heard him speak.

7473. From what position?—From the back of the house, towards where the present shed is standing.

7474. About what time was it you heard him speaking?—About four o'clock.

7475. That was before Mr. Sadleir came?—Yes, that was before Mr. Sadleir came.

7476. Did you know from the position you were standing that Gascoigne was over in the position you saw him go to after Mr. Hare was wounded?—Yes. I would not be positive it was Gascoigne, but I knew there was a man there.

7477. Was Kirkham there?—He was on that side.

7478. What other men were of your party?—Constable Phillips.

7479. On the Benalla end?—Yes.

7480. And Senior-constable Kelly?—He placed those men there; I heard him say so, I do not know.

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7481. You did not see him place them?—No.

7482. Did you receive any ammunition?—No.

7483. Or any orders from any one?—Not till Mr. Sadleir's party arrived.

7484. Was it understood among the police that they were to surround the house—the last order of Mr. Hare—and that was all your duty till somebody came to relieve you from your position?—Yes, that was it; and that is what I did.

7485. Would it be correct to say that any men went round and round, in your opinion?—I believe Senior-constable Kelly went round.

7486. Did you see him?—No.

7487. Did he come round to you?—No.

7488. You said you received no orders from Mr. O'Connor, and you were within fifteen yards of him—did you hear him giving any orders to the black trackers that were with him under his command?—I did not hear him give an order. I heard him speaking. I could not tell what he said. It sounded a hollow sound, as if down in a hole.

7489. Could it be for particular action as to how they were to fire?—It might have been.

7490. Would you say it was not?—No.

7491. You remained in that position, and all the men, until after Mr. Sadleir took charge of the party?—Yes.

7492. Who moved you from your position first—did you move by any orders?—Not till the prisoners came out.

7493. Who moved you?—I moved myself.

7494. When did you get the first instructions?—When we fetched the prisoners. Mr. Sadleir gave the orders.

7495. Who fetched the prisoners?—Constables Graham and Arthur, and others.

7496. Then you went on with those prisoners to Mr. Sadleir; what was that for—was it for the purpose of examining the prisoners, to see the outlaws were not amongst them?—No; not to see that the outlaws were amongst them.

7497. What?—I believe that there were a lot of sympathizers amongst them—supposed to be—and I believe Mr. Sadleir wanted to retain some of those.

7498. Did he retain the McAuliffes and let the others go?—Yes.

7499. Did you see Sergeant Steele come on the ground?—I heard him; I did not see him. I heard him challenged by one of the constables; I do not know who.

7500. Was the position that you heard him coming to between you and where the place is that you were shown as the place that Kelly was captured?—Yes.

7501. Do you know what position Sergeant Steele took up?—No.

7502. Did you hear any firing from the tree to your right?—There was firing there.

7503. Then if Sergeant Steele stated that he took that position immediately on coming from

Wangaratta, would you have any reason to doubt his accuracy?—No.

7504. *By Mr. O'Connor.*—Can you state what time the special train arrived at Glenrowan?—I had a watch and I looked at it just then, it was twenty minutes to three.

7505. Do I understand you to mean when we came up to unship the horses?—Yes.

7506. Did you notice me on the platform at all?—No, I did not.

7507. Are you prepared to state that I was not on the platform?—No, certainly not; I was busy taking the horses out.

7508. You never heard me speak on the platform?—No, you might have.

7509. Mr. Hare, you stated, ran up in advance; who was the next man?—I believe it was Constable Gascoigne.

7510. You did not see me move up with Mr. Hare?—No.

7511. Where did you come up in the rush?—I was third man to Mr. Hare, going through the wicket gate.

7512. I mean leaving the platform. You say you were getting out the horses, where were you upon leaving the platform—were there several between you and Mr. Hare when he went up?—Yes, but some of them went towards the railway gate—some of the party.

7513. Would you show on the plan the gate you mean?—I mean the gate-house.

7514. On the railway line?—Yes, some of the men went on to that.

7515. I am speaking of leaving the railway platform. Now who can you swear left the platform with Mr. Hare?—Gascoigne, Phillips, and myself.

7516. You were the only ones?—Yes. There were lots, but they did not go through the wicket gate.

7517. Never mind the wicket gate at present; I mean before leaving the platform, Mr. Hare spoke and you heard him?—Yes.

7518. When we came out of the train, when the train pulled up at the platform, do you remember seeing Mr. Hare on the platform?—Yes.

7519. Did you see me on the platform?—I did not see you.

7520. You said I might have been there?—I am certain you were there.

7521. Then I ask you—I am still speaking of the platform—did you see Mr. Hare start up towards the house?—Yes.

7522. You heard him speak to his men?—I followed him up.

7523. Did you hear him speak?—Yes, he said, “Come on, boys.”

7524. You say you did not hear me speak on the platform?—I do not remember on the platform.

7525. Who followed Mr. Hare off the platform?—I believe all the men started from the platform.

7526. I might have been with them?—You might have been with them.

7527. To your knowledge you do not know?—No, not starting from the platform.

7528. At what part of the ground did you pass the other man that led up next but one to Mr. Hare?—Some of the men went down the creek along the line.

7529. Now in reference to the first discharge, are you aware that Mr. Hare in his evidence stated he was wounded by the first shot that was fired; is that correct?—He was wounded very soon; if it was not the first, it must have been the second anyhow. He was wounded very soon after.

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7530. Did you hear Mr. Hare immediately state that he was wounded?—I heard him say he was wounded.

7531. How long after—I think you said ten minutes before—after a considerable amount of shooting?—There were a lot of shots fired before I heard him speak.

7532. Was it like two or three continuous volleys, and could have been fired in about half a minute?—There was one volley and a lot of shots fired.

7533. You might say one discharge?—Yes.

7534. Did you hear the words Mr. Hare used when he told us he was wounded?—Yes, he said—“I am wounded,” he said—“Come on, Mr. O'Connor, and fetch your boys and surround the house.”

7535. If anybody stated that he accosted me in these words—“Mr. O'Connor, I am wounded, I am shot in the arm, I must go back,” it is not correct?—He might not have used “Mr.”

7536. Was that the purport of what he said?—Yes.

7537. What distance was I from Mr. Hare when he spoke?—I could not form an opinion.

7538. Was there any person in a position to swear as to minute details after the first heavy volley in consequence of the smoke; could you see to be able to swear to what Mr. Hare did after the first heavy two or three volleys?—No, I could not; I know what he did before.

7539. You state the outlaws left after Mr. Hare left and fired?—After he was wounded.

7540. You said after he left?—After he left in front of Jones's; that is to my knowledge.

7541. After he left the front?—Mrs. Jones might have been out before; she came out very soon after the fire, I recognised her voice.

7542. Did Mrs. Jones come out by herself?—She came out by herself.

7543. Nobody following her?—I do not think so.

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7544. When did the remainder of the women come out?—Mrs. Jones was the first woman out, she was scolding the police and calling them cowards.

7545. I mean by coming out, passing through the police line?—No one had passed down the line.

7546. Till after Mr. Hare left?—No, I think not till then.

7547. And no woman passed down through the police lines till after Mr. Hare left?—No, I do not think there were any—none passed me.

7548. Did you hear me speak while the women were coming down through the police line—did you hear me challenge the women?—No.

7549. Did you hear anybody challenge the women?—Yes, I heard several constables.

7550. Would you swear they were all constables?—No.

7551. I might have challenged them?—Yes.

7552. *By the Commission.*—What did you hear them say in challenging?—”Stop them, and say who goes there.”

7553. *By Mr. O’Connor.*—Did you hear Constable Kirkham speak to the women?—I did not see him at all or hear him.

7554. You stated you received no commands from anybody after Mr. Hare left. In your opinion, was it necessary for any commands to have been given?—I do not know.

7555. Were you not instructed, as you say, by your officer to do a certain work?—Yes.

7556. And did you consider that it was necessary for any other officer to alter that plan?—The officer might, but I did not consider it necessary.

7557. You considered we were doing the best thing we could to get the Kellys with the small force we had?—Yes, I did.

7558. When was the first time in the morning that you first became acquainted with my position?—About four o’clock, before Mr. Sadleir arrived.

7559. Did you see me?—Barney the tracker informed me you were there.

7560. Did you see me?—Yes, I saw you put your head up and shoot at the house window.

7561. You cannot swear it was at the window?—No.

7562. When did you first see me in Benalla—first know I was over here working—met me personally, I mean?—It was in April 1879, I think.

7563. Had you just joined then?—No, I was on special then.

7564. Were you on probation then?—Yes.

7565. I suppose you made enquiries about who your officers were, and who were not?—Yes, I did.

7566. Did you ever ask what position I held?—I do not know that I did.

7567. Did you, from the very first, consider that I had no standing in the Victorian force?—I never looked up to you as an officer.

7568. Because I never came in contact with you to give orders; but I say did you ever hear anybody state to you that I had no standing in the police force?—No, I do not think anybody ever stated that to me; I did not look upon you as an officer here. I believed you had started to Queensland at the time you came to Glenrowan.

7569. I am speaking of when you first knew me, and you were on probation; and I want to know if you, from any other knowledge from men, or the sergeants, if you ever considered I had no standing in the police?—No; I never enquired. I always thought you were just in charge of the black trackers.

7570. You never heard any man say, “He has nothing to do with us—he is only from Queensland”?—Yes; I have heard several say, “He has nothing to do with us.”

7571. Was it a sub-officer?—No, not a sub-officer, but lots of constables say so.

7572. You do not know where they got their knowledge from?—No.

7573. You say, about Glenrowan, that after Mr. Sadleir came you saw me several times. Was I doing the same as Mr. Sadleir—walking about from post to post?—Some time after Mr. Sadleir arrived, the first place I saw you with Mr. Sadleir was on the Wangaratta side of Jones’s house.

7574. *By the Commission.*—Did you say the men came from the chimney end of the house?—Yes.

7575. If witnesses deposed the outlaws came and delivered their fire from and under the verandah, towards where you were approaching with Mr. Hare, would it be from the verandah or the chimney end of the house?—The chimney end.

7576. Therefore, if witnesses who came out from the house swear it was from the chimney end of the house, it would be correct?—Yes.

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7577. When Mr. Hare was wounded, what distance were you from him when he was shot?—Five or ten yards.

7578. When Mr. Hare was wounded, did he look round to see if Mr. O’Connor was there, and to speak to him?—Yes.

7579. Did you see Mr. O’Connor there?—No.

7580. Did you see him look round?—I could not say whether he was looking round, but he said, “Come on, O’Connor, and fetch the boys up.”

7581. Did you see Mr. O'Connor?—No.

7582. Do you think Mr. O'Connor was ever through the wicket gate at all?—I do not think so—not up to the time Mr. Sadleir arrived.

7583. *By Mr. Hare.*—What time was it I said that to Mr. O'Connor, before the firing had ceased or after it had ceased?—After the volleys were fired.

7584. Could I have made use of this expression—"O'Connor, I am wounded—shot in the arm—I must go back to have it tied up." Could I have made use of that expression after I had returned through the gate from my position?—Before you left your position it was.

7585. Are you sure of that?—Yes.

7586. That was after the firing was all over?—Yes.

7587. You say it was before I left my position?—You were coming this way, and I do not know whether you were over the fence.

7588. *By the Commission.*—Did you take up a position after you heard this language?—Yes.

7589. *By Mr. Hare.*—Coming to another part where Ned Kelly came out the second time, did you hear my voice then?—Yes.

7590. Where were you—in which direction?—In the Wangaratta direction.

7591. And you were lying in front of the house?—Yes.

7592. Was it near a tree?—Yes.

7593. Did you hear me say anything to Ned Kelly?—I heard you say to him, I think, that you wanted to speak to him.

7594. *By the Commission.*—What time was it when you heard him speak a second time—how long after the first?—Ten or fifteen minutes it might be.

7595. *By Mr. Hare.*—Could I have had time to run up to the station and be back to have my hand bandaged?—Yes.

7596. *Mr. O'Connor.*—Did you see which way Mr. Hare went after he was wounded?—He tried to get over the railway fence.

7597. Did you lose sight of him?—Yes, I lost sight of him, and then I heard him speaking on the fence to one of the outlaws when one came out to fire.

7598. That was in the first ten minutes?—Ten or fifteen minutes, it might have been more.

7599. You could not swear he went down to the station and got his wound dressed and came back?—No.

7600. He might have been there the whole time without coming to the station?—Yes.

7601. *By Mr. Hare.*—You saw me leave—retreat, and then saw me next by the gum-tree?—Yes—*[The witness explained the positions upon the plan.]*

*The witness withdrew.*

James Reardon,  
14th May 1881.

James Reardon sworn and examined.

7602. *By the Commission.*—What are you?—I am a laborer on the railway line.

7603. Do you remember the night that the Kellys had you all in Mrs. Jones' hotel, prisoners?—Yes, on the night of the 27th.

7604. What time were you taken into the hotel?—Well, it might be about six o'clock on Sunday morning.

7605. And were you kept in the hotel all day?—Yes, and all night.

7606. How many were in the hotel prisoners—about?—Well, I counted 62 altogether on Sunday evening, and I could name the lot if I was at home now.

7607. Did the Kellys use you for any purpose?—Yes, they took me on Sunday morning from my own place. It was twenty minutes past two when I left my house—he took me to break the line; he had a man named Sullivan, a repairer on the line, in charge at the time—that was Ned Kelly, and then I heard the dogs barking, making a row, and I got up and dressed myself and went outside the door, and heard a horse whinneying down by the railway line, and I went towards where I heard the horse. I thought it was the horse of a friend, and I went down, and Sullivan was coming through the railway fence, and I said, "What is the matter?" and he said, "I am taken prisoner by this man." Ned Kelly came up and put a revolver to my cheek and said, "What is your name?" and I said "Reardon," and he said, "I want, you to come up and break the line" He said, "I was in Beechworth last night, and I had a great contract with the police—I have shot a lot of them, and I expect a train from Benalla with a lot of police and black fellows, and I am going to kill all the — ——" I said, "For God's sake, do not take me—I have got a large family to look after." He said, "I have got several others up, but they are no use to me," and I said, "They can do it without me," and he said, "You must do it or I will shoot you," and he took my wife and seven or eight children to the station. When we came to this small tool-house, that chest was broken and the tools lying out on the side of the line. He said, "Pick up what tools you want," and I took two spanners and a hammer, and I said, "I have no more to take," and he said, "Where are your bars?" and I said, "Two or three miles away," I said, "In front of my place," and he sent Steve Hart for them, and he came in a few minutes after himself. When I went on the ground I said to Hart, "You have plenty men without me doing it." "All right," he says, and he pointed to the contractor from Benalla, and said, "You take the spanner."

7608. Was that McHugh?—Yes, Jack McHugh, I think. He took the spanner, and I instructed him, on being made, how to use it. Ned Kelly came up, and said, "Old man, you are a long time breaking up this road." I said, "I cannot do it quicker." And he said, "I will make you do it quicker. If

you do not look sharp I will  
tickle you up with this revolver.” And I said, “I cannot do it quicker, do what

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you will.” And he said, “Give me no cheek.” So we broke the road. He wanted four lengths broken. I said, “One will do as well as twenty.” And he said, “Do you think so?” And I said I was certain.

James Reardon,  
*continued,*  
14th May 1881.

7609. Why did you say that?—Because I thought if only one was off the train would jump it and go on safely.

7610. Did Ned Kelly point out the place?—Hart did.

7611. Then he brought you all up to Mrs. Jones’s?—Yes, we came to the station and remained at the gate-house, where the station-master lived, for perhaps two hours.

7612. How many of you?—There might be about twenty at the time, more or less.

7613. Did he keep bringing in fresh prisoners?—Every one that passed by that he got sight of he bailed up. Between that and evening he had 62, which I counted.

7614. I not suppose he treated you badly in the hotel?—No, he did not treat us badly—not at all.

7615. Was there any drinking?—Yes, they had drink in them in the morning. When I first saw them Steve Hart was pretty drunk.

7616. Did they continue drinking moderately or in any quantity?—I did not see them. I saw some people offer drink to Dan Kelly and Byrne, I believe, and they said “No;” but if Ned Kelly drank I cannot say, for he was in the kitchen at the back. We were locked in when it came night. We were all called in and the doors locked, and we were kept there.

7617. Was there no opportunity of escaping at all—did they keep you there all night?—All night. No opportunity at all—not the slightest. No chance.

7618. Were you there when the police came?—Yes, I was there when he went for Bracken, between nine and ten on Sunday night.

7619. They took him prisoner also?—Yes, there was only one constable here at the time.

7620. What occurred during the night before the police came?—Well, they were very jolly, and the people and Mrs. Jones cleared the house out. They would not have it without a dance. She wanted me to dance, and I said, “No, something is troubling me besides dancing.”

7621. Did she speak anything about Ned Kelly?—No; I did not hear it.

7622. Praising him, or anything?—Yes; she said, “We will all be let go very soon, but you may thank me for it,” and my missus asked Dan Kelly to let me go home with my children and family. “We will let you all go directly,” she said.

7623. What o’clock was that?—About an hour before the train came with the police.

7624. Was there a dance got up in the house?—Yes; there was three of the Kellys—Ned, Dan, and Byrne danced, and Mrs. Jones and her daughter, and three or four others I did not know.

7625. Did she praise Ned Kelly during that time?—Yes; she said he was a fine fellow.

7626. Did she say anything about the police?—No; I did not hear her.

7627. What further did she say about them?—Dan Kelly said, “Now you can all go home,” and I stood up and I picked up one of my children in my arms, and we were making to the door when Cherry picked up Ryan’s child, and Mrs. Jones stood at the door and said, “You are not to go yet; Kelly is to give you a lecture yet,” so we all turned back into the house again, and Mrs. Jones came in and said, “Kelly will give you all a lecture before you go.”

7628. Was that said seriously, or for the purpose of bringing you before Ned Kelly?—Ned Kelly came shortly after, and I was sitting down in a chair, and I was the first he came at, and he said, “Riordan, do not you be so fond of getting out of your bed at night. If you had a good horse, and I wanted it, I would take the horse and shoot you.” He turned from me and turned to Sullivan, who works with me, and said, “Were you ever in New Zealand?” And Sullivan said he was; and he said, “Are you Sullivan, the murderer?” and he said not. He said, “I would give £1,000 for him if you were, because he was a scoundrel.” Then he turned to Constable Bracken, and said, “You are sworn not to spare father, mother, brother, or sister.” “No,” says Bracken, “our oath is not that; it is to protect life and property, which you or any other man can see in written form.” Byrne came in then and he said, “The train is coming.” That stopped all the discourse. They turned into the back room—the three bushrangers—there was one taking care of Stanfield’s family. Then they went into one of the back rooms dressing themselves in their armour. I could hear the armour rattling.

7629. Had you been allowed to go you would have been clear away before the police came, when Dan Kelly said you might go?—Yes; we would have been clear away.

7630. Then Mrs. Jones’s interference was the cause of your being delayed?—Yes.

7631. Did Mrs. Jones about that time, or before that, praise Ned Kelly any further?—Not that I heard. If you heard my missus’s evidence, she could tell you a great deal more than I can.

7632. Was Mrs. Jones appearing to be very pleased that the outlaws were there?—Yes, Mrs. Jones appeared very pleased, indeed. Bracken saw where they planted the key, and at the time they went to put their armour on, he went and took the key. He put the key in his trousers, and came back to the door and stood there till he got his opportunity, and opened the door, and turned the key in the door.

7633. And you understood he was taking the key?—Yes.

7634. And he actually opened the door in your presence?—Yes.  
 7635. During all this time did you see the Kellys drink?—No, I did not see three nobblers during the whole day, but they had plenty of drink in the morning.  
 7636. Did Hart get sober?—Yes, more than he was in the early part of the day.  
 7637. Was he very drunk?—He had as much as he could bear.  
 7638. When the police came what occurred then?—The outlaws went around the house and fired.  
 7639. What way?—At the back; they came out the north end and into the verandah, and fired.  
 7640. Did they come into the house again?—There were three came in again. I do not believe Ned came in at all.  
 7641. Did the police immediately reply?—Yes, at once. There was a return shot at once.  
 7642. Was there a great volley fired immediately after?—Yes, there was two or three hot volleys very quick.  
 7643. Did you notice the effect of the firing in the house?—Yes, we could see the light. There was no light in the house.  
 7644. What was the effect of the shots on the house—were you frightened?—Yes, we were all frightened, and Bracken told us to lie down on the floor as flat as we could before he went away.

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*continued.*  
 14th May 1881.

7645. He told that quietly?—Yes; he said, “You all lie down if there is any firing,” and we did so.  
 7646. There was none hurt the first volley?—Yes; the second volley Jones’s boy was hurt.  
 7647. Was he lying down?—Yes, and he was shot on the side, and the bullet came up through his body.  
 7648. Did you ask the Kellys to let you out then?—Not then. I was frightened to stir then, but I did after.  
 7649. The whole of the prisoners did?—Yes.  
 7650. Did the Kellys say they would allow you?—Yes, if the police would.  
 7651. Did you hear the police calling on you to come?—Not before we did come. I think it was Mr. Sadleir’s voice when we came out.  
 7652. What time was that?—About half-past nine.  
 7653. How long after Kelly said he would let you out?—Hours after.  
 7654. When did Dan Kelly say you might go out?—About a quarter-past six, as near as I can recollect.  
 7655. What did he say?—He said, “You can go, but I am frightened you will get shot. I do not begrudge your going if you can escape.”  
 7656. Did you let it be known to the police in any way you wanted to get out?—Yes.  
 7657. How?—There was one tall chap—I forget his name—he put a white handkerchief out of the window, and there were three bullets went in at once. The shots went from the drain straight in the window.  
 7658. He of course fell back at once?—He threw himself on the ground.  
 7659. Was there any further attempt to get out?—Yes.  
 7660. Was any other notice given that they would like to get out?—After the second or third round was fired things got quiet for a bit. Ryan and his wife, and three or four children, and three of mine, and a strange woman from Benalla, they rushed out, and the firing was on them as hard as it could be blazed, from the drain, and I could not say where, and I rushed out, and my son with me.  
 7661. The sun was up at the time?—No, it was just at daylight.  
 7662. You were saying you and your wife got out?—Yes, and we had to go back into the house because of the firing.  
 7663. Where was that firing from?—From all directions. The most part of it was from that drain. The fire was strong from the drain; and Mr. O’Connor popped his head up from that drain, and said, “Who comes there?” with a loud voice. I recognized the voice. Ryan sang out, “Women and children,” and the firing still continued.  
 7664. Did you hear him giving any order then?—No, I did not.  
 7665. You tried to escape again?—Yes; we went back again, and said to Dan Kelly, “I wish to Heaven we were out of this. Mrs. Reardan put out the children, and make them scream, and scream yourself;” and she was coming past one of the rifles in the passage, and one of the rifles tangled in her dress, and Dan Kelly said to Byrne, “Take your rifle, or the woman will be shot;” and I came out, and she screamed and the children, and they came out. The fire was blazing out, and a policeman called out—I thought it was Sergeant Steele—“Come this way;” and he still kept firing at her—at my wife with the baby in her arms.  
 7666. Is it not possible he may have been covering her?—Firing at her and covering her are two different things.  
 7667. Did any of the bullets hit her?—She has a shawl with a bullet through the corner of it, which she can show you. I heard a voice saying, “Come this way.” Constable Arthur was standing close to Sergeant Steele, and he said, “If you fire on that woman again, I am —— if I do not shoot you, because you see she is an innocent woman.” Those were Arthur’s own words, and I did not believe the man would do that.  
 7668. So you were away before permission was given by the police?—Then I had to return back;

there were bullets flying at me, and I crept on the ground, and went back to the house with the children, and as my son returned he got wounded in the shoulder, and fell on the jamb of the door, and he has got the bullet yet, and he is quite useless to me or himself. I would sooner have seen him killed. He is getting on for nineteen.

7669. Did you observe anything more that day?—I returned back into the house then and laid down among the lot inside, and put the children between my knees, and there was a bullet scraped the breast of my coat, and went across two other men, and went through the sofa at the other end of it. We remained there expecting every minute to be shot, until we heard the voice, I think to come out, about half-past nine. We got ten minutes.

7670. Whose voice?—I think it would be Mr. Sadleir's, to the best of my belief. I cannot say for certain. Mr. Sadleir was the first I recognized after I came out. We all came out. I was the last, for I had the two children, one in each hand, and as I was coming down there was a constable named **Divery**, and he said, "Let us finish this —— lot," or something like that. Then the terror of that drove me—I ran to the drain. A black-fellow there cocked his rifle at my face, and I did not know what to do with the children, and I ran away up to where Mr. Sadleir was.

7671. That was hot work?—Hot work I you would not like to be there I can tell you.

7672. Was there any of the outlaws shot while you were in?—Byrne was shot.

7673. Where?—At the end of the counter, going from the passage. He was standing still. I only heard him fall. I heard him fall like a log, and he never groaned or anything, and I could hear like the blood gushing.

7674. What time was that?—About five or six in the morning; but when I was coming out the other two (Dan Kelly and Hart)—they were both standing close together in the passage, not a move in them, with their armour on, with the butt end of their rifles on the ground.

7675. Were they struck at all while you were there?—Yes; I could hear the bullets flying off the armour several times.

7676. Their lives were saved for the time being by their armour?—Yes.

7677. Had they fired many shots before that?—They did in the early part, but I believe from the time that it came daylight they did not fire but very few that I could notice.

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7678. Had they any knowledge while you were there that Ned Kelly was taken?—They did not. Some of the people asked where was Ned Kelly, and they said they did not know, they thought he was done.

7679. What time was that?—A little before we got out, at break of day.

7680. Did they miss Ned Kelly before Byrne was shot?—Yes; they said he was gone, and supposed he was done.

7681. Did they say they wished he was amongst them?—No.

7682. "Done" meant "shot"?—Yes.

7683. Did they miss Ned Kelly before Byrne was shot?—I would not be sure; I wish to be correct, as Mr. O'Connor's statement about he considered there were about eighteen or twenty came out of the house—friends and sympathisers of the Kellys. I am quite sure I am not a sympathiser.

7684. At the time that Steele, you say, was firing upon you and your wife escaping, were the outlaws firing from the hotel?—No, I am positive sure they were not.

7685. Why?—Because they were standing still, and I could hear if they did.

7686. Did they say they would not fire until you had escaped?—They said they would not.

7687. Sergeant Steele told you that he had shot your son?—Yes, Sergeant Steele told me, and several others.

7688. In saying so did he assign any reason?—Yes, he said he did not hold up his hand.

7689. Did he say he called on him to hold up his hands?—No; the boy had a child in one hand and held up his other hand.

7690. Was it daylight when you came out of the house?—Yes, when we got clean out.

7691. It was not daylight at the time you had to return?—No.

7692. Was it daylight when Mr. O'Connor spoke to you from the culvert?—No.

7693. How could you tell?—From where he spoke. I was half-way between the verandah and the fence, and the others r Ryan and his family of three, and my children were on the right just over the culvert, and the voice sang out from under the culvert—"Who comes there?" and Ryan said, "Women and children."

7694. What did they do then?—They went on and they continued to fire.

7695. Ryan escaped through the gate?—Yes, but it was so hot for me, I went back with my wife and son and child.

7696. What time was it, as near as you can make it, when you first proposed to go out?—I would not swear to the time. I daresay it might be about—I could not say exactly.

7697. How long was this before your son was shot?—About an hour, as near as I can remember.

7698. Did you see Mrs. Jones's child shot?—I did not, but I heard him sing out, "I am shot, I am shot."

7699. Your son was shot?—Yes.

James Reardon,  
*continued,*  
14th May 1881.

7700. Mrs. Jones's son shot and daughter wounded?—Yes.

7701. Did you see this man who asked you to take up rails; did you see him carry out any of the wounded children from the house, I mean McHugh?—No, I was in another room; I was told he did.

7702. Do you know the wounded child was carried out?—Yes, and carried to my place.

7703. Can you fix about the time it was by any circumstance?—About the second volley fired by the police.

7704. Can you fix the time that McHugh carried out Mrs. Jones's child?—No, I would not swear to it.

7705. Was it before or after you attempted to escape?—Before, and I followed them half an hour after.

7706. That would be an hour and three-quarters before your son was shot?—Yes.

7707. The point is this: the second volley the police fired was fired within ten minutes after the commencement?—Yes, and less.

7708. Within seven minutes?—Perhaps less still.

7709. The second volley was the time that Mrs. Jones's child was shot?—Yes.

7710. How long after the child was shot did McHugh run out with it?—A few minutes after.

7711. Then that would be within twenty minutes after the police commenced to shoot?—It would be about that.

7712. *By Mr. Sadleir.*—Were both the children shot at that time?—Yes, one was out at the kitchen chimney, and Mrs. Jones said, "You cowardly ——, why do not you go out and fight hand to hand, as you said you would."

7713. *By the Commission.*—That was very early in the morning?—Yes.

7714. *By Mr. Sadleir.*—The only other person shot was your son?—Yes, and Cherry. He was shot as he was going in the door; struck on the shoulder.

7715. *By the Commission.*—Did you look on after you escaped?—No, I went to the hospital at Wangaratta.

7716. Where was he struck?—Through the back, and lodged in the middle of the breast.

7717. Did you get the bullet extracted?—No, the bullet is in him still.

7718. Is the joint of the shoulder and the arm useless?—No, he can raise the arm, but he cannot work it.

7719. You said there was some dancing in the hotel—was there any singing?—Not that I remember. There was a concertina playing a good part of Sunday.

7720. Who played it?—Mortimer.

7721. You did not hear Mrs. Jones's boy sing a song?—Yes, a little boy she called to sing a song.

7722. Did you hear the words of that song?—Yes.

7723. What were the words?—"The Wild Colonial Boy."

7724. Was Ned Kelly's name brought in it?—No, some other person sang the Kelly song. Mrs. Jones promised her son sixpence to sing the song.

7725. Did she seem overjoyed to see him do it?—Yes.

7726. Was it for the purpose of giving amusement to Ned Kelly?—It was certainly to please him.

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James Reardon,  
*continued,*  
14th May 1881.

7727. Was Ned listening to it. It was not for the benefit of the prisoners?—No, indeed it was not. Dan Kelly and Byrne were there; I do not remember seeing Ned at the time.

7728. It was for the benefit of the Kelly party?—Yes.

7729. Was it sung to please the Kellys at Mrs. Jones's request by the child?—Yes.

7730. Did you know Cherry was shot?—No, I did not until I came back from Wangaratta. Dr. Hutchinson examined him to find the bullet, and told me to send him to the hospital.

7731. Did you see them put on the armour?—No; I could hear the jingle.

7732. What way were they—front and back plate?—Yes, like on hinges, and they were all pliable; but the back piece was all solid. There were two flaps that hung down here—they were on hinges like.

7733. Did you see Ned Kelly going from the house when the first party came?—No.

7734. Did you see him go out to meet them?—No, but I could hear him walking round the house and talking.

7735. Were the front and back plates fastened at the side?—I could not tell that; they had their coats on at the time.

7736. Did the armour they wore seem to be similar?—Yes. I noticed Hart's armour under his coat.

7737. Where did you see any armour at first?—At the gate.

7738. When?—On the Sunday morning.

7739. When they first came to you, they had the body-plates on?—Yes.

7740. Therefore, after they came, they must have ridden in that armour on horseback?—Quite likely; Ned had it on at my place, and had a white coat on, and I noticed a hump on his back.

7741. What were the Kelly party doing all Sunday?—Hart was here at the gatehouse, in charge of the station-master's house and the women and children there, and the others were up at Mrs. Jones's.

7742. What did they do on Sunday?—Ned went out jumping with some others out of the yard—hop, step, and leap—and the others were walking about the house to and fro.

7743. When it came on dark, what then?—They wanted to dance.

7744. For how long?—Mrs. Jones ordered the table out, and they had a couple of dances.

7745. She was trying to oblige them all she could?—Yes.

7746. Was it she that proposed the dancing?—I could not swear it, but, to the best of my belief, it was.

7747. Who took the floor first?—Mrs. Jones and her daughter.

7748. Was there plenty of grog in the hotel?—Yes, in the bar, but nobody seemed to drink much. I dare say I might have three or four drinks myself from the time I was taken in custody until I got out.

7749. Now did you people employ your time?—We passed our time very miserably, I assure you.

7750. Did you talk?—Not much; I was kept walking about the verandah.

7751. They allowed you to go out?—Yes, but they had a rifle under their arm, and I believe they had four or five revolvers each.

7752. You stated they went up and brought Bracken down a prisoner on the Sunday night?—Yes.

7753. Can you say they went there with their armour or not?—Yes, they had their armour on, and they brought the armour back in a bag, to the best of my belief. They had his firearms then, a double-barrelled gun, a revolver, and his horse.

7754. Was there a bag with them when they went?—Yes.

7755. Was the armour in it when they went?—I am not sure whether they had the armour in it, but they put it on when they went to Bracken's house.

7756. What time did it take to put this armour on when they heard the train was coming?—About twenty minutes, I suppose.

7757. Did Bracken go out and take the key, and go out at once?—He went out when he heard the police going towards the gate along the line.

7758. Did you expect the train to pass without stopping at Glenrowan?—I was afraid it would.

7759. Would it have done so?—Yes, because there was no one to signal it.

7760. If there was no signal at the station, it would go on?—Yes.

7761. Was there any conversation in the house about the train stopping?—They fancied they heard the train whistle, and they listened, and we all heard the train whistle, but could not be sure; we thought it was a cock crowing. Then, after a bit, we heard it again, and then we heard the rattle of the train, so we were frightened the train would go through; but when the train stopped at the station here, one of the Kellys said, "This is Curnow's work." I heard that, but I do not know which one of them said it.

7762. Did you expect to hear of a capsize when the train came?—He expected them from Benalla.

7763. Were you in when Curnow was liberated?—Yes, when they went for Mr. Bracken, they took Curnow with them, and let him out.

7764. Were there others let out?—Yes, some twenty-one were let go on the Sunday.

7765. Did Mr. Curnow know from you or anyone that the line had been taken up?—Yes, I told him in the morning at once that the line was broken; I said to him, "What a pity some one could not give warning to stop the train."

7766. Did you tell him on the morning how a warning could be given?—I did, and told him where it was broken. I am under a mistake if I did not tell him that holding something red, with a light behind it, would do.

7767. Will you swear you did say that?—To the best of my belief I did. I told Bracken also that the railway line was broken.

7768. Then, it was from you that Mr. Curnow knew the line was broken?—Yes, I told him on the verandah, when he gave me his pipe to have a smoke.

7769. Was it not known to all the prisoners in the house that the line was broken?—Yes. I suppose the late prisoners did not know it, but those in the early part did; they were going to bail up a circus that day.

7770. Did you see the Kellys' horses?—Yes; three were left at Jones's stable. The four came down the back of McDonnell's paddock, and into the stable. Two boys were riding them.

7771. Were those boys the Kellys, or friends of theirs?—No, they were not the Kellys, because they were at the house at the time.

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7772. Were they the Kellys or others?—Others; and there was one of the horses up here tied to the fence—the horse that used to carry the pack. I think I showed him to Constable Johnson when I came back.

7773. *By Mr. Sadleir.*—Is it quite clear that two of Jones's children were shot before the police came from Beechworth and Wangaratta?—Yes.

7774. And the next that was shot was your son—by Sergeant Steele, you say?—Yes.

*The witness withdrew.*

*Adjourned to Tuesday next at Eleven o'clock.*

James Reardon,  
*continued,*  
14th May 1881.

TUESDAY, 17<sup>TH</sup> MAY 1881.

*Present:*

The Honorable F. LONGMORE, M.L.A., in the Chair;	
J. H. Graves, Esq., M.L.A.,	G. R. Fincham, Esq., M.L.A.,
G. W. Hall, Esq., M.L.A.,	W. Anderson, Esq., M.L.A.,
J. Gibb, Esq., M.L.A.,	E. J. Dixon, Esq., J.P.

Mr. O'Connor called attention to a paragraph in the Age of the previous day which he considered reflected upon him.

The Chairman stated that the Commission disclaimed all connection with the paragraph in question.

Daniel Barry sworn and examined.

Question numbering mistake, drops back 500 units.

Daniel Barry,  
17th May 1881.

7275. By the Commission.—What are you?—Mounted constable.

7276. Stationed where?—Victoria Barracks, at present.

7277. Do you remember hearing of the murder of the three police officers in 1878, in the North Eastern district?—I do. I was then stationed at Learmonth, in the South-Western district.

7278. Did you propose to go to the North-Eastern district?—I applied to be transferred to that district.

7279. Were you engaged in searching after the Kellys?—Yes.

7280. With how many parties?—I do not know the number of parties. I was, in fact, continually employed, and out.

7281. How many constables went out in those search parties?—Different numbers, with different officers.

7282. Just state what you know—had the different superintendents different methods?—Yes, I think so.

7283. Whom were you under first?—Under Mr. Nicolson.

7284. What was his method the first time when you were out?—The ordinary search parties, with this difference, camping at night.

7285. How many, about, in a party?—About eight or nine.

7286. What was the difference in camping at night?—We would camp, and have tea, put out the fires where we camped, catch all our horses again, and remove in the darkness of night to some other place, perhaps a mile away.

7287. That was a precaution against surprise?—I think so.

7288. Would the eight or nine men make a great noise in going from one place to another?—In the darkness of night?

7289. Yes?—Yes, they would.

7290. Had a second camp been selected previously?—I presume so, but I do not know.

7291. Do not you know whether it was taken up indiscriminately or not?—I was never told. I simply went where the others led to.

7292. Did you in any of those search parties understand that you came close upon the Kellys?—Not until a certain time in the Warby Ranges with Mr. Hare.

7293. What time was that—was that the first time when you came across, when you were with the parties as you thought?—As far as I know, that was the first time we saw any trace or sign. At one time I was at the Euroa Bank robbery—of course they had been there the night before—that was under Mr. Nicolson; but as for searching for them, the first time was with Mr. Hare, in the Warby Ranges.

7294. What led you to think you were close on them then?—By finding horse-marks, the print of shod horses where we camped.

7295. You say you were at the Euroa Bank robbery?—Yes, after the robbery.

7296. You came down with Detective Ward of Johnson's party?—Yes.

7297. Were you told off as one of the party to remain in the cave watching Mrs. Byrne's house?—Yes.

7298. What time was that?—There was one party immediately after the Jerilderie robbery of Mr. Hare's

7299. Were you in that party?—Yes.

7300. How long were you there, approximately?—I think about forty-five days in Mr. Hare's party, watching Mrs. Byrne's house.

7301. Did you stop in the cave all that time?—It was not properly speaking a cave, but simply a blind gully, and we planted under some rocks.

7302. Did you think you remained there all that time without being observed?—I think three weeks without.

7303. Were you seen after that time?—Mrs. Byrne came down on the cave one day when I was on guard. I presume she knew, as Senior-Constable Mills spoke to her. I saw her approaching the cave, and told Mr. Hare, and he sent Mills to stop her.

POLICE.

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Daniel Barry,  
*continued,*  
17th May 1881.

7304. Was that at the time that Aaron Sherritt was lying in the camp?—No; I believe that was a few days before that occurrence.

7305. You understood she had been searching for you before?—I believe she was looking for the police before that.

7306. You think she saw Aaron Sherritt some days before that?—There is no certainty about it, as far as I know; but she could scarcely help seeing him.

7307. Have you formed any opinion as to whether it was the circumstance of her seeing him there that led to his being shot?—I formed an opinion about it, but I do not think that had anything to do with it.

7308. What is your impression about it?—About a month before he was shot (this is simply my own opinion) there was a report sent round, and it appeared in the press, and I knew it myself, about a party of police and black trackers being sent to the Woolshed, through information received. This information was not given by Sherritt, from what I have heard, but another informant; and it is my opinion they were lying about at that time, and had seen Sherritt, and thought it was he who gave that information, and shot him, because they thought he wanted to get the reward money, as it was near being done away—the £8,000.

7309. To get the reward before it was withdrawn?—I believe they were out that time—that Sherritt knew of it, but did not tell it.

7310. What ground have you for the belief?—For a long time I believed in Sherritt, and after a time I did not.

7311. Why?—From the carelessness he showed in doing his work.

7312. Did he seem indifferent?—Quite listless, and took no trouble in what he was doing. We had constantly to speak to him to keep him alive in what he was doing. And there was one particular occasion in the cave party: through the night we heard some crackers being let off—at first they seemed like a stock-whip—and heard some voices, and we wanted Sherritt to listen for those voices to see if he would know them. As soon as he heard them he cleared away in the bush from us—ran away in the scrub and planted, and after some search we found him asleep.

7313. Did you form any opinion whose those voices were?—I did not.

7314. You think they were the outlaws?—I did not know. My instructions were not to run any risks.

7315. Did he give any explanation of his conduct in running away?—He would not tell me anything.

7316. Did you ask him any questions?—We asked him what the meaning of it was, and he said there was nothing in it and not worth taking notice of.

7317. Then in your opinion, from your own observation, do you think Aaron was untrue to the police from first to last?—I thought for a long time he was true to the police, but latterly not. That was after he got married. He got married on Boxing Day, 1879. I think I was then in the party in charge of the cave when he got married.

7318. And after then you saw carelessness in his manner?—Yes. He remained away from us for three or four days, and we had to get provisions for ourselves—go to his father's place to get them.

7319. You remember the second time you were in that cave party?—Yes.

7320. Did you consider before you left the party you had not been discovered or it was not known you were there?—Well, all the Sherritt family knew we were there.

7321. How many in the Sherritt family?—Three sons and four daughters and the father and the mother when we were there. That is not all the family, but all I know. That includes Aaron Sherritt.

7322. Do you know if the children knew?—The younger children knew, seeing us at the father and mother's place getting provisions.

7323. How many of those young children were there?—I think there were five little ones—I fancy so.

7324. They were attending the school?—They were going to the school.

7325. Where the Byrnes were?—I do not know, I am sure.

7326. Did you ever hear whether they were attending school with the Byrnes' children?—I heard it said so.

7327. So the opinion you have formed is that it was very probable it was well known you were in the cave?—Those many people knew it.

7328. You are quite certain that eight or nine people knew?—That many people knew it.

7329. Did you hear of anybody else knowing it?—No, I did not.

7330. Did the Barrys know it?—The younger Mrs. Sherritt knew it. She was in the cave.

7331. Would not her mother know it then?—I could not say that.

7332. Do you think Mrs. Barry, the mother-in-law, knew it?—It is very likely she would. Women are not likely to keep secrets.

7333. Were you one of the party that was stationed in Sherritt's hut?—I spent one or two nights there only. I was suffering from rheumatism, caused by being so long in the cave, and could not do the work.

7334. Were you there on the night when Sherritt was shot?—No.

7335. Have you formed any opinion what should have been the duties on that occasion?—It was a very dangerous position. They had a very poor show indeed.

7336. Why?—The house is surrounded by scrub, very close to it. There is the main road running in front, perhaps ten or twelve yards in front, and between the main road and the front door stands a big tree, and altogether the men inside had a very very bad show of coming out. It was not the question of coming out of the back door or the front door—it was a matter of coming out into the kitchen from the room.

7337. How far was the tree from the house?—Perhaps six yards.

7338. Were the surroundings of the hut such as would have made it very dangerous for the police to come out?—Yes, when it was a dark night.

7339. You consider in the dark night, if the outlaws were outside, they would have a very great advantage over those inside?—Yes; they had a very great advantage over those men—they had all the advantage.

7340. But even if you were there yourself, what would be your opinion as to your duties with regard to your officer. Would you have to obey his instructions and be guided by them. Suppose you were with the party with a senior-constable in charge?—It would be our duty to act in accordance with his instructions.

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7341. Would you not consult?—If I did different to his instructions and did well, it would be all right, but if not, look out.

7342. You would be dismissed?—I think so.

7343. In that case the whole responsibility you would throw on the officer in charge?—I understand so.

7344. Then, if the officer in charge is examined, and states that he instructed the others to take a certain course, and they did not obey him, that would not be his fault?—If he ordered them to do anything they are bound to obey.

7345. Could they refuse under the circumstances?—I think not.

7346. You would not disobey?—No.

7347. Would it not be your duty to go out and do whatever he told you?—If he tells me, it is my duty.

7348. Would you have done so?—I do not know whether I would or not. If the other two men refused, what is the good of two men rushing and the others remaining behind? But I am bound to obey orders.

7349. Were you at Glenrowan on the day the Kellys were captured?—Yes.

7350. What time did you go there?—I went with the first party, with Mr. Hare.

7351. That would be about three o'clock in the morning?—About that time, from perhaps half-past two.

7352. That is, you were there from the very beginning?—From the beginning.

7353. What position did you occupy in going up from Benalla?—I was on the pilot engine.

7354. As you were going along were you stopped by anything?—Yes. I think it was the traffic manager ordered me down off the engine, and to go down into the van connected with it.

7355. Then you did not remain on the pilot engine?—No.

7356. You do not know how the train came to be stopped?—No, I do not.

7357. When you arrived what occurred?—The first information I had of anything being wrong was Mr. Hare calling my name, and I got out. I was with the other men then, with Constables Gascoigne and Phillips; and we went from this train to the pilot engine, which was perhaps a quarter of a mile ahead, and got into it.

7358. Was there a van connected with it?—There was a van connected with it.

7359. That one backed on to the train behind, for what reasons?—I do not know; I believe from an understanding with Mr. Hare and the engine-driver. They all went together on to the platform at Glenrowan.

7360. You stopped at the platform?—Yes, we stopped at the platform. They were taking out the horses I stood at the back.

7361. Why were you taking out the horses?—To saddle the horses and be prepared in case we had to gallop after them and pursue them, as we understood they were at Glenrowan.

7362. You did not know the place?—Yes.

7363. Did you know they were at Jones's house?—No.

7364. You did not know the hotel—you heard Bracken say exactly where they were?—No; simply that they were at Glenrowan.

7365. Did you hear anybody say that?—I heard Mr. Hare say he had received information that they were at Glenrowan. On going upon the engine, Mr. Hare gave us instructions that we were not to fire till we were fired on by the outlaws, and then to do our best, and if any were shot not to wait to pick them up, that there would be time enough for that afterwards. The horses were taken out to the platform. Before that, Mr. Hare, with this volunteer, Mr. Rawlins, went down to Mr. Stanistreet, the railway station master's, at the gate. Constable Gascoigne, and I think Phillips, and I still remained with him. Of course we kept out wide and went to the house and went round it, where he made enquiries at the station master's place. I heard Mrs. Stanistreet's voice, and she was saying something that Ned Kelly had only left a moment, and had gone over that way. I did not see the direction that was pointed out. Then Mr. Hare went back to the platform and ordered the horses to be taken out and saddled. Before all the horses were taken out, I heard a voice, which I understood afterwards to be Bracken's, singing out "The Kellys, the four of them, are at Mrs. Jones's, surround them, surround them." I think he made use of Mr. Hare's name. I was holding some horses at the time, and Senior-Constable Kelly said, "Let them go, and come on," and we rushed for Mrs. Jones's place.

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Mr. Hare sang out, "Come on," and went through the wicket-gate. There were four or five of us with Mr. Hare, and when within about 25 yards of the front verandah we were fired on. We returned the fire, and it was kept up for perhaps five minutes without intermission.

7366. How many men went through the wicket-gate with you?—Five, I think, with Mr. Hare.

7367. Who were they?—Constables Phillips, Gascoigne, Kirkham, and myself.

7368. Was Canny with you?—No; and black tracker Hero.

7369. Those, so far as you know, are the five who followed Mr. Hare—were there any others?—No one else that I know.

7370. Did you see Mr. O'Connor during this period of excitement?—No, I saw him on the platform when the horses were being taken out, about that time; not afterwards through the day until about half-past two or three o'clock.

7371. Where were you stationed?—I was on the west end, next Benalla. The fire was kept up. Through this firing I heard Mr. Hare sing out, "O'Connor, get your boys and surround the house."

7372. Was he replied to?—I heard no reply. He then said, "Get round the house, boys," apparently addressing himself to us, "and do not let them get away." At about that time he was joined by Senior Constable Kelly, and he said "For God's sake, see that the men are all right, and do not let them (the outlaws) get away." When he said, addressing us, "Surround the house," I and Hero went together around to the west end of the house, and kept getting round till we were stopped by the next fire from the front.

7373. Was that towards the stockyard at the back of the house?—Yes, round at the west end; not exactly at the north end, pretty well round the corner.

7374. You see the plan there?—Yes, that is the clear road by the station master's house. I was a little higher up than there, because, being a clear space, I could see more ground up and down, and could command more ground.

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7375. Who was the next south of you, more towards the railway line—what constable?—At that time it was either Kirkham or Gascoigne, I could not say which. I could hear them there speaking, and knew their voices.

7376. Was there heavy firing immediately after you took your position?—There was a man sung out—Gascoigne sung out to stop firing because there were women in the house.

7377. What time was it?—About ten minutes perhaps—very soon after we took our positions.

7378. Did the women come out?—Mrs. Jones came out, and walked all over the ground abusing the men.

7379. What was the nature of her abuse?—Called us "murdering hounds," and said we had shot her boy, and to take out all the rest of the family and shoot them. I also heard her go in, and apparently abuse the outlaws as well, and say why did not they go out and fight.

7380. When was Mr. Hare struck?—Very, very soon after—I should suppose the first or second shot—because in passing me he said, "Good gracious! I am hit the very first shot." I was perhaps four or five yards from him in a straight line with him passing the house.

7381. You were aware he was hit?—From what he said himself.

7382. Did he give any other orders to you that you are aware of?—No, not then.

7383. Did he at any other time during the day?—I believe he went away then, after he was wounded. The only orders he gave to me were in the train, and the general order to the men when he was on the field.

7384. You consider he left then?—Yes; I did not see him leave.

7385. What was the general order on the field?—Singing out to us to surround the house, and not to let the outlaws get away.

7386. You heard that?—Yes.

7387. Did he say that to Senior-Constable Kelly?—He told Kelly to go and see the men were there, and that a ring was made round the house.

7388. Did you see any other woman come out besides Mrs. Jones?—No, but I heard a female screaming getting away. I understand it was Mrs. Reardon. She went away next the platform.

7389. Did you understand there were a lot of persons in the house, kept there by the Kellys?—No.

7390. When did you first come to know that?—Not till I saw the prisoners rush out in the morning. I saw other persons leave. The station master did while the firing was going on, and another man named Neil McHugh, taking Mrs. Jones's boy in his arms.

7391. Did you see him?—Yes.

7392. Were they running away?—They walked out deliberately, as far as I could see. Mr. Stanistreet, the station master, was challenged by Senior-Constable Kelly, "Who goes there," and he said, "Station master," and he went right through.

7393. You did not see the police attempting to fire on any going out?—No.

7394. Did you see Reardon himself?—No.

7395. Where you were stationed you were not in a favorable position to see who was at the front door?—No.

7396. Until they got away?—Until they got away.

7397. While you were there, what time did you receive any orders from any officers after Mr. Hare went away?—Not until the house was going to be set fire to.

7398. So far as you know, the police were without orders till the house was set fire to?—I understood one man was in command; that would be in accordance with the regulations.

7399. Who did you understand was?—Up to the time Mr. Sadleir came, Senior-Constable Kelly.

7400. Did he give any instructions at all?—He came round to me with ammunition, and told me to keep my position, as it was a good one.

7401. What time was that?—Half-an-hour after the firing commenced.

7402. That was before daylight?—Yes.

7403. When did you receive any other instructions or order?—There was word passed round, but no order given, for the ranks to fire high. I do not know what time that was.

7404. Did you notice the effect of the firing upon the house?—Yes.

7405. Were the boards much riddled?—Yes; considerably riddled, and the roof as well.

7406. Were the walls riddled as badly as the roof?—I do not think it. Of course the roof made more noise—the bullets going through—being iron.

7407. You would see it before the house was set fire to?—A person would have to be very close to form a good idea; of course the bullets made a bigger rent going through the iron roof, and it being slanting too.

7408. Did you know anything about the arrangements that were being made to set fire to the house?—Yes, I was told a little about it. I was one of the men that was covering Senior-Constable Johnson when he went to set fire to the house.

7409. Were you in the same position then that you were in in the morning?—No.

7410. How did you come to change?—Senior-Constable Mullane came round and told me to come to the front of the house and fire into it while Johnson set fire to it at the end near the chimney—that is, at the west end.

7411. Then you got your instructions from Senior-Constable Mullane?—He said Mr. Sadleir said so.

7412. Was it understood that the outlaws w in the chimneys of the house—was it thought so?—I never heard it said so.

7413. Did you see the chimneys as they stood?—Yes.

7414. Would you consider that they had been greatly riddled with shot?—No, not greatly riddled.

7415. Very few marks upon them?—Very few indeed.

7416. Would you consider a man a good marksman who said he and others were told to fire into bricks to try and bring down the chimney, and yet left so few marks behind?—He ought to leave a few.

7417. How many rounds of ammunition did you fire that day, to your recollection?—About twenty-five.

7418. What were you armed with?—A Martini carbine—a short carbine.

7419. That took in a bullet?—Yes.

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7420. You considered that every shot you fired went through the walls?—Yes. I was being fired on all the morning, else I would not have fired so much. I was preserving my ammunition, thinking I would want it before night.

7421. Were there others standing about, not firing at all?—Yes, plenty; there were men that did not fire a shot.

7422. Why did they not?—Because, I suppose, their shot guns would not be of any use at that distance; I believe that was the reason.

7423. That they were reserving their fire till the outlaws came out?—Yes.

7424. Were those belonging to Mr. Hare's first party that went up with you, or men that joined subsequently?—There were none of Mr. Hare's party, because I believe there were but one or two shot guns in Mr. Hare's party.

7425. Was there never a general order given to fire?—No, I never heard any general order to fire. There was a signal to be given when the house was set fire to, but no other occasion.

7426. Did you fire without an order, or what caused you to fire?—I fired it when I was fired at by the outlaws. I thought of no other time.

7427. Did you never receive any order from an officer as to firing?—I received an order from Mr. Hare before reaching Glenrowan, in the train, and another order from Senior-Constable Mullane when setting fire to the house.

7428. Was the same order given to everyone else that was given to you?—There were but three of us in the train, and the three heard it.

7429. That applied to the rest as well as to yourself?—Yes.

7430. You do not know whether there was a general order given to the remainder of the men?—Mr. Hare's party? We always understood each other. It was scarcely necessary to give the order.

7431. Was there a different order under Mr. Sadleir?—I was not ever out with him.

7432. Did you get an order from any other person as to firing?—No.

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7433. Who gave the order to fire high?—I presume it came from an officer.  
 7434. Do you know it did?—No.  
 7435. Then how do you account for there being any men who did not fire at all?—It meant if they were to fire at all they were to fire high.  
*Mr. Sadleir.*—That was the meaning no doubt.  
*The Witness.*—I did not fire myself when that order was given.  
 7436. *By the Commission.*—When the order came to fire high, did you consider that was an order for you to commence firing at once?—No; if we were firing all round at once, someone was bound to be shot.  
 7437. If the order was not to fire until you were fired on, would you consider that a general order?—Yes, when I got it from an officer himself.  
 7438. What did you understand by firing high—how high?—At least perhaps six feet; not lower than that.  
 7439. What would be the object of that?—There was something said about some of them being up in the roof. I heard that said.  
 7440. Were many shots fired at the roof?—The roof was riddled pretty well.  
 7441. Did all the constables that had rifles fire, so far as you know?—So far as I know, they all did, one time or another.  
 7442. The ones with shot guns?—Those were the only ones that did not.  
 7443. Can you say who gave the order to fire high?—No.  
 7444. Can you say from your own knowledge that it was an officer's order?—No.  
 7445. Did you know what the meaning of that order to fire high was?—No.  
 7446. Am I to infer you did not know whether it was to fire not to hurt the prisoners, or to fire high to hit the outlaws in the roof?—I thought it might be for our own safety, being all round the place, and also the outlaws perched on the roof.  
 7447. If all the party round the house fired a volley at once, is there a probability that the men in front would hurt the men in the rear?—It is very likely they would, as they would be exposed in firing.  
 7448. Do you know whether any of the Martini-Henry bullets went through the house from side to side?—I believe so.  
 7449. Have you carried a short Martini-Henry during all the time you were on service there?—Not all the time.  
 7450. Is it your opinion it is an effective weapon?—Yes.  
 7451. You have seen the Spencer and Martini-Henry rifles?—Yes, and used them.  
 7452. And a double-barrelled shot gun?—Yes.  
 7453. In your opinion, which is the most effective weapon of that lot?—The Martini carbine.  
 7454. Have you heard your brother constables who were out with search parties say that was the most efficient weapon?—They have expressed themselves in that way.  
 7455. As effective as a long Martini-Henry, and the long is more inconvenient to carry; is that the reason?—The carbines were not up there very long, but I speak from my experience. It is more convenient to carry than the long one.  
 7456. Are you aware that there were a large number of those short carbines in the possession of the Government of this colony?—I am not aware. I have heard the Artillery Corps had them.  
 7457. Have you noticed any scarcity of arms in the force?—I have never seen any scarcity when I required them; I always got a rifle when I required it.  
 7458. Any scarcity in the allowance of ammunition?—Well, we were told to use it carefully.  
 7459. By that you inferred you could not go and practise when you pleased?—Not practise as we pleased, but I never suffered; for myself, I bought revolver ammunition at my own expense.  
 7460. As regards the officer in command of your party, will you tell the Commission how often you received an order from the time that you came on the platform until the house was fired?—The last order given by Mr. Hare was to surround the house. The next one was by Senior-Constable Kelly to remain in the position I was at, as it was a good one.  
 7461. What time do you fix for that?—Perhaps half-past three in the morning.

7462. When did you get another order from an officer or from your superior?—The next order was from Senior-Constable Mullane, about half-an-hour before the house was fired, about half-past two, I think; I had no record of time.

7463. Then do you recollect did you receive any orders as to your conduct—what you were to do from the time Senior-Constable Kelly gave the order till Senior-Constable Mullane gave the order?—No, not during that time.

7464. You were acting on your own responsibility all that time without instructions?—I consider that I was.

7465. Were you not acting on the first order you had from your superior officer?—Yes, certainly, I bore that in mind. The last order you always act on till you receive another.

7466. It is not customary to receive periodical orders; did you continue at that tree?—I did, but not all

day.

7467. Did you consider yourself bound to remain at that tree?—Not if I saw the outlaws trying to get away; by no means.

7468. Did you remove from that tree any time?—The first time I did was when the prisoners rushed out of the house.

7469. Where did you go to then?—I went right to the end of the house.

7470. You considered you were doing that on your own responsibility?—Yes. I was not ordered to leave it, but I was doing it for the best to capture the outlaws.

7471. Then every constable would be doing what he did for the best in the absence of an order?—Yes, I would think so.

7472. Some were moving about during the day?—Yes, one or two, not a great many.

7473. They were often moving?—They seemed so to me.

7474. Were you on duty from the time Mr. Hare gave the order till Senior-Constable Kelly gave the order—you understood the order was to remain at your post, and to keep the outlaws from escaping?—Yes, to get them as best we could.

7475. You got no orders except those you have mentioned?—No.

7476. Did any constable or officer, or your superior officer of any grade, come round to you after the train with Mr. Sadleir arrived with any orders or instructions?—No, I think not.

7477. Did Mr. Sadleir or any of the senior-constables that came with him, or anyone, go round and ascertain if you were at your posts, or to give any order?—No.

7478. There was a chimney at each end of the house?—Yes.

7479. In your opinion, from the recollection of the place, would it have been safer to have approached behind that chimney, close to it, on either end?—No, it would not be safe.

7480. Was there any opening from which they could have fired?—The place was riddled with bullets, and they could see through.

7481. It was boarded up close at the end; no window?—There was no window at the end.

7482. Could a man have approached from either side to those chimneys without any danger?—No, not without any danger.

7483. From what point could they see them approaching?—Through the holes made by the firing in the darkness of the night.

7484. It was dark for a long time, and they would not see them; then they would not be watching so carefully then—it struck me those chimneys were fired at frequently, and it struck me the police could have approached it without much danger, and put a rope round and pulled it down?—I do not think it.

7485. You think they were too strong, or was it too dangerous an experiment?—I fancy it was too dangerous an experiment.

*Mr. Sadleir.*—I brought a rope from the Benalla railway station on purpose, with that object in view but when we looked we saw the bullets had made so many holes it was like looking through a lattice-work.

7486. *By the Commission.*—When you heard the order from somebody, whom you cannot tell, as to firing high, did you after that order fire high?—No, I fired into the window I was being fired at from. They were firing at me from that window.

7487. Then, after you received from somebody the order to fire high, you did not fire high, but into the window?—I fired at where they were firing at me from.

7488. Was that order given immediately Mr. Sadleir arrived on the ground?—It was some time after.

7489. But you are positive as to the fact of your being fired at from the house after the order to fire high?—Yes.

7490. Had you any doubt the outlaws were there then?—No.

7491. Could you distinguish who was firing?—I could simply see it was a man. This window was looking out from the back.

7492. Do you know the portion of the house where the bodies of Dan Kelly and Hart were discovered?—Yes.

7493. Was the window you were fired at from in close proximity to that?—Yes.

7494. That is north of the chimney?—Looking out north at the back.

7495. In answer to a question, you said there was no window at that end of the house?—Not at the west end—that window was at the north side.

7496. You recollect the position of the house; there was the front building with a chimney at either end?—Yes.

7497. At the Benalla end, towards the chimney along that side of the line, was there a window in the next house?—Yes.

7498. Was that the window you fired into?—No.

7499. Was there a window at that end in a line with the chimney?—There was a window on the back building at that end, but not in the front.

7500. If there was a window at the back end of the hotel, would not that window command the Benalla end of the hotel?—Yes, certainly it would.

7501. When the first attempt was made by the captives to escape from the house, were any of the people fired on by the police?—Not that I am aware of. They escaped on the end next the platform, the women did.

7502. Did you see any sign by a white handkerchief being put out of the window?—No.

7503. Or by any call an attempt made by the captives to be allowed to escape?—I neither heard a call nor saw any sign that they wished to escape. I heard word passed round to cease firing, there were people that wanted to get out.

7504. And the firing, did it cease entirely?—Yes.

7505. When did you first go to the North-Eastern District?—18th November 1878.

7506. Were you one of the cave party?—Yes.

7507. And remained there up to the last day when the whole of that party were removed; the second party, under Mr. Nicolson; the one that left on the 2nd of April—Mr. Nicolson's?—I was not there to the finish.

7508. What day did you leave the cave party?—I do not know exactly.

7509. About what time?—I remained in Beechworth until it was wound up; other men took my place.

7510. You stated that the Sherritt family consisted of three sons and four daughters?—Yes.

7511. And the father and mother?—Yes.

7512. How long before you left the cave party did you know that the Sherritt party consisted of so many?—From hearsay before.

7513. How long before?—After Sherritt got married up to the beginning of January. I knew then, because I had to go to the house for provisions.

7514. You then knew that after Sherritt was married he did not attend so punctually to his duties?—Yes; I sent in a note to Detective Ward to that effect.

7515. Did you at that time form the opinion that in consequence of there being so many there, and your having to go for provisions, your existence in the cave was likely to be known?—Yes.

7516. At that time?—Yes.

7517. That would be in the month of December?—Yes; I sent in a note to Detective Ward to that effect.

7518. What do you call a note?—The report was not written; an informal report. That was in the month of December.

7519. Had you previous to that formed any opinion as to the secrecy of that cave party?—Well, I thought it was not known as soon as I thought it was likely to be known. I tried to get out of it, because I did not consider it safe. The Sherritt family were rowing among themselves, and I wanted to get out of it.

7520. Were you at Beechworth on the 2nd April when the whole of the cave party were brought in?—Yes, I was.

7521. Will you describe to us the subject of dispute between the members of that party and Senior-Constable Mullane?—I heard from some of the men that they were called on to make reports, and I went to Senior-Constable Mullane and asked him.

7522. That was the 2nd of April?—Yes; I asked him if I was to make out a report, and he said, "Yes;" and I asked him what about, as it was an unusual thing; I had never done the same thing, and there must be some object for it; and he simply told me to go and do as I was told.

7523. That was simply to make out the report?—Yes, about the cave party.

7524. Did he indicate the nature of the report you were to make out?—No; I asked him to show how it started; who the order came from to make out the report. He said that he had got a telegram from Detective Ward telling us to make out reports, but would not show it to me.

7525. Would not show the telegram?—Yes; and also told me to go and do as I was told. Then I made out one of those reports that I handed in the other day.

7526. Is this the report you first sent in—[*handing a paper to the witness*]?—Yes, that is the first report.

7527. Just read that?—"North-Eastern Police District, Beechworth Station, April 2nd 1880—Report of Constable Barry, 2710, relative to special duty at Beechworth.—I beg to report, for the information of the Assistant-Commissioner of Police, that I was, on this day, called on by Senior-Constable Mullane to make out a report relative to special duty performed here by me through a telegram received from Detective Ward. The instructions were so vague that I really don't know what to report about, but I am prepared to answer any questions that are put to me relative to this duty, either verbally or in writing.—DANIEL BARRY, 2710. The Assistant-Commissioner of Police, Benalla."

7528. What became of that?—I handed it to Mullane, and he wrote this memo, on the back of it:—"I have called on Constable Barry, 2710, for a report relative to how the special duty at Sebastopol was performed, and whether it came to his knowledge that the Byrnes or any of the friends of the outlaws were aware of the presence of the police at Sebastopol."

7529. In consequence of that, what did you do next?—I requested him to forward that report, and have it returned to me from the Superintendent whom it was intended for, as I thought it ought to be. However, he ordered me to make out another, which I did.

7530. Did you retain possession of that first report?—I made out this second report, and attached

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them both together.

7531. So that both formed one report?—Yes. “North-Eastern Police District, Beechworth Station, April 2nd 1880.—Report of Constable Daniel Barry, 2710, relative to note on the attached report.—I beg to report, for the information of the Assistant-Commissioner of Police, that I submitted the attached report to Senior-Constable Mullane; he returned it to me for to make out another report in reply to his memo. on same. I therefore beg to state that the special duty at Sebastopol was performed in strict accordance with the instructions received from the Assistant-Commissioner, but as to whether the friends of the outlaws were aware of our presence there I am not in a position to state positively, as I never had an opportunity of going among them to enquire; but Mrs. Sherritt (senr.) has made statements to me, which I afterwards reported to Detective Ward, which would lead me to believe that the Byrne family were aware of our presence.—DANIEL BARRY, 2710. The Assistant-Commissioner of Police, Benalla.” I handed both those reports to Mullane, and he told me that would do. Those are the originals.

7532. How did you come to be possessed of them so that you could tell if those were the original reports sent in by you by order of a superior officer?—I got them returned to me from Detective Ward. He asked me to make out another report, as those would not do.

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7533. And you took them back?—I took them back.

7534. Did you make out another?—I did.

7535. When Detective Ward told you those reports would not do, just use his exact words—what did he tell you, and the nature of the report required?—He said we were not to make out reports about what we thought, but what we actually did, and beyond that it was for us to get a good mark on our record-sheet for the hard work we had done.

7536. In consequence of that, you made out this report—[*reading the same as follows*]: “North-Eastern District, Beechworth Station, 2nd April 1880.—Report of Constable Daniel Barry, 2710, relative to special duty near Beechworth.—I beg to report, for the information of the Assistant-Commissioner of Police, that I have been engaged on special duty from 3rd December last to 17th March last, watching Byrne’s house at Sebastopol. During that time, so far as I could judge, none of that family were aware of our being in the vicinity. The instructions received from the Assistant-Commissioner of Police were strictly carried out, and the greatest possible precautions were used by the party to prevent our being discovered.—DANIEL BARRY, 2710. The Assistant-Commissioner of Police, Benalla?”—I handed that to Detective Ward on receiving the others back.

7537. Did he wait while you wrote that?—He asked me to write it.

7538. Did he wait while you wrote it?—I wrote it in the barrack-room, and met him that evening and gave it to him, or the next morning, in the street.

7539. Did he dictate something like the wording of the report that would be acceptable to him?—He gave an idea of what should be said, but did not dictate it.

7540. How do you account for this, that you wrote that report stating you had no reason to believe your existence was known on the 2nd of April, when you wrote on Boxing Day to Detective Ward, informing him you believed, in consequence of the way you had to obtain provisions, your existence was known in December?—Because I could not positively say.

7541. If you thought it portion of your duty in December to write to Detective Ward conveying that information—is that the fact?—That is the fact.

7542. And yet in April you wrote that other?—It was not exactly that our existence was known, but that I did not like how things were going.

7543. I have taken down the number of the Sherritt family, and in consequence of Aaron not attending to his duties as you thought he ought, after marriage, you thought it within your province to write to Detective Ward of your own accord?—Not of my own accord. I was officer in charge at the time.

7544. Was it in consequence of the conversation between you and your comrades?—No; it was my duty to do it. I was in charge.

7545. There had been no conversation amongst your comrades about that in December?—When I wrote it I handed it to them. They all agreed to say the contents were correct.

7546. What arose between that time and April to remove from your mind the impression that your existence was known?—Nothing occurred to remove from my mind the impression that our existence was known.

7547. Then was it in your mind that you wrote that in April to please the officer who told you?—He ordered me to do it, and I obeyed his commands in making out a certain report, and I told him I wanted the others, to have the others to produce in my own defence if they were ever required.

7548. If you had been left free, you would have said you believed your existence was known several months before?—I would—belief, not positive knowledge.

7549. If allowed to report upon your belief; you would have reported your presence was known?—Yes.

7550. But yet, that being so, and with what you knew afterwards, you simply reported just what you knew?—Just what I knew. I had to put nothing on paper except what I could swear to, as I expected

something would come of it in the days to come.

7551. Still you knew at the time that the Sherritts were aware of your being there?—Yes.

7552. Then, in point of fact, if you had been left to yourself, you would not have sent the last report?—No, by no means.

7553. You would have kept to the first or the second?—Yes, I would have kept to the first or the second.

7554. What led you then to believe the existence of this cave party was known?—So many people knowing we were there.

7555. Was there not any special circumstance that would lead you to a thorough belief of it?—And, besides the family amongst themselves were fighting. The Sherritts—the father and Aaron fought. I did not see them, I heard of them; and the two brothers fought.

7556. Was it on account of the marriage?—Yes; and the old man expressed himself very strongly to me about it.

7557. What kind of a man is he?—The usual sort of bushman you meet.

7558. Is he active?—Pretty active.

7559. And a shrewd old man?—He pretends to know a good deal.

7560. Was he a constable of police?—He said he was at home.

7561. You saw young Mrs. Sherritt?—Yes; she was in the cave at one time.

7562. That was one instance of its being known to other persons outside the persons in the cave?—Yes.

7563. Did you report that?—I reported it verbally; I was not then in charge of the part, but I told it to Detective Ward when I came in.

7564. Was it prior to the writing of that last report?—Yes.

7565. You stated just now you were determined only to report matters of fact, that you could swear to?—Yes.

7566. Why did not you report that?—Because I understood she was allowed to come I looked upon her as one of the family.

*Mr. Hare* stated he had got the gun he had on the occasion of the Glenrowan business, and wished to show it was possible for him to have loaded it again. *Mr. Hare* showed that it could be done, by firing off caps, holding the gun between his legs, and then pressing it to his shoulder, and firing it off.

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*Mr. Hare.*—When it first came to my knowledge that it was said it was impossible for me to load my gun with one hand, I got my own gun and found I could, and I went down this morning to Rosier, and got the gun from him, and brought it from there and tried it here, and you saw the result.

7567. You produced the gun here this morning?—(*Mr. Hare.*)—Yes.

7568. Is that the gun you fired at Glenrowan?—Yes. I do not think there is any breech-loader you could not fire with.

*Mr. O'Connor.*—*Mr. Hare* was wounded at the time.

7569. *By Mr. Sadleir (to the witness).*—You have been with the police from the very first murders in the district?—Yes.

7570. Do you remember one night when some police with *Mr. Hare* and myself watched at the Ovens River?—I do.

7571. Where were you placed as regards myself?—Between you and the Ovens River, on the bank of the river.

7572. It was on the night of the 1st February 1879?—Yes.

7573. We watched from sunset until morning?—Yes.

7574. Did you go to sleep all that night?—No.

7575. Not once?—Not once.

7576. I think I was next to you?—I believe so.

7577. Did you see me asleep that night?—I could not see; I was watching the other embankment.

7578. We were all watching intently?—Yes.

7579. Do you remember the bundle of hay and some kerosene?—Yes.

7580. Do you remember when that was placed first by *Mr. Hare*?—I do not remember him placing it at all.

7581. You remember when it was placed, was it not placed close to you?—It was never moved after it was placed, I believe.

7582. Do you remember its being laid upon a high bank, near the top of the bank, at one time during the evening?—I do not remember its being changed.

7583. Do you remember my kicking or throwing it down to where you sat?—I do not; it may have occurred.

7584. Do you think that if that were lighted it would simply blaze in our faces, and we could not see before us?—No, I do not remember that.

7585. You said you were conscious of coming near the Kellys once in the Warby Ranges, and you

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judge of that by seeing some horse prints; have you any notion of whether they may not have been horse prints of men on the station?—From the enquiries we made, I understood that none of the horses on the station were shod. I understood so then.

7586. Where did you see those horse prints?—In the gully looking down on Bryan's place.

7587. Had you reason to suppose the Kellys' horses were shod?—It was generally supposed they were from what we heard.

7588. What did you ever hear?—That they rode good-looking horses and shod all round.

7589. Did you ever hear that?—I heard it said.

7590. Will you mention one person who said it?—Well, we were very seldom supplied with information of that sort that we would know directly that we would swear to it. Constables were very seldom told anything straight that they could say or not.

7591. You have said about Mr. Stanistreet and McHugh escaping?—Yes.

7592. Was there anything in your conduct to prevent all the other innocent persons escaping?—I think not. The chance is they might be hit from the back if they escaped from the front.

7593. McHugh got away without difficulty?—Yes.

7594. And Mr. Stanistreet got away without difficulty?—Yes.

7595. It is not true then he was fired at—Mr. Stanistreet, I mean?—It is not true.

7596. Was there anything to prevent in your conduct, or any of the men you saw that morning, to prevent the other people going if they liked?—No; as long as they did not rush in a body.

7597. But if they came out calling out who they were, and throwing themselves upon the police, you would have let them come into your lines and examined them?—Yes, certainly, I do think so.

7598. You started to your post at that upper end, rather at the back of Mrs. Jones's?—To the west end, the clear road that goes from Stanistreet's place to the Sydney road. It runs north and south, I think.

7599. Sydney-road is at the back?—Yes.

7600. You took up that position on your own responsibility?—Yes.

7601. Chose the place afterwards?—Yes, through an order by Mr. Hare.

7602. Senior-Constable Kelly shortly after passed you and approved of it?—Yes.

7603. Do you remember seeing Constable Dwyer any time that morning?—After daylight I did.

7604. What time would that be?—Half-past seven, I daresay.

7605. Did he not bring the orders to fire?—No.

7606. Did he bring messages from me?—No.

7607. Did he speak to you at all?—He came round late in the day with some whisky; I think that was the first time he came to me.

7608. Were you in sight of Constable Gascoigne the early part of the morning?—Yes, I was.

7609. Did you not see me coming to speak to Gascoigne?—It was dark then. I could know Gascoigne by his voice, but not by seeing him.

7610. You did not see me speaking to him?—No.

7611. He could have pointed you out to me where you lay?—Yes.

7612. Having received Kelly's instructions, were you in any need of orders all day as to what to do—Well, I do not think it.

7613. You were at no loss what to do?—No, I was not at any loss what to do.

7614. Was not your duty perfectly understood, and by every man that he had to do the best could, first to keep the Kellys from escaping?—Yes, certainly.

7615. And the next duty to knock them over, if he had the chance?—Yes, certainly.

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7616. Was there any need to give any man instructions to that effect?—No, not to that effect, certainly not.

7617. In the place where you were posted, had you as much communication with the other men—I mean at the other side where most movement was?—It was not very safe to move where I was.

7618. And you had the least chance to hear what was said and done?—Yes.

7619. When the order came to you to fire high, would you suppose it would come from anyone except some person superior to yourself?—I thought it would come from some of the officers.

7620. You said you would expect it to come from me—was that so?—Yes.

7621. You cannot say when you first saw Constable Dwyer that day?—Not before half-past seven o'clock, as well as I recollect.

7622. On the other side from Gascoigne, what constables were there nearest to you?—At what time?

7623. Well, say from six o'clock?—Constable Stillard, Senior-Constable Smyth; Sergeant Whelan was lower down, not exactly between.

7624. *By the Commission.*—What do you mean by lower down?—Towards the house, south-west, nearer the gully, further away from the public-house.

7625. Further towards the railway line?—Yes, exactly.

7626. *By Mr Sadleir.*—You do not remember Constable Alexander being there?—Which one?

7627. Either of them?—No, I do not.  
 7628. You know them both?—Yes.  
 7629. What was the first time you saw me?—About two o'clock in the afternoon.  
 7630. I have asked you already—from your position you were not much in communication with the other men—could you see what was going on on the other side of the building?—No, I could not; and did not care about looking.  
 7631. I suppose the building interfered?—Yes, that was one reason, and the firing down was another.  
 7632. *By the Commission.*—From whom?—From the men at the other end of the house.  
 7633. Not from the hotel?—No.  
 7634. Do you mean the firing of your comrades?—Yes.  
 7635. *By Mr. Sadleir.*—Did you examine those chimneys since that day?—Yes.  
 7636. How many bullet marks do you think were in—take the one next the Benalla end?—I do not recollect the exact number. I have counted them, but I do not recollect. I know there were a few on the Benalla end; not many, perhaps four or five.  
 7637-8. How many on the other?—I fancy there was scarcely up to twenty-five. I would not be certain.  
*Mr. Sadleir.*—That is rather more than I expected, but I think there must have been between twenty-five and thirty. I think that is all I need ask.  
 7639. *By the Commission.*—As to the horses—you stated you were looking on the Warby Ranges for the tracks of horses?—Yes.  
 7640. When you are looking for a prisoner of any kind, would you not try and ascertain the appearance of the man you were looking for?—Certainly.  
 7641. Did you know the Kellys?—No.  
 7642. Would you try to ascertain the description of the horses they were riding?—I would look upon that as the principal thing.  
 7643. Are you a native of the country?—No.  
 7644. If you were asking for a description of horses, would it not be one of the first questions you would ask, “Are the horses I am trying to find shod or unshod”?—Yes; and I believe they were gazetted as riding shod horses.  
 7645. You were asked why you believed the horses were shod. Were you at Euroa after the bank robbery?—Yes.  
 7646. Were you at Faithfull’s Creek?—Yes.  
 7647. Did you hear then some of the horses of the outlaws were shod?—Yes.  
 7648. Did you see the tracks from Faithfull’s Creek?—No.  
 7649. Then, as a matter of fact, it was impressed on your mind that the Kellys were riding shod horses all through?—Yes, certainly, from the country they were in.  
 7650. That night you were watching on the bank of the river, when the bundle of hay was found there, and you were asked if you were asleep, were you charged with being asleep?—No.  
 7651. Were you asleep?—No.  
*Mr. Sadleir.*—I did not mean you to infer that. He was perfectly wide awake—he was the most wide-awake man of the party.  
 7652. *By Mr. Hare.*—When you said this morning that you thought that Sherritt had lost interest in his work, when was that?—In the month of December.  
 7653. Was that at the cave party?—Yes, the second cave party, after he got married.  
 7654. Have you any idea how many shots the outlaws fired at the first engagement that morning—it has been called a volley—how many shots do you think came from the verandah that morning, from the outlaws, as near as you can recollect—was it 10, 50, or 100?—They kept firing for about five minutes; I could not reckon the shots.  
 7655. Approximately, how many would you say—what is your idea—have you never thought of it?—No, it never crossed my mind.  
 7656. How many do you think—did the four men fire a shot each?—They must have fired over 40 or 50 shots, I am certain.  
 7657. How many shots do you think we fired—the police—both the trackers and the white police, as near as you can think?—Twice that, at least.  
 7658. Before they left the ground?—Twice that number at least.  
 7659. Did our firing cease when the outlaws stopped firing?—Yes; that was one reason; the other was Constable Gascoigne singing out there were females in the house.  
 7660. Did you hear me call out “Cease firing” at all?—I did.

7661. *By the Commission.*—Was that before or after you heard the constable sing out?—After I heard the constable.

7662. *By Mr. Hare.*—Did I move from my position until the firing had ceased and the outlaws gone inside?—You remained giving orders until the firing ceased and for some time afterwards—a short time

afterwards, I know.

7663. Did I move from the position I took up in the first instance until the firing ceased?—You went back, after you were hit, among the timber.

7664. Was that before the firing ceased, before the outlaws retreated into the house?—The firing had not ceased, I think, when you retreated.

7665. Where to?—About ten yards towards the timber.

7666. Towards Benalla?—Pretty well straight back.

7667. Towards the gate, then?—Not exactly that, a little to the left of the gate.

7668. You say I continued giving orders from there?—Yes.

7669. To whom?—As I said before, you said, “O’Connor, get your boys and get round the house.”

7670. Did you see Mr. O’Connor?—No.

7671. Was he on the hotel side of the gate?—He was not.

7672. You stated to the Commission that you took up your position after I told you to surround the house?—Yes.

7673. Did you see Kirkham?—I heard his voice.

7674. Where was he?—He was across the gate—he was one of the first men.

7675. Did he go up to your side where you took up your position or the other side?—He and Gascoigne were near each other on the Benalla side of the hotel.

7676. How long did he remain there?—Not very long.

7677. Where did he go to?—I heard his voice saying he was going away, but any more I could not catch—very soon after the first volley had ceased firing.

7678. Do you know where I went to when I left the field?—No.

7679. Did you see me leave the field?—No.

7680. Did you, at any time, hear me on any part of the ground?—I did not.

7681. You never saw me on the field again, or heard my voice?—No, I did not.

7682. You remember the cave party, at Mrs. Byrne’s, under me?—Yes.

7683. Do you remember whether I gave any similar orders there, with regard to firing at the people, to what I gave that morning on the engine?—Constable Arthur and I were brought up separately, and we got our orders.

7684. No; I mean at Mrs. Byrne’s. Do you remember any orders I gave then about firing?—Yes.

7685. What were they?—The orders that Arthur and I got were that we were not to fire until we heard a shot from the stockyard—Mrs. Byrne’s.

7686. Who was in there?—You had a party of men round the stockyard. and Constable Arthur and I were about 100 yards away in the heap of ferns.

7687. Did I always instruct the men never to fire a shot until they heard a shot come from me?—Certainly so.

7688. Always?—Always.

7689. When you came up on the pilot engine you stated that I said not to fire until they fired at us—that is the case?—Yes.

7690. I also said anybody that was wounded was not to be touched till the Kellys were caught?—Yes.

7691. Where did I take up my position on that occasion on the engine?—In the front of the engine.

7692. The door?—Between both doors that go through the engine.

7693. Where did I put the men?—I was looking south.

7694. Was it on the tender or on the engine amongst the coals?—Gascoigne was amongst the coals, and I was between you and Gascoigne, looking south; Philips was looking on the north.

7695. I told some men to look on one side and some on the other?—Yes.

7696. *By the Commission.*—About what time did you hear or see the last shot from the hotel?—At about half-past twelve I saw the last shot.

7697. No more after that?—No.

7698. Were you in a good position to see if any were fired?—Yes; the principal firing was done at the back window, at me or the men next to me.

7699. What did you see?—I saw the smoke go through the window. The crack of the rifle and the smoke came through the front.

7700. You consider the positions of some of the men were dangerous, on account of their comrades firing opposite?—Yes, very dangerous. I was so myself for some time.

7701. Do you know the men who were opposite to you?—No.

7702. Do you know that Senior-Constable Kelly was at the very back of the yards?—He was changing round from one place to another pretty well.

7703. The officer has given you a character for being active during your service. Have you formed any opinion from your experience there as to whether it was possible to have captured the Kellys by a rush within the first two or three hours of their being surrounded?—Not with a number of people in the place.

7704. It would have been unsafe?—Very unsafe. You would not know whom to capture, and the innocent persons might be shot.

7705. That influenced your opinion?—I did not know there were people in the house.

7706. Were you expecting an order to rush the house at any time?—I expected we were going to rush the house at the very first onset.

7707. Do you consider there were any good opportunities of rushing the house after the prisoners were liberated, from your point of view?—No; I do not think so. The house was a very bad one for that sort of thing.

7708. Did anything else suggest itself to your mind as to capturing those men, except firing?—No; I did not see anything better.

7709. Did you hear anything about a rope to pull it down?—No.

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7710. It would not have been a very difficult thing to put a rope round and pull the whole building down with the engine?—It would have had to be a very long rope.

7711. Were you present when the priest went into the house?—Yes.

7712. How near were the nearest police to the house when the priest entered?—There were some at the back I could not see.

7713. Where were you?—I was straight in front, right against that gate—I consider 75 yards.

7714. Were any nearer than you in front?—Yes, but not directly in front.

7715. How far from the house was the nearest man?—I could not tell how near they were at the back.

7716. From the front?—Some within 30 or 40 yards; they might have been nearer at the back.

7717. Was any approach made by the police when the priest entered?—At that time there was a lot of civilians rushing the place.

7718. That was after the priest rushed the place?—Really I was engaged in keeping those people from rushing the place. I heard them say, “Rush the place,”—the civilians. They seemed to be under the impression there was a man burning alive in it—Cherry—and my back was turned to the building in watching to keep them back.

7719. Did you see the priest come out?—No.

7720. Did you know after the civilians were released in the morning that Byrne was shot at that time, to your knowledge?—It was said round among the men, and word was passed round that he was shot.

7721. Did you also know then that Cherry was in an outbuilding?—I heard so, that he was in a detached kitchen at the back.

7722. Did you then also know the other two survivors, supposed to be Steve Hart and Dan Kelly?—Yes.

7723. At what time in the day did you know that?—I presume soon after the prisoners got out, the time it would take for it to go round from mouth to mouth.

7724. Was there any extraordinary danger in rushing when it was known there were only two outlaws alive in it?—You might rush the house, but to get in was another thing; you could only get in singly.

7725. One in at the back and one in the front, that would be only singly?—The outlaws could stand and shoot the men as they came inside.

7726. You saw the end of the building when it became daylight from where you were?—Yes.

7727. Was there any window at all on that end of the building?—The west end. There was a window in the detached kitchen, but not in the main building.

7728. Did you see any firing come from the window in the kitchen during the whole of the day?—Not a single shot.

7729. Was the end of the main building so riddled that anyone inside could have taken deliberate aim at anyone outside?—Yes, I was of that opinion.

7730. Clean shot holes?—Yes, it was softwood.

7731. So that the point of a revolver or rifle might have been put through and a sight taken?—They could have stood back and taken a chance shot.

7732. Was it riddled as thickly as those blots on this pad—[*pointing to the same*]?—Not quite as thick as that.

7733. Is it not likely that under the ordinary firing there would not be a larger proportion of bullets strike the building at the end than what struck the brick wall?—Certainly.

7734. There would be a fair proportion scattered over that end of the building?—Far more over that than the chimney, because more would be directed to that than the chimney.

7735. You were asked whether you required any further orders after Mr. Hare gave you this order to surround the place, and you said you did not—those were sufficient for all purposes?—Yes, I think so.

7736. Had you been an officer in charge (you are only a young man)—now I am only asking for your opinion—Mr. Sadleir objected, that it was not usual to ask a constable to criticise the action of his superior officer, and wished to say, speaking with all respect, and having in view the regulations, that it amounted to asking the witness’s opinion on his (Mr. Sadleir’s) conduct on that occasion.

7737. *By the Commission (to the witness).*—Do you know whether those orders to fire high came from Mr. Sadleir?—No, I do not.

7738. Were you anxiously looking out for fresh orders all day?—I was looking out anxiously for some instructions, so as to regulate the firing better.

7739. Were you disappointed at not receiving them?—I was.

7740. *By Mr. Sadleir.*—Did you not receive orders to fire high after the word passed round?—Yes.

7741. Did you take those orders as coming from me?—I understood you were there, and I expected they came from you.

7742. *By the Commission.*—Did you receive any orders to fire low, as the Kellys were supposed to be crouching in the chimney?—No.

7743. Would you have taken any different steps to capture the two outlaws remaining in the hotel than were adopted on that day?—I could not think of any better.

7744. Did it strike you there that day that some other course should be adopted different to your being placed in a position where you had to protect yourself against a portion of the fire of the police on the other side of the hotel?—Yes, I did.

7745. Were any orders given to your knowledge that the police on one side were to fire while the others remained under cover?—I never heard of any.

7746. Under ordinary circumstances, do you not think that the officer in charge ought to have made that a portion of his special duty?—Certainly I do.

7747. Did you know there were a lot of civilians at this particular time in the house?—No,

7748. When did you know they were there?—When they came out.

7749. Did you not see Mr. McHugh bringing out the wounded child?—I heard him speaking to Gascoigne a little distance away heard him giving his name; and Gascoigne covered him with his rifle, and got his name.

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7750. With the wounded child?—Yes.

7751. Was the order sent round to fire high because the civilians were in the house?—No; I never heard it said on that account.

7752. You were not aware you were likely to shoot the civilians while you were firing in?—No only those I wanted to shoot.

7753. It was stated at Glenrowan that when the civilians came out they were fired at by police, and had to go back—did you see that?—No; I was not aware of that.

7754. Do you know where Sergeant Steele was stationed?—Yes; that was the east end.

7755. Immediately opposite from where you were standing?—Yes.

7756. You did not see anything of the white handkerchief being held out the window?—No, I did not.

7757. There was nothing to indicate to you that there were prisoners in the house?—Nothing whatever.

7758. Until they came out?—Until they came out.

7759. No word passed round to that effect?—No.

7760. No screams from women?—That was when they were away.

7761. Did you hear any shots fired while they were escaping?—Yes.

7762. From whom?—From the police outside, if there were shots being fired then.

7763. Did you hear any cries from the women at the time?—They were singing out all the time.

7764. Calling out for mercy?—No, I could not say what they said. They were crying and screaming the greater part of the time, perhaps half an hour altogether or longer.

7765. At what time?—As soon as the firing ceased; they escaped very soon after.

7766. Besides hearing Constable Gascoigne saying women were present, and Mr. Hare's orders, you were perfectly sure from your own knowledge, that there were women there from their screeching?—Yes.

7767. Did you communicate that to any men that came round; did you communicate that to Senior-Constable Kelly?—I am certain I did not, but he must have heard it better than I did.

7768. The women you heard did not return to the house?—No, we heard their voices going away towards the railway platform. After they left I considered there was no one in the house to shoot but the outlaws.

7769. Were you not covered by the tree from the shooting of your comrades?—Yes, when I remained behind it.

7770. Did you make known to any of your superiors that you were in danger from the firing of your comrades?—There was none to make it known to.

7771. Was not Senior-Constable Kelly near you?—No.

7772. Was there anyone in higher rank than you are?—When they fired a shot we kept singing out, "Who fired that shot," and telling them to shoot in a different direction. The shots were whistling in the timber by us.

7773. Was it a fact the shots were endangering you—that the shots of the comrades were more dangerous than those of the outlaws?—Yes; and the particular time I allude to is immediately after the prisoners rushed out of the house. There was a long volley fired then, without any warning, I heard myself; and I was for some time myself in a very awkward position.

7774. Could you not have removed from where you were?—No, not after the firing commenced, that particular volley.

7775. We have it in evidence the constables were moving about all day?—Yes, that was when the

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firing ceased, and sometimes there would be an odd shot here and there.

7776. Was it only after one o'clock they were moving about?—They were moving about before that, pretty early in the day, after clear day and the sun had got up. It was a very cold day and they got moving about, not recklessly.

7777. Were they not in danger from moving about?—Well, the men were moving straight behind the trees, and they would not be; if they went to another position they would.

7778. I understood, from the evidence, that they did move from one position to another?—I saw constables Dwyer and Montford going round.

7779. Did you take any steps to communicate with the other side at all?—I sang out.

7780. Could they hear you from your position?—Well, we could hear them from our position.

7781. *By Mr. O'Connor.*—You were on that watch party, with Mr. Hare in command, at Mrs. Byrne's house?—Yes.

7782. How many men were in the party?—The first was divided into two parties, I think, six in one and four in the other.

7783. Did they watch together?—Not for some time.

7784. They did eventually?—They did eventually.

7785. That is counting the officer, Mr. Hare?—I did not count him.

7786. That would be eleven, then?—Yes.

7787. You rode out to this place where you watched?—No, I did not.

7788. The party?—I do not know how they went.

7789. How did you go?—I went out to a certain point, driven out in a buggy by Detective Ward in the dusk of evening, and walked the rest of the way with our swags.

7790. How did you get away from there when you gave up watching?—There was one conveyance sent out for us—some rode and some drove.

7791. Do you know whether there were any horses anywhere about there—police horses?—I never saw any.

7792. You never heard of any police horses being put in Sherritt's paddock at that time?—I heard of it.

7793. With the Government brand on them?—There were a good number of police horses without the Government brand on them.

7794. Can you not recollect if there was one with the police brand on?—I never saw them.

7795. Did you never hear it stated by Aaron Sherritt that Mrs. Byrne had discovered the party upon the first day or the second day by seeing those horses in Aaron Sherritt's paddock subsequently?—I

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Daniel Barry,  
*continued.*  
17th May 1881.

could not say that I did. He made many statements to me and he was so much in the habit of telling lies that I paid very little heed to him in that way.

7796. Will you give your opinion to the Commission that if such a thing was done as police horses, bearing the Government brand, being put into Aaron Sherritt's paddock whether it would be a wise thing to do with the police watching there?—No, I do not think it would be a wise thing; you can easily say that afterwards, that it was not a wise thing.

7797. Do you know what distance this paddock was from where you were?—About a mile and a half or a mile, I should think.

7798. Subsequent to this you were with Mr. Hare on most of his search parties?—Yes.

7799. You notice in Mr. Hare's evidence he states that it was the great hardships, that he never slept in a tent; and the men, I think he said, never slept in a tent; will you explain to the Commission how you did sleep, and what in?

*The Commission.*—What is Mr. O'Connor's object in asking these questions? I think it is exceedingly unfair, and he ought to confine his questions to his own particular experience.

*Mr. O'Connor.*—I consider Mr. Hare has tried to get all the glory and honor, and my object is to show he was not the only one. I want to show that we underwent the same hardships as he did.

7800. *By Mr O'Connor (to the witness).*—Upon arriving at Glenrowan you were, I believe, on the engine, were you not?—Yes.

7801. I believe you stated Mr. Hare left you there or you accompanied him down to Mr. Stanistreet's, the railway station master's?—Yes.

7802. Were you close to him when he had the conversation with Mrs. Stanistreet?—I was within hearing of him.

7803. Was Mr. Rawlins with him at that time?—Yes.

7804. Did you see Mr. Hare give Rawlins his revolver?—Mr. Rawlins had one. I saw one in his hand.

7805. Did you accompany him back to the platform again?—I did.

7806. What did Mr. Hare do when you arrived at the platform again?—He ordered the horses to be taken out again.

7807. What position was he in on the platform, can you remember; did he go down amongst the horses or remain at a carriage door, or where?—At that time, understanding that the outlaws were about, I

took up my position at the back as guard.

7808. I do not mean that. I mean on the railway platform, where Mr. Hare stood on the platform when the horses were taken out. Was he standing near the first-class carriage door talking to me?—I cannot say.

7809. Did you see me on the platform?—I fancy I did, but I cannot say positively.

7810. You knew me by sight?—Yes, and expecting you were there I took it for granted that you were.

7811. When Bracken rushed down to the platform, do you remember distinctly seeing Mr. Hare?—No, the building was between where I was and where Mr. Hare was standing then. I was right at the back of the building.

7812. Not on the platform at all?—No, at the back on guard, looking out that we might not be surprised.

7813. Then you saw nothing of the first rush from the railway station?—Yes, I did. I was round at the back and ran round to the front.

7814. Where were you when Bracken gave the information?—Right at the back of the railway station.

7815. What did you do then—did you come on to the platform then?—I came to the end of the platform. I was holding four or five horses, and I asked what to do with them, and Senior-Constable Kelly said to let them go.

7816. Did you see Mr. Hare then?—I cannot say I saw him. They were all pretty well jumbled together at that time, and the horses too.

7817. When Constable Bracken gave the information, do you mean to state that Mr. Hare did not leave at once?—I cannot say that; there was no delay that I am aware of. I am certain of it.

7818. How long did it take for you to come from the back of the building and let go the horses and rush on?—About ten seconds.

7819. You did not see Mr. Hare then?—Yes; when I got clear of the building, I picked up with him.

7820. You state you did not see me?—No, I did not.

7821. Did you see me at all during the day?—Not during the day.

7822. Not after you took up your position in the morning?—No.

7823. Did you hear my voice?—That I cannot say.

7824. Did you hear anybody challenge a woman?—I might have heard voices, but could not tell who.

7825. Did you hear anybody call out “Cease firing”?—I did.

7826. Did you recognize the voice?—Yes.

7827. Whose?—Gascoigne’s and Mr. Hare’s.

7828. From the first volley from the outlaws until the first engine left, could you make a guess at the time?—No, I could not.

7829. *By the Commission.*—Did you hear the engine leave?—Yes.

7830. *By Mr. O’Connor.*—Now could you not make a guess?—No.

7831. *By the Commission.*—What position were you in at that time?—The west end of the building.

7832. Were you on the road?—Yes, across the cleared road referred to. I was at the other side of that road—to the west position.

7833. You had been there for some little time?—I was there after Mr. Hare’s order, and remained there till the prisoners were let out. That was the first time I altered my position.

7834. *By Mr. O’Connor.*—You have seen Glenrowan since the fight?—I have.

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7835. I suppose you remember there are no trees in the front portion of the house?—There are not.

7836. I mean, if you had to take command of the front of the house, you would not be able to get a tree?—No, there are no trees.

7837. In your position you had a tree, had you not?—Yes.

7838. In your opinion, if you had to take command of the front of the building, would you have taken the position that I did—first of all, do you know my position?—I heard of it. I found empty cartridges there of a Snider rifle, and that showed where you were.

7839. *By the Commission.*—Is the only knowledge you have of the position that Mr. O’Connor and the black trackers held by seeing Snider shells or cartridges in the position they were said to be in?—I heard them singing out.

7840. Who?—The boys.

7841. What do you call “boys”?—The black trackers; so I knew they were in that direction, and then finding the cartridges after I came to that conclusion.

7842. *By Mr. O’Connor.*—You are aware they were in different portions of the field, and were not altogether with me?—Not all; there was one with me.

7843. You are not aware of your knowledge that the remainder were with me?—Not of my knowledge; simply hearing them and finding those empty cartridges.

7844. Was there a great quantity?—A good quantity.

Daniel Barry,  
*continued.*  
17th May 1881.

7845. Taking for granted that that was the position I was in, do you consider it was a good position for commanding the front of the house to prevent the outlaws escaping?—It was not a good position to shoot; there were better positions than that.

7846. Where would the better place have been in front of the house?—There is another drain between that and the house, and I believe that would have been a better position and quite as deep.

7847. Is this an after consideration of yours, or at the time?—a few days afterwards I was round and came to that conclusion.

7848. Were you aware of all about Glenrowan at the time of that fight—all those drains?—You could not help seeing them, and you were more likely to have seen the one I speak of, because it was nearer towards the house, and going towards it, while the other was going away from it.

7849. You never heard I was in another position?—No, I did not. I heard some of the “boys” were under the culvert; I did not know what that meant.

7850. You said the tracker Hero was near you at that time; did he show any cowardice?—No, not any; he was as plucky and cool as any man could be.

7851. Did you see any of the others show cowardice?—I did.

7852. Which?—Jackey.

7853. When was that?—Just when he heard the Kellys were coming, when Bracken sung out that the Kellys were there, and he thought they were coming on to us constables. Constable Canny handed tracker Jackey his gun to keep for him, while Canny was taking the horses out of the trucks. When word was passed for us to go forward, Constable Canny came for his gun, and I heard him ask Jackey for his gun, and Jackey could not speak with fear.

7854. Why?—He was speechless with fear. That was the only instance I saw.

7855. Did the man refuse to go forward, or hide himself anywhere?—I could not say that. I did not wait to see.

7856. Because the man did not speak to you, that is your reason?—Yes, he could speak well enough; I feel quite certain he was really frightened.

7857. *By the Commission.*—You did not notice where he got to afterwards?—No; he was singing out loud enough afterwards.

7858. What?—For the outlaws to come out.

7859. You said just now that the position Mr. O'Connor took up, in the cutting, was not the best one for firing from?—No, he could only hit the top of the verandah.

7860. What was it best for?—For safety; for his own safety, for himself.

7861. That would apply to all there?—Yes.

7862. *By Mr. O'Connor.*—Was not the position behind the tree as safe?—Certainly it was, if he remained behind it.

7863. Do you infer from that, that I made no use of my position?—No, not that; but I was in a better position to fire and retreat, when required, and my shots would take better effect than yours possibly could.

7864. Were you with me?—No.

7865. How can you come to that conclusion?—What conclusion?

7866. That my place was not a good place to cover the house?—Because the level of this drain was far lower than the embankment, even with the men standing.

7867. Do you mean that the surface of the ground was much higher than the bottom of the drain?—Yes.

7868. Of course it was; it would not be a drain unless it was. But do you mean to say it was over my head and I could not fire?—Not quite over your head.

7869. Can you state how high it was?—It was a sloping embankment; I believe the highest part would be very near seven feet—over your head probably—but you could see the top of the verandah looking over.

7870. *By the Commission.*—Where do you refer to—the drain nearest the railway line?—Yes; running parallel with that.

7871. Within the fence or without?—Within the railway reserve.

7872. In point of fact, the drain running nearest to the culvert towards the station house?—Yes.

7873. *By Mr. O'Connor.*—Did you go into that drain afterwards?—I did.

7874. How many days after?—Two or three days afterwards.

7875. And you think it was seven feet?—To the highest part of it.

7876. *By the Commission.*—Is that from the lowest part of the drain to the surface of the ground seven feet?—Yes.

7877. But there were sides of the drain where it would not have been so deep from the surface where the men could stand?—Yes, but that was some distance up, nearer the railway station.

7878. But from the culvert there, and up and down there at that drain, there are places on both sides where a man could stand without going into the lowest possible portion of it?—There may be.

7879. *By Mr. O'Connor.*—The Commission saw the position, and it is after many months' floods,

and it was much shallower at that time than it is at the present time. (*To the witness*)—If you could fire from the drain, and if you could see to the level of the ground of the house, would it be a good place?—Certainly it would have been a very good place.

7880. *By the Commission.*—For what?—For guarding the front of the house and preventing the outlaws getting away.

7881. Would not the fence be an obstruction?—Not much; I believe that portion of the fence is wire pretty well.

7882. The top rail is not?—That is not much to prevent the shot from the low level.

7883. Would not that rail come in the line of fire from the position indicated?—It depends upon where you stand, certainly several bullets went through it.

7884. *By Mr. O'Connor.*—It is only about six inches wide—how long after the firing commenced was it that Mr. Sadleir arrived on the ground?—I cannot say. I did not see him.

7885. I mean on that day?—I heard and saw in the papers the different times that different parties arrived.

7886. I mean on that day; did any of the men tell you Mr. Sadleir had arrived at such a time?—They must have. I understood he came there with the Benalla party.

7887. What time would that be?—As soon as daylight, half-past seven or eight o'clock.

7888. Can you form an opinion as to how long elapsed before they arrived after Mr. Hare left?—No, I cannot.

7889. Did you see Mr. Hare, after he was wounded, sit down on a log?—No, I did not.

7890. If he had done so would you have been bound to see him?—I think I would have seen him, I heard his voice but I did not pay much heed. He was not very far away from where I was; he may have sat down.

7891. Did any man tell you during the morning that Mr. Hare had gone down to Benalla?—Yes, I heard that.

7892. What man—can you form any idea?—No.

7893. Was it before Mr. Sadleir arrived?—Yes, I think so.

7894. *By Mr. Nicolson.*—Do you remember coming up to Benalla first?—Yes.

7895. Had you long joined the force then?—Not very long; I had been three years and a half in the service at that time.

7896. Which was the first search party you went out with?—Under Senior-Constable Flood, in the direction of Greta.

7897. Was that the one with me?—Yes.

7898. You mentioned just now about the camping?—I have done so.

7899. Do you recollect the first time we camped at a place named Rushall?—I did not know the name.

7900. That place by Ryan's Creek?—No.

7901. Do you remember the first night we camped?—Yes.

7902. Was it not near the creek?—Yes.

7903. Near some ferns?—Yes.

7904. Do you remember where the men slept?—I know where I slept, it was in the ferns.

7905. How far off from where we had our tea?—Perhaps 120 yards.

7906. We halted about sunset, and we had tea; and about the time we had tea we were ready to turn in; was it not the custom of the men to begin making their beds just at night where they were going to stop?—Yes.

7907. Were not the horses let out then?—Yes.

7908. Was there any clashing of the horses when we and our horses moved from where we had been feeding to where we were going to camp?—One night there was.

7909. Where wast that?—We were trying to find the slip panel, we were nearly lost, we could not find the camp, it was at Greta.

7910. Were we not looking for the hut then?—We had had our tea. This was outside Greta and we were looking for a certain slip panel, and could not find it. Senior-Constable Flood was looking for it and I was sitting on my horse with a bag of flour in front of me.

7911. Was that the custom?—It was not kept up for a long time.

7912. What was kept up?—That practice of changing the camp after we had had our tea.

7913. It was kept up all the time I was out with you, unless we came and camped in a paddock, when we were out any distance in the ranges?—No, it was not; we did not catch our horses again and shift, the same as we did on that occasion at Greta, that night we were lost.

7914. What night was that?—I do not recollect exactly. [*The witness looked at his pocket-book.*] About the 23rd December 1878, that is very near it. I might say that that time, as far as the party were concerned, none of the men knew where they were going or anything else.

7915. *By the Commission.*—How can you say that with regard to Senior-Constable Flood?—He was in charge, but at that time we never knew where we were going.

7916. You are speaking of your individual knowledge?—I did not hear it.

7917. Did not Senior-Constable Flood know?—Yes, he did; but the men did not. We followed him, and he said where to go.

7918. Senior-Constable Flood had been then in the district for years?—He was not much the better

for it.

7919. *By Mr. Nicolson.*—Did Flood say so?—He always said he did know the country.

7920. *By the Commission.*—You believe he was not speaking correctly when he said he knew the country, and that he did not know it?—Yes, that is the fact; he did not.

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7921. *By Mr. Nicolson.*—In the first search party did we not go astray very often?—Yes; we were on the top of the Bald Hills, near Kelly's, and did not know it; that was in the broad daylight, with Senior-Constable Flood.

7922. Did you know the country?—No.

7923. Did any of the men?—No; but we soon knew it much better than the men who pretended they did.

7924. When you were stationed in the cave you used to come in when off duty and see me nearly every time at Beechworth?—Yes, frequently.

7925. Did I not enter into conversation with you?—Yes.

7926. Did you ever tell me that you thought the cave party was discovered?—I only always told you what was true—what came to my knowledge. I always reported to Detective Ward, or Senior-Constable Mullane, and it would not be my place to report it to you, as I would presume that you knew whatever I told them.

7927. Do you remember when you withdrew from the cave altogether and came to Benalla?—Yes.

7928. Do you remember the conversation with me after it was all over?—Yes.

7929. Do you remember that you said the men, just before being withdrawn from the cave, had been obliged to move over to that house of Sherritt's from the cave just a few days before they left?—Yes.

7930. What was my expression on hearing that—did I appear to have known that before?—I do not know.

7931. Did I not express my surprise about their having moved from that cave into Sherritt's, about any of the men being in Sherritt's at all?—I cannot say you did.

7932. You remember our talking?—Yes.

7933. You have no recollection of my expressing surprise?—No.

7934. What firearm did you first practise with, excepting the revolver?—A double-barrelled shot gun.

7935. What had you next?—A Martini-Henry rifle.

7936. *By the Commission.*—Is not that an inconvenient weapon for horseback?—It is inconvenient, but a very good one.

7937. *By Mr. Nicolson.*—Did you prefer it to the shot gun?—Yes, certainly; according to the duty I was on.

7938. Is that a good weapon to carry generally?—It is not a good one in the night time, but generally it is a good weapon.

7939. What weapon did you select for your duty?—It was never left to me. I had a shot gun for a long time, and then I got the Martini-Henry rifle at Beechworth.

7940. Was it given to you at your own request?—No; in consequence of some shooting we had at Beechworth.

7941. What was that?—We went out shooting, and I did very well with the rifle, and consequently I had the rifle given me, and the shot gun taken away.

7942. Did you make any objection to that?—No.

7943. Did you prefer the Martini-Henry rifle?—Yes.

7944. What shooting was it?—Practising to make us good shots, I understood.

7945. Was there any order to that effect?—I understood there was an order issued by you that we were to do that.

7946. You seem very unwilling to mention it. You speak about—that you saw some members of the Sherritt family moving about to Mrs. Byrne's?—No, I did not say that.

7947. You came in off duty at the cave, and you found it was very trying to your health?—Yes.

7948. You got rheumatism?—Yes, and I am not over it now.

7949. When you came in, you or some of the party, did you not apply to be allowed to go out on other duty for active exercise, after being confined in that cave?—I asked to be allowed to go out.

7950. Do you think it is a fair statement of a man who was on that duty, to complain of having been sent out on duty, after coming from the cave?—Certainly it was.

7951. Why?—Because there is a great difference between taking a short ride for the good of my health and being sent out a long hard ride.

7952. Were you sent out a long hard ride?—I was on different occasions.

7953. Did you report it to me?—No, I reported it to Detective Ward, and I expected he would report it to you.

7954. Had you not a right to speak to any officer you chose, if you spoke to a non-commissioned officer?—I expected he would have told you.

Daniel Barry,  
*continued,*  
17th May 1881.

7955. I cannot remember that, but you did not do so. You spoke about Mrs. Sherritt coming to the cave—how often did she come?—Once.

7956. Did she ever come again?—I do not know.

7957. *By the Commission.*—Did the old one come?—Not to my knowledge.

7958. Did any of the girls go?—I never saw them. I heard they were.

7959. Which?—Bessie.

7960. Is that the one that used to go to Beechworth constantly?—She was in employ at Beechworth.

7961. What age was she?—About twenty—a full-grown young woman.

7962. *By Mr. Nicolson.*—Was there not, at the time you went out on that expedition with me, a great difficulty in finding constables who knew the country to act as guides for us?—Yes.

*The witness withdrew.*

*Adjourned to to-morrow at Eleven o'clock.*

POLICE.

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WEDNESDAY, 18<sup>TH</sup> MAY 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

E. J. Dixon, Esq., J.P.,

G. R. Fincham, Esq., M.L.A.

J. H. Graves, Esq., M.L.A.,

Daniel Barry further examined.

Daniel Barry,  
*continued,*  
18th May 1881.

*The Witness.*—I was questioned yesterday as to my doubts concerning the duty that was carried on in the cave party.

7963. *By the Commission.*—That was in the early part of the day?—The second cave party. I have a letter in my possession to show in reply to one that I sent to Detective Ward.—[*The witness produced and handed in the same.*]—The letter will speak for itself whether I had doubts or not.

7964. Is that a copy?—That is the original from Detective Ward.—The letter was read by the Chairman, as follows]

“Beechworth, December 29th, 1879.

“Dear Barry,—I am really sorry to hear of your troubles, but I can assure you I cannot help it. I sent out provisions on Saturday, and they promised me to send them to you as quick as possible. Moses is married since Boxing Day, and you must be a little lenient to him; he complained to me you were very cross to him this evening. I have just heard Jack is left for Melbourne, so you must bear with a little hardship for a day or so. Be kind to Aaron, although it is against your wishes, until you hear from me again. Mr. Nicolson is in Benalla, Mr. Sadleir is here, so keep quiet. I will relieve you on Wednesday evening; you can come in after nightfall. I will see in future, if possible, that you are not without bread. You must understand that this watch has to be kept in future with six (6) men, so you will be no worse off than your other comrades. Aaron complains that you said to him that you and Cox should be relieved. What has he to do with the relieving of you? I would strongly advise all you boys to be kind to Moses for your own sake. Mr. Nicolson is rather particular, and it would be unwise to quarrel on this duty. I will be able to give you more particulars in my next note. I do not understand what you mean when you say that there is something crooked; but if it is Aaron’s staying away, I can account for that. A man getting married likes to spend a few nights with the wife. I did not send the letter to Cox. Please tell Cox his dearly-beloved is in the enjoyment of good health, and is surprised where he is gone to. I remain, yours truly—M. E. WARD.”

7965. *The Witness.*—That is a reply to a letter I sent in expressing my doubts of the affair. I did not think it was all right.

7966. Doubts about the secrecy of it?—About the secrecy of it.

7967. You expressed a doubt in your letter that the thing was not secret?—Yes.

7968. That it was known, and that is the reply?—That is the reply to the letter, advising us to keep quiet, and to hold our tongues and not to say anything about it; that is the way I took the letter.

7969. Is there anything else?—Yes, I think it only right for me to state the instructions I received from Mr. Nicolson in going out with that party. I have not done so yet. The first object was secrecy.

7970. Were they in writing?—Verbally, in the presence of Mr. O’Connor and Detective Ward, in Beechworth. While we remained in the barracks it was not to be generally known or known at all that we were engaged on this secret duty. Then the duty itself, as to how it was to be done. First, should the four outlaws come, we were not to take them; we were to preserve the tracks and send for the black trackers.

7971. That is not to attempt to capture them?—Not to attempt to capture them.

7972. You understood that that duty would be considered too dangerous?—That was our orders—four men. The next was, should Byrne himself come alone we were to kidnap him—take him alive, if possible, and have him taken into Beechworth; but, should any row be made, and we thought the others were coming behind, we were to shoot him, and wait for the others, and shoot them as well, if we could. I have

another thing to say also about the party in the Warby Ranges. I had only an opportunity of mentioning one reason why I thought we were on the outlaws, and that was seeing the prints of shod horses; and there were other things that we saw as well. The statement made by the two young men that we stopped and spoke to, that came on to us that night, contradicted their own statement. For instance, one of them, when questioned if any other men left Bryan's on that evening, said he had been ploughing in the paddock that day, and, when it was put to him afterwards, he said he was away in the bush, and seemed very much confused about it. The next is, also, seeing a fire on the top of a very high hill. We went up and saw it—went right to that in a place where you could not form an idea what that was required for, if it was not a signal of some sort. Another reason was the removal of stones from the tops of three different high hills. Two stones removed on the side, I think—that was the side facing the north. They seemed to be all in the same manner and same way, and upon the same side; and we also came on some footprints.

7973. What about the stones?—Big boulders removed from the side.

7974. What did you think that indicated?—A mark of some sort. I could not understand it. If it had happened only in one place, I would have thought nothing of it, but in three different places, it seemed to mean something; and in another place were footprints. That is all I have to say.

*The witness withdrew.*

John Kelly,  
18th May 1881.

John Kelly, Senior-Constable of Police, sworn.

7975. *By the Commission.*—Where are you stationed?—At present stationed at Terang. If you produce the record-sheet I could tell you all the dates. I have been in the service twenty years in January next.—[*The record-sheet was handed to the Chairman by the Secretary.*]

7976. What is your object in desiring to have the record-sheet here?—Just to show my previous service, what I have done.

7977. Just for the Commission to inspect it?—Yes, for the information of the Commission. I was stationed about nine years and a half at Ararat, and Beaufort about five years, and there I was doing plain-clothes duty through the district. In October 1871 I was transferred to Melbourne to the detective office. I applied afterwards, after a month or so there, to go back to the general service; as I was a stranger in town and to all the criminal class, it would take me some time to learn and find them out. I was transferred then by Mr. Hare from the dépôt to Dandenong.

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7978. What was the date of that?—I do not think that date is here. I was afterwards at Oakleigh for a short time. After about six or seven months at Oakleigh, Mr. Hare asked me would I come into the dépôt, to do plain-clothes duty for the district. I did. I have been engaged in two murder cases at Mornington, and I arrested Hastings, the second-last man that was hanged in Melbourne. In March 1877 I was transferred to Wood's Point to take charge of the Wood's Point station, and on the 23rd October 1878 I left Wood's Point, in charge of a gold escort, for Benalla. On the 24th I arrived at Mansfield, and the late Sergeant Kennedy met me at the coach. He told me in confidence he was going out after the Kellys. He asked me if I would let him have a rifle that Constable Horwood was going to take with him on the escort. I told him that as there was only the one rifle between us, it would be a very dangerous thing, but, after consideration, I said, "Get a second revolver and give it to Horwood," and I said, "You can have the rifle." He said he had very good information. I also saw Constable Scanlan there that morning, who was afterwards shot by the outlaws. I arrived that evening at Benalla, and I got on the following day a week's leave to come to Melbourne. On Sunday night the 27th October 1878, about midnight, at the hotel, where I was staying—the Polo hotel, near the detective office—Detective Hayes was also staying there, and he was out on duty, he came in and he asked me, "Are you asleep, Kelly?" I said, "Is that you, Hayes?" And he said, "Kennedy, Scanlan, and Lonigan are shot." So I said, "Come in and strike a match"; and I got up and sat upon the bed. I went next morning to the detective office. They had not any official report of it there. I also came to the Chief Commissioner's office. I believe it was between ten and eleven when the information came from Benalla.

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7979. Had they heard at the Commissioner's office then?—They had not in the evening. I then threw up my leave, and I went down to meet the train at three o'clock. I met Constable Falkiner, Constable Strahan, and Constable Dakin at the train, and Captain Standish, and also Mr. Nicolson. He was going up in the same train. We arrived at Benalla about eight o'clock I think. The three constables with me had instructions to go on to Wangaratta. I came to Benalla, and Mr. Sadleir was absent at the time, I believe at Shepparton on some duty. There seemed to be no constable upon the station; they were all away that knew anything about the country.

7980. Did you understand that they had gone out on the search?—Yes, I understood they were out. Senior-Constable James was brought down from Beechworth. He was supposed to know the bush. We started the following afternoon—Senior-Constable James, me, Constable Connor of Seymour, Constable Meehan, and a constable that died lately in Mr. Hare's district.

7981. How many altogether?—Five. We went in the direction of the King River, and we went through Greta.

7982. Who was the constable?—(To Mr. Hare.)—Do you remember who died lately in your district?  
Mr. Hare.—Where at?

*The Witness.*—He was at the station, but he died out near Mr. Clarke's. I think he was a fine shooter and a good policeman.

*Mr. Hare.*—Bray. He died up at Trentham.

*The Witness.*—We were making for Moyhu, but it got very dark and commenced to thunder and lighten about four miles on the Boggy Creek. We had to camp there, and it was raining all night.

7983. Had you any accommodation at all—tents?—No, we had no tents. I had no blankets. The rest of the men had a small blue blanket each—I had none. Next morning we noticed a light. I went towards it. I found it was a Mr. John Lewis's place. I told him we were police, and he got up and made a fire. We dried ourselves, and he got us some breakfast; and then we started towards Redcamp, on the Redcamp run. From there we went to Hedi. We stopped at Hedi police station that night. There were no police there, they were all away; at least the constable that was stationed there was away. We started up the King River on the following morning, and near Bungamara station I met the outlaws' uncle, Jack Quinn, George Johnson, and a man of the name of Thomas, alias Galloping Jack. We had a conversation with them, and they told us they were looking for cattle. We stopped at Bungamara station that night, and met Sergeant Steele and some constables with him.

7984. Had they come from another direction?—They had come from another direction; they were further up the King.

7985. Then you were unsuccessful upon that occasion?—Yes.

7986. Will you pass over it a little more quickly, because we have got pretty well all this before from other witnesses?—We started next day in the Wombat, and arrived about ten o'clock that night at Mansfield. We stopped all the next day, and on Sunday, that would be the 3rd November, Sergeant Steele received a telegram, I believe from Mr. Sadleir, to return at once to Benalla—there was a man stuck up by the outlaws on the Murray flats. We returned to Benalla that night. We met Wild Wright and his brother (the dummy), and, I believe, a daughter of Tom Lloyd's, on the road riding on horseback. Sergeant Steele and a party of men left that night in a special train, I believe, for Beechworth. I remained at Benalla for a few days with three or four men. At the same time, Senior-Constable Strahan and Shoebridge and two constables also came in from the ranges. We were ordered—there was a special train got ready, and Mr. Nicolson, Captain Standish, and five of us went to Beechworth.

7987. What was the date of that?—It would be about the 7th of November 1878. At Beechworth Mr. Sadleir met us on the platform—that was before daylight.

7988. Where did you go eventually?—We went to Sebastopol, Sherritt's hut, and were unsuccessful, and I was instructed by Mr. Sadleir to return to Wangaratta.

7989. Have you seen the printed accounts of those things given by the other constables that have been examined?—I have read the papers.

7990. Do you agree with them?—I do.

7991. On that visit—was that the first time you saw Aaron Sherritt?—That was the first time I saw him.

7992. Under what circumstances did you see him?—I saw him near the back of Mrs. Byrne's house speaking to Mr. Sadleir.

7993. Did you see Captain Standish speak to him?—I did, and Mr. Nicolson.

7994. Did you hear any overtures made by either of those officers to Sherritt—I did not.

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7995. Were you in a position to hear any overtures if they had made them?—I was about ten or twelve yards away, I think.

7996. Did you hear Captain Standish ask Sherritt at that time?—I saw them, that they were speaking, but I never heard a word that passed between them.

7997. You were too far away to hear?—Yes.

7998. Did you notice any other members of the force nearer than yourself to Captain Standish?—I did not.

7999. Did you see Ward nearer?—I did not see Ward there at all.

*By Mr. Nicolson.*—I stated that Ward was there, but I find I made a mistake. Sergeant Steele was there.

8000. *By the Commission.*—Was he nearer to them than you?—I do not think so.

8001. Were any constables near?—No. I walked away into the bush a bit.

8002. What is your opinion as to the faithfulness of the discharge of the duties that Sherritt was appointed to carry out?—I do not know anything at all about Sherritt. I saw him only two or three times.

8003. You were not one of the cave party?—No.

8004. You were not in the house when Sherritt was shot?—No; I was not there at all.

8005. You went out constantly with search parties?—No. On the 10th of May 1879 I was sent to take temporary charge of Hedi station in the Black Range.

8006. Do you remember a report coming in that Brook Smith and party were close upon the Kellys?—I heard it. I was not there. I was in Wangaratta at the time.

8007. Do you remember what information came in?—I heard that they were on some tracks.

8008. Did you hear any statements made in reference to the efficiency of Brook Smith in that attempt?—I did not. I never heard anything. There were horses—some of the police horses—found. I was there when Detective Ward and, I think, Senior-Constable Johnson and some other constables brought in some of the police horses that were found in the Warby Ranges.

8009. Did you see the horses?—I did. I was with Mr. Nicolson in the stable next morning. After returning from Sebastopol, I got instructions from Mr. Sadleir to go to Whorouly and Constable Ryan from Greta would meet me there.

8010. Was the horse that was found one horse or more do you remember?—There was one chestnut—a big chestnut—that I know. I rode him myself.

8011. Whose was that?—I think they had it for a pack horse—Sergeant Kennedy's.

8012. Did he belong to the police force?—Yes.

8013. Did you observe the state he was in when he came in to the station, was he covered with marks or anything at all?—I did not notice any marks. They looked knocked up.

8014. Had he marks of perspiration over him or anything of that sort?—I do not remember.

8015. Had he been recently used?—There is no doubt he had been recently used.

8016. Why do you say "no doubt"?—Because he had the appearance of being knocked up.

8017. What was the appearance that made you think he had been recently used?—His sides were quite hollow, and he seemed to be recently worked.

8018. Would you say whether he had had a week's spell or had he been worked within a few days before?—I do not think he had had a week's spell.

8019. Do you think he had been worked by the outlaws or anyone else within a few days before?—I think so.

8020. Go on with your narrative?—I was about three weeks at Whorouly with Constable Ryan, watching the Whorouly bridge.

8021. What time was that?—About a week after coming down from the Woolshed in November.

8022. 1878?—Yes, 1878.

8023. It will be no use following up that narrative—is there anything of importance?—No, nothing of importance.

8024. Only that you were out with search parties continually?—Yes.

8025. Do you remember the time, or about the time, when the outlaws had killed Aaron Sherritt?—I do.

8026. Where were you then?—I was in Benalla.

8027. At the time?—Yes.

8028. What action was taken upon that?—Mr. Hare sent for me that Sunday afternoon, and said I was to bring down a horse with me to the telegraph office.

8029. Where was Mr. Hare?—In the telegraph office. He came to the door and met me, and read a telegram to me. He said, "Aaron Sherritt is shot."

8030. What did you do then?—He told me to go over and see Mr. Stevens, the railway station master, and see if we could get a special train. I did so, and Mr. Stevens said, "Yes," he would get one ready. I got instructions to get some provisions and get ready. I had everything ready, and gave instructions to the men that were to come. Mr. Hare gave me a list. There were Constables Barry, Canny, Gascoigne, Kirkham, Arthur, and Phillips. We went down to the train about half-past one.

8031. On Sunday?—No, this was Monday morning.

8032. About half-past one in the morning?—Yes.

8033. Just at midnight?—Yes.

8034. With horses ready and everything?—And a special train from Melbourne came with Mr. O'Connor and five trackers, and four gentlemen belonging to the press, and two ladies. We got the horses in, and made a start for Glenrowan. I was in —

8035. You say you made a start for Glenrowan?—Yes, by the train.

8036. Did you intend to stop at Glenrowan when you left Benalla?—No, we left for Beechworth.

8037. Did you really intend to stop at Glenrowan?—I do not think it; at least I never heard anything about stopping at Glenrowan. All of the five constables got into the guards' van. There was one, Constable Kirkham, he got in with the black trackers in the carriage—a first-class carriage.

8038. He had some management of the black trackers?—He had. I was on the top step with the guard, and he had a lamp and this cleaning wadding that they have, and I kept the window clear watching

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the pilot engine. I mentioned in the stable before I left, to Constable Day, there is nothing surer than that the line would be pulled up, because I heard that they knew all our movements.

8039. How did you know that they knew all your movements?—I heard that from several parties.

8040. That is in a general way?—In a general way.

8041. Not that particular matter?—No.

8042. That is to say you understood that the Kellys had good information of all the movements of the police?—That was the general impression.

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8043. That was the impression?—And through their sympathizers the way they were galloping about.

8044. From that you judged there was a possibility of the line being torn up?—Yes. When within a mile of Glenrowan, we noticed the pilot engine pulling up. I saw a man coming back with a light. I saw it was Archibald McFie, railway guard, that was in the pilot engine. I said to him, “What’s up?” and he said, “I met a man with a red light in his hand—that stopped me.” He said, “The Kellys are up in Glenrowan, and they have them all stuck up there, and have pulled up the line.”

8045. Are you quite positive that he gave you that information—that the Kellys were in Glenrowan?—Yes.

8046. And had them all stuck up?—And had them all stuck up.

8047. What further did he say?—I jumped out, and Mr. Hare put his head out of the window and said, “What is up?” and I told him, and he jumped out with his gun and he went up with the guard and walked up to the pilot engine. Mr. Hare turned round and told me to take half the men to go on the engine; he would go on the pilot engine and let me go on the other. I had Constable Kenny and Constable Arthur with me, and I placed them upon the engine; the three of us, but the engines then were detached.

8048. They were coupled together—Coupled together afterwards. When we arrived there Mr. Hare said, “Get out the horses quick, Kelly.” Mr. Rawlings, a volunteer with us, whom I did not mention, came from Benalla with us.

8049. What was Mr. Rawlings?—A settler there. Mr. Hare went away for a bit. I placed Constable Barry at the back on guard, for fear anyone should come from the back.

8050. Do you know where Mr. Hare went?—Straight down towards the station master’s house; he and Rawlings.

8051. When did you next see Mr. Hare again?—The next I saw of him he was coming back, and Constable Bracken appeared upon the platform.

8052. Just about that time Mr. Hare returned?—About that time he came back. He said, “The Kellys are in Jones’s; surround the house—surround the house.” Those are the very words he said.

8053. That is Bracken?—Yes.

8054. What was done then?—Mr. Hare said, “Come on, men—come on, men.” We all rushed for our arms, and some of the arms were knocked about. There were, I believe, only one or two who had their arms in their hands. I was getting the horses out of the train. We all rushed down.

8055. What do you mean by “all”?—The constables, Mr. Hare, and I am not certain whether Mr. O’Connor did or not, but the black trackers were.

8056. Who left the station first?—I could not say.

8057. You left the station and came down by the road over the culverts?—Yes.

8058. The culverts being between that and what is called the wicket-gate?—Yes.

8059. Now will you carefully describe, as far as you remember, who was with you and near you?—I remember Mr. Rawlings was next to me; Mr. Hare was ahead, with three or four men with him.

8060. What men?—Barry, Gascoigne, Phillips, Arthur; I think that was all the men.

8061. Was Kirkham with him?—I could not say.

8062. Was Mr. O’Connor there?—I could not say.

8063. Just describe the way you proceeded towards the wicket-gate; did you arrive at the wicket gate in the railway fence in about the same order as you now describe?—There was Constable Kenny and two or three, I remember, stopped back picking up their rifles.

8064. You say Mr. Hare was in front and one or two constables?—Yes, and we were behind him.

8065. How far behind?—Four or five yards—it might be ten yards.

8066. Just describe the way Mr. Hare went?—They were making straight for the house.

8067. Did you see them go through this little wicket-gate here—[*pointing to the map*]?—No.

8068. Did you go through?—I went through the other gate down to the railway lines straight, and up to that gate, I and Mr. Rawlings and some other man.

8069. You were near the station master’s house?—Yes; the next time I saw Mr. Hare was when the shots commenced to fire.

8070. How far were you from him?—Seven or eight yards.

8071. In what position?—I can show you upon the map.

8072. Were you towards Benalla from him?—No, on his right, towards the railway station.

8073. Were you outside the railway fence then?—I was, certainly.

8074. More in front of the house?—More in front of the house. I was above the corner, west of the railway—west—in a line with the front of the house, because they fell back to the west.

8075. How far was Mr. Hare from you when he was shot?—Six or seven yards.

8076. Who were there beside you when he was shot?—There was Constable Gascoigne, Arthur, Phillips, and some of the black trackers.

8077. Were the black trackers?—Some of them were there.

8078. Were they outside the fence?—Yes, they were there—[*pointing to the map*].

8079. What black trackers?—Hero, I think, was one of them.

8080. Were you here when Barry was giving his evidence yesterday?—Not the first part.

8081. If Barry swears that Hero was one of the men, do you think he would be right?—I think so; I saw him with Barry afterwards.

8082. Whom else did you see beside those men?—Mr. Rawlings was close to me, near to Mr. Hare.

8083. Were those men far from Mr. Hare when he was shot?—Five or six yards to the left of him, at the first volley.

8084. On either side of him?—Yes.

8085. Who fired the first shot, do you remember?—I remember it was the outlaws.

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8086. What was your impression when you saw Mr. Hare and the other constables and yourself—what was the impression that they intended to do at that time, if they had not been met with that volley from the hotel?—They were rushing straight for the house.

8087. And the first volley that was fired?—Came from the house. I saw one man appear on the outside, and said, “Come on, you dogs; you cannot hurt us.”

8088. Was that Ned Kelly?—I could not say. Mr. Hare said, “I am shot.” I saw him sticking the gun, after he was shot, between his legs, and re-loading it and firing it out of his hand, like that—[*describing same*].

8089. You are quite sure of that?—I am quite sure of it.

8090. You are sure he shot?—I am as sure as that I am sitting upon this chair.

8091. You swear that?—I swear it.

8092. Did you see Mr. O’Connor there at that time?—I did not.

8093. When did you see him first?—I heard Mr. Hare. He turned back to me and said, “Kelly, surround the house, for God’s sake, do not let them escape,” and he sang out “O’Connor,” and Mr. O’Connor answered.

8094. What did he say?—He said, “Come on, O’Connor, the beggars have shot me—bring your boys with you; surround the house.”

8095. Did you see Mr. O’Connor at that time?—I did not see Mr. O’Connor at that time.

8096. Where do you suppose he replied from—you say you heard his voice answering?—He was to the right of us, inside the railway fence.

8097. What time did you see Mr. O’Connor first after that?—I will come to that presently. Mr. Hare went back to the railway station, and he came back in a few minutes and said, “Stop firing.” There was a tremendous fog of smoke then from the firing.

8098. “Cease firing” or “Stop firing”?—“Stop firing.”

8099. What reason did he assign?—We heard some women crying out in the house.

8100. You are quite sure that Mr. Hare went back to the station after he was shot and came back again?—Yes; he spoke to me.

8101. Do you remember where he was standing—what position was he in when he said “Stop firing”?—He came back after getting his hand bound.

8102. Whereabout was he?—Behind me.

8103. Where were you at that time?—Behind the corner post.

8104. Still there?—Yes.

8105. Did Mr. Hare’s voice come from the right or the left?—The other men were to the left.

8106. But his voice?—From the station master’s house; he went through that gate and came back through that gate—[*pointing to the map.*] I asked him to send up some ammunition. I asked Mr. Hare to please send up some ammunition.

8107. After he was wounded?—Yes.

8108. After he came back with his arm bandaged?—Yes.

8109. You did not think it was a serious thing, or you would not have asked your officer to send up ammunition?—I saw him going back to the railway station, and I asked him to send some ammunition—he said he felt weak.

8110. And must return to the station?—Must return to the station.

8111. Did he say “I am losing blood”?—Yes, from the loss of blood.

8112. Could you see him bleeding?—I could, quite plain.

8113. Was it bleeding under the bandage?—I could not say. I was not so close to him.

8114. Did he say “I will have to go back to the railway station”?—Yes, and I said, “Send up some ammunition.”

8115. Did he give you any orders?—He told me “For God’s sake” to “surround the house.”

8116. Was that after he came back from the railway station?—There was not five minutes between the time he was back.

8117. Then he twice repeated the orders to surround the house?—I ran down to the railway station—that is to the station master’s house. I mean it was there Mr. Rawlings brought the ammunition. I found it was the wrong ammunition. It was ammunition for the breech-loading guns.

8118. What breech-loading guns?—That the constables used to use.

8119. For their double-barrelled guns?—Yes.

8120. That was shot ammunition?—Yes, it was—all rifles, only one.

8121. I must ask you to be particular about that, for I intend to examine you particularly about the arms the men had. You know what arms the men under you had?—Yes, I know.

8122. What did you do when you found the ammunition was not right?—Mrs. Stanistreet, the station master's wife, said, "You should not come here." I said, "For God's sake, go out of here—you will get shot here—take the children with you." She said "Where will I go?"

8123. What did you reply?—I said, "Cannot you go over to MacDonald's?" She said, "No, I will not go there." "Well," I said, "go out in the bush, towards Greta. There will be no danger there."

8124. Did she go?—I believe she did. I had an overcoat on me, and a sling for the gun. I threw off the overcoat and the sling, and left them there. I had a wideawake hat, and I stuck it in my pocket. I went up then to Mr. O'Connor.

8125. Where was Mr. O'Connor at this time?—In the drain referred to on the map—inside the railway fence.

8126. How long was that after the first volley?—Five or six minutes, I suppose.

8127. Those things were done, and in a hurry?—All in a hurry.

8128. How long was it after Mr. Hare went back with the request to send ammunition that you found Mr. O'Connor in the railway drain?—A few minutes.

8129. Five?—No, I do not think five.

8130. Two?—It might be a couple of minutes.

8131. Between two and five minutes?—Yes.

8132. Had you any conversation with him?—There were two black trackers with him.

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8133. Two drains have been mentioned as the position in which Mr. O'Connor was upon that day. Have you been to the place since?—I was there a few days after.

8134. Is the drain within the railway fence?—Yes.

8135. What is the fence composed of between that and the Jones's house?—There is one rail—a top rail, about four by one.

8136. And how many wires?—Four or five wires; I could not say how many.

8137. Four or five wires and a top rail?—Yes. I asked Mr. O'Connor to come round—that we would place the men.

8138. Did the men come outside of the drain, outside the fence, and go round the house?—Yes, to surround the house. He said no, he would stop there. I went away then around; I went under the culvert—that culvert leading from that drain—[pointing to map]—and came out the other side.

8139. That is the Wangaratta side of the house?—No; the Benalla side.

8140. You went down the drain?—Yes, and crossed under the culvert to the other side.

8141. That is the Benalla side?—Yes.

8142. What constable did you meet first?—Arthur.

8143. What did you say to him?—I asked where the rest of the men were. He pointed out Gascoigne and Phillips.

8144. Where was Gascoigne?—Nearest to the house.

8145. Up the road towards the Sydney road?—At the end of the house on the Benalla side.

8146. That is the south end of the house?—Yes.

8147. Did you go to him?—I went further on, and I found Kirkham.

8148. That was the next man?—That was the next man. He had a black tracker with him.

8149. Is that Hero, do you think?—No.

8150. Then that is two black trackers?—Yes.

8151. You account now for one, and Barry says that one was with Kirkham; that is two?—The next I met with Constable Barry.

8152. That is the third man and two black trackers at the end?—Yes. I told Barry it was a good position, and to keep it. He was behind a tree, and he had a good view of the back of the hotel.

8153. He was still upon the south side?—Yes.

8154. Would that be in a line where the bodies of the two outlaws were found afterwards?—Yes. I gave them some ammunition.

8155. What ammunition?—Martini-Henry.

8156. You did not tell us where you got that ammunition?—I gave him some of my own. I had none from the railway station then. I took Constable Arthur with me. I told them I would go round, and went to the other side of the house.

8157. Where did you find Arthur?—He was the first I found at the back, and where Phillips and Gascoigne were. I took him further back.

8158. To see that the line was completed?—Yes. Constable Kenny I did not see, but he told me after that he had a position to the right of Mr. O'Connor, and a black tracker was with him.

8159. In front of the house?—Yes. I went to the north. When we got round to the north side of the house, crawling up upon our knees, we came upon a rifle and a skull-cap.

8160. When you passed round the house to the north, if you went round that way, you would come against the stockyard's fence?—Yes, we went right round the fence.

8161. Did you station anyone at the stockyard fence?—No, we went round there, and Constable

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Arthur.

8162. You found a rifle?—We found a revolving rifle.

8163. Did you or Arthur find it?—Both of us at the same time. Arthur pointed to the rifle, and said, “Look at this,” and I pointed to the silk skull-cap, and said, “Look at this too”; it was all full of blood.

8164. The cap was?—Yes; and there was a pool of blood there, and I said, “My God, some of them have escaped.”

8165. Was that the revolving rifle?—Yes, I have a bullet belonging to it—a six-chambered rifle. I took the rifle, and planted it in the little scrub there for a bit.

8166. Was the blood fresh?—It was fresh upon it. In fact, it stuck to my hand when I took up the rifle.

8167. What occurred then?—We fired a few shots at the top of the house, to let them see we were round there at that side. We saw people passing in and out from the kitchen to the hotel, and heard Mrs. Jones talking about her child being shot. We remained there for some time—I believe, to the best of my knowledge, till between five and six o’clock.

8168. You were at the finding of the rifle. We want to ascertain exactly what you did then. You say you brought Arthur with you, and found the skull-cap?—Yes, and the rifle.

8169. Did you take any proceedings to see that the house was completely surrounded, for that would leave that position already occupied by Steele and all round open—was it open?—It was as bright as day, and no person could come out that we could not see at that side.

8170. It was moonlight?—It was as bright as the day—moonlight.

8171. Was there any firing upon the house from the side where you could see?—There was not from our side.

8172. That is from the north?—That is from the north.

8173. What did you do after you found the rifle?—About half an hour before Phillips came round to me.

8174. Were the constables walking round amongst the trees?—No.

8175. How did they come?—Constable Phillips came round to the front from the railway station, like from that direction—[*pointing to map*].

8176. Was not Constable Phillips one of the first men?—Yes, he was near Gascoigne, I believe. He told me that he had followed a man that came out with a child in his arms (McHugh), and that he told him they were inside all in iron.

8177. That the outlaws were inside and in iron?—Yes. I said to Phillips, “They are not all in; we have found a rifle and a skull-cap.” The next that came was Sergeant Steele. At the same time, I heard two trains, one coming close down from Wangaratta and the other from Benalla.

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8178. You say that the next who came was Steele—did you hear the Wangaratta party coming?—I did. I asked who was there, and they said, “Wangaratta police.”

8179. Did they take up their position, or did you order them to take up a position?—Steele ran and took up a position at the north end, close to the house.

8180. Is that the tree that stands close to the building that is there now?—Yes, he had a full view of the back door. I ran down to meet Mr. Sadleir when I heard the train coming in, and he was standing upon the platform when I went down.

8181. The Wangaratta party then strengthened your party?—Yes, and took a position.

8182. Who told them to take a position?—I told them to go further up. I told Mr. Sadleir the circumstances of the matter, and how the thing stood.

8183. After you saw Sergeant Steele opposite the door, and saw that his men were made up at the rear of the house, you then went to meet the train?—I went to meet the train.

8184. And Mr. Sadleir was there?—Yes.

8185. Whom did you see first?—Mr. Sadleir.

8186. What did you say to him?—He asked me where Mr. O’Connor was, and I said, “He is down here, in a hole”; and he said, “Take me down and show me where he is.” I went down. Mr. Sadleir said, “Come on after us”; and I told him some of them would get shot if they did not come single file.

8187. If they came in a body they would be shot?—They would; because the outlaws—at least I believe it to be them—were firing out of the two front windows. I walked down the drain with Mr. Sadleir, and within ten yards of Mr. O’Connor, and Mr. Sadleir said, “Come here, O’Connor”; and he said, “No, you come here.” Mr. Sadleir turned round to me and said, “You go and place the men wherever you think they are required.”

8188. Whom had Mr. Sadleir beside you and him?—Constable O’Dwyer then came up.

8189. After the conversation?—After the conversation.

8190. Mr. Sadleir told you to go and place the men?—Yes, where I thought they were required. I went round with a man.

8191. What man?—Sergeant Whelan.

8192. You went round with his relief party?—Yes.

8193. Who were the relief party?—Mr. Sadleir's party.  
 8194. Who were they?—Whelan, Senior-Constable Smyth, Milan, Ryan, Wallace, Wilson, Kelly, Reilly.  
 8195. That is the big Kelly?—Yes; and one or two others.  
 8196. Did you place those men?—I did.  
 8197. All round the house?—Constable Kelly I took the furthest round.  
 8198. That is the man now stationed at Benalla?—Yes.  
 8199. Where do you call the furthest round?—By the stockyards.  
 8200. At the back of the stockyards?—Yes. Not quite at the back, a little to the Benalla side. I went round about again to the north side.  
 8201. Were not you afraid of being shot in going round?—No; I kept back a good bit, so as to avoid getting shot.  
 8202. And to see the men all in front of you?—Yes.  
 8203. You could see the men?—I could see the men. I came round to the railway fence.  
 8204. You came right round the house?—Worked round the house.  
 8205. Who was the next to Kelly?—Sergeant Steele's men were next to him, Constable Moore.  
 8206. Was Sergeant Steele opposite the back door, behind the tree, where you have already said he was?—Yes, he was there.  
 8207. Was Riordan's son shot at this time?—No.  
 8208. Who was next towards the railway station?—Phillips or Arthur. I am not certain. They were behind me then.  
 8209. Were they outside?—They were outside Sergeant Steele.  
 8210. Were they outside the railway fence or inside it?—Outside it.  
 8211. That is Jones's; outside of the railway fence?—Yes.  
 8212. Did you come inside the railway fence?—I did not.  
 8213. When you came round did you visit Mr. O'Connor again?—No; I never went near him. I never spoke a word to him from that day to this.  
 8214. Did you visit him at all between Mr. Hare's leaving by the train for Benalla, after his second return to the railway station, at the time you took Mr. Sadleir to him?—No; never saw him or spoke to him.  
 8215. Did you go inside the railway fence from the time that Mr. Hare left you until you went down to the railway station to meet your officer, Mr. Sadleir?—I did, I remember now.  
 8216. Where did you go?—I went to the railway station, and took a rifle down with me.  
 8217. That bloody rifle?—Yes.  
 8218. And the skull-cap?—And the skull-cap; I had that upon me.  
 8219. Where did you leave it?—I had it upon me—the cap—as I had lost my hat at this time, that I had stuck in my pocket.  
 8220. When you went all round by Mr. Sadleir's instructions, did you report to Mr. Sadleir that the house was invested?—No.  
 8221. How soon afterwards did you report to your officer that you had completed his order?—I do not remember reporting it at all.  
 8222. When did you next see Mr. Sadleir?—The next I saw him was after the capture of Ned Kelly, I remember that now.  
 8223. Where did you see him then?—On the railway station; it was about seven o'clock. It was when Ned Kelly was brought to the railway station.  
 8224. How soon was it after you got the order to surround the house?—About two hours.  
 8225. Were you present at the capture of Ned Kelly?—I was.  
 8226. Will you tell the Commission the circumstances?—I was away down at a tree in the railway fence.

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8227. North or south of the house?—To the north-east, I think.  
 8228. You mean the Wangaratta side?—Yes. Guard Dowsett was some distance further up from me.  
 8229. That is the guard of the railway?—That is the guard of the railway. It was about seven o'clock, or it might have been after, when some figure like a blackfellow appeared up in the bush. I heard a man—one of the men—sing out, "Look at this fellow."  
 8230. Where were you stationed then?—I was behind a tree, on the north-east side of the house.  
 8231. And Dowsett was coming up towards you?—He was away to the right of me.  
 8232. Advancing towards you?—No, behind a log. I sang out, "Challenge him, and if he do not answer you, shoot him." It was Constable Arthur. With that, he pulled out a revolver, and fired at him.  
 8233. Who did?—Ned Kelly.  
 8234. What happened?—Three or four of the constables had fired at him, and he advanced. On coming towards the house, in the direction of Jones's, there were several shots fired at him; they had no effect. I sang out, "Look out, he is bullet-proof."  
 8235. Would that advance of his, coming towards the house where the outlaws were, bring him just

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in the direction where Sergeant Steele was stationed?—Yes, just in the direction where Steele was. Dowsett was firing at him, too, with his revolver. He was behind a big fallen tree, and I got up alongside them. He moved up and had his hand outside the tree (Ned Kelly), and Dowsett said, “There is a good show for you.” His hand was hanging out a bit.

8236. To do what?—To shoot at it; he had a tree between us, and the hand hanging out a bit. I fired at him, and Dowsett said it was a little to the right.

8237. Was it a bullet you had?—Yes, a Martini carbine.

8238. You were to the right, he said?—Yes. I fired again, and Dowsett said, “By God, you have hit him.” After that he moved over to a fallen log, at the Jones’s side of the log. Sergeant Steele came up from where he was, and I moved on up to them, beside Constable Bracken, and I said, “Come on, lads, we will rush him.” Sergeant Steele popped out and fired at him—came close up and fired at him.

8239. Did he hit him?—I believe so—I could not say.

8240. Did you see him stagger?—I fired two shots, and with that he dropped upon his haunches, like that—*[explaining the same]*.

8241. If you saw a man fire two shots at another man who was standing up straight before the shots, and he falls then, is it reasonable to suppose it is from the effect of the shot that he staggered and fell?—Yes.

8242. It would be?—Yes, I considered so. Sergeant Steele ran and got him by the wrist and under the beard.

8243. Then he had not his helmet on?—The helmet was on; Sergeant Steele said not, but I say it was.

8244. How did he get his beard?—He had him by the neck; it was not the beard. He had him by the neck some way.

8245. Was he lying upon the ground or half way?—Half way against the log, that way—*[half lying down]*.

8246. Your opinion is that he had that helmet on when Sergeant Steele seized him?—Yes because when I pulled the helmet off I said, “By God, it is Ned.”

8247. You pulled off the helmet?—I pulled off the helmet, and Steele held it up, and said, “I told you I would be at his death.” There were three or four gentlemen and others, and some constables came up then.

8248. Did you see Ned Kelly rolling over upon Steele?—I threw him over upon him.

8249. In that little sandy gutter?—Yes.

8250. Had he his armour on at that time?—He had.

8251. Was his helmet off at that time you threw him upon Steele?—No, it was not. We took the armour off and searched him. I searched him, and Dr. Nicholson and I took the armour to the railway station, and Sergeant Steele and some other men took him.

8252. How was the armour fastened on?—With bolts and nuts.

8253. Was it fastened over the shoulder?—With straps.

8254. What sort of straps?—About two inches wide.

8255. Made of what?—Leather.

8256. And buckled?—And buckled.

8257. Leather or green hide?—Leather, regular straps.

8258. Were there any saddle straps about it?—I do not think there were.

8259. Did you see Dr. Nicholson examine him?—I did.

8260. What wounds had he?—Several wounds.

8261. Can you describe them?—Wounds in his arm and all along his thighs.

8262. Which of those were fresh in your opinion?—The ones on the legs seemed fresh.

8263. You say that you found the rifle covered with blood?—Yes; and he told me himself, in the presence of Phillips, that he got shot in the hand and the foot in the first volley fired by Mr. Hare’s party.

8264. Then he was shot in the hand?—Yes, in the elbow.

8265. And that it was a pellet; he would have been shot by the shot gun?—I could not say.

8266. I ask you if he was shot at the first fire, and if a pellet made that wound, he would have been shot by a shot gun that belonged to the first party that came up there?—Yes; he told me that he walked into the hotel, and asked Joe Byrne to follow him out, and that he went out at the back and Byrne did not follow. He said, “If Byrne came out to load my rifle I would be able to pick any of you off at 600 yards.”

8267. Did he allude to the rifle?—To his own rifle.

8268. Did he allude to the revolvers, rifle, or another rifle?—The revolving rifle. He had no other rifle. He told me that was his own.

8269. Did you have to carry him down to the railway station?—No; I took his arm; I and Dr. Nicholson.

8270. He walked?—They took him between them.

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the Customs Department as a suitable man to discharge customs duties?—Yes.

8273. Did you join the Customs Department upon the recommendation of your officer?—I did.

8274. Where were you sent for customs duty?—Up to Hamilton.

8275. In the Western district?—In the Western district.

8276. When you heard of the death of Kennedy —?—He was not shot at that time.

8277. When you heard of the death of your comrades, did you volunteer to leave the Customs Department and go back to that district?—I was not in the Customs Department then I was on leave here, in Melbourne.

8278. Did you volunteer to go back to the district?—Yes I threw up my leave, and went back to Benalla. I was then stationed at Wood's Point.

8279. After you left the Customs Department, had you joined the North-Eastern district prior to your volunteering to go there before your time of leave expired?—No; I was sent back to the station at Wood's Point after leaving the Customs.

8280. You were on leave of absence at the time of the murders?—I was on leave of absence at the time of the murders.

8281. And you were asked to go back and not take out your leave?—No; I went back voluntarily.

8282. Did you go to Hedi?—Not at that time; we went through Hedi.

8283. Where did you go to?—The King River.

8284. Was not that the most exposed position of the whole service?—Yes.

8285. Did not it take you amongst all the Kellys and Quinns up there?—Yes.

8286. And the most exposed position of the lot?—Yes.

8287. You stated that you came to Whorouly?—Yes.

8288. Was not that also a most exposed position?—It was.

8289. When you came to Glenrowan with Mr. Hare's party, you were the senior officer of the Victorian police—at least you were constable of police, and were senior of the police force under Mr. Hare?—Yes.

8290. After the capture of Ned Kelly, did you receive any instructions to go to any particular place—to go to Greta?—I did.

8291. What was the position of Greta?—I was going to be sent to live in the hotel with three constables.

8292. Had you been just lately married at the time?—Yes.

8293. How long had you been married at the time?—Two or three months.

8294. Did you always show the utmost readiness to go to the front in the most exposed positions—Hedi, and all those places?—I did.

8295. Do you recollect meeting me about Hedi by yourself?—I do.

8296. In the most exposed part up there?—Yes.

8297. Alone, and by yourself?—Yes.

8298. And I asked you what brought you here?—Yes, I remember that.

8299. And my saying to you, "Do not you think you had better have some men with you," thinking it queer you should be by yourself in that exposed position?—There was one constable with me then.

8300. You recollect that?—I do.

8301. Did you ever show the slightest reluctance to do your duty, or go to the post of danger?—I did not.

8302. You asked for the record sheet, I believe. I did not see the object of it before, when I think I see it now. Did you refuse to go to Greta?—I told Mr. Sadleir I did not like to be sent there. I was after giving evidence in the police court. I was the only member of the force who gave evidence against him in the Beechworth court at that time, and I was advised by people friendly to me to leave the district.

8303. Do you know that after the murder by the Kellys, that so important was the evidence required of McIntyre, that he was ordered away down here, so as to be available for the service?—Yes, he was sent to the dépôt.

8304. Was he ordered here for his own safety?—For his own safety.

8305. And for the protection of Crown evidence?—That is what I understand.

8306. When you were ordered to Greta, were you one and the only constable examined as against Ned Kelly?—At the police court in Beechworth.

8307. Was the Greta station then the most dangerous position for you to be sent to?—I think it was the most in the district.

8308. Is that the nearest to Kelly's place?—Yes.

8309. To Lloyd's place?—Yes, to Tom Lloyd's place.

8310. Is it nearest to people who are accused of being the most active sympathizers?—Yes.

8311. Right in the very centre?—Yes.

8312. Was it personal fear, what is called cowardice, that made you ask of your officer to be sent to anywhere but Greta?—It was not. Mr. Sadleir told me that Mr. Nicolson wanted a report from me, to ask my reason for not going there. I think my report is upon the 16th of September.

8313. What did you report?—If the report could be produced I should like it.

8314. You can say what it was—give the general tenor of your report?—I think I have a copy of it—*[handing in a paper which was read by the Chairman as follows:—]*

(Copy.)

North-Eastern Police District, Benalla Station, 16th September 1880.

*Report of Senior-Const. Kelly relative to be transferred to Greta.*

I beg to inform the superintendent that my reason for asking him not to transfer me to the station referred to is the prominent part which I took in the capture and destruction of the Kelly gang, and the well known feeling which exist against me there. I am the only member of the force in this district who gave evidence against Ned Kelly, and I have been advised, by many persons friendly to me, to endeavor to get removed from this district, as after the execution of Edward Kelly, there will be a much more bitter feeling of hatred against certain members of the force—myself in particular; and that

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sooner or later some serious or fatal violence will be committed on me. I do not desire to avoid going to live at Greta from any personal fear of such consequences; but I think that the ill-feeling which exist against me there would be a serious obstacle to the efficient performance of my duties. My being sent there will be looked upon as a challenge to the friends and sympathizers of the families connected with the outlaws, and will result as above referred to. I may remind the superintendent that, being on leave at the time of the murders of the police at the Wombat, I at once threw up my leave and returned to Benalla, and went into the bush with a party of men, and have been for nearly two (2) years exposed to the hardships of the search. Moreover, there is no place at Greta at which I can live, except Mrs. O'Brien's public-house. Her position respecting the Kellys is pretty well known, and I should receive but little consideration from her. I therefore trust that I shall be permitted to perform my duties in some locality where I can place my wife in a suitable home.

The Superintendent of Police, Benalla.

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8315. Did you get any reply to that report?—I did, after about six weeks, I think.

8316. And you did not go to Greta at all?—No; I was transferred to the Western district.

8317. What was the nature of the reply?—I never got only just the order for the transfer. I know nothing of the correspondence that took place.

8318. Did you consider that you were well-treated by being shifted from the place—that it was in kindness to you?—Yes.

8319. That you were shifted?—Yes.

8320. You did not think it would militate against you in any way at any future time?—I did not.

8321. If there was a report sent that your request to be relieved amounted to cowardice, would you be astonished at that?—I would.

8322. And if a report of that sort were sent in, would it be a bar to your promotion, do you believe?—I believe so.

8323. Did you ever hear what the tenor of the report was?—Never—never a word about it. In this case it is necessary to tell you what the report was. I will read it for you presently.

8324. When records are made in the sheet reflecting on a constable, have they an opportunity at the time of knowing of those?—They have not.

8325. Suppose it were a report unfavorable to the conduct of the men, they have no opportunity of knowing that those records have been made?—No, none.

8326. That record sheet of records made from time to time always remains in the office, does it?—I believe one is in the superintendent's office and one in the chief's.

8327. Suppose any time a constable has a record made to his disadvantage—say two years ago—would that record militate against his future promotion in time to come?—I believe it would.

8328. For all time to come would it weigh with the officer who had to deal with the constable's case in after life: is that so?—Yes, I believe it would.

8329. So that a record of a damaging character being made against a constable, he has no opportunity to explain any particular conduct on his part which induced the officer to make the record?—No; I never heard of a man having an opportunity to make a record.

8330. So that the men are really at the mercy of the officers?—Yes.

8331. So that if the officers are so dishonest as to make a false record of a man's conduct it would remain upon the record sheet, and it would never come to his own knowledge?—I believe I have heard of a constable applying for his record sheet to know what was in it, and I believe it was read to him in the office.

8332. I suppose a member of the police force would never apply for a record sheet without he had some reasonable grounds to suppose that some record had been made to his disadvantage?—Yes, exactly.

*Mr. Sadleir.*—Would you read the entry immediately preceding that?

*The Chairman.*—We will conduct the business in our own way. You must not interfere. The simple result of these interferences will be that we will sit in private and not allow any stranger to be present. We have found that these interferences with the witness have very seriously altered his tone before the Commission, not in this case but in other cases; and we have it in serious consideration whether we will not sit in private and get the information the best way we can.

*Mr. Sadleir.*—I beg your pardon. The reason I spoke was that I saw you bow to me, and I understood it to be a permission to speak.

8333. *The Chairman.*—I beg your pardon; it was a mistake. (*To the witness.*) This report of yours is dated 16th September 1880. Then, "25/10/80. The senior-constable, up to the date of the capture of the Kelly gang, showed himself very efficient. Subsequently, when told off to take charge of Greta station, with three constables, he pleaded to be excused from the fear of personal risk. Another constable undertook the duty, and the senior-constable's transfer was recommended as a mark of my disapproval of his conduct." That is signed by Superintendent Sadleir. Do you know if any other constables have asked to be relieved?—I heard

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that Senior-Constable Johnson asked; I do not know of my own personal knowledge; and Sergeant Steele, I heard too that he applied to leave.

8334. You heard this?—Yes.

8335. For what reason?—I do not know.

8336. Have you ever heard of anybody desiring to be relieved because his life was in danger—a constable?—I did not.

8337. Did you consider that the place was one of peculiar risk (where you were ordered to go to) to yourself personally?—I did.

8338. I think you gave evidence that it was right in the centre of the disaffected district?—Yes.

8339. Within a very short distance of Kelly's house?—Yes.

8340. And within a very short distance of Lloyd's?—Yes.

8341. And McAuliffe's?—Yes.

8342. And other sympathizers immediately round?—Yes.

8343. And that Mrs. O'Brien, the keeper of the house, was in your opinion a sympathizer to some extent?—Yes.

8344. Is the country such that you could be waylaid and shot at any time?—At any time. If you go outside the door they could have an opportunity of shooting you.

8345. It is heavily timbered country?—Yes.

8346. And away from Greta you get into ranges where men could be sheltered?—Yes.

8347. You, heard the Chairman read the report entered in your record sheet?—I heard it.

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8348. Are you thoroughly seized of the importance of it; is it so clear to your mind that you can now express an opinion of its importance to you?—It is damaging to me.

8349. In the future would that militate against your position in the police force with the officers?—Yes.

8350. Is that charge cowardice?—I consider it is.

8351. Would you consider it a charge of cowardice?—I would.

8352. Do you know that a lot of men have been discharged for cowardice in the service?—I do not.

8353. Do you know of Constable Baker discharged for not taking a blackfellow?—I do not.

8354. Do you know that cowardice of that character is a subject of dismissal?—I know it is.

8355. Do you know that if not dismissed it is the severest charge against you that could be got?—Yes.

8356. If an officer going to recommend you for promotion saw that charge in your record sheet would it not make him hesitate before he recommended you for promotion?—I believe he would.

8357. Do not you know he would?—Yes.

8358. You say in your application to be relieved from service at Greta, that it was not from fear of personal violence—you say it is not “from any personal fear of such consequences, but I think that the ill-feeling which exists against me there would be a serious obstacle to the efficient performance of my duties. My being sent there will be looked upon as a challenge to the friends and sympathizers of the families connected with the outlaws”; that is a challenge to come and assassinate you?—Yes, I believe it would be.

8359. Is not the murder of the police at Wombat considered a dastardly assassination, that the men had not a show?—No, they had not.

8360. Is there anything to prevent them assassinating you, if they were the same ill-disposed people at Greta, with the like impunity?—There is nothing to prevent them.

8361. Nothing to prevent their going behind a tree and shooting you if you were there?—Yes.

8362. Was not that place at that particular time a place of particular danger from the barracks being in the public-house, where the public had access at all hours up to a certain hour of the night?—It was so looked upon.

8363. Would it not be a much more dangerous place as being a challenge them than if the barracks were in an ordinary place?—Yes, I believe so.

8364. At the Greta hotel would it not be possible for men to come in at the back door and front door up to any hour of the day or night when the public had a right to access to the licensed house?—Yes, at any time.

8365. From your knowledge of the district do you think there is any place in the district where there are more ill-disposed people likely to assassinate you than in that district?—I believe it is the worst place in the colony.

8366. I want to ascertain exactly the discipline of the police force and the feeling amongst the men—was there, to your knowledge, amongst the men a feeling that any officers (I do not particularize officers) would have a down upon and would not advance the prospects in the force of men who had been in Mr. Hare's party at Glenrowan?—I believe there was an ill feeling against Mr. Hare's party with some of the men.

8367. Which of the men did you say?—Against Mr. Hare's party of men—for his selecting all his own men.

8368. Feeling on whose part?—Some of the other constables. They were Bourke men.  
 8369. You say they were Bourke men principally in Mr. Hare's party?—Yes.  
 8370. Did the same feeling exist amongst the officers; was it stated to exist amongst the officers?—I do not know.  
 8371. You have no opinion upon that matter?—I have no opinion upon that matter.  
 8372. Then if it is stated that there was ill feeling and that the men's promotion would not be ensured that belonged to this particular party at Glenrowan, and that they would not be recommended for promotion, would that be true or false?—I cannot say.  
 8373. Would it be true or false, in your opinion. The question I ask you is this: what did you, in your own mind, consider that order to Greta was for. Did you think it was to ensure your promotion or as a punishment?—Mr. Sadleir told me that he was going to get me advanced, and that by not going there I should lose all.  
 8374. You got that notice?—He told me that repeatedly.  
 8375. At what time?—I think it was in the stable one morning.  
 8376. When?—Before I put that application in.  
 8377. Are you advanced or put back in the service?—I am neither. I am in the same position.  
 8378. You are a constable in charge of a district in the west?—At Terang.  
 8379. Then you have not received any promotion for your service?—I have not.  
 8380. In any way?—In any way.  
 8381. And it would depend upon the officer recommending you there?—Yes, I think it would depend upon the officer.  
 8382. You are in Mr. Chambers's district now, are you?—Yes.  
 8383. In order to ensure your promotion when you change your district, have you to make way, as it is called, make your character known to the new officer?—I supposes he will go by the record sheet.  
 8384. Have you not, in going to a fresh district, to prove by your conduct that you are worthy?—You have.  
 8385. And that puts a man back in the service?—No doubt.  
 8386. Then with regard to changes, if a man is stationed in the country and he applies for a change, is it considered promotion or the reverse if he is sent down to the dépôt here?—If he applies for a change it would be at his own request he was sent down.  
 8387. Supposing it is not at his own request he is transferred from the district, is it considered an advantageous station or the reverse to be sent from a country district down to the barracks?—They consider it a punishment, so I found.  
 8388. Is that so looked upon in the service?—Yes.  
 8389. It is not at all events a sign of promotion?—No.

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8390. You say you knew how the men of Mr. Hare's party were armed. How many of the party had double shot guns?—Only one.  
 8391. Who was that?—Canny.  
 8392. No officer?—Mr. Hare had a double shot gun.  
 8393. Then if the doctor's evidence gave a sworn statement that the wound in the hand winch disabled Kelly from shooting was from a pellet, which is similar to the one used in the cartridges by the police, and that it was in the early part of the fight, must it have been either from the gun of Mr. Hare or Constable Canny?—Yes.  
 8394. Must have been?—Must have been.  
 8395. No other man had a double shot gun?—No other man had a double shot gun.  
 8396. Have you ever opened the cartridges with which those guns were loaded?—I have.  
 8397. What is the description of the charge?—Eighteen pellets and the wire cartridge.  
 8398. The wire cartridge is the casing of the pellets?—Yes; there are eighteen in one. We used pellets in one, and wire in the other.  
 8399. Are there not pellets in both?—Those are BB shot.  
 8400. Not so large as the other?—No.  
 8401. If the doctor says that the wounds inflicted on Ned Kelly were not recent, had been done prior to the shooting by Steele, and that he had a wound in the arm, and it was effected by a pellet similar to the ones the police were armed with, would you say it was one of the two persons that were armed with the gun that did it?—Yes, certainly.  
 8402. How many men fired at him, when he stumbled at the tree, with double-barrelled guns—do you know?—None but Sergeant Steele.  
 8403. Was Sergeant Steele armed with a double-barrelled gun too?—Yes.  
 8404. Was he armed all through that day with the double-barrelled gun?—Yes.  
 8405. To your knowledge?—Yes.  
 8406. If shots were taken out of his leg similar to the shots which he was wounded with in the morning would that indicate to you that he was shot in the legs by Steele?—Yes.

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*continued,*  
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8407. Do you think that if a woman swears she was shot at by Constable Steele, and that the bullet went through her shawl and cut a bullet hole through, Sergeant Steele being armed with a double-barrelled gun and wire cartridges, could that be true?—It could not.

8408. It could not be true?—No.

8409. Who was the first constable you saw shoot Ned Kelly, when he was coming down that day?—I think Constable Arthur.

8410. And he fired more than one shot at him?—He did.

8411. Did Ned Kelly attempt to shoot him?—He did, he fired at him.

8412. Could you ascertain in the morning about how many constables fired the first volley against the outlaws, when they fired?—I could not say how many fired.

8413. Did you fire?—I did.

8414. Is it true that you went round the station during the whole time that elapsed between the leaving of Mr. Hare in the train, and the taking charge of Mr. Sadleir?—Yes, I went round.

8415. All that time you have sworn that to your knowledge Mr. O'Connor was inside the railway fence, in the drain that you have mentioned?—Yes.

8416. Do you say that from not seeing him elsewhere or, how do you arrive at the knowledge?—I never had seen him at any other place all the time.

8417. Then you only say that he was there from the fact of your not seeing him?—Yes.

8418. Had you any knowledge whether you were the responsible officer in charge from anything that was said to you from the time of Mr. Hare's departure till you reported the position to Mr. Sadleir?—I considered that I was. I had all responsibility, I never looked upon Mr. O'Connor except just as in charge of the blacks.

8419. You felt the responsibility was upon you?—Yes.

8420. When Mr. Hare called upon Mr. O'Connor and the black boys to come forward, that he was wounded, and you saw your officer retreat or go away from the wounds; if Mr. O'Connor had then and there come forward and taken the command, would you have accepted his orders?—I would assist.

8421. Would you have accepted his orders at once?—I would.

8422. Therefore it was as a matter of fact, because he did not do so, that you, believing you were in command, took the steps you did take?—Yes.

8423. Did the men ask you when you were going round whether you or Mr. O'Connor were in charge?—No.

8424. They accepted your orders?—Yes, and never asked.

8425. Do you recollect when Sergeant Steele advanced from Wangaratta with his party and came and took his position in the nearest post to the house?—Yes.

8426. He was the nearest constable?—Yes, to the house at the side.

8427. Was any firing going on then?—There was not.

8428. Was Sergeant Steele then your senior officer?—Yes.

8429. He would be, in fact, in charge of you?—I consider so.

8430. The moment he came upon the ground and you reported to him the position of affairs, by the rules of the service he was in charge of the party until Mr. Sadleir came, and by his position took the charge from him?—He did not wait for the report, for I understood he knew all about it.

8431. Who?—Sergeant Steele; he went straight and took a position. Constable Bracken was with him.

8432. That was the constable that went and brought him there?—Yes.

8433. And must have told him that the Kellys were there?—Yes.

8434. He went up at once to the front of the house, in the closest position?—Yes.

8435. Did you communicate to him the position of affairs?—No, I did not.

8436. Did you tell him that there were women in the house?—No.

8437. Had you at that time discovered Ned Kelly's rifle?—I had.

8438. Did you tell him you were afraid one of them had gone and you had the arms?—I did not; he did not wait for a second.

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John Kelly,  
*continued.*  
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8439. How long after that officer took his position did Mr. Sadleir take the command or you report to him?—I suppose five or six minutes.

8440. As soon as you reported to Mr. Sadleir, you felt all responsibility off your shoulders?—I did.

8441. When Sergeant Steele took his position, you were at the back, north of Sergeant Steele, towards the corner of the stockyard?—No, I went down to the drain after Sergeant Steele went over to his post.

8442. When Steele took his post, where were you?—Behind him.

8443. North of him?—North of him.

8444. Towards the stockyard fence?—Not so high up as the stockyard—right up to the end of the house like.

8445. Did you, during the time between Mr. Hare's leaving and Mr. Sadleir's coming round, supply

ammunition to the men surrounding the house, except on one occasion?—I did; I gave Constable Barry ammunition twice.

8446. How much?—I think I gave him a package once; I do not know how many the other time.

8447. Do you recollect Mr. Gaunson examining you in the court house, I being present, as to Mr. O'Connor's position on that occasion?—I do.

8448. What did you tell the court?—I told them the same as I have sworn here.

8449. How many rounds of ammunition did you fire?—I could not say how many.

8450. Were not you asked that at Beechworth?—I believe I was.

8451. Do you recollect what you said?—I do not, really.

8452. Did any superior officer to you go round the constables to see that they were all right at any time during the day?—I do not remember seeing any of them.

8453. You have one statement there in your report, where you say, "Moreover, there is no place at Greta at which I can live, except Mrs. O'Brien's public house. Her position respecting the Kellys is well known, and I should receive but little consideration from her." What do you mean by "her position respecting the Kellys"?—I always took her to be a sympathizer.

8454. You know that the police are now stationed in her house?—Yes, I do.

8455. Then from that fact, and from your opinion, you consider it a very unwise step to place the police in the house of an enemy, you might say?—I think so.

8456. How did it become necessary to station the police in her house?—There are no quarters there, I believe.

8457. Were there any quarters there before that?—I do not think so.

8458. Do you recollect the time the Kellys were stated to have bought ammunition in Melbourne?—I heard about it.

8459. Do you recollect the time?—I do not.

8460. About that time do you remember reading in the papers and elsewhere that the Kellys brought ammunition?—I remember reading about it.

8461. Do you know that Mrs. O'Brien came up in the train in which they were supposed to be bringing ammunition; did you hear that?—I did not.

8462. Did you hear that Mr. Sadleir either searched or had her luggage searched, believing that she had the ammunition?—I did not hear. I was up in Hedi ten months.

8463. In going round to the police at Glenrowan, did you hear any of them volunteer to rush Mrs. Jones's hotel?—I did. There was Constable Armstrong, Constable Dixon; and Armstrong in particular spoke to me about it. I told Mr. Sadleir, and he said he did not see why he should sacrifice any man's life for the two ruffians inside.

8464. Did they explain to you any plan by which they would rush the house?—No, they did not.

8465. Then you are not in a position to say whether it was a practicable plan or not?—No.

8466. Have you any idea of your own about it?—Only just to rush right in—some men at the back and some at the front, and some were bound to get shot.

8467. Some of them would have been shot?—Yes.

8468. If you were left to your own free will would you have rushed the place?—I would, with the men.

8469. You are of the same opinion now, knowing all the circumstances. If the same was to be repeated you would take a part in the rush?—I would.

8470. What time of the day was that?—About two o'clock.

8471. In answering Mr. Hall's question, do you mean to say you would rush at any time during the day?—No, not when all the prisoners were in, but after they left it.

8472. Do you know that Cherry was wounded inside after the rest of the people were left?—I heard the prisoners say. I was with Mr. Sadleir when he questioned them, after they came out. And the two McCormacks and Delaneys we examined, the two of them, and they pointed out where those two were lying down.

8473. What two?—Dan Kelly and Steve Hart.

8474. The question I ask is: did the people detained by the Kellys, when they came out, tell you that Martin Cherry was lying wounded in the premises?—I believe they did, but I am not certain.

8475. Can you say whether your officer knew, from any information given him in your presence, that Martin Cherry was in the house and the outlaws?—I could not say, I heard he was in the back kitchen.

8476. Who told you that?—I do not know.

8477. At what time in the day did you hear that?—About two o'clock, I think.

8478. When you heard he was in the back kitchen, did you hear whether he was wounded or not?—I did not.

8479. Here is your evidence, Mr. Gaunson examining—is this correct, "I asked Mr. O'Connor"—is that your signature?—Yes.

8480. "I asked Mr. O'Connor if he would come round out of the ditch; he did not do so, he remained in the ditch." Is that correct?—That is correct.

8481. Has any constable in the district got promotion for his services that you are aware of?—No.

8482. Have they got better stations?—Yes, there are some senior-constables—Flood and Mullane.

8483. Have they got promotion since the Kelly business?—No, they got it during that time.

8484. Is there any rank between senior-constable and sergeant?—Yes, there is.

8485. What?—Sixpence a day extra and a stripe extra.
8486. Supposing that you were promoted now, what would be the next promotion that you could possibly get?—Second-class sergeant.
8487. Is that the same as Sergeant Steele?—That is the same as Sergeant Steele.
8488. Is there any such thing as good-service pay without getting a stripe?—There is sixpence a day after ten years' service.
8489. Have you ten years' service?—I have twenty, next January.
8490. Then, without giving you the stripe for service, it would have been quite possible for your officer to give you extra pay without giving you promotion?—Without giving me promotion I could not get it.
8491. You are now a senior-constable?—Yes.
8492. Can you get extra pay after the ten years' service without being entitled to that pay by the extra stripe?—I would get it without the extra stripe.
8493. Did you get that?—Yes.
8494. Then you got the sixpence a day extra?—I have.
8495. When did you get it?—I think it is four or five years in existence.
8196. But you did not get any promotion, either in pay or in the service, since the Kelly business?—No, none whatever.
8497. The only promotion you got was change to the westward into a new officer's district?—Yes.
8498. Are you aware of any constable of any district, or of any senior-constable, since the capture of the Kellys having got promotion in the district for his services or from other causes?—I do not think any of us have been promoted.
8499. Then promotion has been at a standstill in the district?—Yes.
8500. Nobody has been promoted over your head had you remained in the district?—No.
8501. You say the only promotion you got was removal to another district; do you consider that a promotion?—It is no promotion; there is nothing extra for it.
8502. I gather from your answer to Mr. Graves it is rather a disadvantage to go into a strange place and under a strange officer who does not know you; you do not look upon that as promotion?—It is no promotion.
8503. You are two months married?—Nearly twelve months.
8504. But two months married at the time you were ordered to Greta?—Yes.
8505. Putting yourself out of the question, would Greta be a desirable station for your wife at a public-house?—It would not; I would not take her there.
8506. Would it involve your paying for lodgings and for your wife?—Yes, I had to do it.
8507. Did you tell that to your officer?—Yes.
8508. Did you tell him you were married and that there was no place for your wife at Greta?—Yes, he asked me when I came back. I was down here on leave, and Mr. Sadleir asked me and called me into the office to tell me about the transfer. He said, "Have you brought up your wife?" and I said, "No"; and he said, "I am very glad you have not for a bit, for I want you to go to Greta with three constables."
8509. Then you did not tell him you could not bring her to Greta?—No, I did not.
8510. *By Mr. Sadleir.*—When news of Sherritt's death came to us, was it not in the afternoon, not in the morning—When was that?
8511. On Sunday the 27th. I have got it that you said it was in the morning; was not it in the afternoon?—No, I said in the afternoon.
8512. Then I misheard you. I will come direct to the matter—you heard it from Mr. Hare?—I heard it from Mr. Hare.
8513. It was a slip of the tongue of the witness, no one else seemed to notice it?—I went over to you to come over to the telegraph office in the morning over another matter.
8514. I will fake the order of the evidence as it was given for cross-examination. You said you went up to rush the house with Mr. Hare—what would the probable consequences have been of rushing a house with men inside armed?—We did not know they were armed.
8515. You said that, later in the day, if the house were rushed some men's lives would have been lost?—Yes, I believe they would.
8516. Was it necessary to lose any lives?—I do not think it was.
8517. Would it have been generalship—I ask you as a sub-officer of experience—would it have been generalship of any officer to lose lives unnecessarily?—I do not think it would.
8518. You would not approve of a rush?—No.
8519. Is that really what you wanted to say?—That is it.
8520. At what hour did you find the rifle with blood upon it?—About four o'clock I think, to the best of my belief.
8521. Do not you remember coming to me and telling me about that?—I told you upon the platform, when you came there.

8522. Was it then you told me about the rifle?—Yes.  
 8523. I thought it was subsequent?—No.  
 8524. Can you account for Constable Barry not knowing that there were innocent persons in the house. He said that positively. Can you understand how any man could be ignorant of that?—In the first set off I thought they were all their own friends that were there, except Mr. Jones's family.  
 8525. *By the Commission.*—Do you mean by that sympathizers?—Yes.  
 8526. *By Mr. Sadleir.*—Can you understand at the time I arrived, from half-past five to six, how any man belonging to the first party could be ignorant that there were innocent persons in the house?—I did not tell him.  
 8527. Was not it taken for granted by every one on the ground that there were a number of persons there not outlaws?—Could not I have what?  
 8528. Constable Barry said yesterday that he did not know all day long till the prisoners escaped at ten o'clock that they were in the house. Can you understand how any man could be ignorant of that fact?—I do not understand the question.

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*continued,*  
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8529. Constable Barry was one of the constables upon the ground from the first start with Mr. Hare?—Yes.  
 8530. In his evidence he stated that until ten o'clock, when the prisoners were allowed out, he had no knowledge that they were upon the premises?—He would hear the women screaming.  
 8531. No doubt he told the truth, but can you understand how it was that he was in ignorance?—I cannot understand it.  
 8532. *By the Commission.*—How soon did you know there were innocent people in the house?—When Phillips came round to me.  
 8533. What time was that?—Just before Sergeant Steele came—about five o'clock, I suppose.  
 8534. How long was Sergeant Steele there before Mr. Sadleir came?—Not more than five or six minutes.  
 8535. *By Mr. Sadleir.*—Did not you explain fully to me the position of everything when I came?—Yes.  
 8536. You mentioned one part of the building that was not secured?—Yes.  
 8537. And you heard my direction to Sergeant Whelan about that?—I did not.  
 8538. Sergeant Whelan went down the line with his men?—Yes, he went and took up a post behind a tree, and stopped there all the time.  
 8539. He took most of his party?—Yes.  
 8540. That is, my party?—Yes.  
 8541. When I went to speak with Mr. O'Connor?—Yes.  
 8542. Do you remember we were being fired at?—I do.  
 8543. Who called attention to that?—I turned round and called the men to come in single file.  
 8544. You were therefore the first to speak?—Yes.  
 8545. Did I say this, "Scatter, men; do not keep in a body"?—Yes.  
 8546. Did you tell me at the time I landed at the platform that you thought one of them was away?—I am not certain whether I did or not I believe I did.  
 8547. I do not think you did?—I am not certain. I told you about the rifle, and I think I must have told you then that I thought one was away.  
 8548. Do you not call to mind whether you may not have seen me again in the course of about half an hour?—I do not.  
 8549. Can you be positive of that?—I cannot.  
 8550. Was not I in communication with you nearly all the day?—I did not see you after you went down to speak to Mr. O'Connor till I saw you up the platform, when Ned Kelly was taken into the van.  
 8551. What time was that?—About seven o'clock.  
 8552. That was an hour later?—Yes, about that.  
 8553. And after that you saw me constantly?—Yes, constantly. You and I examined together all the prisoners that came out of the house, and you ordered me to take the two young McAuliffes in charge when I told you who they were.  
 8554. Upon the platform, at seven o'clock, when I saw Ned Kelly, did you find any difficulty in finding me?—No.  
 8555. Nor any man upon the ground?—No. I saw you once when the priest came to me about going into the house. I told him I could not give him any authority without seeing you.  
 8556. *By the Commission.*—What time was that?—About three o'clock, when the house was going to be fired.  
 8557. *By Mr. Sadleir.*—When an officer, a principal officer, takes charge of men, what would you think of his running about with his own messages?—I do not think it is the officer's place to run about.  
 8558. Did you ever see an officer running with his own messages—did you ever see such a thing?—No; he puts it through a non-commissioned officer.

8559. He takes a smart non-commissioned officer, or a smart constable, to take his messages?—Yes, always.

8560. *By the Commission.*—Would you expect to see an officer on a duty like that go round to visit his outposts to see that they were all right in position—is that a duty that he would put upon an orderly if he was surrounding a place—would you consider it his duty to visit his outposts, and see that they were upon the spot?

*Mr. Sadleir.*—Certainly.

8561. *By the Commission.*—I ask him?—(*The Witness.*)—Yes.

8562. Did you consider that your duty?—I did.

8563. When you were in the position of command, the position of the highest man in the service in charge, did you consider it your duty to go round and see that your men were not shirking their duty?—I did consider it my duty.

8564. *By Mr. Sadleir.*—Could I have any doubt about the manner in which the men were doing their duty that morning?—I did not. I never saw a man that did not do his duty then.

8565. *By the Commission.*—Do you think it was a portion of Mr. Sadleir's duty to go round and see the outposts the same as you did?—I think it was, at least once, to see how they were posted.

8566. Did you consider it the duty of Mr. Sadleir to go round and visit the outposts after he arrived in the same way as you had previously done?—Yes.

8567. Do you consider it was your duty to do that?—Yes.

8568. Whoever came after you it would be his duty to do the same thing?—Yes.

8569. Whoever he may be, if it was an inspector or any one else?—Yes.

8570. *By Mr. Sadleir.*—Can you say whether I did or not?—I cannot say.

8571. *By the Commission.*—Did you see him?—I did not see him.

8572. *By Mr. Sadleir.*—Was not moving about at the first a very difficult matter?—Yes, it was.

8573. Had not each man enough to do at his post to mind himself.—They were all under cover and behind trees.

8574. They had enough to do to observe what was before them?—Yes.

8575. Was it necessary to go up and speak to every man the same as you would men in the streets?—I do not think that was necessary, to speak to every one.

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8576. When you went round was it sufficient to see every man at his post without speaking to him?—Yes, I did.

8577. *By the Commission.*—On visiting your posts, did you see that they were properly posted?—Yes I saw them.

8578. Did you ask them if they had ammunition?—Yes, I asked Barry.

8579. If a man had no ammunition would he be utterly useless?—He would.

8580. Would it not be your duty to see, not only that he was at his place but that his arms were serviceable, and that he was not wounded?—The men would inform an officer if the arms had anything the matter with them, and if they had not ammunition.

8581. Could they do that without leaving their posts if officers did not go round?—No.

8582. *By Mr. Sadleir.*—Did you see Constable Dwyer going round?—No, I did not see him going round.

8583. Did you see him going from post to post, not quite round, but part of the way?—Yes, I remember now I did see him.

8584. Have you any knowledge of who sent him?—Of my own knowledge I did not know. I heard that you sent him.

8585. If a favorable entry is made upon your record, you are informed of that, are you?—No.

8586. Is not that an established rule in the department, and not a rule by me or any officer?—I believe by the head of the department.

8587. There is no constable who is aware of what is there. Will Mr. Longmore object to read the last entry but one.—[The same was read by the Chairman as follows:—] “16/8/80. Was engaged in the Kelly search since October 1878, and was one of the first party of police who attacked the gang at Glenrowan on the 28th June 1880. Showed great zeal throughout, and special bravery and efficiency in the attack on the gang, and in assisting in the capture of Ned Kelly. Supt. Sadleir.—Recommended for promotion, half-yearly return.” That is 27/8/80.

*Mr. Sadleir.*—That is an addendum?

*The Chairman.*—Yes.

8588. *By Mr. Sadleir (to the witness).*—Does that satisfy your expectations?—Yes, the entry satisfies me.

8589. Do you think anything in the world could have been stated more fairly?—No; I consider that is very fair.

8590. Did not I select you, and give you to understand so, from the opinion I have of your services—did I not select you for Hedi, thinking you the best man I could find for it?—I believe you did.

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*continued,*  
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8591. *By the Commission (to Mr. Sadleir).*—Did you tell him that you selected him on that account?

8592. *By Mr. Sadleir (to the witness).*—Do you remember my putting it that way to you; do you remember my saying, “Kelly, you are the only man I have fit to go”?—Yes, I remember that.

8593. Was not it only as a temporary arrangement to get the first difficulty over; you did not look upon it as my placing you there permanently, only that as long as the anger lasted after that day at Glenrowan did I wish you to be in charge?—Yes; but I told you I would take any station in the district before Greta.

*Mr. Sadleir.*—I know you did.

8594. *By the Commission.*—Did you distinctly understand, from what Mr. Sadleir told you, that it was to be only a temporary remove to Greta?—Yes, temporary.

8595. You knew that?—Yes.

8596. Have you any idea of the meaning of “temporary”?—I expected four or five months.

8597. There are men put temporarily in charge of a station, and left there for six or seven years?—I do not think so. That would not be temporary.

8598. *By Mr. Sadleir.*—Did not I hold out promises of promotion to you as far as I was authorized?—Yes.

8599. And there was nothing more that I could do?—There was not.

8600. *By the Commission.*—Would you consider that, if hopes of promotion were held out to you, a very unfavorable report would strike those hopes down?—That would prevent it.

*Mr. Sadleir.*—But the hopes of promotion were conditional, and the condition was not fulfilled.

*The Commission.*—“27/8/80”—that is the date of that recommendation for promotion; there is no condition here.

*Mr. Sadleir.*—But the conversation was after that he was recommended for promotion, and he probably knew it. When a man is specially recommended I usually tell him, but it was after that recommendation that this conversation took place and those further hopes of promotion were held out.

*The Commission.*—And after that conversation you wrote this minute upon the paper?

*Mr. Sadleir.*—Which minute?

*The Commission.*—The last one.

*Mr. Sadleir.*—Yes.

*The Commission.*—And that was in your mind to prevent the promotion.

*Mr. Sadleir.*—Yes. I had no particular view to do it; it was to express exactly my opinion, without regard to any other consideration.

*The Commission.*—What would be the effect of that expression of opinion?

*Mr. Sadleir.*—No doubt it would be injurious to the man.

*The Commission.*—Do we understand you to say that, irrespective of this private record sheet, when a man was recommended for promotion, you generally informed him of it?

*Mr. Sadleir.*—No, when a man was specially recommended for promotion.

8601. *By Mr. Sadleir (to the witness).*—I ask you, as a sensible man, put yourself for a moment in the position of an officer in charge of a difficult district like that, what would your feelings be after a disappointment if a man you chose declined, for any reason whatever, to go into the place?—Into which place?

8602. I say—put yourself in the position of an officer in charge of a district like that, would it not be a disappointment to you if a man you selected for a difficult and dangerous post showed a disinclination to go?—Yes.

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8603. I ask you the same: have you any harshness to complain of in that minute of mine; is it any exaggeration of your own statement?—I believe it is injurious to me.

8604. Is it any exaggeration of the reasons you gave me for not wishing to go?—No.

8605. Is it not my duty, without any personal favor to you, or any consideration for your private feelings and interests, to say exactly what I thought was fair?—Yes.

8606. There is only one question more, and I suppose there is a reference to some jealousy felt by the force—whether officers or men I do not know—as regards Mr. Hare’s county of Bourke men—men of his own district: was there one man of Mr. Hare’s district in the first attack upon Glenrowan—Gascoigne does not belong to his district?—No.

8607. Never did?—Never did.

8608. Phillips was not of his district?—He was transferred, I believe.

8609. And Arthur?—Yes.

8610. And Barry, he was an exception, he might be a Bourke man?—Yes, Barry was Bourke at the time.

8611. No, he was a Western district man; yourself, you were a North-Eastern district man?—Yes.

8612. Where could the jealousy come in?—It was in the first set-off.

8613. I understand it to be Glenrowan. As regards Glenrowan, there was no man to be jealous of

because he belonged to Bourke—Mr. Hare's district?—No.

8614. *By Mr. Hare.*—You were at Benalla when I relieved Mr. Nicolson on the 2nd June?—I was; I was stationed at Benalla.

8615. Do you remember an agent, I will not mention his name, coming down from Beechworth to see me?—Yes.

8616. One of Mr. Nicolson's agents?—Yes.

*Mr. Nicolson.*—I have not the slightest objection to Mr. Hare's question, but yesterday the Commission decided that this matter should refer to Mr. O'Connor.

8617. *By Mr. Hare.*—It does not reflect at all against Mr. Nicolson. I made the statement in my original report, which I want the witness to substantiate. If the report is taken for granted, there is an end of it. I shall not then want to put the question. (*To the witness*)—Do you remember the fact that an agent had come down from Beechworth for the purpose of seeing me?—Yes, I remember that.

8618. Did you made an appointment that evening at my request to meet him at a certain place?—I did.

8619. Did we keep our appointment—you and I?—We did.

8620. Did the agent?—No.

8621. After waiting there for some time did we see him elsewhere?—I suggested we should go where we thought we should meet him, as he was going by train.

8622. At the railway?—Yes.

8623. Did we see him there?—Yes, we did.

8624. What did I say to him?—I walked away from you. You took him to the end of the railway station platform, in the dark, and spoke to him there.

8625. Did you hear any of the conversation?—No, I did not.

8626. None at all?—No.

8627. What became of him?—He went away. He told me he would not work for you.

8628. When?—Before you saw him.

8629. Before I saw him?—Before you saw him.

8630. That night?—That night.

8631. You did not tell me that then?—I do not know. I forget if I did.

8632. I am certain you did not, because why should I meet him?—I pressed upon him to come and see you—that it was all nonsense.

8633. You did not speak to him after I saw him?—No.

8634. He went away in the train?—He went away, and I did not see him till after the Glenrowan affair.

8635. Come now to Sunday, 27th June, what time did I send you up to the railway station that afternoon to see about a train or an engine?—About three o'clock, I suppose, in the afternoon.

8636. When we were stopped near Glenrowan, what position were you in, were you in front of me or behind me in the carriage?—I was in front of you—I was next to the engine.

8637. Did you speak to the guard before I came up?—I did. You put your head out of the window.

8638. Where were you then?—Standing upon the step of the guard's van.

8639. Are you sure that the guard was not midway between the pilot engine and our engine?—I spoke to him, I remember well; he said to me about meeting a man with a red light.

8640. Was not that after I left—did not I walk with three men towards the pilot engine?—Yes.

8641. I left you with the train?—Yes, I stopped there with the train; you went up to find the man—that is the schoolmaster.

8642. Did not I meet the guard some distance from the train?—I understood the guard came up to the train. I remember your putting your head out of the window. You asked what was up, and I said, "The pilot engine has stopped."

8643. Exactly; I saw that myself. You do not recollect which I met?—I saw Archie McFie, the guard.

8644. When we got to Glenrowan platform what was the first thing I did when I got out?—You sang out to me to get the horses out.

8645. Are you sure of that; were the horses removed till I returned from the station master's house?—We were getting the horses out.

8646. Answer that question—did you see me and Mr. Rawlins going to the station master's house?—I did.

8647. Did you say the horses were being got out whilst I was away?—A few of them were out.

8648. Are you sure of that?—I am sure.

8649. You say that you heard me call out to Mr. O'Connor to surround the house?—Yes.

8650. What distance could my voice have been heard when I called out that?—I should say it could be heard near the railway station there.

8651. Did Mr. O'Connor surround the house?—He did not.

8652. How many shots did you fire in the first engagement, have you any recollection?—I have not.

8653. About?—Ten or fifteen, I should say.

8654. Are you sure that you asked me for ammunition when I was returning the second time or the first time, when I was going back to the railway station the first time or after I had been wounded?—I am not certain which of the times.

8655. Do you remember saying anything to me at Benalla when you came to see me, after I was wounded, about Kirkham leaving his post?—I do.

8656. State what it was?—When I came, in company with Mr. Sadleir, I found Kirkham in the trench with Mr. O'Connor. I said, "Kirkham, what brought you here?" He said, "I came for ammunition." I said, "You know well you cannot get ammunition there, and you have no right to leave your post."

8657. Who was with Mr. O'Connor then?—Kirkham.

8658. And who else?—Two black trackers.

8659. That is four of them there?—Yes.

8660. How many men had you surrounding the house at this time, or when you posted the men there?—They were all—five men and three trackers.

8661. Where was Kirkham's post on that morning, after the firing ceased, the first firing?—It was at the Benalla side of the house.

8662. Who was first posted the nearest to the front?—Gascoigne.

8663. Who was next?—Phillips, I think, was next to him.

8664. Who was next?—Kirkham.

8665. Who was next?—Barry.

8666. That was the post you gave him?—Yes.

8667. When you returned you found him in the drain with Mr. O'Connor?—I did.

8668. And what did you say to him?—I said, "Kirkham, what brought you here?" He said, "I came for ammunition." I said, "You have no business to leave your post; you should stop where I put you."

8669. How many men had you then surrounding the house when you placed Kirkham there?—Only five, with three black trackers; Sergeant Steele's party were not there then.

8670. Was it before or after the arrival of Mr Sadleir that you saw Kirkham with Mr. O'Connor?—In company with Mr. Sadleir.

8671. Is that the first time you saw him there?—That is the first time.

8672. *By the Commission.*—How long after the first party went there did Mr. Sadleir arrive?—Mr. Sadleir arrived after five o'clock—between five and six.

8673. And the first party arrived, your party?—At about three o'clock, I think.

8674. Do you know when Kirkham left his post?—I do not.

8675. You say you found fault with him when Mr. Sadleir was there?—Yes.

8676. I thought you stated just now that Mr. Sadleir went up and spoke to Mr. O'Connor, and you went away?—The very minute I came up with Mr. Sadleir I spoke to Kirkham.

8677. Then you had some conversation with Kirkham?—Just the few words I am after speaking.

8678. And then ran away?—Then went away; Mr. Sadleir told me to go round.

Cross-examined by Mr. O'Connor.

8679. You stated that the special train arrived at Benalla about half-past one a.m. from Melbourne, and brought me up and my men?—I think it would be about half-past one or two; I am not certain. I did not look at the time.

8680. You say also at this time they put the horses in?—Yes.

8681. Are not you aware that part of the horses were in the vans when the special arrived?—Yes, I remember now they were.

8682. Then that statement of yours is not correct?—It is an error.

8683. *By the Commission.*—Are you talking of all the horses?—Yes; I remember we had all the horses in trucks just before the train came up.

8684. *By Mr. O'Connor.*—Upon arriving at Glenrowan, or rather when the train, stopped—not at the station—upon the train stopping did not you see a porter walking up to the train, or a guard, carrying a lamp?—Yes, I think so. I spoke to Archie McFie.

8685. Did not you see him come to the carriage door to Mr. Hare and speak to him?—No.

8686. Where did he go to?—Mr. Hare came out before the man spoke to him.

8687. Where did Mr. Hare meet him?—Close to the guard's van.

8688. That is in the rear of the train?—No, in the front of it, next to the engine.

8689. The guard's van?—Yes, that was attached to the engine.

8690. Is it not usual to attach the guard's van to the end of the train?—I do not know, but it was attached to the engine on that night, and I and Constable Barry and another man were in the van attached to the engine.

8691. Upon arriving at Glenrowan, you state that you commenced to take horses out at once?—Yes.

8692. Who gave you that order?—Mr. Hare, before he went down to the station master's house.

8693. Did he give you a reason for taking out the horses?—No, he did not wait a second.

8694. He did not say a word?—No, only, "Kelly, get out the horses."

8695. You also stated that Mr. Hare went direct for the house?—He did.

8696. And that you ran along parallel with or along the line?—Yes.

8697. Which was the longest way?—The line, I believe.

8698. Considerably longer?—I do not think it is considerably longer.

8699. Did you run till you got outside the fence. That was what I understood you to say?—Yes.  
 8700. You ran along the line?—Yes, out of the gate.  
 8701. Would you recognize upon the plan?—I saw it.  
 8702. You see it is considerably the longer way round?—Yes.

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 continued,  
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8703. What delayed Mr. Hare from arriving at the house long before you did?—He did arrive before I did.

8704. And the firing was over?—No, it was just commenced. I was behind him, I suppose, seven, or eight, or ten yards. Mr. Rawlins and I ran down there. I remember him well. I do not know whether any of the other men were there.

8705. Returning to the railway platform again—you said that you placed Constable Barry as guard over the rear?—Yes.

8706. If he swears that he accompanied Mr. Hare down to Stanistreet it would not be true?—I know well that I placed Constable Barry there. I remember putting one man to go and guard at the back of the station, and I am certain it was Barry.

8707. You swear to-day that you put him there while Mr. Hare went down to see Mr. Stanistreet and Rawlins. Barry swears that he accompanied Mr. Hare down?—I know I put him on guard. I suppose they were not two minutes—not a minute.

8708. *By the Commission.*—What is the distance between the station and the station master's house?—About 100 yards, I suppose.

8709. How far were you behind Superintendent Hare upon making a start?—We were getting our arms. Mr. Hare rushed the moment Bracken appeared, and we were behind, getting our arms.

8710. Would you be one minute behind him?—Scarcely; we might be.

8711. How many extra yards would you have to go?—I do not know.

8712. Would it be twenty?—I do not think so.

8713. *By Mr. O'Connor.*—Then when you actually, what I may call, overtook Mr. Hare he was wounded?—Yes, I believe he was.

8714. Did he make any remark to you about it at once?—He said he was shot.

8715. He turned round and spoke to you by name?—No, he did not by name at that time.

8716. Could you remember the words he made use of?—I believe the words he made use of were, "I am shot."

8717. Did he say, "O'Connor, I am wounded." Did he call me by name?—He called you by name when he came down.

8718. At first, "I am wounded"?—"Those beggars shot me."

8719. "O'Connor, those beggars shot me"?—Yes.

8720. *By the Commission.*—Did he say, "O'Connor"?—Yes, he did. He sang out, "O'Connor, where are you? Where is O'Connor? Come on."

8721. *By Mr. O'Connor.*—Did he or did he not try to find out where I was?—He asked where you were.

8722. Whom did he ask?—Me. He said, "Where is O'Connor?"

8723. That is another statement. I asked you what Mr. Hare said. Did he say, "O'Connor, I am wounded." And you say he said, "O'Connor, those beggars shot me"; and then you give another statement, and then another. That is three different things that you say Mr. Hare said. What did he say?—I believe those are the words he said. He said, "Where is O'Connor?" and you answered in this ditch.

8724. I answered from that ditch?—Yes.

8725. You said before in your evidence that I did not answer?—I did not say so. You said, "I am here," or something in that way. How would he know you were there then?

8726. *By the Commission.*—Mr. O'Connor asks, did you see Mr. Hare wounded?—I did; I saw him wounded.

8727. What did he say about Mr. O'Connor when he was wounded?—He said, "Where is O'Connor?" then he came down.

8728. *By Mr. O'Connor.*—I did not ask you that question, what I asked you was this: was Mr. Hare wounded before you arrived; and you said, "Yes." Mr. Graves asked you did you see Mr. Hare wounded; and you said, "Yes"?—I did not see him get the bullet, but I saw him after sticking the gun between his legs.

8729. That is not the question. Mr. Graves asked you did you see Mr. Hare wounded; and you said "Yes." And I asked you did Mr. Hare come up after he was wounded; and you said, "Yes." I only want a plain answer to this: was Mr. Hare wounded before you arrived—before you overtook him?—I do not think it.

8730. You do not think it?—No; I was not close to him.

8731. Then my question was: did you hear Mr. Hare speak?—I did hear him speak.

8732. Whom did he speak to?—I do not think he spoke to anyone in particular at that time till he turned round. After firing his shots he turned round.

8733. I have not come to that yet. Mr. Hare, you state, spoke to no one in particular—did he speak

generally?—He spoke to me by name.

8734. That is somebody in particular?—Yes.

8735. Then he spoke to you?—Yes, he did, and to you.

8736. You state that he spoke to nobody in particular, and the next minute you say he spoke to you and to me by name?—I do not say so.

8737. You do?—You want to make me say so.

8738. *By the Commission.*—The question is this: did you hear Mr. Hare say, “I am shot”?—I did.

8739. Did he say that to anyone in particular?—No, not at that time.

8740. *By Mr. O'Connor.*—I ask then did not you hear Mr. Hare address me by name, and tell me that he was wounded?—He said to me, “Where is O'Connor?”

8741. That is a different thing altogether?—And you answered him.

8742. *By the Commission.*—Did you consider that he spoke to you—addressed you, when he said that?—I did.

8743. *By Mr. O'Connor.*—Did he call me by name; the witness has said that he called me by name, and said, “O'Connor, those beggars have shot me”?—Yes.

8744. You state that Mr. Hare left the railway platform?—Yes.

8745. Did you accompany him?—No.

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8746. How do you know he went back then?—I did not see him go down to the gate; I saw him go to the direction of the railway.

8747. You said in your evidence that he went to the railway?—Where did he go? He went in that direction.

8748. As you did not accompany him you say you do not know whether he went to the platform. He may have stopped short of it. You say then he came back again?—Yes, he came back again.

8749. Was not it quite possible that Mr. Hare never went to the platform?—His hand was bandaged up when he came back.

8750. I have witnesses to prove that he never left the platform after he arrived there?—You have no witnesses that can prove that.

8751. Again you say that you cannot tell whether he went to the platform or not; he went in that direction?—I saw him going in that direction.

8752. At what period of the fight was it you came to my position and asked me to come with you to place the men?—About ten minutes.

8753. Ten minutes after Mr. Hare left?—About eight or ten minutes, I suppose.

8754. After Mr. Hare left?—Yes, during the time that I went down from the corner, when I saw Rawlins coming along the railway line, I ran down to meet him at Mr. Stanistreet's house, the station master's house. I saw there was no ammunition, and I told Mr. Stanistreet to leave the house and take off his coat and run up to you.

8755. Did anybody hear you ask me that question?—There was nobody there about except the two black trackers.

8756. You asserted that you asked me that question?—As sure as I am sitting on this chair, I asked that.

8757. *By the Commission.*—You swear that?—I swear that.

8758. You also swear that you saw Mr. Hare going to the station wounded, and that he came back bandaged?—Yes, I do.

8759. *By Mr. O'Connor.*—How many times did you go to the railway station?—During the whole day?

8760. No, during the time up to Mr. Sadleir's arrival?—Once with the rifle, before Mr. Sadleir arrived.

8761. When was the second time you came to me?—The second time?

8762. Yes?—Only the time I came with Mr. Sadleir I never went near you.

8763. That was the second time?—That was the second time.

8764. You do not remember coming to me and telling me about the Kellys escaping?—I never went near you.

8765. You did not give me that information about the rifle?—I did not; I never spoke to you.

8766. Did you tell any one else that you found the rifle?—Yes, I told Mr. Sadleir.

8767. Did you tell any of the men?—I told several of the men; any of the men that were upon the railway station and the gentlemen of the press.

8768. Then some one else might have told me that you found the rifle?—Yes, some one might have told you.

8769. Then when Mr. Sadleir arrived did you inform him that I refused to assist you?—I did not. I told him where you were.

8770. You did not tell him I refused to assist you?—No, I did not.

8771. What was the first time you saw me after I left my position, left this trench?—I do not

John Kelly,  
*continued,*  
18th May 1881.

remember seeing you till about ten o'clock, I think, after the prisoners coming out.

8772. And not the time they were coming out afterwards; was it with Mr. Sadleir, or how?—I saw you up towards the railway station.

8773. You did not see me with Mr. Sadleir, when the prisoners were coming out?—No. I was close to Mr. Sadleir, always with him; I do not remember seeing you there.

8774. You say that when Mr. Hare called out to me to surround the house I did not do it?—You did not.

8775. What do you mean by “surrounding the house”?—I mean to place men all round the house, not to let one escape.

8776. You looked upon yourself as the officer in charge of the white men and I was in charge of the blacks?—Yes.

8777. And I did not surround the house with my men?—No.

8778. Are not you aware that the black boy “Hero” was one of the first out through the wicket gate—sworn to in evidence?—No; I know Barry told me he was a good man.

8779. *By the Commission.*—And did come through?—No, he did not tell me that.

8780. *By Mr. O'Connor.*—Then if it was a fact, and the men were assisting?—They were—what I saw of Hero and this man Kirkham.

8781. They were assisting to do the same work as you were—to keep the outlaws in the house till the daylight?—They were.

8782. Now, although you say you did not consider that I was an officer over you or in the force, do you state that Constable Kirkham was not under me?—Under you?

8783. Yes, under me?—I did not consider he was under you.

8784. You never did?—Never.

8785. You never were aware that he was transferred to me?—No, I never was. I was well aware that he was in charge of the blacks, and any time they were out Kirkham was with them. Whenever I went out with the blacks I was always told never to interfere with them—to leave everything to Kirkham.

8786. Whose orders to you were those?—Through Sergeant Whelan.

8787. From whom did they come to him?—Mr. Nicolson.

8788. Mr. Nicolson then would be in a position to say where I got the instructions from?—I do not know anything about that.

8789. Then you consider that Constable Kirkham never had anything to do with my command, and that was the reason why you ordered him to keep such a position?—Yes.

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John Kelly,  
*continued,*  
18th May 1881.

8790. And were very much annoyed, or angry we may call it, when you found he was with me?—I was not; I was angry with him to find that he left his post; it was not on account of his being with you.

8791. You were angry, I suppose, because you found he had left his post?—Yes.

8792. He was one of your subordinates, and he disobeyed you?—Yes.

8793. Did you report this to Mr. Sadleir when he arrived?—It was in the presence of Mr. Sadleir I said it. I said, “Kirkham, what brought you here?”

8794. Did Mr. Sadleir then reprimand the man?—I do not know; I went away; Mr. Sadleir told me to go on.

8795. *By the Commission.*—Was it when Mr. Sadleir and you came to the place where Mr. O'Connor was that it first came to your knowledge that Kirkham had left the place where you wished him to be?—That was the first time.

*The witness withdrew.*

*Adjourned to Tuesday week at Eleven o'clock.*

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TUESDAY, 31<sup>ST</sup> MAY 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

E. J. Dixon, Esq., J.P.,

J. Gibb, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.,

J. H. Graves, Esq., M.L.A.,

W. Anderson, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.

John Kelly further examined.

8796. *By Sergeant Steele.*—Did you hear me tell the men who came from Wangaratta to scatter round to the back to prevent Ned Kelly getting away?—I do not remember that you said so.

8797. I wish to show that the report furnished by Mr. Sadleir in reference to the outlaw Kelly was based on the report of Senior-Constable Kelly, and that I was never applied to in regard to it, though I was the senior officer on the ground at the time?—I never wrote a report.

*The Chairman (to Sergeant Steele).*—You will have an opportunity of referring to these points in

giving your own evidence, and you will then be on your oath.

8798. *By Sergeant Steele (to the witness).*—Were you called upon by your senior officer to send in a report?—No; only about the reward.

8799. Did you make a report verbally?—I may have done so.

*Mr. Sadleir.*—No doubt he did make various statements to me, and Sergeant Steele objected to some statements in my report and was allowed an opportunity of forwarding his own view. All the reports, together with his remonstrances, are in the office.

8800. *By Sergeant Steele (to the witness).*—Did you furnish a statement to the newspapers?—I did at Glenrowan, and you made a statement at the same time.

8801. Was the statement in the Age of the 25th a correct account of what transpired that morning?—I am not aware what it is.

8802. Have you not read it?—I have, but it is a long time ago.

8803. *By the Commission.*—Did you and the others at Glenrowan make certain statements to the reporters of the press?—Yes.

8804. Did you do it by making a verbal statement which was taken down by a member of the press?—Yes, there was one reporter there.

8805. Did he ask you to give a detailed report of what took place, and he took it down verbatim?—Yes.

8806. Did any other members of the police force do the same?—Yes.

8807. You were never asked to send in a written report to a superior officer?—No, I never was.

*The witness withdrew.*

Arthur Loftus Maule Steele sworn and examined.

A. L. M. Steele,  
31st May 1881.

8808. *By the Commission.*—What are you?—A sergeant of police. I joined the police force on the 8th of June 1857. I took charge of the police station at Wangaratta on the 6th of November 1876.

8809. What were you then?—Sergeant.

8810. Was that your first acquaintance with the North-Eastern district?—No, I had been in the district for thirteen years previous, about Yackandandah and other parts, and knocked a good deal about the district.

8811. Can you inform the Commission as to what led up to the Kelly outbreak?—Yes. Horse-stealing at that time was very rife indeed, and one of the outlaws—Steve Hart, who lived near Wangaratta—was arrested by me on several charges of horsestealing.

8612. Have you the date of the arrests?—I have not, but I know it was about eighteen months before the outbreak. He had done a sentence, and came out of gaol about eighteen months before the outbreak, I think, as near as I can remember. And there were also a great many horses stolen from the neighborhood of Greta, which were traced to the Murray—Baumgarten's place. The two Baumgartens, and a man named Studders, and another named Kennedy.

8813. What Kennedy is that?—A man named Samuel Kennedy, residing at Howlong in New South Wales, on the border. Kennedy and Studders live in New South Wales, and the Baumgartens in Victoria. Kennedy and William Baumgarten were convicted for stealing those horses from Greta. Detective Brown and I found out that the Kellys—Edward and Dan Kelly—were connected with the larceny of those horses.

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8814. About what time?—At the time those horses were stolen, and they brought the horses to the Murray. There were other convictions as well. A man named Loury, *alias* Cook, was convicted also for being implicated in the same mob of horses. Warrants were issued for the arrest of the Kellys at Chiltern. I think a constable named Robinson laid the information.

8815. For one Kelly or both?—I think against Dan Kelly and Jack Lloyd, but the other information was laid by, I think, Detective Brown against Ned Kelly. I am not quite certain who laid that information against him.

8816. Can you say there was an information against Ned Kelly at all?—I believe there was.

8817. Are you sure—of your own knowledge?—I do not think I ever saw it, but it was notified to me that there was a warrant. The next thing I heard about was—I made several efforts to arrest Ned Kelly and Dan, but was unsuccessful—I received a report, by telegram, on the 16th of April 1878, that Constable Fitzpatrick had been shot at the Eleven-mile Creek by Edward Kelly, when effecting the arrest of Dan Kelly. I received this telegram about nine o'clock in the morning. Mr. Nicolson, then the inspecting superintendent, was at Wangaratta the same morning, and I waited until twelve o'clock for instructions from Benalla, but I received no instructions, and I started with Constable Brown. I was informed in this telegram I received that warrants had issued for the arrest of Edward and Dan Kelly, Skillian, Williamson, and Mrs. Kelly.

8818. Why did you mention Mr. Nicolson?—I showed him the telegram. At the time we were just talking about the Kellys, and some conversation passed about Edward Kelly, and I told him I thought he would take the bush. He had just walked out of the office when this telegram came, and I showed him it when he returned.

8819. Could he not have given you instructions then?—He was not in charge of the district at the time. He was travelling at the time.

8820. Was Mr. Nicolson then the officer in charge of the district?—No. He was on his way to Bright,

A. L. M. Steele,  
*continued.*  
31st May 1881.

to make investigations as inspecting superintendent.

8821. Did he inspect your barracks on that occasion?—Yes, I think he did, and made an entry in the book—I would not be sure on that point—I could tell by examining the occurrence book of the station. I started with Constable Brown for the Eleven-mile Creek. We watched Mrs. Kelly's place for some considerable time from the hill opposite the house. At nine o'clock in the evening we arrested William Williamson. I went to Skillian's place, but could not find him then, so I took Williamson into Greta, and returned again, at about one o'clock in the morning, in company with Senior-Constable Strahan and Brown, and arrested Skillian. We also arrested Mrs. Kelly. She had not been in her bed at all during that night. I was there on three occasions, and she had not been to bed. Jim Quin was in the house.

8822. What was the charge on which they were arrested?—For aiding and abetting Ned Kelly in shooting with intent to murder Constable Fitzpatrick. That was the only occasion on which I visited Mrs. Kelly's place at night, or disturbed her in any way during the night. We took Williamson, Skillian, and Mrs. Kelly to Greta, and then brought them on to Benalla in a dray. They were remanded from time to time, and committed for the offence with which they were charged.

8823. And convicted?—Yes, and subsequently convicted. I was called upon by Superintendent Sadleir to go to Benalla to make up a party to meet Sergeant Kennedy in the ranges to try and effect the arrest of Edward Kelly.

8824. Had Mrs. Kelly an infant with her when you arrested her?—I do not think so. I think not at the time. I think she had a child in gaol, if I recollect rightly.

8825. Was she a married woman to your knowledge?—Her husband has been dead for some time. I did not know of her being married again lately.

8826. When did her husband die?—Before I went to Wangaratta. I had been about eighteen months or two years there then.

8827. Was he dead five years before?—I could not say. I never made any enquiry about that, but he was dead sometime before I was there.

8828. Had she a young family in the house?—There were some girls, the youngest, I should think, about ten or twelve years of age.

8829. Proceed with your narrative?—I was unable to go in the ranges, in consequence of being subsequently served with a subpoena to attend the equity court. On the 28th of October I received information of the murder of the police at Stringy Bark, Wombat.

8830. Did you make any search between that time and the murder of the constables at Wombat?—Yes, repeatedly. I was continually knocking about those parts.

8831. Between the time of the arrest and the time of the murders you were continually searching?—Yes; generally about the Eleven-mile Creek and the section paddocks. We made several efforts to try and capture them. The principal reason for my going about at the time was the inefficiency of the constable stationed at the Greta station—Constable Thom—which I complained of.

8832. It was his duty to arrest them, if possible?—Yes; it was about fifteen miles from my station. I think they could have been arrested if he had exercised proper discretion and made proper endeavors to capture them. On the other hand, I could not show about the neighborhood at all but there was a message sent by a boy in the neighborhood, or some of the little girls ran off in different directions in and about the neighborhood of Mrs. Kelly's, and made the fact known. I reported to Mr. Brook Smith about Thom's inefficiency.

8833. In writing?—I think, both in writing and verbally. Thom was removed from there.

8834. Did you complain long before he was removed?—I think I spoke to Mr. Smith about a week or a fortnight before. He had some difficulty in getting a suitable man; and Senior-Constable Strahan, who was chosen to come, was a married man and at Snowy Creek, and could not be removed at once, but he was removed. I pointed out that Constable Thom was almost useless there.

8835. Could he ride?—Yes.

8836. In what did his inefficiency show itself?—He seemed to be on very intimate terms with some of the Kellys' friends, and I think he was an intemperate man.

8837. In fact, that he was a drunkard?—I cannot say exactly that I saw him absolutely drunk, but he used to come in a muddled state; he seemed to remain in a sort of stupid state for some time.

8838. Was there a want of activity and pluck about him?—Yes, he was a careless man, and he would converse with those men for hours about the bar of the public-house, and at the same time, perhaps, their comrades were about the district on horseback.

8839. There was only this one man stationed at Greta at this time?—Only one.

8840. Who succeeded him?—Senior-Constable Strahan.

8841. How long did he remain before the station was abolished?—I could not exactly say. The station was abolished soon after the murders or the police, I think.

8842. Not before the murders?—No, I think it was after.

8843. In your opinion it was not only necessary that a better man than Thom should be stationed there then, but also that the Greta station ought to have been strengthened rather than abolished?—Certainly. I

considered that one man was almost useless at a place like Greta. I did not think it was safe for him to go out. If I were there myself alone at Greta I would not feel disposed to knock about amongst those people.

8844. Instead of abolishing the station you would have increased the number of police constables if you had been in charge of it, even before the murders?—Before the murders, I certainly would. Greta and also Hedi should have been increased. There should have been not less than two men at each of those stations. But I rather approved of abolishing the station after the murders, in order to give those men a little scope to knock about and place the police in a better position to get information.

8845. Do you think the murders would have been committed if the stations had been properly manned?—My impression is if the strength of the station had been kept up and active men placed there that it would have kept down the horsestealing and its results. Consequently the murders would not have been committed, and the Kellys would have been in gaol instead of out.

8846. In consequence of abolishing the station, the horsestealers and the men committing those outrages got ahead?—Yes.

8847. If vigilant action had been kept up there it is likely they would not have gone to this length?—Yes.

8848. How long was Senior-Constable Strahan there?—Only a short time before the shooting of Fitzpatrick.

8849. Do you know for certain where there was, before the murders at the Wombat, more than one police constable stationed at Greta?—Yes, just a short time before, I think Constable Ryan went there.

8850. You have answered as to what would have been the effect of efficient police supervision in the past—does that opinion exist in your mind as far as the district at present is concerned?—Yes. I think if the strength of the stations is kept up, and those men looked after, that it will, to a great extent, check horsestealing—particularly in a neighborhood like Greta, where it was carried on in such a bare faced manner that large mobs of horses were taken from the farmers' paddocks, and taken by Greta.

8851. With proper police supervision in the North-Eastern district you think there is no probability of another gang like the Kellys taking the bush?—No. I do not think so. I think the reason they would take the bush at present would be if there was any charge preferred against any character up there. I think there are only two or three of those; and if they were wanted by the police and there was a likelihood of their being arrested and sent to a long term of imprisonment for horsestealing, I believe they would turn out, but only just a few that are up there I do not think there are more than three or four that would try it. I think they would prefer getting their living by work rather than by taking the bush, from what they have already experienced.

8852. It has been stated that there are a very large number of young men in that district who have never been known to perform any description of work; do you know that of your own knowledge?—No.

8853. Do you believe that from your own experience of the district?—I think when they have attained a certain age they go to shearing, and then return to their friends and idle about for a few months in the year; but they all work more or less, I think.

8854. Have the constables at other stations just as good an opportunity of arresting horsestealers as at Greta; they have to pass through other districts?—Yes, but those men kept the bush; they used to take to the back country and get into the ranges. The Kellys used to cross at night, generally moonlight, and get them out of the district; and sometimes draw up fictitious receipts and produce them to the police as they did at the Baumgartens. Through discrepancies in the receipts and enquiries we found afterwards that those receipts were forgeries.

8855. You mean that Greta is the key of the whole district?—No; but at that time there were more horses stolen from there than any other part of the district. They would take large mobs, sometimes fourteen or fifteen plough horses from farmers. I think from Mr. Whitty there was that number taken one night; and Ned Kelly, when he got over in the neighborhood of Bungowanna, New South Wales, was not known there, and they imagined it was some person travelling with horses for sale or for the market.

8856. Will you proceed with your narrative where you left off?—I was stating that I received information of the murder of the police at the Wombat on the 28th of October 1878. I started with a party of police for the head of the King River and Rose. I met a party of police on the King, and went on into Mansfield. On Sunday the 1st November 1878 I left for Benalla; I arrived at eight p.m. There was a special train in readiness for me when I arrived there. I started with a large party of men for Beechworth, in order to search the ranges about Rats' Castle and the Main Divide, between Yackandandah and Middle Creek, where the outlaws were supposed to have been seen. It would be Monday the 2nd of November when I arrived at Beechworth. Before leaving Benalla there was a rumor of the outlaws having gone through Wangaratta, seen by a young fellow named — passing at the back of the hospital, and going under the One-mile railway bridge. I spoke to Mr. Sadleir about this. I cannot give the exact words, or say whether I went to him on hearing it, or whether he heard it at the same time; but we spoke over this matter, and he told me to go on to Wangaratta—the train was at my disposal, I could delay it for half an hour or an hour if I considered it necessary—and to see if there was anything in this rumor. Mr. Sadleir told me that Mr. Brook Smith was at Wangaratta with a party of men, and that if there was anything in it I could send word to him and then go on. I arrived at Wangaratta at one a.m. in the morning. I saw Constable Twomey; he met me at the railway platform at Wangaratta. I asked him if this rumor was true that I heard about the men passing through. He said that they had seen the tracks;

he had just been down at the back of the hospital to the One-mile bridge, and there were the tracks of the horses right enough there, and that the boy saw the men driving pack-horses at four o'clock in the morning—just at grey in the morning. He told me the horses were shod, some of them, and with very large feet, and that he had tracked them in the direction stated by the boy. I asked him when they heard about it, and what was done, and he said nothing had been done so far. I then told him that it was undoubtedly the outlaws, and it was owing to the flooded state of the creek at that time—the water was bank and bank and it was evidently Steve Hart who had piloted them under the bridge. There was a narrow ledge under the bridge that no man could keep unless he knew the bridge well, and I was aware that Steve Hart was well acquainted with that ledge. They would have been swamped in the creek otherwise. I told him my opinion was the outlaws would make for the Warby ranges, and to go up at once and report the matter to Mr. Smith. I then proceeded to carry out my instructions at Rats' Castle and the Main Divide.

8857. Do you know anything of what occurred, whether Mr. Brook Smith got that information?—I believe he did. That is my impression—that is only hearsay. I was told he did. I wish to point out that this is the occasion on which Mr. Hare and Constable Falkiner wanted to make it appear that I turned my back on the outlaws, and went in an opposite direction when I received information. I noticed that Falkiner was cross-examined to say who this sergeant was. He was one of my party, and he and Mr. Hare knew exactly my instructions, and it struck me the evidence was given with a view of conveying a bad impression to the Commission.

8858. Have you seen the printed official evidence?—No, only the newspaper reports. It is in Constable Falkiner's evidence, when he was cross-examined by Mr. Hare. I refer to this matter, because I think it could have been fully explained at the time.

8859. Could you on your own responsibly have pursued those tracks?—If I had disobeyed the orders I had received; there was the possibility it might not have been them.

8860. I understood you to say that Mr. Sadleir's instructions to you were to proceed in a certain direction, but not to confine you to any particular course?—He informed me that Mr. Smith was at Wangaratta with a party of men, and if there was anything in the rumor to send word to Mr. Smith, and to go on and carry out my instructions.

8861. Then the Commission understand that there was a party to fulfil that duty?—There was a large party of men at Wangaratta. I would have been only too happy to stop there and follow them up, because I think it was the best information received during the whole pursuit of the Kellys.

8862. You think you would not have been at liberty to proceed?—I ran a great risk. If they turned up at Rats' Castle afterwards, and I had disobeyed any instructions, I would have been in a rather peculiar position with my superior officers.

8863. You say you were thoroughly convinced, from your own knowledge of the circumstances there at the bridge, that those were the outlaws—would you not therefore have been justified in proceeding at once with the force at your command?—No, I think not. Had there not been a party of police at Wangaratta I would have taken the responsibility on myself, but Mr. Smith was there with a large party of men at the time, and I sent up word by a constable to tell him that it was undoubtedly the outlaws, that Steve Hart had piloted them over the bridge; and I added, "Start at four in the morning, and you are bound to catch them on the Warby ranges."

8864. Is it your impression now that if the police there had immediately proceeded and followed up those tracks, that they would have succeeded in capturing them?—It would be a hard thing to say. They might have followed them and eventually come on the horses.

8865. You know the country so well, and knew the time the horses passed there, and the tracks were still fresh—do you think, if immediate steps had been taken to proceed after them, there would have been a chance of capturing them?—Yes, I think so. I could have followed the horses myself without a tracker; the horses were bogging into the ground six inches, the ground was so very soft. We tracked them all about the hills some weeks afterwards.

8866. What occurred at Rats' Castle?—I searched Rats' Castle and the ranges—what they call the Table-land; that was on the 2nd. I then went to search the Stanley ranges; I think that was the 4th, and that we had rested our horses on the 3rd.

8867. Have you anything of importance to tell the Commission of what occurred between that time and the time you went to Glenrowau other than that you were searching constantly?—Nothing further than that we were continually going out on search parties.

8868. Were you one of the cave party?—No, I was not.

8869. Or stationed at Sherritt's house?—No.

8870. You were one of the party that went out with Captain Standish, Mr. Nicolson, and Mr. Hare, to Seba?—Yes.

8871. Do you remember meeting Sherritt?—I do.

8872. Will you describe to the Commission the circumstances under which Sherritt was met, and, as far as you know, what took place at that interview, and between whom?—When we went down, after searching Mrs. Byrne's, we saw Sherritt coming on with an axe on his shoulder, and I think Strahan and I stopped to speak to him; Mr. Nicolson came up soon after, and I think we told Mr. Nicolson who he was, and he took him to one side, and after some conversation I think Captain Standish joined him, and also Mr. Sadleir, but I heard nothing. Sherritt merely made the remark to me, "I know that — dog," referring to the

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man with the police who had his face blackened.

8873. During that conversation did you hear either of those officers publicly make any overtures to him to assist them in the capture of the Kelly gang?—No.

8874. Did you see or hear Mr. Nicolson remonstrate with Captain Standish for making such an overture to the man in the presence of the police?—I cannot say I heard that; I was too far away. Strahan and I were talking together.

8875. Were you then in as good a position as any other members of the force to hear any conversation that took place between the officers and Sherritt?—I think I should be. Strahan and I were the closest to them, but we retired in order to give them an opportunity I believe we were closest to them, but I did not listen to their conversation. I knew the object of it, but I had no desire to hear what transpired.

8876. You knew instinctively the object?—Yes.

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8877. You did not hear any overtures made?—No.

8878. Did Mr. Nicolson at that time make any remark to you of the inadvisability of making overtures to Sherritt in that way?—No.

8879. Did you hear from Mr. Nicolson or anybody that Captain Standish had been remonstrated with for that?—I cannot say. I do not recollect it.

8880. Between October 30th, 1878, and November 15th, you were in charge of Wangaratta?—Yes.

8881. Did you at any time receive information that the Kellys were likely to be supplied with provisions from any particular spot?—No.

8882. Did you receive any information that they were likely to be provided with provisions from Mrs. Skillian's hut?—No, I did not. In fact I knew very little till Mr. Nicolson came. Everything was kept secret, to a great extent, from me at Wangaratta.

8883. Do you mean what the police knew?—Yes.

8884. You have stated you were in charge at Wangaratta between 30th October and 15th November—do you recollect a party going out with your officer, Mr. Brook Smith?—Yes, I recollect going out.

8885. Were you with that party?—I was—that is with one. Mr. Smith went out, after I had gone on to Rats' Castle, a day or two after, to Yarrawonga.

8886. Were you with the party when Kennedy's pack-horse was found?—No.

8887. Do you recollect that occasion?—No.

8888. Can you give any information about that party from your own knowledge?—Yes; after the hut was rushed at Sebastopol, I returned to Wangaratta, and there was an agent of the police came in that night. Senior-Constable Johnson came in with the party of police and told me about some tracks they had found that night.

8889. Was Mr. Smith in charge of that party?—Yes, and they were to start very early the next morning; however they did not start until it was pretty late.

8890. Why not?—I believe they were waiting for Inspector Smith. He had some business to transact; he told them he could not get away. They were waiting for him, I believe.

8891. Who was in immediate charge of the police; was Mr. Sadleir or Mr. Nicolson there on that occasion?—I think Mr. Nicolson came up the same evening.

8892. As the tracks were found?—Yes.

8893. Do you recollect, about the 3rd November, hearing that the Kellys had passed through Wangaratta?—No, not on the 3rd.

8894. About I said did you receive any information from Constable Twoomey that the Kellys had been said to have passed through Wangaratta?—I heard it in Benalla, and I was, I have stated, about coming up in the special train on the morning of the 2nd.

8895. How many troopers had you with you then?—Eight or nine.

8896. It would be wrong to say you had twelve or thirteen?—I could not exactly say. I know I had a good strong party of men with me.

8897. What do you consider a strong party; would you be surprised to learn you had twelve or thirteen in your charge?—I do not think I had so many then. I know it was a party of police that came from Mansfield that day and took the special train as soon as we had something to eat. It was two small parties met, but there were not, I think, more than eight or nine altogether.

8898. Why did you not take action then to follow them up?—I had instructions to go to Rats' Castle.

8899. Then your duty you considered—even though you heard of the Kellys—was to carry out the order given to you?—In this particular instance, where there were men available; but I have explained that already.

8900. Then, if the information was good there, you would not have found them in Rats' Castle?—No, certainly not; but I could not say for a certainty; and if they had turned up after in Rats' Castle, it would have been a serious thing for me to have disobeyed orders.

8901. Although you got reliable information, you considered it was your duty under the

circumstances to go to Rats' Castle?—Certainly.

8902. Did Inspector Smith lead you to believe he was going to pursue them at once?—I did not see him; I sent a message by Constable Twoomey to him.

8903. You say you were one of the party in search of the Kellys on the Warby ranges?—I went out one morning with Mr. Sadleir, Mr. Nicolson, and Mr. Smith—a large party of men went out. That was after the horses were found.

8904. What were the general instructions on those search parties?—They were altered from time to time—the night parties.

8905. You could act at once on your own responsibility?—Yes, latterly I could; but at first I received instructions. I did not go out anywhere with a party of men, on account of the expense attending it, unless I received orders to go to a particular place. I had been out sixteen days in the ranges at that time. On several occasions I had been out, and generally stopped fourteen or sixteen days.

8906. You could act on your own information and go anywhere you liked when you were out?—Yes.

8907. If you heard reliable information in your barracks could you go?—Certainly.

8908. Without instructions from your officer?—I never was instructed to do so, but I would have done so; but to take a large party of men out in the ranges and keep them there for fourteen days, I would, not do that without special instructions.

8909. Have you anything special further to say before you come to Glenrowan?—There is nothing special, only a reference to some tracks on the Warby ranges, where I have been repeatedly, where I have seen stones removed there. It is a place that picnic parties go out to from Wangaratta, and they send those stones down the ranges, and people are continually hunting horses on those ranges. It is only an hour's ride from Wangaratta.

8910. You think there was nothing in the moving of those stones referred to by Mr. Hare?—No, nothing. I think the outlaws may have occasionally visited their friends there, but I think it is a piece of folly to think they would camp there. There is not a gully. I could not hunt there. I have been through the ranges there. People are continually hunting sheep and kangaroos, and so on. They could not obtain food there for any time.

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8911. Where do you think they were all the time?—I think they were in some unsuspected house, some man's house we did not suspect. It is only a matter of opinion. Arrangements were altered in regard to the duty of search parties from time to time. I have some notes as to the duty.

8912. Those search parties were very severe both on men and horses?—Yes. And then Mr. Nicolson thought it was better to let the men go out and watch houses they were likely to frequent, and we pursued that for a long time, and followed that till Mr. Hare relieved Mr. Nicolson. Mr. Hare asked me what we were doing, and he said he thought we could not do better than go on.

8913. Do you approve of secret agency?—I think it was the only way to get the Kellys. We would not have got them for ten years, riding about.

8914. Did you obtain any reliable information from them from the time that Mr. Nicolson took charge on the second occasion until the capture?—I did.

8915. Of what nature?—Well, that they were seen coming to the house that was watched by this agent.

8916. Give us the information?—I was told that they came on two occasions to a certain man's house.

8917. Mr. Nicolson pursued this system of secret agency from the time he took charge in June or July 1879 for eleven months until April. Will you tell the Commission any information of your own knowledge that was received that was of any practical use?—I was under the impression that they had left the district altogether until the agent told me he saw two men coming along between eleven and twelve at night in a certain direction.

8918. Then the secret agent gave information that they had not left the colony?—Yes.

8919. And that proves that the system was important?—Yes.

8920. He gave you information that two men had been seen?—Yes.

8921. Did you ascertain whether those two were two of the Kelly outlaws?—I believe the man saw their arms.

8922. This is what I want to get at. This man gave you information that he saw two persons whom he believed to be two of the gang. Did you ascertain that those persons seen were portion of the Kelly gang?—That we could not do unless we went to them.

8923. Then, as a matter of fact those persons may or may not have been two of the Kelly outlaws?—I could not see who else could be armed.

8924. He informed some one; did he inform you?—Yes.

8925. What did you do in consequence?—Mr. Nicolson also knew about it, and we had men sent out (four men) to watch the place at night.

8926. What was the result of that watch?—We did not see any one come at night; we watched for a month.

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8927. Did you discover in any way, for certain, that those two men were the outlaws?—I could not discover it unless I applied to the man.

8928. You took his word that he saw two, who he believed were those, but as far as you knew from any information obtained by the police, you did not know that those two men were or were not the Kellys?—Not unless by what he told us. It was corroborated to a certain extent by the clothes that the outlaws had on, on the morning of the capture.

8929. How long was this before the capture?—Not more than a couple of months or three.

8930. With the exception of the information you have now given us do you know, as a matter of fact, that any information was obtained by the police, on or before the shooting of Aaron Sherritt, that the Kellys were in this country or out of it?—Only what I heard from Mr. Nicolson.

8931. Of your own knowledge you were not in a position to say they were in this country or not?—No, not then.

8932. Were you before, from the time that Mr. Nicolson took charge in July until the murder of Sherritt, could you take an oath at any time that those men were in the colony of Victoria?—I could not; I believed it from what Mr. Nicolson told me. Those agents worked with Mr. Nicolson, and he told me what he heard from the agents employed. Many of the agents he employed did not communicate with me.

8933. In consequence of any information he gave you second hand, could you swear that the Kellys were in Victoria before the shooting of Sherritt?—Certainly not. I would not swear such a thing.

8934. And there was no evidence?—I believe Mr. Nicolson had evidence. I was not told anything by the agents, except what was told to Mr. Nicolson—they worked with him. That was the only agent that told me direct, and I believed in what he said. I believed he was a thoroughly honest man.

8935. You were stationed at Wangaratta all the time?—Yes.

8936. And had taken an active part in the search for the Kellys?—Yes.

8937. And you are not in a position to say the Kellys were in the country for two or three months prior to the shooting of Sherritt?—I could not swear it.

8938. Have you seen the agent recently?—No, not since just before Mr. Nicolson left the district.

8939. Have you heard from any of them that they declined giving further information to the police?—No, I did not. I heard a great deal of talk about it.

8940. Do you think now there would be a great difficulty in getting secret agents in case of an outbreak?—I am afraid it would be a great difficulty.

8941. Why?—From the names getting publicity, and the thing being so much talked about. It is generally known now who were the agents.

8942. You do not know for certain that they would not act?—I merely speak from conversation throughout the district.

8943. From the men themselves?—No, I have not spoken to an agent except one since, and he seems very much afraid; and he said, if he had known as much he would have been very afraid to act for the police.

8944. You are not aware of any threats?—No, I am not aware of any threats.

8945. And from private individuals have any statements been made to you, that if they were in a position they would not give information?—The only agent I spoke to said he would not.

8946. You have read the evidence before the Commission, in the press?—Yes.

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8947. Can you point out in that any cases where the names of agents have been given where they ought to have been suppressed, during the whole of this enquiry, that would do likely to militate against further information being given?—There may not have been names mentioned, but those people who have been knocking about in the country

8948. Is there any portion of the evidence, and by whom given, that would militate against other people giving information in the future?—I do not think they would undertake the duty.

8949. There is a broadcast statement reflecting on some one, and you have read the evidence through, and you believe the people would not give the information; will you point out any evidence or names in it where they have made revelations that they ought not to have done?—No, I do not think I could. I have not given that particular attention to it.

8950. You state that a great deal of information was kept at Benalla and you were not supplied with it?—Yes.

8951. Do you think from what you have since heard—from the information obtained from secret agents—that you, as an active officer stationed at Benalla, ought to have been informed of that?—I do, certainly. I will give an instance: when the police went to the races at Whorouly, I think I had a perfect right to have been told there about it; and in many other cases I think so too, whether the information was correct or not.

8952. Why should you have been informed about the police at the races?—My station was nearer to Whorouly than it was to Benalla, and the men were run up by special train right past that place.

8953. Are there any other cases that information was in the possession of any of the officers that you consider would have been an advantage to the public if you, as an officer at Wangaratta, had been informed of it?—For some months I received no information at all. I did not know what was going on, further than

being sent out on the ranges with the men and came back, and I would generally report the result that I could see nothing—find no tracks.

8954. I gathered from your statement that there was information in the possession of officers at Benalla that you considered that you ought to have been made acquainted with, Can you point out any other instances, from information that you have since obtained, that information ought to have been given to you at the time?—Yes, from the information supplied to this Commission that the officers were in possession of; I heard nothing of it.

8955. Will you state any other cases specifically?—For instance, the whole of the information that Mr. Hare received about the Warby ranges. He was under the impression that he had some good tracks there, or something to lead them on. I knew nothing of that till some time after.

8956. That was while he was out with a search party?—Yes.

8957. Are you not aware, according to his evidence, that he exhausted all the resources at his command to follow those tracks?—Yes, but I think that it would have been of great importance for my men to have known about that, so as to be ready to intercept them at some other part of the district.

8958. How far was that spot where the tracks were seen from Wangaratta?—Seven or eight miles.

8959. That would necessitate the sending of men to give you information?—There was a man that came in to post letters or something from Mr. Hare's party, but he brought no information to me—not officially. He gossiped about what the men were talking about.

8960. In reference to this secret information obtained from the agents, it appeared to be the greatest point you have laid stress on, and it was obtained by officers at Benalla, and you not supplied with it. Can you give any instance where information was in possession of the officer, and you were not supplied with it, from private agents?—Merely what I have seen stated before the Commission here, of what the officers knew, concerning the outlaws at Benalla. I heard nothing of that at the time.

8961. Will you indicate some special cases that you have cause to complain of. I mean it from a public point of view?—There was an occasion on which the police went out with Mr. O'Connor's party on some information from Mr. Sadleir. I forget the circumstances of the case, but I saw it in the papers, and I heard nothing about it.

8962. Would it base been of any advantage if you had been supplied with that information?—It might possibly if I had been out with my men. I cannot say.

8963. It is no use making complaints unless you can show the Commission that there was some failure in consequence?—There was information received, I believe, at El Dorado, in reference to the outlaws being seen about there.

8964. At what time?—That was the early part of April. It would be about ten or eleven months after they were out. Men were sent up there by special train.

8965. There is a printed list of the reported appearances—[*handing a paper to the witness*]. Just indicate the one you refer to at El Dorado?—[*The witness looked at the paper.*]

8966. Do you refer to when Mr. Hare was watching Mrs. Byrne's place for twenty-five days and nights?—Yes, that was the time.

8967. Are you aware that Mr. Hare, according to his evidence, was concealed there, and endeavored to keep the fact secret of his being concealed and watching the place?—He was desirous, I believe, of keeping it secret, but it was no secret.

8968. What means could you have taken of any practical use if you had been informed of that?—Watching the crossings of the King River between Whorouly and Wangaratta, and watching the Ovens crossings.

8969. Was that not your duty always?—It would not be possible, with the number of men I had to look after all of them.

8970. If you knew that Mrs. Byrne's place had been watched, and they were likely to leave there, could you possibly tell which course they would take?—I think they would make back to Greta—that was evidently their haunt—and back to the King.

8971. I understood you to allude more particularly to the advantage of adopting a system of secret service rather than by search parties?—Yes.

8972. Then I understood you to say that information was in the possession of some of the officers of a secret character, and was kept from you, that you ought to be supplied with. Will you indicate any of those?—Nearly all the information of the secret agents was kept from me, with the exception of what I was told by Mr. Nicolson on his visits to Wangaratta. He was the only one that told me what information he could get from agents.

8973. Did he enter pretty fully into all the information he got, from what you have since heard?—He did a good deal of it. What affected my portion of the district he let me know. I must state that there was a general ill feeling existing about the special party of men being brought from Melbourne, and run about on information, while old district men there received no information during the time Mr. Hare and Mr. Sadleir were acting there. I was not the only sub-officer that complained of this, it was a general feeling existing through what was termed the Bourke men being run about the district, on information obtained by the officer,

by special train, and the others kept ignorant of the facts.

8974. Is it a fact that there was a jealousy in the North-Eastern district existing in the minds of the police in consequence of Mr. Hare having taken with him a number of police from the Bourke district?—There was to a certain extent, as I have mentioned, the other men being left out in the cold, getting no in lorn ua t ion.

8975. Does that feeling exist even to the present day?—No, it died out a good deal; those men were afterwards permanently stationed in the district, and some of them were removed. It died out latterly.

8976. In consequence of that jealousy that existed at the time you speak of, do you think that it would have a tendency to defeat the ends you had in view?—Well, it seemed as though it were intended that one party of police should catch the Kellys and no other.

8977. What effect had it on you when in the district—that is the question?—I do not understand the question.

8978. You have told us there was a feeling in the district about the Bourke district men, and you think it lia died out. I then asked whether that feeling of jealousy had a tendency to prevent the capture of the Kehlys at that time?—Well, so far as confining the search to one party of men, I should say it had.

8979. Were you prevented from searching in consequence of Bonike men being there?—I was not sent out, I merely went out in the ranges on my own account.

8980. Are you aware that the evidence shows that several of the search parties that went out with Mr. Hare, went out without definite information?—Yes, they may have gone just the same as I went out on several occasions myself.

8981. Were the Bourke men there on the 2nd November, when the Kellys crossed the line, as you described this morning?—No, I think they were not. I think some men had come up then.

8982. Were you quite satisfied with the information you obtained at that time that the Kellys were not far off then, and that you could have followed the tracks?—Yes, I think so.

8983. Is it a fact that you would not take that course because you had received definite instructions to proceed to another place by Mr. Sadleir?—Yes; but also because there was another party there in charge of Inspector Smith.

8984. Although you were positive you were close on the Kellys, you, as an officer having the charge of one sub-district, you would not disobey the orders of your superior officer?—I was not actually in charge of my sub-district then. I had come down from Mansfield then, and had been in the ranges searching for several days before I had received my instructions from Mr. Sadleir, in consequence of information received by Mr. Nicolson of their being seen in the neighborhood of Rats' Castle. I was sent there because of my knowledge of that locality, I suppose. I was twelve years stationed there. When I arrived at Wangaratta I made the enquiries from the constable that was stationed in Wangaratta, at the train at one in the morning. I heard what he had to say, and when told that the tracks had gone under the bridge, and knowing the state of the water, I said, "No honest man would have done that. It must have been Steve hart. Go and tell Mr. Smith; and he is sure to find them some place about the Warby ranges." Hart's father and mother lived in that direction in the ranges.

*Mr. Sadleir.*—There are some telegrams that deal with that subject.

8985. *By the Commission.*—Suppose another gang of outlaws were in existence to-day, and you were at Beechworth, and your superior officer entrusted you with a body of men for the purpose of making a search for that gang, and sent you direct to Mansfield, and on the road, when you got in the neighborhood of Greta, new information came to you, and believed the gang were there close by, would you proceed to Mansfield or track the gang?—I would certainly follow them; and if the telegraph wire had been available I would have telegraphed to Mr. Sadleir, but it was one in the morning.

8986. Were you under such strict instructions from your superior officer that you could not act upon any information, however conclusive, that came to your knowledge during the time you were travelling from one place to another—would you be justified in disobeying that order and following the men?—I would use my own discretion.

8987. Never mind the discretion?—If I was certain it was the men I would certainly follow them.

8988. Were you not more convinced in your mind that the information that you obtained at that time was more likely to be the gang than you were when two of the gang were said to have been seen more recently by that private agent you spoke of?—No; I do not think it was a bit more reliable.

8989. Would you attach any blame to the superior officer for not taking early steps to take up the tracks from under the railway bridge?—Those tracks were made known early in the day to the police at Wangaratta. I was only acting there on my own responsibility. It was from the tracks I had seen and what my own mind had dictated. It was not even known then that Steve Hart was connected with the outlaws, or Byrne. It was men named Brown and King that were supposed to be with them, and I believe I was the first man that mentioned that it was not King, but Steve Hart. What made me come to the conclusion that it was them that were seen at this hour that morning was, Hart's father lived out in the direction they were going.

8990. You were under the impression on the 2nd November, from information you obtained, that those were the tracks of the outlaws?—I believed it was then, but the police were aware of it before at Wangaratta.

8991. I am only dealing with your case; you were there with a number of police?—Yes.

8992. Have you anything further to say before we come to Glenrowan?—No, I have nothing further to say except in reference to when I received information of the murder of Sherritt.

8993. What did you do then?—I received information at one p.m., 27th June 1880, from the police at

Becchworth.

8994. Was it on the Saturday or Sunday?—The Sunday. Sherritt was shot on the Saturday night. It was about one o'clock, and I could not get the Benalla telegraph office at the time, so I sent a

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messenger to the railway station telegraph, who communicated with the superintendent at Benalla; told him to go to the office, that there was important information on the line. We were told then to carry out instructions previously supplied by Inspecting-Superintendent Nicolson.

8995. What were they?—To watch all the crossings and fords and so forth about the bridges, and to report at two a.m. in the following morning, to take up our different stations. I attended the office as directed and reported all correct. My station was about the last that answered, I believe, on the line. I remained in the office to hear the result from the different stations. There was a telegram came from Mr. Sadleir to Mr. Hare, which I took down to the railway station, as I wished to see Mr. Hare's men as they were passing up; I knew he was coming up by special train. When I got to the station; it was about five minutes to three when I got to the station at Wangaratta. I learned here about the train coming, and I got anxious about five minutes past three about the train.

8996. Did you hear any information?—No, but you can hear the train down the line for nearly seven or eight miles coming, but I could not hear it, and I asked Mr. Lang to telegraph what time it left; the reply was, "Five minutes past two." I remarked to Mr. Lang, "There must be something wrong," and I ran down to the One-mile bridge, down the line.

8997. How far?—About 200 or 300 yards. When listening there for the train I heard a volley fired.

8998. How far was this from Glenrowan?—I suppose about ten miles from Glenrowan. Then I heard an occasional rifle shot; single shot. I ran back, and Mr. Lang desired me not to be in a hurry. He said it might be something in the trucks. I listened again, and about a minute or so after I heard another volley, and a rifle shot occasionally. I told Mr. Lang to get the Beechworth engine ready. The engine was there under steam at the time, and I told him I would run up and get the men and run them down on the engine. Before going away I went into the office and told the station master to send a special messenger to Mr. Sadleir's private house, there was heavy firing down the line, or words to that effect, as near as I can recollect. I mentioned it to the operator at the machine; I told him what to say verbally, and he repeated it. I think I requested him to go to the town office, as I started for the town office at once. When I was leaving the station, Morgan, the engine driver, called me and said, "I think I hear a horseman coming on the sleepers." I listened, but could not hear, and I continued on towards the station, when he again called to me and said he could hear a horseman coming on the line. I then heard a horse distinctly striking the sleepers occasionally, and I went down and ran about a mile down the line and waited some time, and I could hear a horse coming in the distance. It was Constable Bracken; he was coming to Wangaratta. He was then on the metal and I was between the line, but he recognized my voice as I called; and he told me Mr. Hare was wounded, and that they were all down at Glenrowan blazing away at the police. I got on his horse, and I rode on into Wangaratta and got the men up and went to the office to Mr. Sadleir. Mr. Sadleir had got to the town office at this time; that is, in Benalla, because he was speaking to me in the office when it was announced on the wire. They said that Mr. Hare had just arrived at Benalla.

8999. Wounded?—Yes. When I found from Bracken that the line had been torn up, I got all the available men; those that could ride I got horses for them, and sent two foot constables on the engine and told them where the line was torn up, and told them to be careful, and I proceeded with five men myself to Glenrowan.

9000. You rode to Glenrowan?—Yes.

9001. What time did you arrive there?—At the time I arrived, when I got to the tree near the house, it was three minutes past five in the morning. I looked at my watch.

9002. What occurred?—We rode very fast down to Glenrowan, as hard as the horses could carry us, and hung them up just in sight of Mrs. Jones's hotel. We came down on foot. We were challenged by the police down on the north-east side of the hotel. There were two, Senior-Constable Kelly and Constable Arthur, were lying behind a log and they challenged us. Kelly recognized my voice when I answered, and I went up to him. I asked him "Were they still in?" meaning the outlaws. He said he did not know, that he picked up a rifle all covered with blood, that there was somebody shot. Then he related all about Mr. Hare getting wounded and the first affair.

9003. What did he tell you?—That Mr. Hare was wounded at the first volley. He said they were going up to the house; that he was fired at and wounded in the wrist. I then told him I thought we were too far away from the house to keep them in, and that if they had not gone they would be gone before daylight, and I would go up to a big tree by that fence. Kelly thought it was dangerous to go there. He said I would be shot before I got there. However, I made three cuts across and got to the tree.

9004. Were you fired at getting there?—No, not a shot had been fired from the time we got within hearing of the house. There did not seem to be a soul moving about. I was at the tree about five minutes and enquired from Kelly were there any men stationed at the back, and he said he did not think so. I told the men at Wangaratta. I said "Two of you men scatter round the back." Constables Caussey and Moore went round. On each cut I made, going to the tree, I remained for three or four minutes and took a good look to see if there

was any person about before I made another run. There was no move then. I had been ten or fifteen minutes at the tree then when I heard the train coming in from Benalla—saw it passing up in front.

9005. Was it good daylight then?—No, this was about twenty-five minutes past five.

9006. Why do you say you saw the train?—It was a beautiful, bright, moonlight night, a very bright light. Just as the train stopped at the station, I heard the sound of iron and of people moving about within in the house. It seemed as if they had the armour, and were throwing one piece on the top of the other.

9007. Did you know it was iron then?—I recollected what Mr. Nicolson had told me then. I thought it would be cuirasses, I did not think it would be complete armour.

9008. Then you, when you came to the tree, formed the opinion that the cuirasse statement was correct?—Yes, I called out to the men to look out and shoot low, they were putting on their cuirasses. Just at that moment a woman came to the door, and she screamed out, “For God’s sake let me go.” I called to her to come on quick, and she seemed to go back. She ran into the house. The screams seemed to come from the house, and she came out again and said, “For God’s sake let me and my child go out,”

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and I said, “Come,” and she ran on and got past my left. Just as she passed the fence the outlaws came on the Wangaratta side of the verandah, and they fired. There were some men talking, coming down the line, and I think they fired at them. Mr. Sadleir’s men were coming from the station at the time.

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9009. Who was the woman?—I have heard since it was Mrs. Riordan.

9010. Was there any firing whilst she was coming out?—Yes. The outlaws fired and it was answered. She had got to the fence; before she got through the fence, and the outlaws fired; and then the police replied at once, and I fired at a man coming out, at a man who followed her out on his hands and knees, and I called on him to hold up his hands.

9011. Would it be the truth that you fired at her?—No. It is false. I got the woman away. She ran past me quite close, and if I had fired I must have shot her dead.

9012. What were you armed with?—A gun with slugs.

9013. Then it would not be true that the bullet went through the woman’s shawl?—Certainly not. I had no bullet. As Mrs. Riordan ran away there was a man came crawling on his hands and knees, and I called to him two or three times to throw up his hands, or I would fire at him.

9014. Did you fire at him?—I did, just as he came in a line with the chimney. I fired, and, just as I fired, there was a tremendous volley from the police all round me from the drain in front of the place, and also the opposite side. I was obliged to lie down from the fire myself. The bullets were coming round me from all sides.

9015. That was the boy Riordan?—Yes. I thought he wanted to flank me in the tree. He persisted in coming on his hands and knees; and there was a statement made by Riordan to the effect that he was shot by me at nine in the morning. I did not fire a shot from the time Kelly was taken till I left the ground. I after this learned he made a statement, to which I sent a reply to Mr. Sadleir’s office, that he was shot, with his hands up, at nine o’clock in the morning; nor did he know who it was till he spoke to the doctor in the hospital. I had said I had shot somebody—evidently it was not Byrne, and I could not imagine who it was I had shot. Dr. Hutchison enquired from the boy, and I told the doctor about the slug, and it turn out it was only a slug. I fired two shots at him—one as he left the house, and the second at the door; but the top rail of the fence seems to have got the greater part of the charge.

9016. Then you did not keep firing upon the house steadily?—No. I only fired four shots altogether—two at young Riordan, and the two at Ned Kelly.

9017. Then the statement that the women and children were fired on when they left the house was not true?—Not up to the time I left the ground. I had charge of Ned Kelly after he was captured. I was hurt in the groin. Ned Kelly was not taken at this time. Things remained very quiet for I dare say nearly three-quarters of an hour, except an odd shot fired at some horses that were knocked over—some of the police firing at them.

9018. Was that from your side of the house?—No, the far side; and I believe there was one shot from below me. I heard some of the men say they shot some of the horses.

9019. What for?—They said they were afraid they would come out and get the horses and get away. It was near sunrise. I heard the police down behind me call out, “Go back you fool, what do you want to come this way?” I looked round, and I saw Ned Kelly coming from the direction of the range.

9020. It was sufficiently light to see who were coming out?—I could see the figures.

9021. You are quite sure young Riordan crawled as you said?—Yes.

9022. Up to the time of the police calling out had you any interview or did you receive any directions from the officer who then by seniority was in charge of the party?—No, never saw him at all.

9023. Do you know who it was?—I heard Mr. Sadleir’s voice.

9024. Up to that time you had no communication with him?—No, I had not seen him at all. I heard what I thought was Mr. O’Connor’s voice, just as Mr. Sadleir was coming down, calling out—“If there are any innocent people inside come out, and you will not be fired on.” I repeated that several times.

9025. When you did that you would be the nearest constable to the people inside?—Certainly.

9026. So they could hear you plainly?—They must have heard me. I called out as loud as I could, and

it was a still, clear night. I took it at the time to be Mr. O'Connor's voice, because I had been told by Senior-Constable Kelly where Mr. O'Connor was. He said he was in a drain in front of the house, with his blackfellows.

9027. Did he make any other remark about it?—Not then.

9028. Did he at any time?—He made a remark afterwards in the morning. He said—"You should see O'Connor down in the drain. If you gave him a thousand pounds he would not put his head up."

9029. Did you consider yourself, upon coming up and speaking to Senior-Constable Kelly, then virtually responsible by usages of the force?—On that side of the ground I did.

9030. That would be the usage of the service?—Yes.

9031. The moment you came on the ground?—I understood when I came there I was in charge of that side of the ground, and I would have acted on my own responsibility on that side of the ground, no matter whether Mr. Sadleir was on the ground or not, because I was not under his direct orders.

9032. You were senior in rank in the service to Kelly?—Yes.

9033. Why do you say "that side of the ground"; would you not equally on the Benalla side of the ground?—Yes. Not where Mr. Sadleir was.

9034. Before he came?—Yes, I consider I was the senior officer till Mr. Sadleir came there. Kelly, the bushranger, came walking down. He was wrapped in what I thought was a blanket, I found out afterwards it was a cloak. Constable Arthur fired at him, and I told him to be cautious what he was firing at. I thought it was a blackfellow. He looked like a tall black man, an aboriginal about Wangaratta; and I thought curiosity had brought him down there at daylight to see what was the matter. Just then a shot was fired, and he threw his cloak back, and he pulled up his revolver, and raised his arm, and put the weapon on it, and fired at Constable Arthur. As Arthur ran down to the railway station he fired two shots at him. Then Constable Phillips fired at him, and he kept advancing towards him, and Phillips left his tree and joined constables Caussey and Moore at the back of the house. Constable Healy fired at him—fired two shots out of a shot gun as he came towards him. He then pulled out his revolver, but it did not seem to go off, and he left his tree and joined the other three constables at the back of the house, remarking that he was either a madman, or a lunatic, or a ghost. There was several remarks by the

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police lying about there; some said it was the devil; in fact they did not know what it was, this man coming down. He then struck down towards Senior-Constable Kelly and some other constables, I do not know who, and Constable Kelly retreated towards the railway fence, and called to me to look out, I would be shot at the tree. Ned Kelly then walked in between some trees and reloaded. All this time they were firing from the back door and windows of the house—the other outlaws. When the fire slackened a little I ran down. I thought I would be able to get Kelly before he reloaded, while he was sitting loading. He saw me going down, and he stood up and covered me with his revolver. I knelt down to avoid his shot, lay on the ground, and I had a bullet from the back strike the dirt up in my eye, and I could not see clearly for a few minutes till I got my eye clear. He then fired at me and missed me, and walked out to his left, striking down towards the railway station.

9035. That was the third shot you had seen him fire and missed on each occasion?—He fired five rounds the first occasion. He did not seem to hit any person. He would bring his hand very steadily, like this—[*indicating by gesture*]. They were a long distance from him—no man within fifty or sixty yards of him except Healy, who stopped till he came thirty yards up, but he had not a charge in his revolver, because he presented his revolver at Healy but it did not go off.

9036. Have you a high opinion of Ned Kelly as a marksman?—I did not think anything of him as a marksman. I was between him and the house. I can only judge from the remark he made that he thought I was "foxing" when the dirt had been thrown up in my eye as I was kneeling down. I ran up to him, then I saw the shot hit him about the hand, and he jumped back a little, and he called out, "Come out, boys, and we will whip the lot of them." He was then on sideways to me, and he was taking an aim at the railway station when I fired the first shot at him.

9037. Was he firing at the railway station?—People collected about at the fence.

9038. The reporters, and so on?—I think so. My intention was to club him, but he saw me coming as he passed by, and he turned round and covered me with his revolver, and tried to bring it to bear on me, so I shot him on the outside of the right leg, about the knee. He staggered back from the first shot I gave him—a yard or so back, and he was in the act of raising his hand up when I fired a second shot at his hand and hip, as he tried to raise his hand. He was trying to raise the revolver again, and when he got the second shot he dropped, and sang out, "That is enough; I am done." I then ran towards him. When I got within about two yards of him he put the revolver back, and the helmet fell off his head at the moment he touched the ground. I saw at once who it was. He put his revolver back, and I ran round and caught the revolver, and he fired it off and blew my hat off and just missed my ear. I wrenched the revolver out of his hand, and seized him by the beard till Senior-Constable Kelly, Constable Bracken, and others came up.

9039. Did you then take him down to the station?—I helped to take him down to the station. I was holding him down when the constables came up. There was a little water-way close by a sandy creek, and the men in turning him over threw him over the top of me. I was holding him down, and I had my leg severely

hurt in the groin, and I helped to carry him down; but when I sat beside him I could scarcely sit, and I could not knock about after without the assistance of a rifle to lean on. When we carried him down—Constable Bracken and I carried him down—we took him into the van; it was a little above the station, and Mr. Sadleir and some others came into the van. There was a bullet or something struck there, and Mr. Sadleir considered it was not safe, and told me I had better take him into the station house.

9040. Was that the first time you saw Mr. Sadleir?—Yes.

9041. *By Mr. Sadleir.*—You heard my voice?—I heard your voice coming down from the train. Mr. Sadleir could have been about without my seeing him.

9042. *By the Commission.*—I only ask was that the first time?—That was the first time I saw Mr. Sadleir to speak to.

9043. Do you know anything further about the Glenrowan affair?—No, I did nothing during that day. I saw occasionally; I would limp outside and have a look; I could see the men firing in the house. It was about, I should think, a quarter to seven in the morning that Kelly was arrested—a little before the sun rose; and from that time until I left I was looking after Ned Kelly, except just occasionally I was relieved for a moment. I mentioned to Mr. Sadleir I was hurt, and he said I had better look after Kelly.

9044. Did he smell of spirits?—Not when he was arrested.

9045. Do you think he was under the influence of drink at the time you arrested him?—No; he spoke quite soberly. He said “Steady, do not break my fingers,” when I wrenched the revolver out of his hand.

9046. Did you look at his wounds then?—We did.

9047. How many wounds were fresh and how many old?—He seemed to have a mark on the foot by the toe and on the arm.

9048. Were those recent?—No, old wounds; but all the shot marks and wounds in his hands were fresh. They did not bleed till I seized his wrist, when the blood shot out.

9049. Those would be done by double-barrelled guns?—Yes, they were slugs, for, as I seized his hands, the blood gushed out.

9050. Did you see the mark where he was shot in the foot?—I did.

9051. Was that a bullet or slug?—I think it was a bullet.

9052. Would you say it was a revolver or a rifle bullet?—I think a rifle bullet, judging from the manner in which the boot was torn.

9053. How do you account for the rifle being covered with blood?—It was from the left arm that was wounded that the blood came.

9054. On the rifle?—Yes. His right hand was as right as possible; only the punctured wounds from the shots from the slugs he had got a few seconds before.

9055. I think you said you were at Sebastopol?—Yes.

9056. Who gave you instructions to go there?—A constable came out to Myrtleford for me, and I went in in the morning.

9057. Was that verbally or by official despatch?—I think I had a memorandum.

9058. “Constable Steele will report himself, and attend at such and such a place”?—Yes. “Sergeant Steele to arrive at Beechworth before daylight in the morning” I think that was the purport of it.

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9059. You know that district well?—Yes, I know that district as well as any man.

9060. Was Greta a sub-district attached to Wangaratta or Benalla?—Greta is nearer to Benalla.

9061. Which place is it visited from?—By police officers do you mean?

9062. Did you ever go there on duty to see if the station was right?—Yes, I was in the habit of inspecting that station.

9063. Then it would be inspected from Wangaratta?—Yes.

9064. From the sleepy inefficient appearance of Thom did you consider it your duty to report him specially?—Yes, I brought it under the notice of Mr. Smith, who was then in charge of the North-Eastern district.

9065. Can you say of your own knowledge whether the prosecutions for outrages were very frequent at the time Thom had charge?—I cannot remember any.

9066. Do you know that his predecessor had prosecutions at almost every court?—I know that before Thom they had a good number of cases.

9067. Do you consider that that impunity in Thom’s time emboldened those men to break out as they finally did?—I think it encouraged them very much in horsetealing.

9068. In connection with bush offences, is it within your knowledge that the criminal classes are chiefly from that horse and cattle stealing class?—Yes, I think so; those that resort to bushranging.

9069. Cattle-duffing and so on?—Yes.

9070. When those men come into Wangaratta, are not they the class you watch principally?—Yes; they usually get a little drink, and are what is called flash, rowdy men.

9071. You are a mounted sergeant, are you not?—Yes.

9072. What is the difference of position in the service between the foot and mounted men?—I do not see that there is any difference; as a rule, I think a foot sergeant generally gets on better in the service; a

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mounted sergeant is generally stationed in remote places in the country, and has not so good a chance of getting on.

9073. What difference is there in the pay?—The pay is the same; so I understand. I think I get the same as a second class foot sergeant.

9074. In your opinion, is a foot constable in charge of a station which has a large area of bush land as effective in the bush as a man who is accustomed to riding?—I do not think so.

9075. He cannot be, in your opinion?—I do not think so. He should be able to go out himself at any time. I know I have a good deal more confidence in going out myself to knock about in the bush than to send a young mounted constable.

9076. If you were in charge of a station like Wangaratta, how many men would you have under you?—Three mounted men and the mounted sergeant.

9077. How many men have you in immediate charge at Wangaratta?—I had only three before the Kellys broke out.

9078. As sergeant, if you had a special case to arrest in the bush—a man charged with an outrage of a violent character—would you go yourself to execute that warrant?—I certainly would.

9079. Is it the usage for a foot sergeant, in such a case, to delegate that work, which you say you would do yourself, to one of his men?—He might, if he had not a horse himself.

9080. As a rule, do they do it?—I think they do not.

9081. Does that appear to you advantageous to the public service?—I think it would be always better for the sub-officer, in serious cases, to go out himself and execute a warrant of that sort.

9082. Do you consider that the sergeants who are in charge of large stations like Wangaratta should be competent to go and do duty on horseback, if required?—I do; I think they should not be left without a mounted sergeant.

9083. In your opinion, then, should all officers be able to ride on horseback?—I think they should.

9084. At the time of the Kelly outrages, it is said that the police were inefficiently armed; what arms had you in the barracks at the time?—One Spencer rifle.

9085. And how many revolvers?—All the mounted men had a Webley revolver; the foot constables had one Colt's revolver, for taking prisoners to gaol, which was handed to them when they went on prisoners' escort.

9086. Do you consider that the arms furnished about that time were efficient in quality and sufficient in number?—I think so—in the state of the country then; of course we had no anticipation then of such an outrage as the murder of the police. I think the revolvers were quite sufficient.

9087. Do you consider now that it is requisite for the police in that district to be all efficiently armed?—I think they should all be efficiently armed; all the mounted police, especially, should be supplied with a rifle.

9088. You said you had a Spencer rifle, and you also stated, in your evidence, that you carried a double-barrelled gun—was that from choice?—This was some time after the Kellys broke out. We were supplied with a double-barrelled gun by the department.

9089. Which do you consider the most effective weapon—that, or the short Martini-Henry carbine?—The gun is very good for night work, if you attack in the night, but I would prefer the rifle for daylight.

9090. As a general weapon for arming the police force, which is the most efficient?—The Martini-Henry.

9091. Have you heard the men express an opinion on that?—Yes.

9092. How were your men armed that you brought from Wangaratta?—Some with the long Martini-Henry, some with the breech-loading guns, and some with the old Enfield rifle.

9093. Does not this diversity of arming render it extremely hard to have a sufficient quantity of ammunition available for those different arms?—Yes, it does make it rather complicated.

9094. Would it be better to have them all of one character, and one ammunition?—I think so. I think if the foot police had the Martini-Henry rifle, and the mounted police the small carbine, it would be a vast improvement.

9095. Are you senior to Sergeant Whelan in the service, or junior?—I think senior in the service, but he holds a higher rank. I believe he was promoted just at the time the Kellys were arrested. I fancy I am senior in the service; I could not say exactly.

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9096. You state positively that you did not deliberately fire at any woman?—No. I can swear positively that the woman had passed me by three or four yards, and going through the fence. I got the woman to it, and told her to run through quick.

9097. Would it be true if a constable swore that you fired directly at the woman?—It is a gross falsehood, and I can call witnesses with regard to the constable who had the audacity to make the remark.

9098. With regard to the danger to constables in that neighborhood, you stated that, in your opinion,—and I do not suppose many have a better knowledge of the district—the dangerous class are

confined to four or five?—I think so.

9099. And most of those are in the immediate knowledge of Greta?—Yes, about Greta, and down more towards Lake Rowan.

9100. Do you consider that what the constables have to fear there is cowardly assassination from some of those fellows?—Well, I am sure it is a very hard question to answer. Of course, if they interfered with the police at all, they would assassinate them in the dark.

9101. You think there is no fear of their coming out to meet them?—No. I do not believe there is a man about there that has sufficient pluck to tackle a man to his face there.

9102. Was there an order, that in consequence of the dangerous character of those men, that arrests were not to be made by single constables?—I could not say I heard something of that sort.

9103. Is it an understood thing that it would be an irregular thing for one man to go and arrest such characters as the Kellys?—I do not recollect. I know if I were sending men out I would send a couple.

9104. Would that be from the orders you received, or from your opinion of what was safe?—I do not recollect receiving such an order, but I would not send a man out in that locality by himself to arrest a man.

9105. That would be a wise discretion on the part of any man?—Yes; perhaps more, if they were available, and they had to arrest more than one.

9106. Have you been promised promotion by any of your officers?—No, quite the reverse.

9107. What do you mean by that?—In making that statement I had forgotten that Mr. Nicolson did hold out an inducement to me—that I seemed to be neglected in the service, or something of that sort; and he said that if I took a prominent part in the capture of the Kellys that it would tend to my promotion. That was long before they were arrested.

9108. Was that from seeing the active character of your pursuit?—I think so.

9109. It has been stated in some report in the paper, or otherwise, that the Kellys had suffered some insults, or otherwise, or ill-treatment, from either Strahan, you, or Flood—is it true, as far as you are concerned?—I think I only went once to the place, and then I treated Mrs. Kelly with every courtesy.

9110. Have you ever insulted any member of the family?—Never in my life. I tried to pacify all, and treated all as well as I could, under the circumstances of my being obliged to arrest them.

9111. Do you know constables Flood and Strahan?—Yes.

9112. Have you any reason to believe there is the slightest truth that the Kelly family have suffered insult from those men—the female branches of it?—I could not say, not of my own knowledge. Strahan is rather a gruff man; he says some queer things to people, that might annoy them, but I think it is more a jesting manner. He has made some remarks, I believe, but not with any bad motive.

9113. Was Flood at the station?—Yes. Strahan was there only a short time before the Kellys broke out.

9114. Would a man then be of the least use for keeping those outrages in check if he were unacquainted with the country and the people?—It would be much better to have a man that was acquainted, but of course a smart man that took an interest in his duty would soon become acquainted; it is only a limited locality there, and could be known in a short time.

9115. Are you aware on the removal of Flood and other efficient men the shire councils and inhabitants petitioned Captain Standish not to remove his efficient men, or that results disastrous to the country would ensue?—I am not aware.

9116. Were you there when Flood was removed?—Yes, I was at Yackandandah. He was stationed with me at Yackandandah when he went to Greta.

9117. Was there any complaint made amongst the police or the civilians about the three days Mr. Smith was out after the Kellys?—Yes, there was some.

9118. That he had neglected that duty?—They blamed him for not following up the tracks.

9119. Would that not be a neglect of duty?—Yes, certainly it would.

9120. Do you know whether Mr. Nicolson was then at Wangaratta?—He came into Wangaratta afterwards, I believe. He came in, I think, the same evening that one of the horses were found.

9121. If an outrage is committed in your district, as a sergeant, what action are you bound to take upon hearing of it?—I report it to the superintendent of my district; or I would start myself and make enquiries into it, and do the best I could to try and find the offenders.

9122. Without waiting for any instructions how you were to proceed?—I would not wait for any instructions how to proceed.

9123. Is it your duty to repress outrage and arrest offenders as soon as you hear of it?—Yes, I would in my district. I report the matter if I could to my superintendent and circulate information generally to the surrounding police stations.

9124. Presuming a portion of the time the Kellys were out of your district, do you consider that the action of your superior officer interfered with what you might have done to make them amenable to justice?—I think I would have acted in some respects differently; I would have had a general search in every house throughout the district.

9125. Would you not say I must make them amenable to justice or they must leave my district?—Yes; but I must admit they were very clever men and kept out of the way, and until I was convinced by Mr. Nicolson that they were in the district I was under the impression they had gone away altogether—they kept so close.

9126. Until you heard of them on information you believed that?—Yes, and some other information that Mr. Nicolson gave me. I thought they had gone out of the district altogether, they had kept so quiet eight

or nine months previously.

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9127. Did you get the information that Mr. Smith had seen them at Hart's place?—Yes.

9128. After the Jerilderie robbery did you hear that their friends were passing notes at Wangaratta?—Yes.

9129. Did you know that there was official information that their friends were passing notes of large amount—Bank of New South Wales notes—at Wangaratta?—Yes, I obtained that information myself and telegraphed it to the Chief Commissioner, I think.

9130. Did you know when you went to Sebastopol that information had been given to your officer that the outlaws had been seen at that place a couple of days before?—I did not know what it was.

9131. Have you heard since?—Yes, I heard that the agent had given information that brought the police there.

9132. Specially in time for your men to be there after the Kellys were there?—No. I heard that they had been there, but they were gone a day or two before. I believed they called there the same day that they passed through Wangaratta or that night. It was two or three days after when we went to old Sherritt's hut, at Sebastopol.

9133. What charges were against Byrne and Hart?—There was nothing whatever against Hart. He had done a sentence in Beechworth gaol. He came to Wangaratta and he promised he would work, but when he had been at his father's place it appears he threw down the axe they were grubbing with, and said, "A short life and a merry one," and he got his horse and rode away. There was nothing whatever against him then.

9134. You heard the complaints made some time ago against the newspapers for furnishing reports, and the police stated they interfered very much with the capture of the outlaws?—Yes.

9135. Do you know of any instance yourself whereby a newspaper report interfered with the police in the capture of the Kellys?—I could not quote any particular instance, but generally speaking I believe it had a very bad effect—the information the police have furnished. I believe it was furnished by the police at the dépôt.

9136. Then they are to blame?—If the police are such fools as to do that, they must abide by the consequences.

9137. Do you know at any time whether at that time the police did not get valuable information from the press?—I could not say. I never asked the press for anything nor supplied them with anything.

9138. Did you ever read anything in the paper that gave you fresh information?—Yes, I have read things in the paper I did not know about before.

9139. Do you not know that the police, many of them, went to the papers pretty regularly for the purpose of getting information as to the outlaws?—I could not say so, but I think we generally heard through some of our own men if there was anything new stirring amongst them.

9140. Do you remember hearing or reading in one of the papers about some of the outlaws being seen at the Glenrowan police station just before they were captured, purchasing provisions. The information came from a little girl, and it was afterwards supplied to the press?—No, I never read that; some papers I did not see.

9141. Do you think it prudent to leave those police in the Kelly district who were connected with the capture of the outlaws?—Oh, I think so; I do not think there is the slightest danger. I think they have as great an antipathy against me as any other person, and I have not the slightest dread of them. I think it would display great cowardice for me or any other man to leave the district.

9142. Would you like to go to Greta by yourself?—I would not mind in the least.

9143. You stated you were promised promotion if your record was good?—Yes.

9144. Was any other man promised promotion?—I did not hear of any.

9145. The Kelly capture took place just about the time of the change of the two Governments, the Service and the Berry, the elections were about that time; is it true that you said that your officer, Mr. Nicolson, promised you promotion provided Mr. Berry came back to power?—No, that is quite untrue. Mr. Nicolson never said anything of the kind to me. He made a remark to me one day, at Wangaratta. I had told him about some money that had been drawn out of the banks, and he knew I had a great deal of trouble camping out and knocking about after the Kellys. It was the time I supplied the information of their coming about Hart's place. He then said you are not a man very far advanced in the service, and he said, "If you distinguish yourself in the capture of the Kellys, it will advance you in the service," or words to that effect.

9146. Did you have a letter from Mr. Nicolson from the Acting Chief Commissioner after the capture of the Kellys?—Yes, I have.

9147. Did you read that letter to any people in Wangaratta?—I do not think so.

9148. Did that letter promise you promotion?—Mr. Nicolson congratulated me upon my courage.

9149. Is that letter in existence?—I think I have it at home, somewhere. He said, "I must congratulate you upon the courage displayed in the capture of Kelly. In reference to my promise of promotion your conduct is such that it does not require my aid."

9150. Can you say that the letter was written from the Acting Chief Commissioner to you,

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congratulating you upon your active part taken in the capture of the Kellys, and saying that you had been promised promotion, and if the Berry Ministry came into power again?—I do not think he ever mentioned the Berry Ministry at all.

9151. Or the Service Ministry?—No.

9152. Did you write a letter to that effect to any people in Wangaratta?—Never.

9153. It would be untrue?—Yes. Mr. Nicolson said, “Not being at the capture myself, I think my position is rather a delicate one, but your conduct should not require my aid to advance you in the service.” That is it as near as possible.

9154. *By the Commission (to Mr. Nicolson).*—Are you sure you were Acting Commissioner at the time?

*Mr. Nicolson.*—I was not, I was quite out of it at that time.

9155. *By the Commission (to the witness).*—Was the letter written from the Wimmera?—I am not sure.

9156. Is there a feeling among the men that it requires political influence to get advancement in the force?—Yes, there is a great feeling of that sort.

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9157. That they are not advanced then for merit?—I do not think they are. I know, myself, many men in the service who have been advanced through political influence.

9158. Are you aware of whether those appointments are political or by merit as a general rule—are you aware of any promotions having been made through political influence?—I cannot see how they could have been made otherwise; the men who have been promoted have done nothing to merit them.

9159. What are the promotions that have been made undeservedly that lead you to mention that?—It would be a very unfair thing to ask me as a sub-officer to say so in reference to the promotions of men under me.

9160. I understand from some of the witnesses that a country officer of hard and not distinguished service may sometimes pass over the head of a very deserving officer in another district—how do you yourself expect to obtain promotion in the service; do you seek it through political influence or through your superior officer?—I never tried any political influence since I have been in the service. I have been very unfortunate. I have been in a part of the district, the North-Eastern district, where there were intemperate officers, and frequent changes of officers, and I, to a great extent, was neglected. I worked very hard in the police force, and have had numerous convictions, and suppressed crime; and latterly, instead of improving in the service, I seem to be retrograding the last few months since the capture of the Kellys. My character has suffered more during that time than during the twenty-four years’ service.

9161. Are you aware there is a record kept generally of marks?—There is supposed to be. but I never saw it.

9162. You state, since the capture of the Kellys you are not in as good a position as before—in what respect?—Latterly some person has been speaking to the Acting Chief Commissioner in reference to me, and there has been, and information has come to me, that it is about a little disturbance between the magistrates and myself at Wangaratta; and my hopes in the force have been quite blasted through these remarks about myself. I have no chance of defending myself, that is before the present Chief Commissioner, and it is evidently some tattling. I have not been called upon to answer any charges. I could answer them if I had a chance.

9163. Who is your accuser?—I do not know.

9164. Have you formed any opinion of who your accuser is?—I cannot, unless it is the superintendent of the district.

9165. Who is that?—Mr. Sadleir was.

9166. Is it usual for charges of this kind to be against any man in the service without his getting a fair chance of answering?—I think not. Of course the police and local magistrates will have some little disturbance occasionally. This had to do with complaints made in reference to remarks that I made in regard to the local magistrates; and even suppose I did make the remarks, I was quite justified, because what I said could be proved to be true.

9167. Has the magistrate complained?—He has.

9168. Who was he?—Mr. Parfitt was one.

9169. Is he a publican?—Yes. Mr. Bickerton was one also; but Mr. Parfitt urged the thing because my duties called me out to his place to make some enquiries; there is some animosity against me. I went out there, and it appears that he, with the police officers, would take the word of individuals in preference to an old experienced sub-officer in the force.

9170. *Mr. Sadleir.*—The papers are all in the commissioner’s office. Sergeant Steele has seen all that I have.

9171. *By the Commission.*—Have you been called upon by the Acting Superintendent of Police to explain this conduct?—I have not been.

9172. And, in consequence, you feel some injustice has been done?—From a paragraph in the last minutes sent to me he said, “Several complaints have been made to me; what I want to find out is what those

several complaints are." I want to know why I am accused by the Acting Chief Commissioner, and not get the chance of defending myself, because my character will bear fully looking into as much as any sub-officer in the district. I think I have been unfairly dealt with in that respect.

9173. Have you anything you wish to add in reference to the Glenrowan affair?—No; I think I have given all the particulars about it.

9174. When you came to Glenrowan that morning, you said you saw Senior-Constable Kelly?—Yes.

9175. I presume you were pressed for time; but did he give you a general outline of where the men were posted?—No, he did not say where they were posted. He merely said O'Connor and the black trackers were down in the drain.

9176. Did he say anything about how the opposite side of the house was guarded?—No, he did not say anything about it; he merely remarked there were about 30 of them up in the house, and they were all armed.

*The witness withdrew.*

*Adjourned to to-morrow at Eleven o'clock.*

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WEDNESDAY, 1<sup>ST</sup> JUNE 1881.

*Present:*

Hon. F. LONGMORE, M.L.A., in the Chair;

W. Anderson, Esq., M.L.A.,

E. J. Dixon, Esq., J.P.,

J. H. Graves, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.

Arthur Loftus Maule Steele further examined.

*The Witness.*—Before proceeding I wish to amend my evidence of yesterday by altering the date on which I came from Mansfield from the 2nd November to 3rd November. It was Sunday the 3rd November I came from Mansfield to Benalla and took the special train.

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9177. *By Mr. O'Connor.*—You stated yesterday that you heard by wire at Wangaratta, through the station, that the special train containing Mr. Hare and party left Benalla at five minutes past two on the 28th June 1880?—Yes.

9178. What was the time—can you remember that—you heard the first firing at Glenrowan?—I should think about ten minutes past three.

9179. What time was it you heard that Mr. Hare returned to Benalla?—At the office, about half an hour after.

9180. That would be about twenty minutes to four?—Yes, as near as I can guess.

9181. You stated that Constable Bracken told you Mr. Hare was wounded, and had left Glenrowan for Benalla?—No, I did not say that. He told me he was wounded, but he did not say anything about having left.

9182. Can you remember exactly what Senior-Constable Kelly stated to you in reference to how things had gone on at Glenrowan when you arrived, when you first saw him?—He gave just a brief statement of what transpired at the first onset.

9183. Did he state to you about Mr. Hare being wounded, and what he did and said?—He said he was wounded, at the first volley he thought.

9184. Did he say he remained on the field or anything, can you remember?—No. He said he went to the station to get his wound dressed up or something—some remark about his going down. He was bleeding at the wrist a good deal.

9185. Did he tell you he saw Mr. Hare load and fire several shots after he was wounded?—No.

9186. We have heard several rumors and reports amongst the police—fallacies—could you state any conversation you ever heard in reference to Glenrowan connected with Senior-Constable Kelly or any person that you know?—If I was to state all I heard in connection with the Glenrowan affair—

9187. The capture of Ned Kelly?—It would not appear like the capture of Ned Kelly at all if I told all the stories I heard about it. I know that about five minutes after, one constable came to me and said there is a lot of constables there intend to swindle you out of the arrest of Ned Kelly.

9188. *By the Commission.*—Who was that?—Constable Montfort.

9189. *By Mr. O'Connor.*—Who were the men who were supposed to be in this scheme; did you see any one?—Well, I saw three or four men together down there, Constable Arthur and Phillips. I saw Senior-Constable Kelly was a little from them at the time, he was not exactly with them at the time.

9190. Do you remember the enquiry at Beechworth where Senior-Constable Kelly swore that the indiscriminate and heavy fire was on the part of the Queensland police?—Yes, I did hear him say the blackfellows were blazing away at anything and everything.

9191. The words that he made use of were something to that effect, that the indiscriminate and heavy

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firing was on the part of the Queensland police?—He did make the remark on one occasion, I believe.

9192. From your knowledge of what took place at Glenrowan, would that be true; did not every one fire as much as they liked—was there any restriction?—I do not think there was any restriction from what I saw, because when the outlaws came out at the northern side of the house, as Mr. Sadleir came down the line, the moment they fired Mr. Reardon was running through the fence, getting away. At the time they fired I also fired at the boy Reardon, and there was a regular volley fired all round, and it lasted several minutes.

9193. *By the Commission.*—The police must have been on the ground two hours before you arrived?—Yes.

9194. You cannot express any opinion as to the firing before you arrived?—No; there was complete silence when I arrived, and no firing for some time after. I understood from hearsay that there were only the two volleys that were fired at first when the train came up. I have heard that from the men that the shots I heard at Wangaratta, the volleys, were the only ones that had been fired at the first commencement; that is only hearsay.

9195. *By Mr. O'Connor.*—Did I understand from your evidence that after taking Ned Kelly to the station you never went round again?—No, I did not leave the station except when a constable relieved me, and I went up to look at the remains of the outlaws that were carried out—the charred remains.

9196. That was about five or six?—I could not say what time, but I did not go beyond that.

9197. *By the Commission.*—After the capture of Ned Kelly you went with him to the railway station and remained there till after the hotel was burnt?—Yes.

9198. *By Mr. O'Connor.*—Had you an opportunity of seeing any person about the hotel?—Yes.

9199. Did you see me at any time?—Yes, several times.

9200. You saw me several times walking round?—Yes.

9201. Where?—Near Mr. Sadleir on one occasion, standing with Mr. Sadleir behind a tree. They were both firing on the one occasion.

9202. *By the Commission.*—What hour?—I could not exactly say. I noticed Mr. Sadleir and Mr. O'Connor both moving about as they advanced.

9203. Cannot you say about?—It was some considerable time before the burning of the house.

9204. How long?—Two or three hours before.

9205. When did you first see Mr. O'Connor after the capture of Ned Kelly?—I think he came soon after the capture.

9206. Never mind about thinking; when did you first see Mr. O'Connor that you can swear to?—About twenty minutes or half an hour after the arrest of Kelly, at the railway station. I think he came up and had a look at Ned Kelly and went away.

9207. *By Mr. O'Connor.*—In your opinion any person on the field there that knew me must have seen me?—I think so. I know I saw you on several occasions when I went out; when I went out, as a rule, I saw you.

9208. *By Mr. Sadleir.*—You mentioned about the crime about Greta before the murders, that was before I took charge of the district?—Yes, it was.

9209. And the Mansfield police, of whom I was in charge, had nothing to do with it?—I used to communicate occasionally with the Mansfield police with reference to Broken River and Avon Vale offenders.

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9210. They were in no way responsible?—No.

9211. Were not Senior-Constable Kennedy and Senior-Constable James who were there very active constables?—Yes, as good men as any in the police force.

9212. The Fitzpatrick affair was also long before I took charge of the district, in July 1878—his affair was in April 1878?—I was under the impression that you had taken charge of the district before that, but I may be wrong.

9213. If those dates are correct, it would be before the Fitzpatrick affair?—Before I swear to that I would like to look at the notes I have made. I cannot tell; I did not keep a memorandum.

9214. As regards Mrs. Kelly's arrest and her statements, did she not on one occasion admit to Sergeant Whelan that she did split Fitzpatrick's helmet with a shovel?—No, you are mistaken. She made an admission to me. She asked me, when I was waiting outside for the horses to be brought in the paddock, "What does Fitzpatrick say I did?" I said, "He accuses you of striking him on the head with a shovel." She said, "Sergeant, you would not like to see a son of your own taken; there is no telling what those — wretches would not swear if they got him in." I gave that in evidence on the trial.

9215. Did she afterwards deny being there at all?—Yes; and Kate Kelly admitted that only for her they would have finished Fitzpatrick off.

9216. The whole of that business of horsestealing that culminated in Baumgarten's arrest, and Constable Thom's inefficiency at Greta, are all before I took charge?—Yes, I think so.

9217. To come down to the day you left Mansfield, on the road to Rats' Castle, you corrected your evidence—it was on a Sunday?—Yes.

9218. In regard to that report about the outlaws crossing over the One-mile bridge—were you not the

first to tell me about that?—Yes, I told you.

9219. Were you not the first to give me the rumor?—Yes.

9220. And it was then only as a mere rumor?—Just a rumor.

9221. I could give you no instructions on that?—You did give some.

9222. Not further than telling you that you were to go on to Wangaratta, and to act as you thought best?—No.

9223. I will put it another way—you were at perfect liberty?—No.

9224. If there had been no party under Mr. Smith at Wangaratta, might you not have felt justified in staying?—Yes.

9225. Your only reason for not staying was because there was a party ready to take it up?—Yes.

9226. Were you tied down absolutely by my instructions?—I considered I was as regards going to Rats' Castle.

9227. Was I fully aware of this rumor?—No, you were not, I think. I had just mentioned to you that there was some talk by the station master about some one being seen.

9228. Still, if there had been no party at Wangaratta you would have followed it?—Yes, of course. I had jaded horses; we had ridden all day in the wet, and were wringing wet. I had travelled forty miles that day, and it was better for fresh horses and men to go after them.

9229. Did you know the strength of Mr. Brook Smith's party at Wangaratta then?—I think he had six men; I asked Twomey, and his reply was, "Six," and I was quite satisfied there were. He was to follow them up, from the enquiries I made; I was very sorry I could not follow the men myself.

9230. *By the Commission.*—How many men had you with you?—I could not tell the exact number. I have been told since there were about thirteen or fourteen men, but there were so many parties I could not tell unless I kept a memorandum. I could have told but for losing my book.

9231. *By Mr. Sadleir.*—On the morning of the Glenrowan affair, will you state the actual hour of Ned Kelly's arrest?—Between six and seven o'clock.

9232. The sun rose that morning at seventeen minutes after seven?—The sun rose, a little after we got him to the station by your direction, as we were carrying him out.

9233. Is it not a place surrounded by hills and high timber—is there not a gap?—Yes.

9234. Is there not enough to make the morning darker by a few minutes than on the plains?—I do not think so. The sun rises on that gap towards Wangaratta. I think we could see the sun the moment it got above the horizon.

9235. You were rolled under Ned Kelly, had you an opportunity of judging if he smelt of liquor?—I had.

9236. Did he?—I think not.

9237. Had you tasted food or drink for many hours?—No, nothing that night.

9238. You were perfectly satisfied he had none?—I am. He did not smell. I bent over him, and he spoke as soberly as possible. He got some liquor afterwards, as you know. I am very quick in detecting the smell of drink.

9239. You mention there are four people who may give trouble in that district still?—Yes.

9240. I will read some names—*[reading a list of names]*—there are ten of those men I have mentioned to you; do you think any of those might?—I think the two —, and —, and —, are four of the most dangerous men in the district.

9241. And that the others are not so dangerous?—No, but they are dangerous men.

9242. You made a report on the 6th of July representing your share in the capture of Ned Kelly—the action you took. I have that report, dated 6th July. In making your application for the reward, do you refer to that report?—That was the second report I sent in. I sent in one which I sent down with the other papers from Wangaratta to the secretary for the board.

9243. I speak of the 6th July last—have you any recollection?—I recollect sending a report as to the revolver taken from his side, and disputing certain statements.

9244. Did you not, in making your application re the reward, refer to report on the 6th July?—Yes.

9245. It was sent to me. I want to read my remarks upon your report, and I ask whether it is a fair statement of your services on that day:—"Claim No. 30. Sergeant Arthur Loftus Maule Steele (1179). I have no doubt of the substantial correctness of the statements contained in Sergeant Steele's report of 6th July, and on which he bases his claim. The sergeant displayed a ready pluck and decision under very exciting circumstances. There appears to be now no question that he was the first man to lay hands on Ned Kelly, and that it was at his fire the outlaw fell." Is that right; is there anything further you can desire?—No.

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9246. You never heard of that before?—No.

9247. So that there is a great deal both for and against a member of the force that he does not hear about?—

*The Chairman.*—This is the record sheet:—"16/8/80. Has been engaged in charge of several search parties re Kelly gang since October 1878, and joined in the attack on the gang at Glenrowan soon after five a.m. on 28th June 1880; was the first person to lay hands on Ned Kelly; behaved on that occasion with

A. L. M. Steele,  
*continued,*  
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special bravery.” That is signed by Mr. Sadleir.

*Mr. Sadleir.*—That is new to Sergeant Steele also, I believe.

*The Witness.*—My reason for sending in my report of the 6th was that I did not consider I had been fairly dealt with. I was merely casually mentioned in Mr. Sadleir’s report to the Chief Commissioner of Police in reference to the capture of Ned Kelly. My firm belief is that had it not been for the action I took there would have been no Ned Kelly taken alive.

9248. *By the Commission.*—That is rather an extraordinary statement.—Do you mean to say that except for you, in your opinion, Ned Kelly would not have been captured alive—do you mean that he would have escaped or been killed on that occasion?—I believe he would have gained the house, because there was no person to intercept him between that and the house except myself. I brought him down. The men had opened out that he stuck up that way, and must have intended coming up under the shelter of the scrub. Had it not been for my arresting him I believe he would have been burned with the others.

9249. Do you mean that but for your advancing in that way, and the covering fire of the outlaws, he would have joined the rest of the outlaws?—Yes.

9250. And then you presume, had he joined them, he would have come to the same fate as the rest of his companions?—Yes, that is my opinion.

9251. What was Constable Arthur doing at the time?—He ran down.

9252. Away from him?—Across me to the railway station.

9253. Do you mean to say the other constables cleared away except yourself?—There was not a man near Ned Kelly. He was a quarter of an hour almost from the time he fired, and as he did so they opened right and left of him. I saw no constable come to my assistance till I shot him and had him on the ground. I saw Senior-Constable Kelly coming from cover and seize him by the whiskers; Constable Bracken was the second constable that came up, then Dr. Nicolson, then Mr. Marsden, the clerk of the court at Wangaratta, and constables Dwyer and Montfort; but Senior-Constable Kelly was the first to join me from the Wangaratta side from round the tree. That was when I had disarmed him and had him on the ground.

9254. Can you inform the Commission who fired at him first?—I think Arthur was the first.

9255. And who else?—Phillips and Healy.

9256. Was that before you fired at him?—Yes, some time before.

9257. Could you and Kelly and the other constables be distinctly seen by persons on the railway platform at that time?—They could not see me, except leaving the tree.

9258. Could you or any others be seen where the capture took place from the platform?—Yes.

9259. Were there any of the public standing about the fence?—Yes, Mr. Rawlins, and Mr. Marsden, and some newspaper reporters.

9260. They should see what took place?—Yes.

9261. I will read a few lines of Dowsett’s report to the Award Board, dated December 13th, 1880:—“I saw Senior-Constable Kelly was coming up, and I told him he could get a shot at him with his rifle if he came to where I was; he did so, and fired twice, hitting his hand on one occasion. I got closer to him, when, all at once, he left the sapling, and came straight for me. I emptied my revolver at him, not twenty yards away from him (and as a proof I was hitting him, one of my bullets was found embedded in his box of cartridges), but he came on steadily, saying ‘Fire away, you bloody dogs, you can’t hurt me.’ I thought it was all over with me, and threw myself down at the butt of a large fallen tree, reloading as quickly as possible. On looking up I found he had walked into a trap, between two large limbs of the tree I was at. I could now see Steele circling from the left, and Kelly on the right, so I called out to the figure to give up (so as to distract his attention from them), but he said, ‘No, never while I have a shot left.’ As I thought I had a good shot for his head, he being not more than fifteen yards away, I fired, hitting him full on the head, but not having the slightest effect on him. As I fired I said, ‘How do you like that, old man?’ He replied, ‘How do you like this?’ and he leant over the log, firing as he did so. I saw Steele fire twice, I think, and he seemed to fall backwards. I ran up, and jumping over the log, saw Steele and he on the ground. I grasped the revolver from him as he fired, and Senior-Constable Kelly, coming up almost at the same moment, pulled his headgear off. Steele at once recognized him, and would have shot him, but I said, ‘No, take him alive.’” I mention this because you did not recognize Dowsett in the matter at all. He must have been very close to you at the time. Is that statement true?—The statement in regard to pulling the helmet off is incorrect. The moment he touched the ground the helmet dropped off. The statement in reference to wrenching the revolver out is not correct. I got the revolver like that—[showing his meaning]—and seized him by the wrist, and twisted it out of his hand, and threw it down. Mr. Marsden was present when Dowsett put his hand forward to take the revolver. I said, “Do not take that; that is my property.”

9262. Where is that now?—I don’t know. I made a report about it. I handed it to Mr. Marsden and he read “New South Wales” on it. I told Mr. Sadleir about it when I went to the station.

9263. You have told the Commission that the police ran away, except yourself. Is this statement correct that Dowsett makes in which he states that he had a conversation with Constable Kelly, that he fired at him several shots, and he and Constable Kelly were coming up to attack him at the time you fired—is that correct?—Not so far as I can judge. He was in the scrub with Montfort, as far as I can judge.

9264. You stated several ran away?—I said they retreated.

9265. Did they run away?—They did open out and retire.

9266. Is this correct that Dowsett came to render assistance, and fired several shots before you fired?—I believe he fired shots.

9267. Is it correct that Senior-Constable Kelly was coming forward at that time?—No, that is not.

9268. Then if Dowsett swears that Kelly was coming towards the outlaw at the time you fired at him, he will be saying what is not correct?—He will be saying what is not correct.

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*continued,*  
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9269. If Kelly swears that he will be saying what is not correct?—He will be saying what is not correct. I saw him emerge from the timber where I pointed out to the Commission at Glenrowan.

9270. If Dowsett is correct that he fired several shots and was coming forward to Kelly, will your statement be correct that, had it not been for you, Kelly would have made his way to the hotel?—There was no person between that and the hotel.

9271. Could he have got there?—I believe he would, from my observation.

9272. You remember now Dowsett being present on that occasion?—Yes.

9273. And you remember he fired shots?—I did not see him. I believe he did.

9274. You remember the scuffle he had with you over Ned Kelly?—There was no scuffle.

9275. Do you remember the words, “do not shoot him”?—They were not used. I did not know Dowsett at the time.

9276. You say you wrested the revolver from the hand of Ned Kelly?—Yes.

9277. And you deny Dowsett doing it?—He certainly did not; and Ned Kelly said to me, “Steady, do not break my finger.” I got his finger in the trigger, and threw him down on the ground, and held him by the beard, as Senior-Constable Kelly came round. Dowsett stood just below Dr. Nicolson and Mr. Marsden.

9278. As to the revolver—after you fired at him and he fell, the very first weapon you seized was the revolver over his shoulder?—He was looking at me. He put the revolver back like that—[*explaining*]*—*and I saw him try to bring the revolver to bear on me, and I caught the revolver—that was the first thing I did. He fired. I then twisted it round, and threw him down, and caught him by the beard.

9279. Was it not the shots of Constable Arthur that drove him back?—No, he did not retreat back. He was coming. Suppose this was the back of the house, he came down that way—[*pointing out on the plan*].

9280. Do you recollect Kelly calling out, “Look out, you will be snagged”?—He said, “Look out, you —, you will be snagged.”

9281. To whom?—Constable Arthur. He fired two shots at Constable Arthur. When he fired those two shots he laughed.

9282. You did not mention before about his firing at Arthur. Did he call out that immediately he steadied himself?—Yes.

9283. Was Arthur the first constable that fired at him?—Yes.

9284. With reference to the police running—do you mean to convey that they ran away or opened up?—I say I think Constable Arthur ran a considerable distance. I do not say the other police. They went to shelter—they would have been shot if they had not. The others retreated from tree to tree, but the men that were there, as he came on the rear, if they did not retreat, he must have shot them. I do not attribute cowardice to the men. Only Constable Arthur, who went an unnecessary distance away from the house.

9285. Kelly aimed twice at him, and he was the first man that fired at him?—Yes.

9286. And you think he retired an unnecessary distance?—Yes.

9287. Where was he when he first retreated?—[*Pointing to the plan*]*—*There is the lying log here, about eighty yards from the house.

9288. Where were the people that were looking at the capture at the railway station?—Here—[*pointing to the plan*].

9289. Therefore, if Arthur had fired with his rifle at Kelly, and missed him, was there a probability of his shooting the people at the railway station?—No, certainly not. It would have gone more towards the point of the spur of the hill.

9290. *By Mr. Hare.*—You think that the entire credit of the Kelly capture is due to you—do you imply as much as that?—I shot him and arrested him.

9291. Was he not shot before?—Yes, I admit, but he was not dead—a long way from it.

9292. He was shot in the foot, was he not?—Yes, I have said so.

9293. With what?—A bullet.

9294. Do you know where the bullet penetrated?—No.

9295. You did not see his foot?—I just saw the boot taken off, and a wound under the ball of the foot.

9296. Are you aware the bullet was taken out of his foot afterwards at Beechworth?—No.

9297. Could he walk well when you arrested him?—Yes. I did not think he had got a scratch, when I saw him coming down.

9298. Had you not to carry him to the railway station?—Yes; he was shot in the leg and groin with buck-shot. He was walking deliberately about, and said, “Come out, boys, and we will whip them.”

9299. What was the wound in the arm?—He was shot through the fleshy part of the arm.

9300. The lower arm and the upper?—Yes.

9301. It went through two places then?—Yes.

9302. When were those shots received?—I could not tell.

9303. Did he not tell you—you have told hearsay and rumors—did he not tell you when?—From hearsay I can tell you. He said he was shot in the morning, early.

9304. You have told the Commission rumors that were going about; I ask you what Kelly said?—I said already there were old wounds.  
 9305. *By the Commission.*—Can you say they were done at a prior date by their appearance?—Yes.  
 9306. Is that further confirmed by the statement made by Kelly when he got them?—Yes.  
 9307. In the foot as well?—Yes.  
 9308. *By Mr. Hare.*—Had he bled very much?—He must have bled very considerably.  
 9309. Out of the two wounds in the arm and in the foot?—Yes.  
 9310. From the wounds before your shot?—He must have bled considerably before I shot him.  
 9311. You said he would have got back into the house had it not been for you?—I believe so.  
 9312. Could not Mr. O'Connor have prevented him from his position?—What was the good of shooting at him?

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9313. Could not Mr. O'Connor have done so before he got into the house?—If he kept that strip of scrub, Mr. O'Connor could have only seen him a few yards, and I do not believe he could have shot him. I do not think he could have hit him in the legs from there. It would have been a chance if they had. They would have shot at his body naturally I suppose.

A. L. M. Steele,  
*continued.*  
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9314. The party round the house—Mr. O'Connor and Senior-Constable Kelly—were there two hours before you?—Yes.

9315. Are you sure that you heard the first shots that morning?—The only reason—the station master said he thought he heard the train, and I ran down the line and heard a volley fired then.

9316. You do not know whether that was the first volley?—No.

9317. There might have been a volley half-an-hour before that?—From what I can hear from men—

9318. From your own knowledge?—I tell you from hearsay—from what I heard from the men, I believe it was the first volley.

9319. Why?—Because the second one, they say, followed in a few minutes after.

9320. What do you mean by the first volley—a number of shots?—Just like firing a volley, and then an odd rifle shot after, then there was a pause for a minute and a half or two minutes.

9321. Do you think 150 shots fired?—No.

9322. That volley consisted of about how many shots?—I cannot say; a volley might be 500 shots.

*By the Commission.*—It is impossible for a man at that distance to tell.

9323. *By Mr. Hare.*—You said in your evidence yesterday that I implied by the questions I put to Falkiner that you turned your back upon the outlaws?—Yes, I think you could have explained that.

9324. I want you to explain it; did you not do so?—No, I did not turn my back.

9325. You went in the opposite direction?—I went towards Beechworth; it was not exactly back.

9326. This was on the 3rd November. You say it is not in the opposite direction—Warby Ranges not the opposite direction to Beechworth, going by the train?—Hardly that.

9327. Did you, when you left Wangaratta that morning, or on arrival at Beechworth, telegraph to Mr. Sadleir to tell how certain you were they were the outlaws?—I do not recollect whether I did or not.

9328. Were you not told that those persons supposed to be the outlaws were leading a horse similar to the one taken from Kennedy—a pack-horse?

*Mr. Sadleir* objected to the question, on the ground that Mr. Hare was not in charge at the time.

*The Witness.*—Certainly not; I received no description whatever of the horse—merely of the men, with chains jingling about the horses.

*Mr. Sadleir* objected. Mr. Hare was trying to throw dirt on those concerned, and as he had been stopped himself, he asked for Mr. Hare to be stopped.

*Mr. Hare.*—Steele made certain statements in his evidence, which I wish to question him upon, reflecting upon my management, upon that I did not give him information about the Whorouly races, and so on. I wish to show now he got this information and did not take advantage of it.

9329. *By Mr. Hare (to the witness).*—Are you certain that Mr. Smith had any men there?—I know Constable Twoomey told me he had.

9330. Mounted or foot?—The foot men were mounted then; five or six I think Twoomey told me.

9331. Do you know the names of any of the men who were stationed at Wangaratta then?—Yes.

9332. Who kept the books while you were away?—Sometimes they were not kept at all; they lay there till I came back.

9333. It can be found, from the occurrence book, what men were available for Mr. Smith on that day?—I think it would be very difficult to tell, because there were parties out nearly every day.

9334. The books would tell?—Not if the books were neglected.

9335. Constable Twoomey can tell?—Yes. I think there were three foot men and three mounted

9336. Do you know that the station master at Wangaratta put in a claim to the Reward Board, in consequence of the information he gave that morning?—No, I do not.

9337. Did he say it was not his fault that the Kellys were not caught—that the information was certain, and that you had been heard to say it was the best information since the Kellys were out?—I never

heard that. The station master was not the first that told me.

9338. Did you receive a telegram about it?—No, not at all—it was merely gossip about it, and I told Mr. Sadleir all about it; and I have already given full evidence as to what I did.

9339. Did you go to Rats' Castle?—Yes.

9340. You went to Beechworth first?—Yes, and on to Rats' Castle, and got, late at night, into Yackandandah.

9341. *By the Commission.*—When did you first see Mr. Sadleir after that?—Some days after.

9342. About what day?—About three days after.

9343. Then three days went on before you gave the information to Mr. Sadleir?—It might have been two or three.

9344. *By Mr. Hare.*—What information did you go upon to Rats' Castle?—On information received by the Inspecting Superintendent (Mr. Nicolson). I believe that this bell brand was recognized on the horse.

9345. That the horse had been seen there?—Yes.

9346. *By the Commission (to Mr. Hare).*—You were not in the district then?—No.

*Mr. Sadleir* objected to Mr. Hare's line of examination.

*The Chairman* intimated to Mr. Hare that it would be better not to pursue the course of examination objected to.

9347. *By the Commission (to the witness).*—Was it not clearly your duty to do as you did, and let your officer, he having got the information, take the steps he thought desirable?—Yes, I thought so.

9348. Did you know how many men Mr. Smith had with him?—Twoomey told me five or six men, when I asked him.

9349. And you had thirteen men?—Yes there were two parties amalgamated—Constable James's and mine, and there was very good information received at the Murray flats, and I knew that country.

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A. L. M. Steele,  
*continued,*  
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9350. That was old information, and you were quite satisfied the other was the Kellys?—It was possible I might have been mistaken, but my opinion was that it was the outlaws.

9351. It was clearly your duty to let Mr. Sadleir know this at once?—I sent to the Inspector of Police, who was at the station; and I had to do my own duty.

9352. *By Mr. Hare.*—Do you remember, on my return to Wangaratta, after Mr. Nicolson went down the second time, the conversation I had with you about agents—about the system of employing agents—about the middle of June?—Yes; I recollect you were very different in your manner. You seemed to adopt a different system, and to place more reliance on your sub-officers then, when you came back the second time. I could understand from your manner on the second visit that you intended to work with the sub-officers.

9353. Did I not on the first occasion?—Not with me. When I say "did not work," I think you might have let me know a little more.

9354. Was I over you?—I was in charge of a certain party.

9355. I spoke to you about agents?—I do not recollect it.

9356. Do you remember telling me you had not much faith in agents?—I told you I had no faith in Aaron Sherritt. That was the only man I had not faith in.

9357. Do you remember about another man employed in your sub-district, without any reference to you?—No.

9358. Not to watch house. You related a story about an agent that had been employed to watch — house?—I never told you I had no confidence in that agent. I might have related the circumstance.

9359. What was that circumstance? Do you remember me saying "You do not believe in certain agents," and I said "Why?" and you said, "Why, there was a man employed by Mr. Nicolson to watch the place that he," Mr. Nicolson, "said nothing to me about," and that the man went straight to the president of the shire, and told him he had been employed by Mr. Nicolson—the man came to me?—I may have mentioned it to you to give you to understand that it was bad policy to keep it unknown to me about agents employed by you, because this agent of Mr. Nicolson's, I made an excuse to go in this neighborhood and see this man, and he was actually an agent, and his being an agent was nearly discovered at the time, through my not knowing it, and it might have been a very serious matter.

9360. Who told you he was an agent at the time?—I heard it, and I mentioned it to Mr. Nicolson. I heard it from Mr. Bickerton.

9361. Was he the president of the shire council?—He may have been.

9362. Was he?—I do not think he was. My reason for mentioning this to Mr. Hare was to show the evil of my not knowing the agents, and Mr. Nicolson saw the danger of it himself afterwards.

9363. *By the Commission.*—You said there was a difference in the conduct of your officer, as far as you were concerned, on his second arrival in the district, in his treatment of his sub-officers—what do you mean by that?—He gave me more information, and seemed more disposed to let me know what was going on. At first I knew nothing. When Mr. Hare and Mr. Sadleir came to Wangaratta I knew they were in communication with agents about there; and they went away, and I was just as wise when they left as when they came.

9364. But on Mr. Hare returning to duty, about a month prior to the capture of the Kellys, I understand you to say he went more into the details and consulted you as to the working?—Yes, that is what I mean.

9365. *By Mr. Hare.*—Was there not an officer stationed at Wangaratta senior to me on the previous occasion when I was up—Superintendent Furnell?—Yes, but you know that Mr. Furnell was more in our way than anything else.

9366. I do not know anything about that?—He was there, and he was not recognized by the Chief Commissioner. I was in charge actually.

9367. *By the Commission.*—Why was he not?—He was not able to stand the work. He was a man that had been discharged from the police force and had been taken on again.

9368. Was Mr. Furnell discharged from the force?—Yes.

9369. And then taken on for temporary duty?—Yes; he was not physically fit for the duty.

9370. Was not he gazetted out of the force?—I think so.

9371. Did you recognize him as your senior officer?—I heard Mr. Furnell complain that neither Mr. Hare nor Mr. Sadleir would recognize him, and I think there was some correspondence with the Chief Commissioner about it.

9372. Did you recognize him as your superior officer?—I referred some things to him, and he threw them back to me, and said, “I have nothing to do with those; you have charge of the station.”

*The witness withdrew.*

James Dwyer  
1st June 1881.

James Dwyer sworn and examined.

9373. *By the Commission.*—What are you?—A constable stationed in Melbourne. I joined the police force on the 14th January 1873.

9374. Were you engaged in the North-Eastern District in the search for the Kellys?—Yes; a few days after the murders of the police by the Kellys in the ranges I made application to Captain Standish to give me permission to go in pursuit of them. I stated in that application that I would do my best to search for and capture them or die in the attempt, and now I can truthfully tell you that I faithfully kept my word.

9375. Was it single-handed you went?—No, joined in search parties.

9376. Were you out in search parties?—I was in the search parties through the Strathbogie Ranges and other places.

9377. Did you, at any time, have information so far as you believed that you were considered to be near upon the track of the Kellys?—I got information, but it was not reliable; like all others, it was untruthful.

9378. Do you consider the information was given for the purpose of capturing the Kellys, or deceiving the police?—I believe at the time it was for the purpose of capturing the Kellys, but when it is hunted up it was found not to be truthful.

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9379. Do you mean it was given too late?—Too late; there was no truth in it at all.

9380. Do you think any of that supposed information was given for the purpose of deceiving the police?—Yes; at the time of the Jerilderie bank robbery we were out in Strathbogie, and the informant who led us to go there stated he saw Ned Kelly on a Friday night a fortnight previous. We were there when we got the account of the sticking-up of the bank.

9381. Might they not have been in the ranges at the time?—We never found the slightest trace of them there; and this informant, when questioned, we found was a man who had served a sentence for horse-stealing, and was a sympathizer with the gang.

9382. You consider he gave false information?—Afterwards we did.

9383. Was he paid by the Government?—I never heard so. He gave the information voluntarily, to lead the police out there while the outlaws were committing this depredation upon the bank.

9384. Do you consider that any of those that were paid by the Government were not true men I believe some of them did act with truthfulness, and did try to assist the police.

9385. Were you in a position to know who was employed?—I know Sherritt was.

9386. Were you impressed with the truthfulness of Sherritt?—I was at that time.

9387. Were you afterwards?—No. I was at Bethanga at the time when I mistrusted him.

9388. What led to that?—People that lived near him, in conversation with them, telling me that Sherritt was leading the police astray and was a sympathizer with the Kellys, and I questioned those people, and they gave me the reasons.

9389. Did you believe them?—I believed them at the time; I believed, too, at that time the Kelly gang were not in the country.

9390. Were you one of the cave party at any time?—No, I never was round there.

9391. Were you in Sherritt's house watching?—No.

9392. In what part of the country were you principally stationed?—Benalla, Eldorado, Bethanga, on the borders of the Murray, Murchison, on the Goulburn.

9393. Where were you when the information came that Sherritt was shot?—In Wangaratta.

9394. Were you one of those who went down in the train from Wangaratta to Glenrowan?—Yes.

James Dwyer,  
*continued,*  
1st June 1881.

9395. What time did you arrive?—It was twenty minutes to five when we arrived at the place where the rails were torn up.

9396. How long did you take then to get in?—Mr. Rawlins, who volunteered to go with Mr. Hare, when the engine-driver was approaching this place where the rails were torn up, struck a match, and the engine-driver pulled up, and we got down and went to Rawlins, who told us then, how Mr. Hare was shot and what was done up to that time.

9397. Did you hear what he said?—He said, in approaching the house, accompanying Mr. Hare and Mr. O'Connor, the verandah lit up with a volley from the Kelly gang on the police, and Mr. Hare was shot, and said, "Oh! I am shot in the first volley," and Mr. O'Connor said, "Where?" Mr. Hare said, "In the wrist, get your men," and, turning to Rawlins and the men, said, "At your peril, men, do not let them escape." Mr. Hare stood in the open fire and holding the gun in his hand the blood gushed out, and holding his hand up in his button-hole he fired again. Mr. Rawlins described how he got shot and what was done after.

9398. What did you do when Mr. Rawlins told you that?—He told us, too, Mr. O'Connor was with his men and directing the men to take their positions, and he saw Mr. O'Connor waving his hand to his men to go round the house and saw himself get into the trench.

9399. What did you do as soon as you got this information?—Mr. Rawlins was talking very affectionately of Mr. Hare, saying, "Poor fellow, he had to go back for loss of blood;" and I said, "My God, you do not infer by that he is dead." Mr. Rawlins said, "I hope to heaven no."

9400. Did you come on from the place?—A volley had been fired from the house, I had heard. We ran to the house, and down to the railway station.

9401. How long did it take?—Five minutes.

9402. What time did you arrive?—Twenty minutes to five—we were, about twenty to five, where the rails were torn up—and Rawlins took five minutes to give his information, and then five minutes to get there. The reporters of the press came forward—Mr. McWhirter of the Age, Mr. Allen of the Telegraph came forward—and, knowing me, said, "By George, Dwyer, we are glad to see you from the city." They pulled out their books to note the time I arrived; and I said, "As you are going to make honorable mention of it, there is Sergeant Steele, and Constables Moore, Caussey, Welsh, and Montfort." Mr. Carrington put it down and took out his watch.

9403. Did you tell the reporters in the morning?—This was when we first saw them in the morning.

9404. Were they able to take it down?—They had their books, taking it down.

9405. Was it light at the time for them to write?—It was coming on to dawn of day, but it was before day. Mr. Carrington pulled out his watch, and said, "It is ten minutes to five."

9406. Was that before you went up to Mrs. Jones's house?—It was. At this, the train conveying Mr. Sadleir and his party whistled coming into Glenrowan, and a gentleman of the press (Mr. Allen) said, "Here is Mr. Sadleir and his reinforcements."

9407. Where were you then?—On the platform of the railway station. The whole of us walked down the platform—the reporters of the press, and Mr. Marsden, the petty sessions clerk, and all of us. The train came in, and Mr. Sadleir was the first jumped out where I was standing, and asked me, "Where is Mr. O'Connor?" I said, "I do not know, sir; I have just arrived." At this, Senior-Constable Kelly came running down, and Mr. Sadleir saw him, and turned from me on seeing him, and asked him the same question, "Where is Mr. O'Connor?" Kelly, pointing with his finger, said, "He is up in the drain in the front of the house." Mr. Sadleir said, "I want you to show me to him." At this, Mr. Sadleir turned round to the men, who were all at the train at the time, and standing in a mob on the platform, and said, "Come on, men, spread yourselves round the house and assist the others, walk three yards apart, so that you will not be a target for the outlaws to fire at you." He passed, accompanied by Senior-Constable Kelly, and went to Mr. O'Connor; and Kelly turned after showing him where Mr. O'Connor was, and took ground to the right.

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9408. What side of the house?—The north side—the Wangaratta side, where I found him afterwards. Mr. Sadleir passed on, after leaving Kelly, into the trench where O'Connor was. That was about twenty-five or thirty yards from Jones's house. I walked down the line with Sergeant Whelan and some others towards the gate, as Mr. Sadleir was approaching the trench where Mr. O'Connor was. There was a shot passed me to the windward in the direction of Mr. Sadleir. I saw the windows lit up as the volley was fired. It was at Mr. Sadleir, from the two outlaws in the house.

9409. How could you prove it was at Mr. Sadleir?—Because the whiz of the bullets was so near, I could see he narrowly escaped at the time. I heard the whiz of the bullets over the heads of the men at the rear of me; it whizzed over their heads, and they made the remark at the time, some of them, that Mr. Sadleir had a narrow escape.

9410. Where was Mr. O'Connor?—In the trench.

9411. How far was Mr. Sadleir from Mr. O'Connor at the time of the whizzing?—Fifteen or twenty

yards.

9412. Nearer the railway station?—Yes; he was in the open. I got up on the road leading through the gate, and Constable Millane, on the Benalla side of the house, called me, “Where are you going, Dwyer? get under cover or you will be shot.” I looked round to see where I could get under cover, and I could see nowhere only where Mr. Sadleir went in the trench.

9413. How far had you advanced up the road then?—I had just crossed the culvert to where it was metalled and got into the drain.

9414. Had you passed through the railway fence?—No; I got into the trench down with them, and heard Mr. Sadleir express to Mr. O’Connor, “How have you got on, I know nothing.” Mr. O’Connor repeated what he had done up to that time, and spoke about Mr. Hare being shot, and spoke very affectionately about him, and sorry for the mishap he had got. At this same time the women began to scream out and yell. Mr. Sadleir said, “Oh, there are civilians inside.”

9415. Who was in the trench when you were there besides Mr. O’Connor?—There were two trackers and Constable Kirkham. Mr. O’Connor said, “Oh, it is full of them.” Mr. Sadleir then said, “By George, if they are there, we cannot fire into it, we will be only killing innocent people.” The police at this time were firing round at the Benalla side.

9416. Into the house?—Yes.

9417. What police?—The men that came with Mr. Sadleir and Mr. Hare’s men that had spread themselves round that side; and Mr. Sadleir said, while talking about the outlaws in the house, that they could not be sure they were all in the house; and I said when we heard in Wangaratta that Mr. Hare had them surrounded, we knew they would not escape, we knew that they were right. My heart was so sure and my mind impressed that wherever Mr. Hare would come on them they would never escape, and I volunteered to Mr. Sadleir, if he had any orders to give to the men, I would take them; that was in the trench. I was armed with a double-barrelled gun and a Colt’s revolver, and I knew how to use them well. Here is some of the ammunition I had at the time—[*producing the same*]. This ammunition was not able to penetrate the house. And I said I am not much use with this gun here, and any orders for the men I will take them. The orders he gave were in these words: “Tell the men not to fire till they hear a whistle from me, which will be a signal to give a volley, and when they hear two whistles, it will be a signal to cease firing; and whenever they would fire, to fire about the height of a man’s head,” so that they would not kill the people inside; and if any of those civilians approach not to molest them. He said, “You will not forget that, Dwyer,” and I said, “No, sir.” I left the trench then.

9418. What sort of a whistle was this; did he tell you what sort?—A whistle with his fingers.

9419. Do you think it would be heard from where he was?—Certainly; and it would be heard on the top of the hill, which is further away. I crossed under the gully. I left the trench, and on the other side I saw Constable Milne, and repeated the words Mr. Sadleir had given me, and, while doing so, a bullet whizzed through the trees from the outlaws in the house. I passed on, and met Constable Alexander or Wilson, and I told the same to him. Constable Barry was the third man I met and gave the orders to. He said here in his evidence that he did not see me until I was going round with brandy. He was the third man I met and delivered orders to; and I told him the words Mr. Sadleir had given me, and not to fire low, as the people were lying flat on the ground.

9420. How did you know that?—I heard Mr. Sadleir calling out “All you innocent people throw yourselves flat on the ground, and you will not be shot”—that was Mr. Sadleir’s voice.

9421. Were there shots then?—Yes; they were firing from above and below, and the outlaws firing also; and the same time I heard them call upon the civilians to come out, and they would not be molested.

9422. About what hour was that?—About half-past six o’clock.

9423. Daylight?—It was drawing for day. I passed on to all the other men, Constables Reilly, Kelly, and Welsh.

9424. Where was Kelly?—In the centre, at the Benalla side, in the centre from the gully—that was

foot-constable Kelly.

9425. That is the big fat constable in Benalla?—Yes, in Benalla. While delivering these orders the outlaws saw me running, and they expressed, “Knock that b—— over.” As I was running delivering the orders from one to the other——

9426. Did you run pretty smartly?—I did from one man to the other to avoid the bullets.

9427. Did you hear the whizzing?—Yes, very well, the whizzing about through the trees from the constables. Constables Welsh, Kelly, and Reilly seeing my narrow escapes, called upon me not to run about, I might get shot. If I had any word they would pass it round the line from man to man. They passed on and went to the back of the stockyard outside the fence. Constables Moore and Caussey were at the tree behind this fence.

9428. What time did you arrive there about?—About half-past six o’clock; it was daylight then, They told me they had taken up good positions, and the outlaws’ horses were standing inside the fence.

9429. Did you see them?—Yes, I did; and Constable Moore told me their object was, if the outlaws attempted to come out and make an escape with their armour on to mount the horses, they would shoot the horses and so prevent them.

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9430. You knew at half-past six in the morning that the outlaws were there in armour?—Yes, that was the first time, and before that I heard them running round, and they hit their armour with the revolvers, and said, “Fire away, you ——, you cannot kill, we will put the daylight through you.” I said, “It is a very good idea, and I will tell Mr. Sadleir so.”

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9431. To shoot the horses?—Yes, I looked down then, and saw Sergeant Steele, Constable Montford, and others round the north side, down by the railway fence.

9432. Did you speak to Sergeant Steele?—I did not, I saw them. My object was to see so as to tell Mr. Sadleir the house was well surrounded.

9433. You were not going round to tell Mr. Sadleir anything; you said you were going round to convey certain instructions from Mr. Sadleir. What did you say to Sergeant Steele?—I did not speak to him.

9434. To any one near him?—I did not; I saw they had taken up their positions.

9435. Were you not going down to convey orders from Mr. Sadleir to the men?—Yes.

9436. Then how was it you did not convey those orders to the men on the Wangaratta side?—I turned back because some of the men called out, “Bring us up some ammunition.” Some had only five and some only ten rounds. I was talking to Constable Caussey then behind the horses.

9437. Where did you go then?—I turned back the same road as I came, to get the ammunition from Mr. Sadleir, to bring it up to the men.

9438. You did not tell those men at the back of the stockyard that Mr. Sadleir had instructed the men to fire high?—Yes.

9439. Did you ask those men to convey that information round to Sergeant Steele and his men?—I did, to pass the word round.

9440. Which of the constables did you tell?—Constable Alexander, I think.

9441. Did you see Gascoigne?—I did.

9442. Where was he?—He was round at the Benalla side too.

9443. Did you speak to him?—I believe I did. There are so many I could not particularize them all; and going back to Mr. Sadleir, I said “The men are short of ammunition, tell me where it is till I take it up to them.” Mr. Sadleir said, “I do not know where it is, or whether there is any at the station. Every man that came with me brought a hundred rounds, and I do not know whether there is any at the station.” Mr. O’Connor said then, “Then send for it.” Mr. Sadleir then took out his memo. book and scribbled a telegram on it for me to take to the railway station, and send it to Benalla for ammunition.

9444. Where was Mr. Sadleir and Mr. O’Connor at this time?—In the trench. I met Mr. Sadleir out of the trench; he was standing in a very dangerous position. The bullets were whizzing round him, and his bravery at that time cheered me. My feelings towards him were that of a brother, and I would follow him to the mouth of the outlaw’s gun at the time.

9445. Where was he standing?—He was out on the open.

9446. Was he outside the railway fence?—He was near the fence leading up to Mother Jones’s house, but still partly in the trench, partly covered like.

9447. What time would that be that you got back to Mr. Sadleir and Mr. O’Connor?—It was before he gave me this paper.

9448. What time was it that you were at the stockyard-half-past six?—I cannot mistake, because I looked at my watch.

9449. What time was it then?—Twenty-five minutes to seven. He gave me the paper, and I left, and went up to the railway station. Approaching the railway station, Mr. McWhirter and Mr. Allen came forward and said, “What is it, Dwyer?” seeing me with this paper in my hand. I said, “It is only a telegram for more ammunition.” I then asked where was the station master, as I wanted to send this telegram. Mr. Stanistreet came forward, and I gave him this paper, and he sent it forward to Benalla.

9450. Was there any ammunition at the station?—No. Mr. McWhirter said, “Why, Dwyer, one of the outlaws is out in the bush, and the men are firing at him.” I looked up, seeing where they were, and saw Ned Kelly at the time. He had on a grey top-coat. He said, “Fire away, you b——s, you cannot kill me; I am encased in armour.

9451. You heard that?—Yes; and said, “Come out, boys, and we will lick the lot of them,” beckoning to the other two outlaws, “Come out, and whip the lot of them; Oh, you b——s, we will put the daylight through you.” I ran away from the reporters. Allen had hold of me by the right arm, keeping me back, saying, “Do not, Dwyer, you may be shot;” and tearing myself away from him, I fell on my right side; he had such a grip of me; and the first man I met was Constable Bracken, behind a tree, after crossing the railway fence. He said, pointing with his finger, “There is Ned Kelly.” I said, “Why not rush him; I am told he has armour on, you cannot kill him.” I heard the police on my left say, “Certainly, boys, let us rush him,” and on looking I saw Senior-Constable Kelly. I was then rushing up to rush Ned Kelly, and when about twenty yards I fired one barrel. At this time Ned Kelly was crossing a dry creek towards the log where he fell.

9452. What did you fire with?—My shot gun. Ned Kelly was then walking towards the dry creek coming down, and he turned round to fire at me, covering me. I was looking down at my gun to pull back the empty cartridge, I heard some one call out, “Look out, Dwyer, he has you covered.”

9453. Who was it?—I did not know who it was at the time. I heard afterwards it was Mr. Rawlins—he told me so. While he was firing, Sergeant Steele fired at him.

9454. Did you see Sergeant Steele?—I did, and Ned Kelly dropped down. He was near the dead tree, and dropped down on his haunches like this—[*indicating the same*], and when Sergeant Steele was running up, Ned Kelly at this tried to shoot him with his revolver, and Sergeant Steele grasped it and turned it over.

9455. Did you see that?—Yes, we were running up. Senior-Constable Kelly, Bracken, and I were running up at the time. Sergeant Steele was the first and us three after; Sergeant Steele was at his head.

9456. Then yourself; Bracken, and Senior-Constable Kelly were all rushing at the outlaw when

Sergeant Steele fired and closed with him?—Yes.

9457. You said Steele shot at him, and he fell as he shot at him?—Yes.

9458. And as he was firing he held the revolver that way?—Yes, and Steele rushed forward and pulled it out of his hand and laid it by his side. I vaulted over the log and got at Ned Kelly's feet

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as he was bending on his knees. Sergeant Steele had him with his left hand across his neck, this way—*[indicating the same]*. Senior-Constable Kelly was standing behind, Bracken had hold of Kelly's left arm, and I was in front. Kelly was trembling with fear, and said, "Do not kill me, let me live as long as I can. I never injured one of you." The helmet fell off as he was firing.

9459. After or before the revolver was taken?—Before it was taken.

9460. Did you see the railway guard Dowsett there?—He was about the fourth or fifth man that came up. Constable Montfort was about the same time, about the fourth man, and after him Dowsett, and then the reporters of the press.

9461. How long was it before Dowsett came?—Not five seconds.

9462. Did you see Dowsett fire before you reached Kelly?—No, the first I saw of Dowsett was under the log with his head out.

9463. Did you see him fire?—I did not.

9464. Was that the log Ned Kelly was behind?—No, it was lower down, towards the railway fence. Senior-Constable Kelly was nearer the fence than Dowsett.

9465. It is said you wanted to make short work of him on that occasion?—I never made use of that expression.

9466. That you were going to finish him off?—I never made use of that expression.

9467. What did you say?—When he said he never injured any of us, I said, "You d—— wretch after your shooting my comrade and Mr. Hare, and when poor Kennedy was begging his life of you as you are begging yours of us, you shot him like a dog."

9468. Did you give him a friendly kick?—I did not. The kick I gave him was the kick I would give a cow to wake her up. It was to show my contempt; it would not have hurt a child. He said, "For God's sake, let me live as long as I can."

9469. He did not want to die?—No; he showed all the symptoms of cowardice.

9470. You did not believe much in his courage?—What roused me was having heard he would never be taken alive, and then seeing his cowardice at the time.

9471. What did you do, because it has been stated publicly that you were going to finish him off on that occasion?—I never expressed such a word.

9472. On your oath, you say all you did was when you went down towards his feet, and you said to him, when he was begging his life, that he had shot Kennedy like a dog, and you kicked him?—I gave him a tip with my boot. When the crowd was leaning over Kelly, two bullets whizzed past from the outlaws in the house.

9473. In what direction?—At the crowd of us. The two outlaws in the house fired at the crowd as they were looking at us capturing Kelly. I saw them outside, between the kitchen and dwelling part of the

house. Mr. Melvin, of the *Argus*, called out, "Keep watch, keep watch!" addressing himself more to me. I left the crowd to go back to Mr. Sadleir, and, passing in view of the outlaws, one of them came out from the kitchen door and levelled his gun, and I did the same with mine, and he drew back; and the other police, seeing him, put a shower of bullets at him. The police round the trees at that side—Arthur and Montfort and others—fired a shower of bullets at him. I saw the bark shot off the side of the kitchen door, where he was standing. He said, "Fire away, you b——s, you cannot kill me."

9474. Did you see Constable Arthur before you saw Sergeant Steele shoot Kelly?—No, I did not.

9475. How long after was it before you saw him?—About three minutes.

9476. Where did you first see Arthur after you left Kelly?—When I was going back to Mr. Sadleir. I met him coming up to the crowd from where he was.

9477. How far from Ned Kelly, should you think?—This was after Ned Kelly was captured.

9478. How far was where you met him from where he was captured?—About 20 yards.

9479. Did you see him running away?—No.

9480. Did you see any of the constables firing at Kelly except Sergeant Steele?—No, I did not see any only Sergeant Steele. Passing in front of the house, two bullets whizzed at me from the two outlaws in the house, and Mr. Sadleir, seeing my narrow escape, exclaimed, "Good God, Dwyer, why are you going about in that reckless manner, you will be shot?" I said, "I came down, sir, to inform you of Ned Kelly's capture."

9481. Where did you find Mr. Sadeir then?—He was in the trench.

9482. Where you had left him with Mr. O'Connor?—Yes. Mr. Sadleir asked, "Are you sure?" and I said, "Yes, sir, for there is his blood on my hand and trousers"—that was his left hand laid on mine and the thigh of my trousers. Mr. Sadleir asked who was the first man caught him. "Sergeant Steele was," I answered, and described then how he was captured, and what I did from the time I left him. I then went up to the station to see if there was ammunition there, to bring it to the men who had not much. Approaching the railway station where the train was, I saw Mr. Rawlins and one of the reporters of the press leaning on the carriage window, talking to Mrs. O'Connor and her sister, Miss Smith, and I heard Mrs. O'Connor express—"Oh, if I had seen any man who could tell me how he is" (meaning Mr. O'Connor) "for I have not seen or heard of him since he left my side." I, hearing the remark, said, "Here you are, I have just left him in the trench." I saw she was crying, and looked very pitifully, and, to cheer her, I said, "There is no occasion for you to fret or make yourself miserable, he is all right," and I commenced to laugh to cheer her up. She said, "My poor fellow, will you have a drink of brandy?" I was dreadfully fatigued and hungry at the time, and had nothing to eat since Sunday evening, and been out all the time. She called the sister, and said, "Give him a good nip." I answered, "Yes, please, I feel the want of it very much." The sister said, "Oh, give him a good nip," and she poured out the brandy with some milk, and also gave me the bottle of brandy to take round to the men. I took the bottle of brandy back and the sweet cake to Mr. O'Connor, who divided the cake, and shared it with us alike. After drinking one nip of brandy, Mr. O'Connor sent me round the lines with the rest of it, and I gave the men as I met them a nip of this brandy. When giving it to Sergeant Whelan, a bullet went into a tree a foot from my side. I passed on, and gave to all the men that would take it. Some were teetotalers, and would not take it, and some of the men said, "For God's sake, Dwyer, bring us something to eat; we are starving." I went round to tell Mr. Sadleir this, and to send for some provisions. He was then giving orders about the safety of Ned Kelly at the station, when I told him about it. Ned Kelly on seeing me, on my entering the door, said, "Oh, here is the — whom I fired my last shot at." He was then on a stretcher.

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He said, "What is your name?" I said, "My name is Dwyer." He said, "Where are you from?" I said, "That is no matter to you." I saw him looking wistfully at the bottle in my hand, and looking down I saw I had about a nobbler in it, and I said, "Will you have a drink of brandy?" and he said, "Yes, please, if you will give it to me." I said, "Why would I not?" He said, "Put the glass to my lips, I cannot—my hands are tied." I put it to his lips, and some of the brandy fell on his big beard, and he put his hand up to suck the brandy in this way—[*indicating his meaning*—]and looking up at me, he said, "Give me a bit of bread, I am very hungry." Mr. Sadleir, hearing his remark, said, "You shall have every care and attention, Ned. Go, Dwyer, and see if you can get a bit of bread for him." I went and got some scone cakes from Mrs. McDonald's, and Mr.

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Sadleir seeing from his sucking his beard that he would like more brandy, told me to fetch a bottle of brandy. Mr. Sadleir gave him the brandy, and I gave him the bread. Ned Kelly, looking up, said, "Thanks, Mr. Sadleir, this is more kindness than I ever thought to get. Mr. Sadleir replied, "You shall have every care and attention, Ned; do not irritate yourself; keep yourself quiet," settling Ned Kelly's head on the pillow, and some one putting cotton round his sore leg and arm. Mr. Sadleir said to Ned Kelly then, "Ned, the fate of the other two men is certain, do you think if you sent a message up to them, they would surrender?"

9483. There were three men?—Byrne was shot.

9484. Was it known to every one then?—Only from what Ned Kelly said that Byrne was shot when he was taken.

9485. How could he know?—He saw him drop.

9486. How do you know about that?—Ned Kelly said, when he saw his best friend dead, he had no more faith in them; he left the house.

9487. Did you hear him say that?—I believe I did hear Ned Kelly say that at the time. He told Mr. Sadleir they were cowards, and would not surrender.

9488. Mr. Sadleir said that "the fate of the two men is certain, do you think, if you send a message up, they will surrender?"—Ned Kelly said, "No, they are too cowardly," and this is the time I know he said about losing his best friend.

9489. How long had Kelly been at the station when this conversation was heard by you?—It would not be above fifteen minutes.

9490. That would be about seven o'clock in the day?—Kelly was captured about sixteen minutes to seven. I looked at my watch when I got back to the trench by Mr. O'Connor, and it was then twelve minutes to seven.

9491. Were there any of the reporters about when this conversation took place?—There were not.

9492. Who was by?—Mr. Sadleir and I.

9493. Anyone else?—I did not see anyone else.

9494. Was Dowling there?—No.

9495. Did you see Dowling with Ned Kelly there?—Yes.

9496. What was he doing?—Like all the others, assisting.

9497. Did you see Dowling at the station with Kelly between seven and nine o'clock?—No.

9498. Did you see Dr. Nicholson?—Yes; while the conversation was going on, Dr. Nicholson was the first I saw come in to dress his wounds. Ned Kelly was bandaged at this time. As Dr. Nicholson came in, Mr. Sadleir told me to go and tell Mr. O'Connor to come up, that he wanted him. I went to the trench, and told Mr. O'Connor that Mr. Sadleir wanted him at the station. At this time, Mrs. O'Connor and the train she was in was whistling, going back to Benalla. Mr. O'Connor stood up in the trench, and was waving his handkerchief to her, and she was at the carriage window doing the same to him; and at that time two bullets passed from the outlaws in the house at Mr. O'Connor when he was standing in the trench; the bullets went through the railway wheels.

9499. Did you see them?—I heard the rattle of them going through the railway wheels; Mrs. O'Connor fell back on the seat, and Mr. O'Connor stood up, turned his gun and fired at the house, and said, "You ——, would you shoot my wife." One of the trackers, while he was standing in the trench too with Mr. O'Connor there, a bullet went here, and made a trail through his hair, and he said, "Oh, I believe I am shot."

9500. That was while you were in the trench?—Yes.

9501. You seem to have had a special gift for seeing bullets whizzing past; Mr. Sadleir described you as jumping over the bullets; did you see any particular bullets passing?—It is an absurd thing, with all due respect, to say that I jumped them. The words that Mr. Sadleir expressed I am sure could not be reported correctly.

9502. He said you were jumping about, going from point to point?—I was jumping about everywhere.

*Mr. Sadleir.*—I said as a bullet struck the ground before him he jumped.

9503. *By the Commission.*—How could you tell the bullet hit the train?—I heard the rattle of the bullet going through the wheels.

9504. But the train would make a noise?—The bullets made a noise like hitting a target.

9505. How could you hear the rattle of the bullet going through if it did not strike something?—I saw the dust of the bullet when it struck the wheel and heard the noise of it, the same as if it hit a target. The time I did jump was when I was coming to tell Mr. Sadleir, and when the bullets whizzed round me and they turned up the ground at my feet. I made a jump. when the bullet tore up the earth in front of me.

9506. When you were coming to Mr. Sadleir did any bullets strike the ground in front of you?—One bullet did, and the other passed close by me, and Mr. Sadleir heard it, and he made use of the expression.

9507. You did jump then?—Yes, that was the only time.

9508. What time in the morning was this?—Twelve minutes to seven.

9509. Daylight?—Broad daylight. I got in the trench and looked at my watch. It was twelve minutes to seven.

9510. Was Mr. O'Connor still in the trench at the time the train left conveying Mrs. O'Connor to Bemila?—He was standing straight up in the trench.

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9511. Had you seen him any where from the time you arrived on the ground until the special train left in any other place except in the drain?—Up to that time I never saw him anywhere but there.

9512. What time was it when the train left with Mrs. O'Connor?—It would be near nine o'clock, I should think.

9513. Did you look at your watch about the time the train left?—No, not at that time.

9514. It appears that Senior-Constable Kelly, in his sworn evidence at Beechworth, stated that you had kicked Ned Kelly when he was down, and I find here in Mr. Sadleir's report that you acknowledge you did so. "It will be seen from the evidence of Senior-Constable Kelly, 1925, in the examination of the prisoner Edward Kelly, before the Beechworth police court, that Constable Dwyer, 2507, kicked the prisoner when already secured by the other police. I may state that Constable Dwyer reported the circumstance to me himself, immediately after the occurrence, and expressed his regret that in the excitement of the moment he so far forgot himself"—Yes, I told Mr. Sadleir so.

9515. When you came down and told about the capture, you said you gave Kelly a kick?—Yes, I did.

9516. The question is this: was the kick given from vindictive feelings or disgust at his cowardice?—Disgust at his cowardice, having heard his friends say he would never be taken alive, and then hearing him call out what he did, it roused my indignation against him, as I have already said. The prisoners came out at ten minutes past ten. I was then at the railway station, eating a bit of dry bread and cheese on the platform, when I saw them rush out of the front with their hands up, crying out, "We are all innocent people; we are

innocent—we are prisoners.”

9517. That was the men prisoners?—Yes, I ran up, and Mr. Melvin, of the *Argus*, the other civilians, and Mr. McWhirter. I ran into the crowd of prisoners as they rushed out. I had my gun ready, looking amongst them for the outlaws. I was under the impression that the outlaws had surrendered then themselves. Reardon was near me at the time. Not seeing the outlaws, I said to Reardon, “Where is the outlaws?” “They are in there, sir,” he answered, pointing with his finger to the window of the house.

9518. To the room they were in?—Yes. The two were standing at the window, and going back and forwards, like this, to get an open to fire with his gun, like this—[*explaining his meaning by gesture*]. Mr. Melvin, of the *Argus*, came up and laid his hand upon my shoulder, and I said, “Go back; do you see them inside going to fire out.” He did do so, and went back to a tree, and I went back with him. I was impressed then, that if I kept with the civilians, they would not fire at me; and I kept Reardon and the others close to me until I got to the north of the house. I was in plain clothes at the time. I took shelter behind a tree. I saw them then peeping out, going to the side of the window to look out. I saw a helmet on his head, and walking back and up the passage. I saw one get out from the dwelling-house to the back kitchen; and I ran round to the north side, thinking I might get a shot at him there. A second one came after him, and went into the kitchen too; and the thought struck me to go down to the railway station, to put on Ned Kelly’s armour. I did not tell anyone of it then that I would do so. I ran down to do so; and when I went to the railway station, Mr. Craven, of the Commercial hotel, Benalla, and Mr. Ball, and Mr. Shortell, and other civilians, they were looking at it; and Mr. Craven had the helmet of Ned Kelly fitting it on. Seeing me they spoke in a friendly way, and, talking about the armour, I said, “That is the very thing I came down for. I want to put it on and rush the house, and then the other men could come to my assistance.” One of those men—I do not know which—expressed, “It is a —— good idea, but perhaps it would be better not to go. You might get shot in the encounter.”

9519. Did you see Mr. Sadleir?—Not at that time.

9520. Did you suggest that to Mr. Sadleir?—No; the armour was so cumbersome and so heavy that I abandoned that idea and went back.

9521. Did you put it on?—Yes, some of it. I took the helmet from Mr. Craven—he had not the breast-plate and the rest of it; and when I took this breast-plate, I found it so heavy I thought I would do better without it, and rush. I went back again to the same place I left, and I heard Constable Armstrong, and saw him coming up to Mr. Sadleir. Mr. Sadleir and Mr. O’Connor were at this time walking round the lines.

9522. What did you hear Armstrong say?—I did not hear him say, but he himself told me after, that he had volunteered to rush the house.

9523. Did you volunteer to Mr. Sadleir to rush it?—Yes.

9524. When?—At half-past two.

9525. What did you say?—“Mr. Sadleir, there are four of us down behind the tree, Armstrong Dixon, Montfort, and I, willing to rush the house, if you will let us, and put an end to this suspense.” “Indeed I will not,” he said, “I will not sanction any man to lose his life, and you should not ask me and you should not leave where you were. Go back and stop there.” I went back again to the constables. We were then within about twenty or twenty-five yards of the house, and Armstrong said, “What did he say?” and I told him that he would not allow it. Montfort said, “Well, I will go and ask him , and he did, and he told him the same words.

9526. Did Montfort tell you that?—He told us that Mr. Sadleir would not sanction it. The outlaws came to the front at this time and fired at us. They would fire a shot and then they might be half an hour before they would fire again.

9527. What time was this?—I saw them at half-past two coming from the back kitchen and going to the dwelling house.

9528. How many?—Two; one walked after the other. Constable Welsh of Wangaratta was with me at the time, and I said, “There they go, do you see them?”

9529. Where was the last shot fired—from what portion of the hotel that you saw?—The north

window of the hotel, near the chimney.

9530. Facing the front?—Yes.

9531. At what time?—It would be about half-past two.

9532. At what time did you see them at the back?—Half-past two.

9533. Did you see them at both places at the same time?—I saw them pass from the back to the front, and I left that position and went down to where Armstrong and Montfort were, behind the tree, twenty-five yards from the house. I remained there half an hour before I did volunteer to Mr. Sadleir;

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and at that place Armstrong said that he had volunteered; and he said, “Will you back me up?” He is a brave constable, I know his courage. We fired bullet after bullet in at them, and we heard the heavy thud of one of them falling, like the rattle of the armour on the ground. I said, “There is one of them shot”; and I called out as loud as I could “There is one of them inside shot,” addressing the group of civilians at the station. I think Montfort went up and told Mr. Sadleir that one of them was shot inside.

James Dwyer,  
*continued,*  
1st June 1881.

9534. How far were you from the house then?—Twenty or twenty-five yards at the tree at the north of the chimney; and the four of us there heard it as plain as if the armour was thrown upon these boards.

9535. Did you see Senior-Constable Johnson?—Yes.

9536. About what time?—At four o’clock.

9537. Did you see him before that?—Yes, when he arrived and after.

9538. Did you see him when you proposed to rush the place?—Yes, and a long time before that.

9539. Where was he stationed at the time you saw the outlaws—at the back of the hotel?—I could not tell, but at the time he set fire he was at the Benalla side. Half an hour after this heavy thud we heard another thud, and Constable Dixon said, “That is another shot.” That was about an hour before the fire was put to it. And a short time after that Mrs. Skillian rode down to the fence by us; and Montfort said, “Go back, Mrs. Skillian, you cannot come in here.” She had come down from the bush, and arrived on the scene and rode to the fence, and we all looked at her. She replied in a very low obscene expression, and turned her horse and went up to Mrs. McDonald’s house and came down on foot, and walked towards Mr. Sadleir, on the Benalla side, with Mr. O’Connor and other parties. What passed between them I cannot say. About five minutes after her appearing, Johnson came up and set fire to it. I saw him coming up with straw lit and setting fire. The priest, when the house was burning, came down and took off his hat, and blessed himself, going into the door; and he said, putting up his hands in this position—[*holding up his hands*]—” In the name of God, men, will you let me hear your confession?” addressing the outlaws in the house. I heard him say that as he entered the door of the hotel. He passed in and out of the back, and said, “Come up, men, these men are all dead,” addressing us at the tree. The four of us ran up, and Constable Armstrong and I took Joe Byrne, who was at the far end in the passage. I took Joe Byrne by the shoulders, and Armstrong by the feet, and lifted him out. At the door Mr. Sadleir, Mr. O’Connor, and others met us, and the priest, in the crowd, said, “Go back, constables, the other two men are on the beds.” We dropped Byrne and went back to the passage. The blaze of fire was coming and we put up our hands. Steve Hart had his feet up on the bed. He was burning down to here—[*pointing to his waist*]—and his feet were on the bed, and his hands in that position—[*indicating the same*]—; and his face all burnt and his blood was passing and frizzling like a steak in a pan. Looking again to the left of us, the north end near the chimney, Dan Kelly was lying in this position—[*indicating the same*]. The left knee was crippled and his hand outstretched. His helmet was off; he had the armour on—the breast-plate; and on his neck and thighs and hand there was blood. I knew him to be Dan Kelly from the low forehead, and the description of them, and that the other must be Steve Hart.

9540. Could you swear those were the two men, Hart and Kelly?—Yes, I knew the man I saw in that position, with the black hair and sallow complexion, was Dan Kelly.

9541. How far apart from each other?—About six yards, the length of the dwelling house, one at one

end and the other at the other end. Dan Kelly was at the chimney side, with his feet on the bed, opposite the window.

9542. How did they get together when the bodies were found?—They were not together.

9543. Opposite the window you say?—Yes, the full length of the house. The passage was in the centre, leading out, and we were in the passage, and saw on each side.

9544. That is one to the north and the other to the south?—Yes, the whole length of the house. We could not get to them because of the fire, and Armstrong said to me, “Come out, Dwyer, we cannot take them.”

9545. Were they dead at this time?—They were. “No,” I said, “we will have to leave them to their fate.”

9546. Did they have any appearance of having killed one another?—No, the blood I saw along the arms and neck and thighs led me to believe they were shot by the police, and that the heavy thuds we heard was their being shot.

9547. Did you see them before they were shot?—Yes, I have said so. Armstrong said, “Come out,” and I said “Yes, we will have to leave them to their fate,” and we had only just left the place where we were standing when the ceiling fell down.

9548. Were you and Armstrong the first to follow the priest?—Yes, the two first, and took out the body of Byrne.

9549. Did you go from the front door?—No, the back door.

9550. Then you must have gone round to the back when the priest went in at the front?—No, we did not stir till the priest came out.

9551. You said you heard the priest ask them to make a confession and you were twenty yards away in front of the house?—Yes.

9552. Where were you when you heard that?—At the north end of the house, the Wangaratta side, partly to the front and partly at the side.

9553. You saw the priest enter?—Yes.

9554. Did you see him come out again at the front?—No, at the back. He went in at the front and out at the back.

9555. Did he return out through the front again?—No, he went out of the back door.

9556. Then you entered at the back door?—Yes.

9557. You say you saw the priest coming out of the back door?—He went in at the front, looked at them, and they were dead, as I said, and passed out of the passage over the body of Joe Byrne, and out at the back door towards the kitchen, and said, “Come up, men, those men are all dead.” We ran round to where he was standing and passed him and went in and took out the body of Joe Byrne. The priest said, “Go back, the other two men are on the beds.”

9558. How far did you go in from the back door?—Just as far as the bar.

9559. Where were the two bodies lying when you found them?—[*The witness pointed on the plan the positions he had previously referred to.*]

James Dwyer,  
continued,  
1st June 1881.

9560. If any constables say that in taking out the bodies they got them close together would that be true?—Not true. When I came out I saw Mr. Sadleir taking Cherry out, and heard the expression, “Give me a drink of water.”

9561. If six witnesses swore that the priest came out of the front door would that, in your opinion, be incorrect?—It would be incorrect. He never entered the house after telling us.

9562. You swear that he came out of the back?—Yes, and stood between the kitchen and the back building, and no man could enter the house without my knowing it.

9563. How long was it from the priest went in at the front door, having taken off his hat and said what you said about confession, till Mr. Sadleir came to the door?—About a minute.

9564. Just time to pull out Joe Byrne’s body and to see that you could not get the others in consequence of the fire.

9565. How long would that be?—About a minute. He was up to the door taking the body of Cherry in a blanket, and I heard Cherry say, looking up, “Give me a drink of water.”

9566. Was the body of Byrne taken out at the back or front door?—The back door. Armstrong and I took it out and left it there.

9567. Is the back door out towards the skillion place where the yard is?—Yes.

9568. And the front door is towards the railway?—Yes.

9569. Do you know the tree Sergeant Steele says he was behind?—No. I saw him by a tree at the north.

9570. Do you know the tree that it is said Steele was behind?—No, I do not.

9571. Did you see him behind the tree?—No, I did not.

9572. Would that tree command that back door you spoke of?—Yes.

*The witness withdrew.*

*The Chairman* intimated to the officers present that the Commission had passed a resolution that the further attendance of the officers be dispensed with.

*Adjourned to to-morrow at Eleven o’clock.*

THURSDAY, 2<sup>ND</sup> JUNE 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

E. J. Dixon, Esq., J.P.,  
J. Gibb, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.,  
W. Anderson, Esq., M.L.A.,

J. H. Graves, Esq.; M.L.A.

James Dwyer further examined; cross-examined by *Mr. O’Connor*.

9573. When did you first come to Benalla during the time I was there?—In March.

9574. That was immediately after I arrived?—Yes, about a week after.

9575. Can you inform the Commission if you know anything about Constable Kirkham being given over to me?—I heard he was given over to you to look after the black trackers.

9576. Did you and your comrades understand that he was under my orders?—I did, and he was so.

9577. Did you ever hear Constable Kirkham make the statement that I had nothing to do with him?—No, never.

9578. Coming to Glenrowan, when Mr. Sadleir upon the first occasion spoke to me in the trench, did you hear what I said to him?—I did.

9579. When I was speaking to Mr. Sadleir, did I tell him “There are a lot of prisoners in the house, but they are in the back part of the kitchen”?—Yes, those are the words you said.

9580. And did not I also say, “Therefore, our firing into the front of the house will not hurt them”?—Yes, you did; that was when Mr. Sadleir asked, “Are there civilians inside,” and you continued that conversation, stating there were.

9581. Did you hear me tell Mr. Sadleir in these words, as well as I remember, “Senior-Constable Kelly told me that he found a rifle a hundred yards from the back door of the hut, covered with blood, and it, in his opinion, was one of the outlaws’ rifles”?—Yes, you did at that time.

9582. And that, in Senior-Constable Kelly’s opinion, some of the outlaws had got away?—Yes, you told him that at the same time, following up the conversation.

9583. Was it possible that you could have told me this?—No, I could not.

9584. You were in the trench for a part of the time, for a short time?—I was.

9585. From your recollection of my position, would it be true to say where I was was seven feet deep?—No, it would not.

9586. Would it be true to say, that from my position I could only command the ridgepole or the top of the roof of the house?—No, you had a good commanding view of the front of the house, and no one could make his escape from it without your seeing him.

9587. You remember my position there?—Yes.

9588. Will you inform the Commission if there was any position that a man could have taken up to command the front of the house except my position?—No, there was not, and I can give a reason. When Constable Milne called to me to get under cover, as two volleys were fired at Mr. Sadleir, I looked to see where I could get under cover, and I could see no place of cover, only this trench where I saw Mr. Sadleir get into.

9589. *By the Commission.*—Had you previously known the ground there?—Yes, I was there for three months in 1873, while the railway there was being made.

9590. *By Mr. o'Connor.*—While you were there did you see Mr. Sadleir and myself both fire?—Yes.

9591. Would you explain to the Commission what portion of or how far the body was exposed when we were firing?—You were exposed this much—[*explaining by gesture*—just to the chest line.

9593 Any time I was firing?—Any time you were firing you could be hit by anyone in the house. They had a clear open sight of you from this—[*the chest*—up when you were firing.

9594. What time did you say that you came and told me Mr. Sadleir wanted me—about?—Half-past nine or twenty minutes to ten.

9595. You were on the field from that time up to the time the burnt bodies were taken out?—Yes.

9596. Did you see me during the remainder of the day?—I did. I saw you walking round with Mr. Sadleir, and by yourself other times, and some of the men with you going round the house to all the lines, firing sometimes and walking others, and some of the men with you.

9597. In your opinion, did I show any cowardice during the fight at Glenrowan?—It would be absurd for any person to say so; and I saw you act bravely, and I know you to be a splendid shot and a thorough bushman.

9598. *By the Commission.*—Did you understand Constable Kirkham to be immediately under the control of Mr. O'Connor, at Glenrowan?—I did, inasmuch as he was in charge of the trackers with him.

9599. After the arrival of Mr. Sadleir, in whose command would Kirkham have been—would he have obeyed Mr. O'Connor or Mr. Sadleir?—In my opinion he should obey Mr. O'Connor as he was minding his troopers and under his control with them.

9600. Did the outlaws fire as many shots as the police in the front of the house fired at them?—They did not, because there were only two of them, and double that number in front.

9601. Were there many shots fired from the hotel at the time?—There were. The outlaws kept principally in front of the house, firing, and the civilians were at the back; they kept at the windows in front to avoid the civilians.

9602. Do you think from what you saw there, would there be half as many shots fired by the outlaws at those in front as those fired by the police?—No, there could not.

C. Gascoigne,  
2nd June 1881.

9603. How many were there in the trench besides yourself, Mr. O'Connor, and Mr. Sadleir at this particular time when you saw them fire?—There were Mr. O'Connor and two trackers, and Constable Kirkham, and Mr. Sadleir and I—that is six altogether.

9604. If the outlaws, two of them, were firing, and firing with the same rapidity that you in the trench were firing, they could discharge a third of the number of shots?—They did not; they only fired a shot now and again, when they saw an opening at the men.

9605. Did you fire then?—Yes, I fired both barrels, and after that I volunteered to take orders, as my shot-gun was not much good.

9606. *By Mr. O'Connor.*—Were you aware that Constable Kirkham had no ammunition at that time, and could not fire?—He told me he only had five rounds and he was sparing it.

9607. *By the Commission.*—When you saw Mr. O'Connor going round with Mr. Sadleir and some of the men, what time was that?—About eleven and twelve, and up to ten, when the prisoners came out. Mr. O'Connor and Mr. Sadleir were up around the trees before that, and from that time till the firing of the house, they were walking round and taking up their positions, and seeing the men were at their posts.

*The witness withdrew.*

Charles Gascoigne sworn and examined.

9608. *By the Commission.*—What are you?—Mounted constable.

9609. Were you long in the North-Eastern district before the Glenrowan affair-stationed there?—I

joined the police force on the 6th of March 1879. I was taken on as a probationary constable at that time by Captain Standish, at the time of the Kelly outrages.

9610. Were you in any of the search parties?—I was in Mr. Hare's search party.

9611. How many were there of you?—I almost forget.

9612. About how many?—I think six or seven.

9613. What time was that party out?—I think it was about the 30th June 1879.

9614. Did you, in any of your search parties, have any information that led you to believe you came near upon the Kellys?—Well, when out with Superintendent Hare's party at that date, the first night we were out in the Strathbogie, I heard some dogs barking at the crossing of the creek; so in the morning we were travelling in that direction, and the black tracker picked up some tracks. He followed them on for about a mile, and then they went up the range and came down again, and went in and out; and Mr. Hare came to the conclusion that they were the tracks of some one looking for cattle. We did not pay much attention to this, but a day or two afterwards Mr. Hare's horse was lost, and one of the men was looking for it, and I happened to be with him when he was returning to the camp, and a woman, the publican's wife, told us that Jim Quin came there the very night that I heard the dogs barking at this crossing, and got four bottles of brandy.

9615. Is that what you would consider the most reliable information of the Kellys?—That is the most that ever I got when I was out.

9616. Would the Kellys have had any difficulty in avoiding you when you were out in search parties?—No; they had every advantage.

9617. Were you out with any search parties after the second system of search was inaugurated?—No; none at all.

9618. Where were you stationed when Mr. Nicolson was up in the district?—Violet Town.

9619. You were not out with any of the search parties under him?—No; none at all.

9620. Were you in the cave party?—No.

9621. Were you in the party at Sherritt's house?—No.

9622. Is there anything in connection with the search for the Kellys that has come under your notice that you think is worth relating to the Commission before you come to Glenrowan?—No.

9623. Do you think if you had followed up those tracks you would have come on the Kellys?—I could not say that, but that was the remark the woman made to the man. There was so much false information at the time that it was very hard to believe any one.

9624. You were troubled with false information?—Yes.

9625. At every turn?—At every turn.

9626. You considered it came from the sympathizers to throw you off the trail?—You could hardly believe any of them. I was reared amongst the people and there were plenty of respectable people that I could have got, but what information we got was from friends of the Kellys.

9627. And that was calculated to throw you off the track?—It may have been true, but we were searching all round the country and found nothing.

9628. Were those private agents employed by the officers from time to time men you could not place

implicit reliance on?—The only one I knew was Aaron Sherritt; he did not know me at the time; he thought I was a constable from Melbourne, and did not know me. He was talking to me for about an hour, and I took in everything he was saying; and at the latter end I took it to be a lot of nonsense, because I knew the Kellys as well as he did, and it was a lot of falsehoods. Captain Standish saw us talking, and thought I did not know Sherritt, and I told Captain Standish that I should not like to follow Sherritt as a leader or be with him any time—he might lead them into a trap; and Captain Standish made the remark to me, “I will give him enough rope, and he will hang himself.”

9629. Generally were the parties from whom the police obtained their secret information a class of people that were unreliable?—They were, what I knew of the class.

9630. That they would mislead the police wilfully?—Yes.

9631. You have been living in the North-Eastern district for a number of years?—Yes, all my life, and I know the country and the people well.

9632. Did you know the “diseased stock agent”?—The only one I knew was Aaron Sherritt, and another young man who went under another name that I was not aware of.

9633. Look over this list of agents and see if you know them. Note any there whose information you think would be reliable. The real names are on the left?—*[The witness read the list.]*—There are so many different people in the district of the same name that I know that it would be hard to tell.

9634. Do you think the men bearing those names would give any reliable information?—I think so.

9635. As a rule you consider the agents were misleading the police?—I do.

9636. They were simply taking all the money they could from them?—Some of them might give a little information if it was very safe—if they thought they could get away after they gave it.

9637. Then in that case the system of private spies would be very little use for capturing the gang?—If they could get the right men.

9638. I speak of the class of men, from your own knowledge, if your impression be correct, there would be no probability of the gang being captured from information supplied by people of that description?—No.

9639. You do not know the one that is represented as the “diseased stock”?—No, I do not.

9640. Are you aware he gave information that armour was being made?—I was not. I knew nothing about the armour. I knew only of the stolen mould-boards. When I was with Senior-Constable Kelly, looking for the man travelling with the cart, I heard about the mould-boards, when we were round Greta.

9641. What would, in your opinion, be the best means to be used to secure or capture a gang of outlaws in the same country—men of the same character—have you formed any idea?—Yes. The best way would be for mounted police to go out with very little provisions, and no incumbrance, just a 'possum rug—something to sleep in—net to take a lot of packing on horses; no pack-horse at all, unless it is a long journey, four or five men; and let them camp out, just the same as shearers or any others; just take a saddle-bag with one days' provisions.

9642. Somewhat similar to what shearers and bushmen used to do in the old days, knocking about for work?—Just the same.

9643. Without uniform?—Yes.

9644. And get provisions where they could?—Yes.

9645. Take firearms, or not?—They must take a rifle with them, because the revolvers are no good. I

9646. The rifle would show what they were?—They could manage to plant that in the swag. I

those short carbines, in the 'possum rug. I think the rug would cover the whole of of those. I

9647. You would have the rifle-carbine ready for emergency?—Yes.

9648. You would carry the revolvers?—Yes; and the rifle would be only in case of a long shot. longshot. I

9649. How soon could you get it out of the rug?—Half a minute, or less, you could draw it out.

9650. Is it a very difficult country then to follow bushrangers up?—It is, especially in the Greta country, where they have so many friends.

9651. The difficulty is not so much in the nature of the country as the class of people that live there?—Yes. If a party of police went out as they used to go, they would be starting through the town; there would always be some one watching, and the spies go from Benalla to the other party, and so on, carry it on, and the outlaws know in what direction the police have gone; and the party of police with the pack-horses could be traced all over the country.

9652. A search party like that would be a laughing stock to the outlaws?—It would be a laughing stock to the outlaws.

9653. Could a body of bushrangers remain in the ranges for a long time without the police getting at them?—They can get out of the ranges into other ranges, and the men with pack-horses could not get as quickly as they could.

9654. They could not stay in the ranges without coming for food?—No; not more than a fortnight.

9655. From your conversation with the police, did they seem to express any doubt of the likelihood of capturing the gang in the way in which they were proceeding?—Some did, but some were inexperienced men to the bush.

9656. From your knowledge of the men of the district, more particularly the population, do you think there is a likelihood of another organized outbreak?—It is a very hard question, but I will answer it from my own knowledge. I have been stationed at Glenrowan of late, and from the conversation of some of them I believe there is a very bad feeling existing between some of them and the police.

9657. They would shoot the police if they got the chance?—Yes, if they got a chance in the dark.

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9658. Is that the police generally?—Yes; especially the men that were taken on at the time of the Kellys—any one they know they have got more of a “down” on; and the people about Glenrowan are just as frightened as when the Kellys were out to give any information.

C. Gascoigne,  
*continued,*  
2nd June 1881.

9659. Then that district is not in a satisfactory position?—No.

9660. Do you think you were in danger of being shot any time there?—When I first went to Glenrowan, two days after the capture, about a week after, a man wrote to the police camp and told me the best thing I could do was to leave the place, that he would not give me reasons; but he heard I would most likely be shot, but he would not tell from whom; and he said, “You ought to know me.” He was an old school-mate of mine, a very respectable man; and I told him I did not care as long as they gave me a “show,” and it was not a cowardly attack. He told me I was very foolish not to go.

9661. Have you formed this impression that yourself and other constables engaged in the capture of those men at Glenrowan are subject to the attacks of these men secretly?—I believe they are in more danger than any other men—I do not know that—any constable. I think the uniform is enough to make them shoot a man. I think the men taken on specially who know these men there is most danger to.

9662. Such men as senior-constables Kelly and Johnson, yourself, Sergeant Steele, and several others who have been very prominent in the Glenrowan affair, for their personal safety, ought to be removed

to some other district?—Well, no, I do not think so. I think a man that would go after the Kellys would be in just as much danger then as now. Of course, he knew the Kellys would shoot him cowardly then if they got the chance.

9663. Your impression applies to all the members of the force in uniform as to their danger through being in uniform?—Yes, in that district.

9664. Do you think there is any fear of any gang taking to the bush the same as the Kelly gang did?—I believe there is at present, from my own knowledge.

9665. Can you give the Commission any idea of what you base that opinion upon?—I base it on the information of some of the sympathizers themselves, talking to them.

9666. Do you think the police would have as much difficulty now, with all the knowledge they have got, in suppressing anything of that sort as they had before?—I believe they would.

9667. Do you think that the very strictest repressive measures would be necessary if they did break out?—It would. It wants experienced bushmen to go after them.

9668. You do not approve of men being sent from the Richmond dépôt without experience in the bush?—No. If they have not experience they have to trust to a leader, and if the leader was to go they would not know what to do.

9669. They must follow the leader?—They must follow the leader. And there were foot men and all sorts of men taken out in the pursuit, which caused dissatisfaction amongst some of the mounted men.

9670. You disapprove of the Melbourne men being sent up at all?—For search parties.

9671. They do for guard at the banks?—Yes.

9672. Good horsemen and good bushmen are best for that?—Yes. Some of the men in the parties sould not ride a horse—could not ride it over a fence. In fact, it was not the men's fault; they were never allowed to jump their horses. Any person there can jump a fence, but if we jump a horse and hurt the horse's legs we have to make great reports, and perhaps do not get out of it. You can never catch those men with the horses. You must have them trained to jump, and the men to ride them.

9673. Coming to Glenrowan, will you give as short an account as you can of it?—I have a written statement here of it, which I think will shorten it.

9674. You had better read that?—[*The witness read the same, which is as follows:—*] “Glenrowan Police Station, North-Eastern District, May 13th, 1881. Mounted-Constable F. C. Gascoigne, No. 3056, begs to report, for the information of the Police Commission, relative to the capture of the Kelly gang of outlaws, on the 28th June 1880, as follows:—I left Benalla with a party of constables, consisting of Senior-Constable Kelly, constables Barry, Canny, Auther, Phillips and Kirkham, under the command of Superintendent Hare; Inspector O'Connor and the black trackers were with us. When the train arrived within one and a half miles of the Glenrowan railway station the pilot engine, which was about 200 yards ahead, stopped; a few minutes after Superintendent Hare came to the guard van, told the men to get out, as the rails had been taken up about half a mile from the station. At the request of Superintendent Hare, Constable Barry, Phillips, and myself accompanied him to the pilot, which we mounted; the pilot then put back to the other train, and we then together proceeded on to the Glenrowan station. When we reached the station Superintendent Hare, accompanied by Constable Barry, Phillips, myself, and a Mr. Rawlings, proceeded to the gate-house, the residence of the station master; and in answer to Superintendent Hare's enquiry as to where the station master was, the station master's wife said (weeping) that the Kellys had taken him away; and in reply to a question where, she pointed in the direction of Mrs. Jones's hotel. She also told Superintendent Hare that Steve Hart, the outlaw, had only left her house two or three minutes. We then went back to the station to get out the horses; when about eight or nine were got out by Constable Canny, which I was holding, one of the trackers saw a man on horseback, about 100 yards away, on the hotel side. Constable Barry and two trackers were put on guard to watch. Before all the horses were got out I noticed some excitement at the other end of the platform; most of the men rushed there; I then heard someone say, “They are at mother Jones's.” Superintendent Hare called out, “Let the horses go,” which I did; he started for the hotel, followed by the men. When about 60 yards from the hotel, Constable Barry asked Superintendent Hare what was the matter; he then said, “Come along, boys.” When we got within about 20 yards of the hotel, one of the police said, “Look out.” I then saw the flash of a rifle. The

man who fired the first shot was standing about 10 yards from the corner of the hotel. The report of his rifle had not died away when I saw a row of flashes come from under the verandah of the hotel; the police quickly returned the fire. A man then came out from under the verandah, when Superintendent Hare called to him and advised him not to be foolhardy, and told him that he wished to speak a few words to him. In reply, the man said, "I don't want to speak to you," and at the same time fired at Superintendent Hare, and then returned to the verandah. The moon at this time was shining from the back of the hotel, and full on the police, the outlaws being in the dark shade, under the verandah. The police now took cover, some behind the railway fence, others behind trees, &c., as near the hotel as they could find it. Shots were freely exchanged on both sides. I managed to get behind a small sapling post, about 30 yards from the end of the hotel. I

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had not been there many minutes when shots were fired from two trees above me, and two men were firing over me from behind. I called to the men behind to cease firing in that direction, which they did. At this time a woman came out of the hotel at the back——

9675. About what time was that?—About ten minutes past three o'clock.

9676. Was that before or after Mr. Hare was shot?—After. I was standing close to him, but I did not know when he was shot; it was ten minutes after the first volley was fired he said he was shot.

9677. Did you hear him say he was shot?—Yes, ten minutes after the first fire. "A woman came out of the hotel at the back, and a girl was with her holding a candle. A man then came out and, putting his hand on the woman's shoulder, tried to pacify her. I heard her say something about her son being shot. Two men were firing from a position above me in the direction of the woman and girl; I called on them to stop firing, but they kept on. I then said, 'You are cowardly black wretches (believing at the time they were trackers) to be firing on women.' I also called upon the police to stop firing into the hotel. Superintendent Hare then gave the order to cease firing. About this time a man made his appearance in front of the hotel, and walked towards the railway fence, and fired a shot in that direction, at some one; three shots were fired at the man in return, who I believe to have been Edward Kelly, the outlaw, by his appearance. He then fired at three men who were standing on the closed road, about 50 or 60 yards from him, at the Benalla end of the hotel. I think one of the men was Superintendent Hare. I don't think these men could see the outlaw, as the night was very frosty and clouds of smoke hung between them and the man who fired. After he, the outlaw, had fired the shot, he was standing face on to me; I fired at him, and he returned the shot quickly; we had three or four shots at each other, and after my last shot he turned sharply round, and called out, 'You b—— cocktails, you can't hurt me, I am in iron. Two of the outlaw's shots struck the post behind which I was taking shelter. Superintendent Hare now called out, 'O'Connor, place your boys round the house, and for God's sake don't let them escape.' I now left my post and went to the two men above me, who I thought were trackers, but I found they were police constables; they told me not to stop there, as there was not sufficient shelter for me. Shots at this time were coming from the passage between the hotel and kitchen; I left these two constables and went to a tree above them, could see the outlaws' horses, in the yard, at the rear of the hotel. Was at the tree about a quarter of an hour, when Constable Kirkham said that he would go for ammunition, and promised to come back again, but did not. About ten minutes after his departure I heard footsteps behind me, and saw a man about 15 yards away, coming towards me. I called on him to throw up his hands, which he did not do; repeated the order, when he enquired if I was a policeman; I said, yes; he then went away. Soon after, I saw a match struck about 100 yards from me; I saw two other men with him; Constable Phillips was stationed at a tree about 10 yards from me; he left his post to stop a man who was making his escape from the hotel; when about the railway crossing, Phillips called on me to come and assist him; I did not then go; he called again, and said that one of the outlaws was escaping. I at once went down to his assistance, overtook the man on the railway line, and stopped him, asked his name; he said that his name was Neil McHugh; he had on his back a wounded boy. I asked him the boy's name, he said that he was Mrs. Jones's son; the boy was bleeding at the time from the month. I then asked McHugh who was in the hotel; he said, 'There are 30 of them, and they have armour on—'

9678. By "they" did he mean the outlaws?—He said "they," he did not distinguish the outlaws. I thought the whole lot had armour, from what he said—"and for God's sake don't go too near the hotel, for they intend to shoot you all in the morning." Phillips then went in front of the hotel, and I returned to my post at the tree which I had left, and remained there for about two hours and a half. Everything was very quiet at the hotel, but the horses in the yard behind were very uneasy. About this time I could hear a train coming in the distance from Benalla. I now left my post and went down to the railway crossing, near the gate-house; saw a black tracker come out of a drain behind me; I asked him how many of our men were killed, he said only two, Constable Canny, and Jimmy, the black tracker. I remained at the railway crossing until the train arrived at the station. The newly-arrived police came down the line towards the gate-house, when they (the police)

were about thirty yards from the gate-house, when shots were fired at them from the windows of the hotel; a little after this I saw a man walking up the back yard of the hotel, and go amongst the horses, and at the same time saw a horse get out of the yard, and get away into the bush

9679. Without a rider?—Without a rider. “I did not see the man again, he did not come back to the hotel. The horse that got out of the yard was the one that Edward Kelly had been seen riding, and judging from appearance I believe the man who was in the yard to have been Ned Kelly; I could easily have shot at him, but knowing the police, who had recently arrived, were mostly posted on that side, I was afraid I might shoot some of them, and I also knew that Kelly was wearing armour. At this time there were only two constables at my side of the building. About twenty minutes after I saw the man amongst the horses. Superintendent Sadleir came to the tree and told me to shoot at the chimney. I told him it was no use shooting at the hotel as the outlaws had armour on; he said that I must have made a mistake, I told him that I did not make any mistake, that myself and Edward Kelly had had several shots at each other at a short distance, about twenty-five yards. Did not fire at the chimney, as I was short of ammunition, only having twenty rounds, when I arrived on the ground, for my rifle. Shortly after Superintendent Sadleir left me, Senior-Constable Kelly came up and told me and another constable that had arrived by the Benalla train that he had picked up Ned Kelly’s skull cap and rifle. I asked him what he had done with his own hat, seeing that he had the skull cap on; he said that he lost it in the bush. I showed him a hat, and asked him if it was his; he said it was. I told him that one of the black boys had found it under the culvert crossing; he said that he was not under the culvert; he afterwards said that he was going round to the men with ammunition, and must have lost it under the crossing. Soon after Constable Kelly left there was great excitement, and shots were fired on the Wangaratta side of the building; one of the black boys said that he could see a man running away, and one of his mates, called Jimmy, fired at him. About sixteen shots were fired on that side of the building. About half or three-quarters of an hour afterwards eight or ten shots were fired in the same direction. I saw a man run from a tree close to Jones’s hotel towards the firing; he had not left his tree more than two minutes when I could hear someone calling out; I was afterwards told that it was Ned Kelly; I believe the man who left the tree close to the hotel was Sergeant Steele. Orders were given by someone on the ground to fire high. Shots were fired from the hotel after Ed. Kelly was captured. Once I saw a shot

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from the kitchen strike a horse that was loose in the yard; the shot was fired through slabs; the horse fell on his hind quarters and got up again. About 8 a.m. I saw a man at the hotel door hold up a white hand-kerchief; a shot was fired at the man, and he went inside again; I looked round, and found that it was one of the black trackers that had fired the shot. At this time someone in front of the building called to the people inside to come out, as the place would be shot into; about thirty persons came out, and were told to lay down in front of the hotel, and after being examined they were let go. The men that came out told the police that Joe Byrne was shot dead about 5 o’clock a.m., and was lying in the bar of the hotel. Shots were fired, after the Kelly prisoners were released, into the hotel on all sides. The two outlaws, Hart and Dan Kelly, fired from the windows of the hotel on the Benalla side of the building. Firing was kept up by the police until 3.30 p.m. The hotel was set on fire by Senior-Constable Johnson, which burnt very quickly, owing, I believe, to quantities of kerosene and spirits being spilt about the floor inside the building. I was not told by Superintendent Hare that there were prisoners in the hotel; I first heard of it from McHugh, who said that there were about thirty of them; and they have got armour on, and are going to shoot you in the morning.”

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9680. Then you kept up your position all through, where you were first?—I kept within from 30 to 60 yards the whole time, except when the prisoners came out; I got a little way away then.

9681. Who went with you from the platform the first thing?—I was holding the horses, and Constable Canny was getting out. Constable Barry was placed on guard with one of the black boys, I think. I gave Barry my rifle to hold, and said I would hold all the horses if he would hold my rifle in readiness. During some excitement, Barry went away, and left me and Canny with the horses. This excitement, I believe, was Bracken singing out; and Canny said what would he do with the horses; and Mr. Hare said, Let them go.”

9682. In what order did you proceed from the platform to the railway gate?—I went alone, Canny following.

9683. Where was Mr. Hare?—He was on ahead.

9684. And all the others?—I believe he was in company with some others. I do not know.

9685. Did you see Mr. Hare and some of the others pass through the railway wicket-gate?—I saw

Mr. Hare, and I believe I was the next man that passed through, and there was another man came through—I do not know who he was—and went down the side of the fence.

9686. Did you see Mr. O'Connor at that time?—I do not know; he may have been that man that went down the side of the fence.

9687. You know the position Mr. Hare took up first, on the first firing?—Yes.

9688. Is that almost in a line with the railway gates, crossing from one side to the other?—No, it is the wicket-gate nearest to the hotel.

9689. Between that and the hotel a little to the Benalla side?—A little to the right, almost straight to the front door.

9690. When did you next see Mr. O'Connor; you saw him at the railway station after you arrived?—No.

9691. Where did you first see him after you arrived at Glenrowan?—The first time I saw him after the train left Benalla was at Glenrowan, at eight o'clock in the day, with Mr. Sadleir.

9692. Where was he?—Standing by the railway fence, on Jones's side of the railway fence.

9693. Whereabouts?—[*The witness indicated on the plan.*]—Somewhere near the tree where I first saw Steele, but a little lower down; it was where the prisoners came out; he was just standing inside the fence.

9694. Did you hear Mr. Hare say anything after he was shot?—I heard him say, "O'Connor, place your boys and, for God's sake, do not let them escape."

9695. Did you see what became of Mr. Hare after that?—I never saw him again.

9696. You saw Mr. O'Connor when?—About eight o'clock; about when the prisoners came out.

9697. What prevented them from going up to the hotel at first?—The volleys fired from under the verandah, the corner posts.

9698. And then Mr. Hare gave orders to surround the building?—He gave no orders at all except what he said to O'Connor.

9699. Had you any orders during the day?—None from anybody after Mr. Hare left, except from Mr. Sadleir to shoot at the chimney.

9700. Had you any from any other members of the police?—I had orders from Senior-Constable Mullane to go and fire into the end of the building. I told him I had no ammunition, and he had a bag on his back and had plenty of ammunition, and I said, "If you give me some I will fire in." He said, "No, go and get some."

9701. Did Dwyer come with orders?—He came with a bottle of brandy, that was all.

9702. Did Kelly come to you with any orders?—None whatever.

9703. Did you see Constable Kelly after you told him you had found his hat?—I do not remember.

9704. In what direction was he going with the skull cap on?—He was coming from the front of the building through the culvert, right across the crossing. That was the first I saw of him that night before the fight.

9705. Then after that where did he proceed to?—He went back again the way he came.

9706. Then he must, within the time you saw him, have walked back to the Wangaratta side of the

hotel to be present about the time Ned Kelly was captured?—Yes, some way round that way.

9707. Are you of opinion that Ned Kelly got away when that horse escaped?—Yes.

9708. What constables were on that side?—I do not know.

9709. Are you aware there were any at all?—No.

9710. Did you not know the Wangaratta men came?—No. I do not know who came, excepting when the Benalla men came. I did not know the Wangaratta men came at all. I never saw any man to get orders from at all when Phillips left me. Constable Mullane was the first to come to me. He arrived with the Benalla train.

9711. What time was that?—It might be about six o'clock or a few minutes afterwards.

9712. It was quite possible for all the outlaws to have escaped at that time then if there was no one stationed round that side?—Well, they might have escaped by crawling away at one particular side, the back side—the Wangaratta back part.

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9713. You remained on the Benalla side of the hotel?—Yes, all the time.

9714. Were you in a position to see whether there was any large amount of firing from the hotel front?—I had the position from the front and side windows to see any one escaping at that end.

9715. Was there any large amount of firing from the front windows after the first volley?—Not from the front windows; there was a lot between the kitchen and the hotel. There was a paling fence for cover, and there were two men firing endways at the Benalla side; they were standing between the kitchen and the hotel.

9716. Was there a large amount of firing from the immediate front of the hotel—from the railway side, towards the hotel?—There was at the first shooting a lot of shots.

9717. After Mr. Hare was shot, was there much firing from the police from the railway side?—Well, I believe there were a good number of shots firing from that, not so freely as before.

9718. When was the last time you saw any shot fired from the hotel during the day?—Half-past two, from the back window, the skillion where the outlaws were captured.

9719. Had there been any considerable amount of firing from the hotel from the time the civilians were released until half-past two?—Odd shots only.

9720. Only now and then?—Only now and then odd shots.

9721. You were present at the burning of the hotel?—Yes.

9722. Did you see the priest go in?—I saw him go in.

9723. Which way did he go in?—In the front door.

9724. Which way did he come out?—I could not say. I heard some of the people sing out he was burnt, and I went to the back of the hotel.

9725. You did not see him there?—I saw him afterwards, at the back, but I cannot say whether he came out that way or not.

9726. Did you see the body of Joe Byrne taken out?—I saw some men carrying it away; I was not there. There was supposed to be a wounded man at the back, Cherry, and I went there.

9727. Did you see the bodies of the two men that were burnt?—I did.

9728. Before they were moved?—No, there was some one moving them from the position they were in.

9729. When you saw them they had been moved?—Yes.

9730. After the house was burnt and the bodies dragged out?—Yes, it was still burning.

9731. Did you see where they were brought to or from?—Yes.

9732. Where were they lying in the hotel?—When I saw them?

9733. Can you say what room those two were in?—They were in the room on the Benalla side of the building, the back skillion on the Benalla end—the south end.

9734. Were both bodies there?—They were both there.

9735. Were they both there when they were burnt?—I believe they were.

9736. Did you hear Dwyer's statement about those bodies?—I did.

9737. Do you consider that is a correct statement?—Well, the bodies had been removed, had been poked with a pole when I saw them, and that may have shifted them.

9738. Not from the north end to the south end?—No. They were both in the small room, as I have stated.

9739. Could a body at the north end have been shifted into the skillion on the south end?—No.

9740. You saw them both in that room?—Yes.

9741. How was the armour lying? It had been moved too, a man with a large pole had been poking it.  
 9742. Who was the man?—Williams, of Dookie, a civilian, and Senior-Constable Johnson.  
 9743. He had not moved them far?—No, not much out of position.  
 9744. Not a yard?—No, perhaps a foot.  
 9745. Were they lying on the floor?—Yes.  
 9746. Not on the bed?—No.  
 9747. Were they lying together when you saw them?—They were pretty close together, and I did not take exact notice, because I had just run a cartridge out of my rifle on account of so many people being about; and some fellow said, “Do not be so smart unloading your rifle, young man, look what is coming before you”; and I saw some of their friends coming up, and that drew my attention away from the bodies.  
 9748. After you saw Mr. O’Connor with Mr. Sadleir, was that about the time the people were coming out?—Yes.  
 9749. Did you see anything more of Mr. O’Connor?—I never saw him again.  
 9750. You received no orders from him?—No.  
 9751. You mentioned that you were left to act apparently upon your own responsibility?—I was  
 9752. And you did do so?—I did.  
 9753. Did Dwyer give you any instructions whatever when he came round with the bottle of brandy?—Not to me; but I believe he was the man that called out to fire high.  
 9754. Was that when he was next to you?—This was sometime afterwards. He gave no orders at the time of the bottle of brandy.  
 9755. Did you fire high in consequence of that?—No; I fired only two or three shots the whole night into the hotel, and that was at the first. The other ten shots fired by me were at the supposed outlaws outside the building.  
 9756. You were firing at the men when they came outside?—Yes.  
 9757. How many shots did you fire that time?—Thirteen shots.  
 9758. And ten of those you say were fired at the outlaws?—I believed them to be the outlaws.  
 9759. Not at the building?—No.  
 9760. How far distant were you from the outlaws when you fired at the men—do you think you hit the object you fired at?—I believe I hit the object.  
 9761. That was when you ascertained they were in armour?—When Ned Kelly came out the second time, he walked from the front of the hotel towards the railway line. Ned Kelly fired a shot, and there were three shots returned at him. Kelly then fired at three men standing down on the Benalla side, near the big gates; and he fired single shots, and those men paid no attention to the shot at all. I was

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stationed a little above them, and I fired at Kelly, and he fired at me two or three shots, and the last shot I fired, he said, “You b—— cocktails, you cannot hit me; I am in iron.

9762. Did you hear the sound of the bullet on the armour?—No; there was a coat on that prevented that.

9763. Did you know Kelly?—Yes, I knew him; I knew him by his voice and appearance.

9764. You knew him before, personally?—Yes; I had a conversation with him at one time before Fitzpatrick’s affair. I was looking for some horses, and he told me he was very sorry for what he did in Benalla; but, for all that, he would be one with Lonigan and Phil. Smith one day.

9765. What did that mean?—That he would have it out some day.

9766. Have you any knowledge of when Ned Kelly got away?—After we had the shots at one another and he said that, he walked towards the corner of the fence, but the smoke was so thick I could not see whether he went in the fence or towards the bush; so after this some time Senior-Constable Kelly and Arthur found the rifle in the direction he went.

9767. Do you know when he was coming down where he eventually was taken that he was followed by his horse, or had his horse with him?—No; his mare made her escape out of the hotel yard at six a.m., and was not caught until next day.

9768. Did you see the mare at the time that you fired at him; was his mare about then?—She was in the yard, I believe.

9769. Do you know that?—The only thing I know about it is about five o’clock, or half-past in the morning, some man walked up the yard from the hotel and went into the yard, and I saw him go among the horses; and I saw the horse rear up in the yard, and the man could not get on, and she broke through the slip-rail through the fence of the hotel away on the Benalla side, and turned into Morgan’s Creek out into the ranges.

9770. Did you see Mr. Hare at all after you came through the gate and passed on with him?—I saw him after the first volley, and about ten minutes after.

9771. Was it after that he said he was wounded?—Yes.

9772. Does it occur to you that it was that shot that wounded him when the man took deliberate aim at him?—I could not swear it. I believe it was; that was the first time I heard he was wounded.

9773. After you knew he was wounded when did you again see him?—I never saw him again; he

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gave the order for Mr. O'Connor to place his men, and I never saw him after.

9774. Do you know the exact words he used when he gave the orders to Mr. O'Connor?—"O'Connor, place your boys, and for God's sake, do not let them escape." He said, "Men, surround the house."

9775. A separate order to the men?—Yes.

9776. Whom did you understand by the men; your party, was it?—Yes, or rather Superintendent Hare's party.

9777. Did you see Superintendent Hare shooting a second time?—He fired the first shot at the outlaws that was fired. I do not know whether he fired after or not.

9778. Had he previously instructed you not to fire till he fired?—Not on this occasion.

9779. Was that a portion of his instructions at any time?—No; he said, "Men, if there is any one shot, outlaws or police, do not run to pick them up; let them lie."

9780. That is not the question; did Mr. Hare at any time give you instructions never to fire till you were fired upon?—Not that I heard.

9781. Did you receive any orders from Mr. Hare or any one that on this occasion you were not to fire until you were fired on?—No.

9782. You used your own discretion as to when you were to fire?—Yes.

9783. Did you see Mr. Hare leave the ground after you found he was wounded?—No.

9784. Did you see Canny there?—I saw him about ten or eleven yards behind me, when I was coming through the gate.

9785. Did you hear Canny's evidence at Glenrowan?—Partly.

9786. Did you hear him say he went after this to the Wangaratta side?—I believe he was at the Wangaratta side, more towards that side on the railway side. I could not say whether he was on the Wangaratta side, over the fence.

9787. When Mr. Hare asked Mr. O'Connor to place the boys round the house, do you know whether he took any steps of that sort?—I never saw any.

9788. You do not know whether they were at the Wangaratta side?—I do not know where the men were.

9789. *By Mr. O'Connor.*—In your written statement you stated that you were out with parties who had pack-horses and baggage?—Yes.

9790. Were you ever out with any of my parties?—No.

9791. Then, you are not referring as to how I worked?—No.

9792. I believe you stated that, as to the shots fired by some person, who you thought were the blacks, it was not they you found afterwards?—Yes.

9793. How soon after the first volley did you hear Mr. Hare call out to me to surround the house?—It was within ten or twelve minutes, I believe.

9794. Did you hear Mr. Hare make any other remarks?—None whatever.

9795. Can you remember hearing the engines going back towards Benalla?—I have a very faint recollection of it.

9796. You were not very far from the line, were you?—Not very far.

9797. You could easily have heard them?—I could.

9798. You do not remember?—I remember there was a train went, but not the time.

9799. Was it very long after we had arrived there and taken our positions?—It might have been half or three-quarters of an hour.

9800. I believe you said that the black tracker named Jimmy fired at a man running out?—No, I stated that one of the trackers told me he could see his mate Jimmy firing. Of course that is only hearsay.

9801. Did you see the trackers?—In the morning?

9802. At the first going off?—No, about six o'clock.

POLICE

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9803. *By the Commission.*—It was quite true the civilians were fired upon when they came out?—By only one shot, from Jacky, the tracker. I saw him aim deliberately at the man with a white pocket handkerchief. That was ten minutes before the prisoners made their escape from the hotel.

9804. That was not at the time the civilians were coming out?—Yes. I believe that Riordan made the statement at Glenrowan, and he said the police fired on the civilians; that is the only shot that was fired—that single shot at that time.

9805. Was that at the time the civilians were coming out or at the time of the flag of truce?—The flag of truce.

9806. There was no shot fired at the time the civilians came out, as far as you know?—I do not believe there was.

9807. Were you in a position to say whether any members of the police fired from the Wangaratta side at any parties leaving the hotel?—No, I think Riordan, in his statement, said that the man went to the other window with a handkerchief two or three times before this flag of truce came out, and he was shot at. I

wish to say that is not correct. In my position—I had the end on the Benalla side of the front, and nearly all the back except the windows—I could see end on all the building. [*The witness pointed out his exact position on the plan.*]

9808. You have been in Benalla, and know all the country round there from your boyhood?—Yes.

9809. In your opinion, is it more efficacious for the securing of those men, leaving them alone and depending upon private information to get them, or is it the best plan to keep them completely under surveillance of the police throughout?—I believe it is best to keep them—not to watch them too much, but to let them have a little of their own way; but any that do wrong, to pounce on them at once; not to have spies looking out, because it only maddens them—that is the private spies—when they find it out. It only maddens them, and makes them turn against the police. I believe in the police going amongst them, and knowing them.

9810. You believe it keeps them more under control?—Yes.

9811. And immediately on an outbreak they should be arrested?—Yes, the men would know them, and their whereabouts, and know where to capture them.

9812. But by keeping away from them, you do not know their associates, or their whereabouts, or habits?—No.

9813. Do you know any special case of any man who would not give information now, after what has been said about the sympathizers—in consequence of that?—No, but I do not believe you would get anyone at Greta that you could rely on.

9814. Most of the men have been asked whether they think it would have been more judicious to have rushed the house or pursue the course that was pursued at Glenrowan?—Well, I believe the outlaws could have been taken easily—the two men—if there were not so many police on the ground; there were inexperienced men on the ground, cross-firing on the other men—they were not used to firing a rifle, and thought the ball would not go through the house—they had no experience in firearms.

9815. Then it is your opinion that although there was a large number of police surrounding the hotel, had the police been instructed by their officers not to fire because a party—that is a small party—was about to rush the building, that would have been the best plan to have adopted?—Yes, I believe so.

9816. You believe the two men could have been captured without the burning of the hotel?—I believe they could have been, without the burning of the hotel.

9817. Without loss of life?—No, I will not say without loss of life.

9818. If you had been in charge, would you have adopted that in preference to blowing the place down with a cannon, or setting fire to it?—I would have let one man, if he could, have got in, the others to back him up in the passage. I would not have sent in two or three, rushing.

9819. Could that have been done by recalling the men at the other side?—Yes.

9820. Are you a good shot yourself with the rifle?—Yes.

9821. Have you had plenty of practice?—Not with the Police Department. I was only out three times practising with them.

9822. Do you think they supply you with sufficient ammunition for practice?—No. I was seven months and only had four shots when I had a new rifle, a Martini-Henry, that I never used before.

9823. Would it be better if the police had more ammunition, and a regular system of practice, the same as is now indulged in by the volunteers?—Yes.

9824. Then it is a false economy not to give it to them?—Some of the men could not hit a hay-stack, and some are splendid shots. I got eighteen rounds when I received the Henry, and Sergeant Whelan asked me for six rounds; and when I went to Violet Town I fired those four shots. I never got any from the Government unless I bought it, except when Mr. Nicolson took me out in the ranges to have a shot in a party. There was a cup given, I believe, by Mrs. Nicolson. I went out with the party, and beat them the first time, and I never had a shot for seven months.

9825. It is often the practice that the police supply their own ammunition for practice?—Yes. There is a statement made by Jacob Wilson, that his son had a selection at Glenrowan, and that sympathizers were annoying him at night, and threatening to shoot his son; and he came to the police station to get assistance, and the officer in charge told him they had enough to do to take care of themselves. Glenney was the officer in charge. I happened to be there present, and happened to be at the son, “Holy Wilson’s” place, close to the police camp, and there were a lot of men knocking about there; they were fencing a man’s place, and I believe the statement made is not correct. He used to get frightened by a young man named Cass, living a hundred yards off. He used to try and frighten Wilson. Wilson was trying to get into the police. I never saw any signs of anything, and I was round night and day.

9826. This is only your opinion?—Yes.

*The witness withdrew.*

Hussey Malone Chomley sworn and examined.

H.M. Chomley,  
2nd June 1881.

9827. *By the Commission.*—There are some papers laid before the Commission, and I have been looking over them. They are relative to the exact position that Mr. O’Connor occupied under this Government?—Yes.

9828. Was he paid, to your knowledge, by the Victorian Government for his services?—Yes.

H.M. Chomley,  
*continued,*  
2nd June 1881.

9829. Can you say if there is any correspondence as to the exact nature of his duties and position in the department?—I could find no papers whatever, or scarcely any, in my office. I find there is apparently an official correspondence here between Mr. O'Connor and his Government, in which he must have asked for copies of correspondence between the Police Department here and his department in Brisbane, and they say they enclose copies of the correspondence. I cannot, in this correspondence, see any single thing about the position or anything else of Mr. O'Connor. Here is a telegram from the Chief Commissioner of Police, Brisbane, dated 17/2/79—"C. C. Police (only), Benalla. The Colonial Secretary approves of my sending trackers, provided they volunteer for the service, receive extra pay, and are assured of a fair share of reward offered, provided their efforts tend to capture of gang; our rate of pay is three pounds per month. No hope of keeping matter from newspapers. Am wiring north about volunteers there is no difficulty. Reply *re* pay, &c." Would that pay there mentioned, in your opinion, apply solely to the black trackers?—Yes; that is the three pounds a month.

9830. Can you say that there is no defined arrangement as to Mr. O'Connor's position?—I understood Mr. O'Connor was to get double the pay he received in Queensland from this Government. The actual pay he received from this Government was, I believe, £360 a year, and travelling expenses attached to the rank he held.

9831. What was that?—Sub-Inspector.

9832. He was then a volunteer from their service?—I cannot say.

9833. How do you arrive at this knowledge. Is it by official documents; if so, we want to get them?—I think I heard the most of it from Mr. Moors. To tell the honest truth, I was not in the office at all until the last month or two. There are no official documents in our office about it.

9834. I can find none about it except one, where it says he and his party of trackers are not to be separated?—I have made enquiry, and I find that most of that correspondence was from the Chief Secretary's office.

9835. Will it be found there?—I think it might, if there is any; but the Under-Secretary is ill, and the Acting Under-Secretary; they are both away ill now.

9836. Do you consider it is very vague, the information on this subject?—Very vague.

9837. Unusually vague?—Yes; it might have been much more explicit.

9838. What would the arrangement be, that they were all to receive double pay?—That is what I understand.

9839. Do you know whether the black trackers received Queensland pay?—No, they received double pay from our department; that is all I know.

9840. Are there no documents that would give you more information?—No, not on that point.

9841. *Mr. O'Connor*.—I saw Captain Standish when I came over to Benalla, and he showed me written instructions he got from Queensland; he showed them me at the Benalla office, and I read them they were written on white foolscap without any lines; I remember it well.

*The Chairman* read the following letter:—

"Melbourne Club, 25th May 1881.

"Dear Sir—In reply to your letter of the 23rd instant, I beg to inform you that when retiring from the public service I did not take away any official documents of any kind from my office. Any copies of telegrams or correspondence on the subjects referred to in your letter, if not made away with, must be in the office of the Acting Chief Commissioner of Police. I have no private correspondence with the Queensland authorities on the above-mentioned topics.

“Yours faithfully,

“F. C. STANDISH.

“James Williams, Esq., Secretary.”

*The Witness.*—Those particular documents, it appears, Captain Standish had in New South Wales himself, so he must have taken them.

9842. Having heard Captain Standish’s letter, and having heard the state of things here, are you in a position to inform the Commission whether there are any other documents in the office?—I am not aware if any search has been made. Mr. Moors has made search all through the papers and could not find any.

9843. All that were in the office have been forwarded to the Commission?—Yes.

9844. Are you aware that the Commission made a recommendation that, pending the enquiry here, Mr. Sadleir should be relieved from duty?—Yes.

9845. Is his return to duty indispensable to the public service?—No.

9846. Have you made provision for his duty?—Yes, to fill up his place. He is not going back to the North-Eastern district.

9847. Is he absolutely required in any other district?—He is not absolutely required.

9848. Is this a copy of the report you forwarded to the Chief Secretary, dated 1st May 1881?—Yes. [*The same was handed in and read, vide Appendix.*]

9849. In the second paragraph you state “That in consequence of the disclosures made before the Police Enquiry Board, and the references made to persons who assisted the police with information during the Kelly outbreak, it is now utterly impossible to obtain information as to the movements of the sympathizers.” Will you indicate what portion of the enquiry that refers to?—No, I cannot; I was told it. The information was given to me.

9850. From whom did you obtain that information?—Mr. Sadleir and others.

9851. No, that is your own report, and you state it as your own?—It is all from what I have been told.

9852. Who told you?—Mr. Sadleir, Mr. Baber, and, I think, either Sergeant Steele or Sergeant Whelan.

9853. It is not from your own knowledge?—No, I was only in Benalla three hours then.

9854. Have you read the reports in the press of this present enquiry?—Yes.

9855. Have you not been furnished with copies of the official evidence taken?—Yes.

9856. Can you point to any part of that where the disclosure of persons or places is likely to have that effect?—No, I cannot do that, but I can quite understand they would. I committed myself in that report on the statements of those officers.

9859. That was all the opportunity you had of judging of the state of the district?—Yes, and the reports that came to the office from the district.

9860. Are those reports in the office?—They are in my pocket at present, at least some of them.

9861. Upon which you founded that report?—Yes, and some conversations I had with people. This is the first I received, I think, from Mr. Sadleir, dated April 22nd, 1881. It is written as a private letter, as he was relieved from duty at this time.

9862. Will you read the portion you refer to in that letter?—I will read the whole of it—[*reading the same as follows:-*]

“Superintendent’s Office, Benalla, April 22/81.

My dear Chomley—As I expected, from the disclosures before the Police Commission, a great ferment has arisen amongst the Kelly sympathizers here. A respectable man who has been in our confidence all through the Kelly business called on me late last night, and informed me that the sympathizers are very busy trying to trace out who our agents are, and that they are swearing vengeance against them and against the police. These threats are made of course out of the hearing of the police, and no private person can be induced to take proceedings. I have no reason to doubt my informant’s statement, who adds also that the sympathizers are all armed, and that they are ripe for mischief. I may say that except for a chance hit of information of this sort we (the police) are entirely in the dark about their movements and intentions. It may be that better counsels will prevail, and that by the moderation I have been careful to observe the roughs will have less excuse for any outbreak. Still I think the outlook is serious. If an outbreak does occur I expect it will be infinitely worse than anything before. The effects so far of the Police Commission enquiry is to discourage the police and to add to the terror of persons who have been helping and would otherwise still help the police. My own position, too, is very uncomfortable. In all I have done I see nothing that I would not do again under the same circumstances, and I believe every person who acted with me is of the same mind. Still the few who disapprove or pretend to do so have been very noisy, and taking everything into consideration it would perhaps be better that I should have a change of districts. The change will be a serious loss and inconvenience to me, still I wish you to take the matter into serious consideration. Baber is aware of the information I have received, and he has informed the police in the neighborhood to be on their guard.

“Yours very truly,

“J. SADLEIR.

“H. M. Chomley, Esq., Acting C. C. Police.”

9863. Are you aware that Mr. Nicolson, Mr. Hare, and Mr. Sadleir were removed from duty pending the enquiry of this Commission?—Yes.

9864. Would you receive anything from those gentlemen and deal with it officially now that they have been relieved?—Yes, whether they have been relieved or not. If they give me important information I must act upon it, remembering their position.

9865. Are you not aware that they are in the hands of the Commission at present?—That would not prevent my taking advantage of any information from them. It would be no excuse to say that.

9866. Would you, on the recommendation of either of those officers, remove a constable in any of those districts?—I do not know that I should.

9867. In fact they are in the position now of superintendents of police?—They are in the position of civilians, and I would take notice of information from a civilian—a respectable man as I suppose Mr. Sadleir is.

9868. Were you aware at the date of that letter that Mr. Sadleir had given evidence before this Commission?—Yes.

9869. And you based your report on that?—Yes, to some extent; his information and experience must be just the same as ever, and there are others. Here is a report from Mounted-Constable Graham.

9870. Is that from Greta?—Yes; it is dated 26th April 1881. [*The witness read the same as follows:—*  
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“Report of Constable Graham, 2312, relative to sympathizers of late Kelly gang.—I beg to report for the information of the superintendent that a number of them were here yesterday, drinking, viz.:—Jack Quinn, Tom Lloyd, jun., Paddy McAuliffe, Tom McAuliffe, John McMonigal, and Jack Nolan; and from their manner I am led to believe that another outbreak among them is imminent. Jack Quinn is very anxious to find out who it was that got the sympathizers arrested in 1879. They all appear to have a great dislike to Pat Quinn, and speak of him as the black tracker.—ROBERT GRAHAM, Mtd. Const., 2312. The Supt. of Police, Benalla.”

This is a memorandum from Mr. Baber, who is in charge of the district—[*reading the same*]—

“Police Department, Superintendent’s Office, Benalla, 27th April 1881. Memo.—I beg to forward Senior-Constable Elliott’s report of yesterday’s date for the information of the Acting Chief Commissioner. Matters are looking serious, and the police are certainly unprepared for another outbreak. It is out of the question to know where to turn for private information. I have consulted with Superintendent Sadleir, who has sounded two persons who formerly acted as agents, but they have declined (as Mr. Sadleir informs me) on account of the disclosures which have been made. They will not act now under any circumstances; and they say it is hopeless to look for private agents again. It only remains to be considered what preparation the police can make, and additions which should be made to the strength.”

Then there is a report from Senior-Constable Elliott attached, in reference to the stealing of two pit saws from Acock’s, dated 26th April 1881. He says—

“And I have also very little doubt but that the saws were stolen for the purpose mentioned in Sergeant Steele’s telegram of yesterday, more especially as Constable Graham informs me that the Kelly friends and sympathizers have been more than usual about Greta for the last two days.”

The telegram alluded to is here, dated 25th April 1881—

“Stolen last night from Acock’s, Seven-mile Creek, two large pit saws, supposed taken to construct armour out of. Would be well to send trackers at once to Acock’s, near Glenrowan. Will have tracks, if any, preserved.—A. L. M. STEELE.”

9871. Did you receive any others?—And then I saw this in the paper—the *Benalla Standard*—the leading article, dated 26th April 1881—

“There is not the slightest doubt but what the formation of another gang of bushrangers is being meditated in the Greta district. We have it from most reliable authority that the Kelly sympathizers have recently spoke openly to this effect, and the general actions of these persons infer that some secret work is occupying their attention. The sympathizers’ rendezvous—Mrs. Kelly’s house—is seldom empty, and frequently it happens that the number of visitors to this demicile is very large. Many threats of revenge have been made since the tragedy at Glenrowan, and grave fears are daily entertained of another outbreak.”

Those are the reports I received, and then I went up and saw Mr. Sadleir and Mr. Baber, and Sergeant Steele and Whelan.

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9872. What was Whelan’s statement?—To the effect that he did not think the men would come out voluntarily, unless there was some attempt to arrest one of them, and then he thought they would come out.

9873. Generally was he under fear of outbreak?—I do not think he was under fear of outbreak. Sergeant Whelan stated (I took notes at the time) he had heard it was intended to take the life of Skillian or Williamson, he did not know exactly which, who gave information to Captain Standish, which appeared by the evidence before the police enquiry. He said the newspapers which contained the evidence were eagerly looked for, with the view of finding out who had been giving information. He said they were great savages, but he hardly thought they would turn out unless cornered for horsestealing; that is my own impression too. He said they would not hesitate to take the life of one of the informants first, and perhaps of the police afterwards. He thought ——— would be the leader if a party were formed, and then he gave the names of the others who would probably be of the party.

9874. Is that all of Whelan’s?—Yes, I just took a short note of it.

9875. What is Steele’s statement?—That a man named ——— told Constable Healey that the police would have hotter work than they ever had before with the last mob; and that a man named ——— told a friend of his he believed another mob was getting ready to turn out about Greta. He said that he thought that the saws were taken for the purpose of making armour, and heard that a saw had been taken for the same purpose before, but had been found too light; those saws were pit saws. And then he said he thought, if there was a fresh outbreak, the names he gave me would be in it.

9876. That is the substance of the conversation you had with various officers?—Yes.

9877. And the other reports you have read are the only reports bearing on the North-Eastern district?—That is all, I think. I spoke to another gentleman up there in reference to this newspaper paragraph. I asked him had he good reason to put it in. He said the person who gave it was to be relied on for being truthful, and he knew that he had every reason to be correct.

9878. In consequence of those reports you recommend the appointment of an efficient

H.M. Chomley,  
*continued,*  
2nd June 1881.

superintendent, to proceed to the district at once?—Yes.

9879. In the second portion of your report you recommend that Mr. O'Connor should take charge of the black trackers?—Yes.

9880. Will you point out, in any of those reports furnished to you, where Mr. O'Connor's name is mentioned?—It is not mentioned.

9881. Will you tell why you arrived at the conclusion to recommend Mr. O'Connor?—I cannot give more than in my report, that I was told I could not get information; and, in case of an outbreak, we must fall back on the black trackers, and we must make them as efficient as we could.

9882. It was merely from your own feeling in the matter you recommended that?—Yes.

9883. You went to Queensland?—Yes.

9884. You engaged black trackers?—Yes, five.

9885. They are the ones at Benalla now?—Yes.

9886. At the time you were in Queensland, did you attempt to make any arrangement for any officer who had any experience with the trackers to come?—No.

9887. Why?—I carried out the instructions I received to go and get those men and bring them back.

9888. Did it suggest itself to your mind to make enquiries as to that?—No.

9889. Could you tell us now of any special abilities possessed by Mr. O'Connor in the management of the trackers?—I understand, and, I believe, correctly, that Mr. O'Connor has been with the trackers for years—some seven years before he came here; and I know those black trackers, from what I was told over there, require very delicate handling.

9890. Do you know any special aptitude he displayed in Victoria with them?—No, I never saw that.

9891. Was any information on that supplied by the officers up there in the North-Eastern district?—All of them. I heard every one of them speak in his favor.

9892. There has been no recommendation made in those reports about him?—No. I showed some of these reports to Mr. Berry, and I said I thought I ought to go up to Benalla about them. This was on a Thursday. I told him I would like to go up and see the officers; and he said, "Very well." I went up on Friday, and came down on Friday night. On Saturday I went to Mr. Berry and told him, by means of my rough notes, pretty much what I am telling you now; and he said, "What do you propose now"; and I began to tell him what I intended to do, and he said, "I think you had better put your suggestions in writing, and let me have it on Monday, when I come to the office." This was after twelve o'clock on Saturday, and before I left my office I drafted out that report, and on Monday I wrote it out. I spoke at Benalla to Mr. Sadleir, and he said, "If you recommend that, it will be a most unpopular appointment"; and I said, "I have to do it in self-defence; I am responsible, and I must do something."

9893. Than you had some conversation with Mr. Sadleir about it?—Yes.

9894. Did you make any enquiries from Sergeant Whelan as to the management of the troopers by Constable Kirkham?—No. I did not consider Sergeant Whelan was competent to judge.

9895. You did not think it worth while to ask whether Constable Kirkham was able to manage those blackfellows?—No.

9896. Did you know the officer who had charge of them at Benalla?—Constable Kirkham, I believe. I knew he had been placed in charge.

9897. You did not think it worth while to enquire whether he had made himself master of the position, and could manage them as well as Mr. O'Connor?—I did not know whom I could ask, or who would be a judge of that.

9898. Did you know, of your own knowledge, that Kirkham had been with Mr. O'Connor with his blacks?—Yes.

9899. Is this the fact, that you simply recommended Mr. O'Connor to the position in the North-Eastern district because he had been for some time an officer in the Queensland police, in charge of the black trackers?—Yes, and for other reasons. Mr. O'Connor's name was quite sufficient to keep this gang from breaking out. Also from all that has gone forward in this Commission and the papers before, and from Mr. Hare's report. Mr. Hare states that as long as Mr. O'Connor stayed there the gang would not come

out, and as soon as Mr. O'Connor left they did come out, and as soon as they did come out they sent for Mr. O'Connor again.

9900. Do you know under what circumstances Mr. O'Connor left the Queensland police?—No. I know very little about Mr. O'Connor at present. I saw him only just before I went to Queensland, so that I cannot speak myself from any personal experience about him; but all the officers that had been with him, until this unfortunate quarrelling commenced, spoke of him in the highest terms. I asked Mr. Sadleir first of all. I said something about the black trackers, "Are they much use?" The expression he made use of—and he did not know what was the object of my question—was, "The fact is that our men do not understand them." He did not know the reference—there was none to Mr. O'Connor then. And after that I said, "I am going to recommend Mr. O'Connor to come back again;" and he said it would be a most unpopular appointment.

9901. What did you understand by that?—That he was not liked by the men; that they would not like

a stranger coming over them.

9902. What men?—The sub-officers and men.

9903. That there would be a jealousy?—Yes. Mr. Sadleir stated in his evidence that the Kellys never showed themselves after Mr. O'Connor came here with the trackers scarcely.

9904. They kept very quiet, no doubt?—And all I want to do now is to keep them quiet.

9905. Of your own knowledge you have no experience of Mr. O'Connor's qualifications?—No; I only saw him two or three times except in Collins street.

9906. Were the black trackers utilized in the matter of the stolen saw?—Yes.

9907. What did they do?—They got on the road near Greta, and lost the track.

9908. They were not of any service there, then?—No.

9909. I suppose no trackers could prove of service where there was great traffic on a road?—That is exactly what they ought to do. If there is a well-beaten road, they can find the track as it goes off the road. That is where they want a man to teach them.

9910. When you went to enlist black trackers in Queensland, did you make any enquiry as to their competency for tracking and doing this work?—Yes.

9911. Had you any knowledge, yourself, personally as to the business of black trackers?—No, very little.

9912. Did you endeavor to find out whether the Queensland trackers would be efficient here when you were up in Queensland?—Yes; I was told a good deal of what they could do, and the country is the same there as it is here very much.

9913. You formed the opinion that they required peculiar handling, and except with that, and a leader with the knowledge of their peculiarities, they would be inefficient?—Yes, when I came back the first thing I said to Captain Standish was, "I have brought you over five of the smartest boys in Queensland"; and I said, "I do not think they would be worth a damn unless you have them properly handled"—that was the first thing I told him.

9914. Are they not a little heavy?—Mr. Seymour, the Queensland Commissioner of Police, saw them, and said he had never seen finer men, and he would have liked them for himself.

9915. Did you make enquiries whether it is necessary for all those men to go in a body?—No, it is not necessary; I do not think so.

9916. Either one or two?—Two; I think those men ought to be scattered about, now.

9917. Is it not immediately putting them on the track the great tiling?—Yes. If Mr. O'Connor had gone up then, the first I would have got him to do would have been to separate them; but I wanted a man who understood them.

9918. You have told us what Mr. Sadleir said about that appointment; were you influenced in recommending Mr. O'Connor's appointment by anything you heard in Queensland, when there, with reference to his men?—No, more by the reports. I thought O'Connor's name and his black trackers would keep those people out; if O'Connor was the greatest duffer, I believed it was enough to have his name; and if it kept them quiet, that was all I wanted.

9919. With regard to your recommendation that a smart officer be sent into the district—was Montfort sent on that?—Yes.

9920. You were ordered to prepare this report after twelve on Saturday, and be ready with it on Monday?—Yes.

9921. That was a short time for so important a report to be prepared in?—Yes.

9922. Montfort was sent up on this report?—Yes.

9923. When you wrote that report you apprehended there would be an outbreak?—Yes, so far as this, that if an outbreak did take place, and if I had not made the best preparations, I should be deservedly censured. I should lose my billet.

9924. From information now received do you consider that that fairly represents the state of the case?—I do.

9925. Have you taken the necessary precautions to obviate the occurrence?—I have done what I could. I have sent up extra men, and taken some of the men that were not very active, and put others in their places.

9926. Has your principal endeavor been to see that efficient men are sent?—Yes. I first of all selected mounted men from the different districts—young men, and sent them up; and I sent three or four foot police, to put them in different places; and I told Inspector Montfort if there were any men not efficient to send them down, and he is doing so, and I would send up others.

9927. Were most of those men there during the Kelly outbreak?—I think so. One man came down who broke his leg.

9928. Are the men armed with the Martini-Henry carbine?—No, they have got twenty-one repeating Spencers, that is in the North-Eastern district, and they have thirty-four Martini-Henry rifles.

9929. Are those long rifles?—Yes, two Sniders and a Winchester, and three of the Martini-Henry carbines, and they have 89 breech-loading rifles.

9930. Are those Sniders?—I do not know, and they have all good revolvers.

9931. Would it not be advisable to have a uniform arm?—I think it would.

9932. Is there any reason why not?—Simply the cost.

9333. Are they not in the colony?—I do not know; I think the military have some.
9334. Would it not be wise for you to make a requisition to the Chief Secretary for those Martini-Henry carbines?—Yes.
9335. And rifles for the footmen?—Yes.
9336. Is it not advisable to have them all of the same pattern, so that the same ammunition will serve all?—It is most indispensable.
9337. That being so, would it not be your duty to make an urgent recommendation to the Chief Secretary to have the arms all of one character?—Not very urgent, because we have the ammunition for all those arms now.
9338. Did you read the account of what occurred at Glenrowan, at Mrs. Jones's, the want of ammunition, and the police getting wrong ammunition?—Yes.
9339. So that if the Kellys had broken out on the side where this wrong ammunition was supplied, the men were really unarmed?—I did not see that.
9340. Is it not a matter of vital importance that the men should have arms all alike, and ammunition?—It is very advisable.
9341. Is it not usual in every service?—Yes, and it ought to be here. The men were unprovided altogether before.
9342. Are there Martini-Henry carbines in the colony?—I think the military have some.
9343. Will you look upon it as your duty to make a requisition for those arms?—Certainly.
9344. I think you ought to do it?—I will do it at once.
9345. Have you taken any steps to practise those men in those firearms?—Yes, I sent up a thousand rounds of ammunition of one sort and another, and told the officers to practise those men.
9346. What is the probable cost of a hundred rounds of ammunition?—About a penny a-piece, each round.
9347. Would it not be a very cheap method of making the police efficient?—I sent up a thousand rounds.
9348. Would you not think it a very wrong policy to keep the men with arms in their hands and not allow them practice to use them?—Yes.
9349. Has it not been done?—Only on the score of economy.
9350. Is not a good deal of a man's precision obtained by the continual use of his weapon?—It is absolutely necessary.
9351. Even a good marksman at first may be nervous, and miss his mark?—Yes, he will be apt to get rusty.
9352. There is a paragraph in your report here that I would like to ask a question about. It is as follows:—"That in consequence of the disclosures made before the Police Enquiry Board, and the references made to persons who assisted the police with information during the Kelly outbreak, it is now utterly impossible to obtain information as to the movements of the sympathizers, our chief dependence must, in case of a fresh outbreak, be in our black trackers, and it is most advisable to make them as efficient as possible. At present I am led to believe they are not as useful as they might be if they were properly handled by an officer who understood them." You stated in your evidence just now, I think, that you did not make any enquiries when you were up?—I said Mr. Sadleir told me.
9353. What did he tell you?—That our men did not understand them, and that in this business about the saws they could not follow, that is all. I am only giving the evidence that I have heard on this particular occasion; but, of course, I constantly asked about those boys.
9354. Suppose Mr. O'Connor had been there, could they have seen the tracks any better?—I presume Mr. O'Connor would have followed on, and found whether the tracks were there.
9355. Could not Mr. O'Connor have been appointed to be second without his being put over the heads of older men in the district?—I do not suppose Mr. O'Connor would go as a sergeant or constable. I have never spoken to him, and did not know whether he would join at the time. When I took this report to Mr. Berry we had some conversation, and he said, "Have you spoken to Mr. O'Connor, and do you know if he would join." I said I did not, and said, "Another thing, he is before the Commission"; and Mr. Berry said, "Of course, I will have to see the Chairman about that before anything is done; you had better see Mr. O'Connor, and ask him if he will join"; and then he said he had better see him himself; and I telegraphed for Mr. O'Connor, and sent him up at once, and when he went up Mr. Berry said, "Nothing can be done till you are released by the Commission."
9356. What did that mean?—Until you had finished with him or gave him permission to go, I understood.
9357. There is a list sent by Colonel Anderson of the arms served out to the police; I see 160 Martini-Henry rifles, and 6 Martini-Henry carbines, and 26 Westley-Richards carbines, a Snider rifle, and a Soper-Henry carbine; would it not be quite easy to return those weapons without much difficulty; could you collect them and send them back, and apply for weapons of the one class, the Martini-Henry?—Yes.
9358. The Chief Secretary sent down a document here, requesting the opinion of the Commission

relative to the mounting of men in this country—experience, and so on—have you prepared that?—I have sent in a statement here.

9959. A petition has come in, making certain statements as to the expenditure, and making suggestions as to the more efficient mounting of the Victorian police—the case is submitted to the Commission?—Yes.

9960. The expense appears in this considerably less here than in the adjoining colonies?—So I believe. I had better put this in—[*producing a return*].

9961. I want to know how you authenticate it?—There is a letter from Sydney; there is a letter from Adelaide; and another from Brisbane—[*handing in the same.*] They are chiefly based on extracts from the different colonies.

9962. What is the cost per horse in the colony?—The total cost of the last twelve years has been £1,400 a year.

9963. How much is that per horse?—The average price per horse is £19 7s. 8d. The cost in South Australia was £30 10s. per horse, in New South Wales from £17 to £18, in Queensland, £12 to £14. Now the cost per man per horse for the year for Victoria is £4 4s. 0¾d., for New South Wales, £5 8s.;

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H.M. Chomley,  
*continued.*  
2nd June 1881.

South Australia, £9 7s. 6d.; Queensland, £15 7s. 8¼d. The vote, as I told you before, for purchasing horses in Victoria is £1,416 a year for 337 men, exclusive of officers' and cart horses; the cost in South Australia is £1,500 a year, with 160 men. As far as I can make out, there are included in the number of mounted, two saddlers who are not mounted. The cost in New South Wales is £2,700 a year for 500 men—that is what is stated in the report. The cost in Queensland is £4,000 a year for 100 white troopers and 160 black troopers—that is 260 altogether.

9964. This matter having been brought before you, do you suggest to the Commission that any alteration can be beneficially made in the mounting of police?—No, judging by these returns; we do it cheaply, and our horses will compare well with theirs. From what I am told, I do not think it can be more efficiently done.

9965. Provided the men are properly armed?—Provided the men are properly armed.

9966. And the horses trained?—You see if that practice is carried on in the districts that trains the horses.

9967. Do you authorize training horses to jump?—We never have done.

9968. Would it not be well to authorize that in the North-Eastern district at any rate?—Yes, and to teach the men to be able to ride them.

9969. If the outlaws are mounted on good horses that take a fence anywhere, is not that an enormous advantage over the police horses?—Yes, of course it is—[*The witness handed in the return quoted from above relating to expenditure for police horses, &c.—Vide Appendix.*]

9970. We have it in evidence from a very reliable witness, that the best method of preventing an outbreak is to put active young men to ride about the district, and get well acquainted with the faces and appearance of all the people?—No doubt of it.

9971. We have it in evidence also that the secret system of getting information completely broke down; that is to say, that in the witness's opinion the information that was given was false, or colored, in a multitude of instances—do you think that would be a better system to secure the quiet of the district?—There ought certainly to be something of the sort. Of course the secret system is a good thing, but you ought not to be obliged to depend on it. The secret system is pursued in Melbourne the same as up there, and with advantage, but you cannot depend on it altogether.

9972. You are peculiarly liable to be deceived if you do not know the people?—Yes.

9973. You have been many years in the police force?—I joined on the 21st September 1852.

9974. In your report to the Chief Secretary you first recommended that Inspector Montfort should be appointed; if that had been done and Mr. O'Connor appointed, in what relation would the latter be to the other members of the police force in that district?—That was not decided upon. I am not in a position to say what; he would have been the only officer there with Inspector Montfort; if he went up there Inspector Baber would have been relieved.

9975. Then Mr. O'Connor would be the second officer in the North-Eastern district?—The second of two at Benalla.

9976. You make certain recommendations, and we want to know what would be the effect of those?—It would be according to what position he was put on the list.

9977. Who would be number one?—Mr. Montfort.

9978. And Mr. O'Connor number two?—Yes.

9979. Was his appointment intended to be temporary or permanent, in your mind?—I did not think he would come if we made it temporary, or I would have made it so. I thought it would end in its being permanent; if I could have got him cheaper I would have tried to get him.

9980. Are you aware of the regulations that, except in special cases, promotions shall be made from the ranks?—Yes, and this is an exceptional thing.

9981. Do you consider this promotion from the ranks advantageous to the public service?—I do not

know how it will end, it has acted fairly so far, but I do not know about the future. We have got some good officers from the ranks. The great thing I see against them is their age—before they are promoted they are so old; at the present moment I am the fifth youngest officer now in the service.

9982. Do you think if the promotions of officers were from those of a younger class the public service would be benefited?—Yes, that is the great drawback, the age.

9983. Would you have an educational test?—I think there should be an educational test for officers joining; you could take the Civil Service examination or whatever is fixed on.

9984. Do you think to be an efficient officer, superintendent, or inspector, a man should be able to ride?—Certainly.

9985. That is indispensable?—Yes, ride and drive, and take his turn at anything.

9986. Suppose a man rises from the ranks, how many years does it take him till he gets charge of a district?—I do not know. No one has ever done it yet.

9987. In Mr. Hare's evidence, he stated that he was too old for the Kelly work, that he had not the buoyancy that was needed for it?—Yes.

9988. And your evidence goes to show that a man must necessarily be beyond the prime of life, or well up to it, before he can be an officer?—Rising from the ranks, he must be past the prime; no man can, possibly hope to be there till he is 45 or 50.

9989. Would it be better that younger men should have charge of districts instead of the officers at present?—I do not know whether you can get the two things combined.

9990. Do you think the educational tests, with other tests, would narrow the number so that young men could get in sooner?—Yes.

9991. Did not Mr. Montfort rise from the ranks?—That was special promotion for special service, and he is not a young man; he is 50 years of age.

9992. Is it your opinion that inspectors ought to be young, active men?—Yes.

9993. For superintendent it does not matter if he has the experience of years?—Yes, he can drive about on the main roads.

9994. You said, in the ordinary run of promotion, a man would not obtain it till he was 45?—Yes.

9995. What age do the regulations provide that a man is to retire at?—Fifty-five.

9996. Then he would have ten years of office only, under the most favorable conditions?—Yes.

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9997. Mr. Baber reports that the police were quite unprepared for another outbreak in that district; how is that?—I suppose he alluded to not being able to get information. I do not know.

H.M. Chomley,  
*continued,*  
2nd June 1881.

9998. Practically speaking, we have not gathered in this enquiry that the agents were of any value at all to the police?—They did not do anything; they did not catch the Kellys.

9999. Would he refer to the want of arms?—No.

10000. Of good bushmen?—I suppose he wanted more men.

10001. I apprehend what you want is young, active men?—Young, active, capable men, both as officers and men; we have too many old men.

10002. Is Inspector Baber a good horseman?—I believe he is.

10003. Is he a mounted man?—Yes.

10004. He is the officer there now in that district?—Yes.

10005. What other officer is in that district?—Sub-Inspector Pewtress.

10006. Is he an active horseman?—I understand he is not, I have not seen him.

10007. Do you know his previous service?—I know of his being in the Town Hall for years—Sergeant in charge. I know he is not a young man.

10008. He is a splendid officer?—Yes he is—a case of the right man in the wrong place.

Jacob Wilson,  
7th June 1881.

*The witness withdrew.*

*Adjourned till Tuesday next at Eleven o'clock.*

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TUESDAY, 7<sup>TH</sup> JUNE 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

G. W. Hall, Esq., M.L.A.,  
E. J. Dixon, Esq., J.P.,  
J. H. Graves, Esq., M.L.A.,  
G. R. Fincham, Esq., M.L.A.,

W. Anderson, Esq., M.L.A.,  
G. C. Levey, Esq., C.M.G.,  
J. Gibb, Esq., M.L.A.

Jacob Wilson further examined.

10009. *By the Commission.*—Do you wish to add anything to your former statement?—Not more than to be examined before Superintendent Hare, for him to prove that he actually did engage me. The report in the *Age* stated that I was not engaged, and I wish now to prove before Mr. Hare that he did engage me.

T. Carrington,  
7th June 1881.

10010. Do you state you were engaged by Mr. Hare?—Yes, I was.

10011. What purpose were you engaged for?—He sent out a constable to me with a written note asking me if I would come in to see him on urgent business.

10012. Have you that note?—I burned all the letters.

10013. What was the constable's name?—Ryan.

10014. What purpose were you employed for?—When I came in he asked me would I take a man out to my place—a detective—and I said I would, provided he would protect me if anything happened to me in undertaking it; and Mr. Hare told me to go with the man and to show him how to work the ground.

10015. You want Mr. Hare to be examined to say if he did give you such and such instructions?—Yes.

10016. Anything else?—No. I was engaged by Mr. Hare a year before to examine a bridge for some horses. I would ask you if you would be kind enough to intercede with the Chief Secretary to get me a situation. I am now getting an old man, and am not able to make a start for myself again.

10017. What employment do you want?—Gatehouse-keeper.

10018. Or anything that will be a living?—Yes.

10019. What you want the Chairman to do is to represent your case to the Chief Secretary, as you cannot go back there?—Yes.

10020. You have received no compensation from the Government for the services you have rendered?—No, I never got anything for it.

*The witness withdrew.*

Thomas Carrington sworn and examined.

10021. *By the Commission.*—What are you?—Artist.

10022. You are connected with the Press?—Yes.

10023. Were you present at Glenrowan, when the Kelly gang were caught?—Yes.

10024. Will you kindly state things as you saw them?—From the time I left Melbourne?

10025. From the time of your arrival by the train at Glenrowan?—Well, when the train drew up at the station, someone, I forget who it was, gave the orders to get the horses out, and the police commenced doing it, opening the sides of the trucks and getting the horses on to the platform. They were in the middle of this work when a man rushed up in a very excited state, whom I afterwards found to be Constable Bracken, and pointing over to the hotel he said, “They are over there, for God’s sake look sharp or they will get away,” or something like it. We found afterwards it was in the direction of Jones’s hotel he meant. He was out of breath.

10026. Previous to that had you seen Mr. Hare?—Yes.

10027. Did you see where he went before Bracken came?—He disappeared for a time.

10028. You did not know where?—I did not know where. There was a stampede among the horses, they dashed off the platform towards the Benalla end and disappeared, most of them. Then I heard Mr. Hare call out, “Come along, boys,” and there was a general rush and they disappeared. It was a dim uncertain kind of light. We could see them disappear towards the Glenrowan hotel.

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T. Carrington,  
continued,  
7th June 1881.

10029. Here is a plan which will perhaps assist you?—[*The witness looked at the same.*] They took the direction of Jones’s hotel after leaving the platform, and went straight away to the railway wicket gate, as near as we could see in the dim light. Of course they opened out, but that was the direction they took.

10030. Did you notice who was the first to leave?—Mr. Hare was the first.

10031. Did you notice any other of the constables or officers that you knew by sight or that you could now distinguish by name that accompanied Mr. Hare?—No, they were all muffled up in great coats.

10032. Did you see Mr. O’Connor that morning?—I did. I saw him on the station.

10033. Did you see him the time Mr. Hare left the station?—I did not see him leave the station. Mr. Hare was a very tall figure, and I could see him leave, but the others were muffled up. It was a bitter cold night, and their coats were turned up, and their hats down over the faces, so the only way to distinguish was by height. We were walking about the station to keep our feet warm, and it was then I saw Mr. O’Connor. They disappeared towards the house, and we went to the edge of the station, the extreme end of the platform. Mr. Melvin, the reporter of the *Argus*, went towards the ditch with the police. He was the only reporter that had a firearm with him. The police had scarcely been gone a few seconds when we saw the front of the verandah of the hotel lit up with flashes of light replied to by shots from the police, and then in five or six minutes we saw a tall figure coming to us through the smoke. At this time, the white smoke helped to light up the scene against the dark background. We could see a tall dark figure coming through the smoke. This was Mr. Hare coming back, six or seven minutes after the flashes. He went back the second time, and it was not more than ten minutes altogether. He then came back, and blood was running down his fingers from the wound in his wrist, which was bleeding very freely, dripping as he came along; and we did the best we could for him, that is the four reporters left on the station. I was amongst them. I tied up his wrist, and then he went out again and disappeared. We saw him go out, he went again towards the Glenrowan hotel.

10034. Almost the same route?—Almost exactly the same route as he came, and he disappeared again into the uncertain light.

10035. You could see almost to the small gate?—I could not say what distance. It is fifteen or twenty yards, I believe, to the first bridge, and he then came back again the same line. He was tottering then.

10036. How long after was that?—The first and second return only took from ten to twelve minutes altogether, the whole time. He came back, and from loss of blood he fainted, and we got him into a carriage. He was very sick, and asked for some brandy or whiskey, and there was none about; none of us had any, unfortunately; and we thought the best thing we could do was to get him away to Benalla, and we gave directions to one of the engine-drivers to do so, but he started with the wrong engine, and went to Benalla without him. Everybody was in a most excited state on the station.

10037. Who was “everybody”?—There were four reporters on the platform, and two ladies in the carriage.

10038. Did the second engine start immediately after?—About fifteen or twenty minutes, and we sent him by that. Then we walked up and down the platform to keep ourselves warm, and now and then a constable would come up and give us a little news—how they were getting on—what they were doing—whether they had seen anything. One constable that came up, I forget who it was, said, “There is a bad nest of them at the back, keep a look-out; there is a bad lot in that hotel over the road—keep a look-out.”

10039. That was McDonald’s hotel?—Yes; and then the horses that had escaped into the paddock were galloping and very restive, as if somebody was coming from that end; and we were fearing something,

not knowing what it was. There was a great scare at the time. I cannot give the time it was exactly. The next thing was the fearful screaming of some woman, "They have killed my child"; and the next incident was Senior-Constable Kelly coming down the road by the side of the station with a skull cap in his hand, which he said he had found on the top of the ranges near a pool of blood, and he said, "By jingo I think that one of them has escaped."

10040. Had he a rifle with him?—Yes. He showed us the skull cap. There was a desultory firing going on all this time, but most of the firing seemed to come from a little gap in the ditch in front of the hotel.

10041. Had you any knowledge of who was stationed in that ditch?—No I did not know, only I have heard lately that the trackers were there.

10042. Was there much firing from the hotel at that time?—Very little after the first volley; now and again a shot, but every time there was one shot from the hotel it was replied to by half a dozen at least from the ditch. The next incident was a woman coming up with a child in her arms. I do not know her name. We put her into a carriage. She was in a most excited state. We tried to get out of her some news, but she could give nothing connectedly. She said they were armed, or something about armour, but she was too excited for us to get anything from her. She said they were all there.

10043. Do you know who that woman is now?—No, I do not. Just about break of day, standing at the right hand side of the station, that is the Beechworth end, we noticed the police standing behind trees turning towards the Beechworth direction, the steam was rising very heavily then off the ground; and we could see a tall figure that looked at first like a man with a black hat pulled over his face, and a white coat on, and he seemed to be drunk from the way he was staggering about. I thought it was someone trying to cause a diversion to allow the men to escape from the hotel at first. Then I saw the police firing at this figure. For some reason he put his foot on to a log every time he fired, then he would disappear into the gully behind the trees. There was a man with a great coat on just in front of him, with a revolver. Afterwards we found it was Dowsett. He kept pegging away at him with his revolver. He had his back to the station.

10044. Was he nearest to Ned Kelly at that time?—Yes, he seemed to be the nearest.

10045. You understand now that other figure was Ned Kelly?—Yes, the one in the hat.

10046. Did you consider that Dowsett was nearest to him?—I think he was a little nearer than the others. They were all well sheltered, they were all behind fallen timber piled up—trees that had fallen. In fact, we were the most exposed; we were standing on the station without any cover at all. Then, after this firing had gone on for some time and it did not take any effect, Sergeant Steele ran out from the

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tree where he had been firing and fired at Kelly's legs and brought him down, and, as the police closed on him, we ran and jumped the fence from the station, and went up to Kelly. As I got up I saw Sergeant Steele with Kelly's arm in the air, and the pistol go off. Ned Kelly was lying against a tree, and one of the police kicked him. Then they began cutting the straps of his armour, the wires that held it on, and got it off; and two or three took him by the shoulders, helped him to walk to the station; got him over the fence, and got him to the station, and put him into the guard's van first. The doctor looked at his wound, and a little while after they took him into the station master's house and put him in a bunk. He complained of cold, and was shivering. I went out again then, and went round several times, round to the back of the hotel and made a bird's-eye view. I drew Ned Kelly while he was lying in the van, and while he was in the station master's house; and I made drawings of the armour on the station. We could do nothing; we were walking round the station and about the ground. The police were stationed behind trees.

10047. About what o'clock was this you are speaking of now?—This was after Kelly was taken, up to the time they were called upon to surrender.

10048. What o'clock was that?—I could not tell you, my watch had stopped. It was broad daylight when Kelly was caught.

10049. It would be between seven and ten o'clock?—Yes, something like that. What struck me was the movements of the police posted behind the trees. They kept looking round towards the station as if they expected somebody. They were standing idly, some of them leaning their rifles against trees and putting their hands in their pockets.

10050. Did any officer seem to have command over them then?—No; that was what struck me. There seemed to be no one in command, and I thought they were looking for some one to give instructions. For instance, two advanced to a tree close to the house, and stood there some time.

10051. On the Beechworth side?—Yes, they were for two hours waiting. We were there from two on the Sunday morning till four the next day; you cannot fix the time very well, I was busy with my own work. Those were the things I noticed when I was going round.

10052. Can you fix any portion of the day when the police received any instructions or any commands from their superior officer?—Well, the first decided step was when the hotel was fired; that seemed to be the only time. I thought then they must have been ordered to do that.

10053. Is it the fact that the impression you formed from the early portion of the morning, say from three o'clock till just before the firing of the hotel was, that there was no superior officer taking command and giving any instructions to the men?—That is what it seemed to me.

T. Carrington,  
*continued,*  
7th June 1881.

10054. When you first approached the place did Mr. Hare give any orders?—I do not know. After Mr. Hare left the station I do not know what orders were given. I only know of the one by Mr. Hare, “Come along, boys.”

10055. How long after Mr. Hare retired from Glenrowan was it that you saw any officer of police except Senior-Constable Kelly?—It was after Ned Kelly was taken that I first saw Mr. Sadleir.

10056. Did you know Mr. Sadleir?—I knew him by sight.

10057. Did you know his position in the force?—No, I did not.

10058. You did not know of your own knowledge whether he was a senior constable?—I knew he was an officer in the force, but I did not know what grade.

10059. Did you know he was a superior officer to any other on the ground?—It never struck me to think anything about that.

10060. You saw Mr. Hare leaving the station with Mr. O’Connor—how long after he left did you see Mr. O’Connor on the station?—I did not see him after that.

10061. When did you see Mr. O’Connor after that time?—I never saw him till now.

10062. What position were you in at the time the people were released from the hotel in the morning?—I was at the station when the civilians came out; I ran out to where they were.

10063. Did you not see Mr. O’Connor at that time?—No.

10064. Is it possible for Mr. O’Connor to have been present and you not seen him?—Certainly.

10065. During the morning, from the time that Mr. Hare left till the place was fired, you did not see Mr. O’Connor all the day?—No.

10066. If you did not see Mr. O’Connor or Mr. Sadleir giving instructions between the hours you speak of; did you see any constables or men giving any orders or doing anything as if they were under orders?—No; I saw Mr. Sadleir several times during the day, but he was always, when I saw him, in the room with Ned Kelly, cutting up tobacco and smoking, standing by the fire and talking to the others. I was in the room three times.

10067. This was while the house was surrounded?—The house was surrounded at this time—it was surrounded until the burning—the men held their positions at the trees.

10068. Did you know whether Mr. Sadleir went out to the men?—I did not see him go out.

10069. Had you much opportunity of seeing him in the station house?—Yes, I went in three different times.

10070. Was he in there each time?—Yes, engaged as I have said, standing by the fire.

10071. You did not see him out in the field at all giving any instructions?—I did not.

10072. Do you know what time the cannon was sent for?—I do not. I heard a rumor of a cannon being sent for, but I thought it was a joke; that someone was amusing himself. The idea of a cannon to blow two lads out of a house seemed to me something very remarkable—a house surrounded by something like fifty men armed with Martini-Henry rifles.

10073. You say lads—how do you know there were but two?—We were told that Byrne had been shot while drinking whiskey, and Ned Kelly was a prisoner.

10074. Who told you Byrne was shot?—Nearly everybody that came out of the hotel.

10075. Did you hear Ned Kelly say so?—No.

10076. Was it generally believed by those present that Byrne had been shot?—Yes.

10077. It was an established fact?—Yes, it was circumstantially told that he was shot, drinking a glass of whiskey, and that the other two were standing in the passage—that was what the twenty or thirty men said coming out, that the other two were cowed—were standing in the passage frightened; and then when I heard about the cannon to destroy those two lads I looked upon it as a joke.

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T. Carrington,  
continued,  
7th June 1881.

10078. Here is a letter that has been placed in evidence, you had better read that?—[*The witness read letter of his own, dated 19th July 1880, printed at question 1602 above.*] This is not properly punctuated.

10079. You must have received a letter prior to that from Mr. Hare?—I did.

10080. Have you the letter he wrote?—I have not.

10081. Could you inform us of the nature?—Yes, I can give the substance of it.

10082. Will you do so?—He said he did not know who bound up his wrist at the time, and he thanked me for it—that is just the substance of it; it was a little more open, he said I did him good service, that was all; it was just a letter of thanks.

10083. Did that letter in any way ask you to express an opinion of the proceedings on that occasion?—Not in any way at all.

10084. He did not ask you to say whether you thought or not, that after he left the police were left without anyone to give instructions?—He never asked me anything directly or indirectly—it was simply a note of thanks. I am sorry I did not keep it.

10085. You say in the last paragraph, “I think Mr. Webb ought to know that a man who had fainted from loss of blood was not in a very fit state to look after ladies. I never saw any one bleed as you did”?—Mr. Webb complained of Mr. Hare not looking after the ladies.

10086. Who is Mr. Webb?—I did not know who he was. He said in the letter that Mr. Webb blew me

up for not looking after the ladies. I said he ought to know a man in a fainting state was not in a very fit state to look after ladies.

10087. Have you any notion who Mr. Webb is?—No. I saw two ladies in the train.

10088. Do you know one was Mrs. Webb?—I did not know who she was.

10089. Is the Commission to understand that really your impression is that had any officer been present after Mr. Hare had to retire, in consequence of the shot, that those outlaws could have been captured much earlier in the day, and without the burning of the hotel?—My idea is this, that if anybody had been there to take up the command, after those four outlaws had come out and emptied their weapons, and called on his men to rush in, they could have taken them easily. They were all outside the hotel when Kelly was wounded.

10090. What was your impression later on in the day after the civilians were released—were you then under the impression, that if any officer had been there to have commanded the men to have made a rush, that they could have been taken easily?—I am perfectly certain they could, because the house towards the Benalla end was a blank wall. There was a door here and there, a small passage and a blank wall the other side. The men could have come up to this side and rushed round simultaneously.

10091. Those blank sides are the chimney end?—One is the chimney end; they are both blank ends. They could come up this way, open out and take the house in front and rear—[*pointing to the plan*—besides there was Kelly's armour on the platform. If it was good enough for him to face the police with, surely some one could have put it on and have gone in, besides with the knowledge that the only two left in the place were the youngest, and they were both cowed and frightened, and both in their armour.

10092. You make use of this expression in your letter to Mr. Hare, "Looking back on the past, I sincerely regret that you were wounded so early in the fray, as from that moment the police were virtually without a leader, as Mr. Sadleir did not take any active part outside to my knowledge"?—Yes.

10093. Is the evidence you have given now full information that you have as to the part he took or not?—Yes, that is all I know about it. You must remember all this time I was doing my own work.

10094. Have you now given full information to supplement that statement in your letter?—That is all I know about it. I never saw Mr. Sadleir outside on the field.

10095. Would you, with all you have heard since the date of this letter, write this letter in the same words again?—I would exactly

10096. That letter was written solely in consequence of the letter that Mr. Hare wrote to you, conveying thanks for your action to him?—Yes, it was a reply to him. I did not answer it for a long time.

10097. Did you hear any remarks—you have stated that the men appeared without a leader, in your opinion—did you hear any remarks by civilians or police as to the want of a leader?—Well, the civilians round about were offering suggestions, and saying, "What a pity they do not do this or that, rush the hotel or do something." I did not hear any remarks of the police about it. I left half an hour after the hotel was burned.

10098. From what you have seen, did you approve of that action of burning the hotel?—Certainly not—most ridiculous. I never heard of such a thing in my life. Of course I do not know much about military tactics, but it seemed to be almost as mad as sending for a cannon. If the police had joined hands round the hotel the outlaws could not have got away, they could have sat down on the ground and starved them out.

10099. Had you heard that day that some of the police had volunteered to rush the hotel?—Yes.

10100. Could you give the names of any?—No, I did not know the names of the police.

10101. As a matter of fact, was it known by spectators that the police were prepared to rush the hotel if they had permission from their superior officers?—Yes, it was thoroughly well known. The remarks of the civilians were all uncomplimentary to the police in that way.

10102. Did you hear any civilians say they were willing to do it?—I heard two or three working men say, "I would do it if I had some firearms myself. I would rush the hotel myself."

10103. Did those uncomplimentary remarks apply to the police as policemen, or to the officers and their discipline?—To the police generally—spoke of them as they, "Why do not they rush the hotel?" "Why do not they put on the armour?" and so on.

10104. Did you form the conclusion at that time that there was a feeling of cowardice amongst the men as constables?—No, no cowardice amongst the men.

10105. No want of courage on the part of the men?—No, only they seemed not to know what to do next.

10106. Did it strike you as a lack of supervision?—Yes.

10107. The want of a head?—Yes. It seemed to me that some of them would have liked to rush the place, but thought if they did, perhaps they would have got a wiggling from their superior officer when he came.

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10108. Where were you when the house was set on fire?—At the railway gates.

10109. You saw the priest enter?—Yes, we ran over and were just behind him.

10110. You were at the station gate there—[*pointing to the plan*]?—This cross gate—the large gate.

10111. How near were the nearest persons to the hotel when the priest went in?—That is difficult to say—twenty or thirty yards.

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10112. The priest went in the front door?—Yes, towards the front door. I am not sure whether he went in at the front door.

10113. Did you see him come out?—I do not think I did. We rushed up with the crowd. The first thing we saw was two or three men pulling the dead body of Byrne out, and I followed them to make a drawing of Byrne.

10114. About what time in the day did you see the last shot come from the hotel?—Well I do not think there were any shots fired after ten. I am not sure, but you could not very well tell, because there was more danger from the police scattered round. The police on the hill might have fired a shot and people have thought it came from the hotel.

10115. Was there danger of the police shooting each other?—Undoubtedly. I went down during the day to the Beechworth end and knelt behind a log with one of the police, and while we were sitting there—I was making a drawing—a rifle ball came over our heads. I will swear it was not fired from the hotel, because I was looking at the hotel at the time. It must have come from the ranges at the back—the south end.

10116. *By Mr. O'Connor.*—When the special train arrived from Melbourne at Glenrowan, what part of the train were you in—on the engine?—No.

10117. It would be towards the Benalla end?—Yes.

10118. In what position were you when Mr. Hare passed towards the Glenrowan hotel—in the carriage, or where?—Standing on the platform.

10119. Alongside the carriage door?—No, not near the carriage door.

10120. In what place were you on the platform?—I will show you—*[the witness drew a plan]*—I was standing just there when Mr. Hare passed.

10121. You were in a position to see everybody that passed if you only knew them?—Yes.

10122. How many men passed when Mr. Hare passed?—I could not tell you.

10123. You did not follow the police in the rush, did you?—No.

10124. Where did you get to immediately after the police left the platform?—Kept at the same point all the time on the platform. There were some pack-saddles there, and we lay down on our bellies on the pack-saddles, and looked towards the hotel.

10125. *By the Commission.*—Looking in the direction in which the men had gone?—Yes.

10126. *By Mr. O'Connor.*—You state Mr. Hare came back and had his hand tied up and started for the front again?—Yes.

10127. Do you remember that the smoke from the firing was very thick and heavy?—Yes; there was a good deal of it.

10128. Could you see any distance towards the hotel for the smoke?—No; but you could see the figures advancing through the white smoke.

10129. Did you see Mr. Hare go up to the front position of the house again?—No, certainly not you could not see him.

10130. He may have gone halfway and come back again?—He may for all I knew.

10131. This was after he was wounded I am referring to?—When he came back the second time?

10132. No. After he was wounded he came back and you tied his hand up. I ask you, how was it possible for him to have gone halfway and return?—It was possible. He disappeared in the same direction as he came from. He was away three or four minutes, long enough to go to the hotel and back the second time.

10133. How long after the second time he appeared was it to the time the engine left—can you state?—I cannot fix the time—half an hour—three-quarters of an hour. They were shunting the engines about twenty minutes. I could not contradict anybody who might say two hours.

10134. *By the Commission.*—Your impression is twenty minutes?—Twenty minutes to half an hour.

10135. *By Mr. O'Connor.*—Is it not a fact you were at McDonald's hotel the greater portion of the morning?—That is thoroughly untrue.

10136. You never left the Glenrowan side?—I did.

10137. Will you state where you went to?—Went to McDonald's hotel. I was there for about a quarter of an hour, getting a glass of beer and a bit of bread and cheese.

10138. What time?—That was about twelve o'clock. That was the first time I left the station and crossed the line. I had been up the ranges in the meantime.

10139. You state you never heard any order from a superior officer to the men; could not orders have been given without your knowledge?—Certainly they could.

10140. I believe you wrote a long account in the paper—in some newspaper—about the Glenrowan fight?—*(To the Commission)*—Is that a fair question?

*Mr. O'Connor.*—If it came out that the report was by Mr. Carrington, and afterwards it was found out not to be correct; I want to ask him about it.

*The Chairman.*—You should produce the article, and ask him if he wrote it. I do not think Mr. O'Connor can ask anything about what appeared in the papers, but he can ask as to the points he refers to.

10141. *By the Commission (to the witness).*—Did you know Mr. Hare before this?—I did not, to speak to, but knew who he was perfectly well.

10142.—You would know his voice?—Thoroughly; it is a peculiar voice.

10143. *By Mr. O'Connor.*—You could not make the mistake of anybody else's?—If there were two exactly alike I could.

10144. In the article that appeared in one of the newspapers, there was a statement made that the engine that took Mr. Hare to Benalla took the ladies also; do you remember ever seeing the statement which

came out the next day to that effect?—I may have. I had an impression they did go by the train. I am not sure whether they went in the first or second train, or whether they went at all.

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10145. Did you see the same paper contradict it, saying the writer thought they had, but found after they did not?—I do not remember that. You may write a great deal, and you do not remember everything you write.

10146. *By the Commission.*—Did you see the train leave that conveyed Mr. Hare to Benalla?—I did; we were on the station at the time.

10147. It was just possible that the ladies may or may not have been in the same train without your being thoroughly conversant with it?—Yes, they might have gone or not. I did not look after them.

10148. In all probability you and the other reporters' attention would be directed primarily to the state Mr. Hare was in and not notice about the ladies?—Yes, it might be.

10149. *By Mr. O'Connor.*—Are you not aware that up to this time the carriages had not left the platform, only the engine?—What carriages?

10150. The carriages and the trucks that came up to Glenrowan?—I am under the impression that the carriages did go with one of the engines; I am not sure. I know Mr. Hare was in one of the carriages, because he put his hand into one of the slings.

10151. Did you see Mr. Hare on the engine going down to Benalla?—No. The ladies may not have gone at all for all I remember. I never took any notice of them. The only time I went to the ladies was to borrow a pair of scissors to cut a pocket-handkerchief for Mr. Hare's wrist—that was the last I saw of the ladies.

10152. As to this letter, "I never saw anyone bleed as you did." Mr. Hare himself then added, "The next paragraph is about the ladies." Do you know whether this letter is the full letter you wrote to Mr. Hare or not, or is there some other portion of it?—I think there is something more. It was a stupid thing for ladies to come on at all when it was reported at Benalla that the line was taken up.

10153. Can you state who your authority was?—Some men on the Benalla station said, "The lines are taken up, and they are going to shoot you," and others said, "They have put logs on the line." One man said positively the lines had been taken up.

10154. *By the Commission.*—Do you think there is anything material to the present issue in that portion of the letter that is not there?—I do not think so.

*The witness withdrew.*

Joseph Dalgarno Melvin sworn and examined.

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10155. *By the Commission.*—What are you?—A reporter on the Argus.

10156. You have heard Mr. Carrington's evidence?—Yes.

10157. Is there anything in that evidence that you disagree with, or is there anything omitted that you would like to tell the Commission?—Well, I do not take the same view as he does. I should rather like to make a statement of my own.

10158. In what direction?—Merely as to what took place at Glenrowan.

10159. Can you let the the Commission know the point exactly where you differ from him. Did you hear Mr. Hare call the men to come along?—Yes.

10160. Did you see Mr. Hare come back?—Mr. Hare, on hearing from Bracken where the outlaws were, called out, "Come on, boys," and made for the hotel. All the police and black trackers, and Mr. O'Connor accompanied him. For a minute or two the reporters on the platform did not know where the outlaws were, and waited in suspense till the first shot was fired—the first volley—then of course we saw where the Kellys were. I ran up then to the ditch.

10161. Which ditch?—The continuation of the one Mr. O'Connor was in.

10162. Was it near the first crossing?—I came out to the end of the platform, and it must be this ditch—[*pointing to the plan*].

10163. The first ditch from the railway station?—Yes.

10164. About fifteen yards from the end of the platform?—Yes. I saw firing all about the front of the hotel, and then I tried to get nearer. Went close up to the railway fence in this direction—[*pointing out on the plan*—where I supposed there was the stump of a tree, but it was merely bushes, no protection at all; and I returned to the platform. A few minutes after that Mr. Hare returned, wounded.

10165. How many minutes would that be from the time Mr. Hare left the platform?—At the most ten minutes, I think.

10166. May it have been ten minutes from that time?—Yes, it may have been.

10167. What occurred after you bandaged his arm?—He returned towards the hotel, went down the platform, and disappeared from our view.

10168. Did you see him after that?—He seemed to be going toward the gate here—[*pointing to the plan*].

10169. That is the second time?—Yes.

10170. How long was he away then?—Perhaps five minutes, or over. I could not exactly say.

10171. Did he say anything when he returned?—He returned, hardly able to walk, tottering and faint, and sank upon some bags which lay upon the platform.

10172. Up to that time had you seen Mr. O'Connor?—No.

10173. I mean from the time that Mr. O'Connor left with Mr. Hare and others until Mr. Hare returned the second time in a fainting state had you seen Mr. O'Connor?—No.

10174. You heard Mr. Carrington describe what occurred—it is almost a waste of time to go over all that again—did you agree with his description as he went along, or is there any point you wish to notice?—There seemed to be some doubt as to the ladies, when they returned to Benalla.

10175. What time did they return?—Mr. Hare was quite unable to return to the field, so we got him into the railway carriage along with the ladies, and it was intended that he should be taken down to Benalla with them. They seemed rather afraid of taking charge of him, and Mr. Rawlins, one of the volunteers there, agreed to go along. Then one of the railway officials, the guard I think, explained, that they could not run the whole train down to Benalla quick enough—they would probably meet the other one coming up with reinforcements; but that if Mr. Hare would go on the engine he would run him down in ten minutes. That, of course, involved leaving the carriage with the ladies, and Mr. Hare was then put on the engine and taken away. Then the next thing after that was, I think, a messenger from

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Mr. O'Connor to Mrs. O'Connor. I am not sure who it was, but a policeman certainly came and spoke to Mrs. O'Connor.

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10176. Do you know which constable it was?—I should know him if I saw him again.

10177. Was it Kelly?—No.

10178. Was it Dwyer?—No.

10179. Was it Kirkham—a smart fair fellow?—That answers to the description of the man I saw.

10180. Did you hear any of the instructions that were sent by the constable to the ladies?—No, I did not, I did not listen. He asked where Mrs. O'Connor was, and I pointed out the carriage.

10181. You have heard the description of taking Ned Kelly, by Mr. Carrington—do you remember anything different from that?—Well, when Ned Kelly made his appearance, the police, of course, turned to fight him, and Senior-Constable Kelly and Dowsett were together, between us who were on the platform and Ned Kelly. They were in our view all the time, and those two men, Senior-Constable Kelly and Dowsett, advanced together upon him from tree to tree, and got within about fifteen yards of him. I saw it stated that Senior-Constable Kelly turned and ran away, but that is literally untrue.

10182. From your own personal observation?—From my own personal observation. He kept advancing steadily. They had got within fifteen yards of Ned Kelly when Sergeant Steele came down from the hotel, and seemed to attack Kelly in the side and shoot him down.

10183. At that time both Kelly and Dowsett were advancing towards the outlaw?—Yes, advancing steadily.

10184. Did you see Constable Arthur?—I could not distinguish them individually.

10185. Did you see any member of the police running away apparently?—No, I did not. I saw one taking a half circuit round him, as if to get a better shot at him.

10186. You have heard how the outlaws were stationed in the house?—Yes.

10187. Have you anything to add to that of importance?—From what I heard from the prisoners, I concluded it was not an absolute certainty that Byrne was dead and the other two cowed.

10188. What conclusion did you come to from what you heard?—It seemed certain that the other two were alive, and that they were fightable was evident from the fact that they were still firing from the hotel.

10189. Any attempt to seize them would have been accompanied with danger?—Yes.

10190. What time did you see the last shot fired?—About one o'clock.

10191. That is as near as you can judge?—Yes.

10192. From what part?—From the gable end, between the back kitchen, as if they were firing from the passage.

10193. Then at that time you must have moved?—I was then writing out my report in McDonald's hotel and looking out occasionally.

10194. Could you from there say whether the shot was from the hotel or from the police at the Benalla end?—I could, and more easily than from the platform, because I could see the police shots from behind the hotel and the smoke rising from the shots at the hotel itself.

10195. You have heard Mr. Carrington's statement that he formed the impression from early morning to the afternoon that the police were all ready, and that the only thing they required was someone to give definite orders—did you form a similar impression?—No.

10196. What was your impression?—You refer to the afternoon?

10197. I refer to before daylight?—Well, after Mr. Hare was wounded and left, Senior-Constable Kelly seemed to do the principal part of the work—at all events he was continually going round the men and carrying ammunition, and visiting us on the platform and telling us how things were going on. He called up,

I think, twice.

10198. He would have made a circuit of the house in the meantime?—Yes; we saw him do that.

10199. Who succeeded Senior-Constable Kelly in command?—Mr. Sadleir.

10200. What did he do to your knowledge?—When he arrived I saw him talking to Senior-Constable Kelly and he was out on the field. By this time I was doing my own work.

10201. What time did you first see him on the field?—It was dark when he arrived, and I think he went out immediately after.

10202. When did you first see him on the field?—I think about seven o'clock.

10203. What was he then doing?—I saw him going up in the direction of the corner gate.

10204. Had you, prior to the capture of Kelly, seen Mr. Sadleir in any portion of the field, giving orders to any of the police?—No.

10205. When did you next see Mr. Sadleir after the capture of Kelly?—Immediately after the capture of Kelly he came to the station. He spent some time with Ned, interviewing him, as it were, and Mr. Sadleir's object seemed to be to ascertain, if possible, from Ned, some sign by which he could get the other outlaws to surrender.

10206. How long after that was it you saw him actively engaged giving orders to the constables surrounding the hotel?—He was walking about on the field and on the platform the whole morning, and always busy. I could not fix any definite time.

10207. Will you fix some point where he was giving instructions to any of the police?—I cannot tell. I did not see him give any instructions at all. I simply saw him with the police.

10208. Where did you see him first?—On the platform.

10209. You saw him in conversation with Kelly?—Yes.

10210. Where did you see him on the field next taking part in the proceedings?—I cannot fix the definite time.

10211. Can you fix the place on that plan where you saw him?—No, I cannot until the burning of the house.

10212. Is it altogether a blank in your mind where and when and what he did?—No; I saw him about the platform, and I remember seeing him walking towards this gate—[*pointing to the plan*]*—about seven o'clock in the morning.*

10213. After the capture of Kelly and the time you saw Mr. Sadleir in conversation with Kelly at the station, will you fix any point where you saw Mr. Sadleir in the field?—Yes, he was to the right of the house when the prisoners came out—about that position—[*pointing to the plan*].

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10214. Did you see Mr. Sadleir at any time actively engaged in the field between the capture of Kelly and the time you saw him when the prisoners came out?—No, I do not remember.

10215. Would you tell us whether you saw Mr. Sadleir giving any instructions to the police under his charge, except at that time?—I never saw him giving instructions to the police under his charge. I never saw anyone giving instructions.

10216. Was anybody else except Senior-Constable Kelly giving instructions to the police from the time Mr. Hare left?—I say I did not see anyone giving instructions.

10217. Will you tell us why you differ from Mr. Carrington when he says the police had no one to give instructions after Mr. Hare left?—Because Senior-Constable Kelly was there, and seemed very busy, and kept things right until morning, when Mr. Sadleir arrived.

10218. What time did Mr. Sadleir arrive?—Between five and six—just before daylight.

10219. Then the only officer you saw after Mr. Hare left in the morning, giving instructions to the police, was Senior-Constable Kelly?—I did not see him giving instructions.

10220. As far as you know, neither Kelly nor Mr. Sadleir gave instructions to the police?—As far as I know. I did not hear them.

10221. Was there any impression that anyone had charge?—Kelly told us what he was doing when he came to the platform, but we were not present to hear him giving the orders. The other constables told us that Kelly had placed them at certain trees and had supplied them with ammunition.

10222. Then your impression from those statements was that Kelly took charge of the whole operations when Mr. Hare left?—Yes.

10223. Until Mr. Sadleir came?—Yes, certainly. I disagree from Mr. Carrington in thinking that there was a want of officers or want of supervision on the part of the officers. I speak now first of Mr. Hare, the next place of Senior-Constable Kelly, and then Mr. Sadleir. With regard to Mr. Sadleir, after Ned Kelly had been caught, and the prisoners had escaped from the hotel, there were at least two of the outlaws inside alive and in armour and fighting; they were fighting up to one o'clock; there were plenty of policemen there to rush the place; and Mr. Sadleir's position seemed to be this—"Would I be justified in rushing this place, and throwing away probably half a dozen lives; is there another way of accomplishing the same end?" and he ultimately decided to burn the place, and thereby secure his object without losing any lives.

10224. What reporter suggested the cannon?—I do not believe anyone did. I did not.

10225. What did you think of that proposition yourself?—I was surprised when I heard of it. I went

to Mr. Sadleir to ask if it was true. He said it was, and wished me to say nothing about it till it arrived.

10226. You were not the reporter that suggested it?—No, certainly not.

10227. Did you hear any suggestion that any of the police should put on Ned Kelly's armour and rush the building?—No.

10228. Did you approve of burning the hotel in order to destroy them?—Yes.

10229. No other course suggested itself to your mind?—There were other courses open. That was the safest one, and I did not consider it was worth while throwing away other lives for the sake of these two outlaws.

10230. Was there no danger to Johnson in approaching the hotel?—Not much.

10231. Would there have been any more for any persons rushing it?—Yes; because the outlaws inside would be able to shoot down with their revolvers three or four or five or six of the men as they entered the house before they could lay hands on them.

10232. Do you know whether, at the end of the hotel where Johnson set fire to it, they could see then to fire out from it at any person approaching?—I do not.

10233. Do you believe it was so perforated?—I could not say. I know the roof was riddled with bullets.

10234. What time did you know that Byrne was shot?—The rumor started soon after the prisoners escaped, and it was gradually confirmed as time wore on.

10235. Had you not heard of it before that?—No.

10236. Not at the time that Kelly was captured?—No.

10237. You had no information before the prisoners escaped at ten o'clock that Byrne was shot?—No.

10238. Was it possible that a great number of people surrounding Glenrowan would have known it without you knowing it?—Not a great number; some of them may.

10239. You were examined by the Reward Board?—Yes.

10240. You used the expression as to Kelly, that after Mr. Hare left, and up to a certain time, he, in your opinion, kept things right?—Yes.

10241. You stated why you came to that conclusion?—Yes.

10242. That he posted the men and came round for ammunition, and went round the house to see if the men were so posted, and came back and told you from time to time on the platform how things were?—Yes.

10243. That is what you mean by saying "kept things right"?—Yes.

10244. Do you think from the time Mr. Sadleir came, when you first saw him, he kept things right?—I do.

10245. Will you say in the same way shortly how he kept things right as Kelly did?—I can only say this, that I saw that things were kept right, and I knew he was in charge. That is my only answer. I saw him leaving the platform, but I did not follow him. When he was in the midst of his work I was in the midst of mine.

10246. Do you know of your own knowledge whether he went round himself and saw the men were posted?—I do not.

10247. Did you see him issuing any ammunition to the men?—No.

10248. or senior-constable under his orders issue ammunition?—No.

10249. Did you see him talking to Ned Kelly?—Yes.

10250. Did you see him in the room smoking where Ned Kelly was?—Yes; I saw him filling his pipe.

10251. That portion of the evidence Mr. Carrington gave you saw?—Yes.

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10252. Can you specify, except generally, that he did keep things right—any one particular thing which you call keeping things right?—No; I can only say things were kept right, in my opinion.

10253. Have you any reason to believe he did not?—No.

10254-5. You said you would speak of Mr. O'Connor's part in the matter presently—can you mention what you desired?—What I wanted to explain was this, that I understood Mr. O'Connor was there simply as a volunteer; that, as a volunteer, he did good service, for which he deserved the thanks of the community.

10256. What we want is not your impressions, but what he did there—what do you know about him on that day of your own knowledge?—I simply know he left the platform with Mr. Hare and I did not see him again till after daylight.

10257. What did you see of him after daylight?—He came on the platform and spoke to Mrs. O'Connor.

10258. I think you said you got into the ditch where Mr. O'Connor was—did you see him there?—No. I saw the firing there.

10259. How do you know Mr. O'Connor was there?—From Senior-Constable Kelly

10260. Did you hear him speak to Mrs. O'Connor?—I saw him come on the platform and go to Mrs.

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O'Connor. I did not hear him speak to her.

10261. Did you see anything else of Mr. O'Connor during that day?—No; I never saw anything of him.

10262. He might have been doing anything without your knowing?—Yes.

10263. Were you on the ground to see him?—We were on the platform, and did not see him.

10264. *By Mr. O'Connor.*—Did you not hear from some of the police what I was doing?—Yes.

10265. You heard that I was taking my part in the fight?—Yes. Mr. Hare, when he came on the platform, told Mrs. O'Connor; or Mr. Webb asked where you were, and if you were right, and he said, yes, you were right, in a good place in the drain. That was when he came on the platform, wounded.

10266. Did you hear Mr. Hare give any orders?—No; nothing but "Come along, boys."

10267. You did not hear his "fine manly voice" above the din of the fight?—No.

10268. Would you have been in a position to have heard it?—I think so.

10269. If anybody else had?—I think so.

10270. Did you or not see me when the prisoners came out?—No.

10271. Where were you then?—When they came out they rushed to one side, where they were checked by the police; and then to the other side, where they were also checked by the police. Mr. McWhirter and I ran out, checked them in front, and rounded them up to Mr. Sadleir. We were quite close up to the fence.

10272. Is it a fact that anybody was aware that the line was taken up when we were at Benalla?—I never heard it. It was said, "Perhaps the line may be torn up, and we had better send an engine in front."

10273. It was not stated as a fact?—No.

10274. That was not the reason the men were put on the engine?—No, only as a precaution. We thought we were going right on to Beechworth.

10275. Did you know that Mr. Carrington any time during the day was over at McDonald's?—Yes.

10276. How often?—Once, I think.

10277. How long did he remain?—He just had a bit of bread and cheese. I think he was there at the time I was, and only for a few minutes. I remained writing my report, and looking out of the about windows.

10278. Do you not remember my first appearance after leaving my position, when I spoke to you, the first time you saw me after the first firing?—I remember seeing you come on the platform shortly after daylight.

10279. Do you not remember coming up to me and introducing yourself, and saying, "You remember Lancefield, you did not want me to come with you then"?—Yes.

10280. And further on saying, "Well done, you stuck to your post well"?—Yes, considering you all the time as a volunteer.

10281. You did not say that to me?—No. I thought it was understood all along.

10282. On that day of the fight did you hear any disparaging remarks about my conduct—that I had not conducted myself as an officer or a constable?—Oh no. The only thing I heard of you was from Senior-Constable Kelly. He said he had asked you to take up another position and you had declined. That confirmed my impression that he was in charge.

10283. Did he make the statement to you that he asked me to place the men and I would not?—No.

10284. *By the Commission.*—What did you understand by "change his position"?—By shifting from one part of the drain to another or to another drain.

10285. You mentioned that when the prisoners came out, I think, you ran and told Mr. Sadleir?—No; when the prisoners came out they were checked on both sides by the police. They were rushing to the station where there were no police to keep them back, and we (Mr. McWhirter and I) checked them and rounded them up to Mr. Sadleir.

10286. You understood Kelly when he mentioned about Mr. O'Connor and another position—another position where his services would be more valuable?—Yes.

10287. *By Mr. O'Connor.*—Had you subsequently seen the position I was in?—Yes.

10288. In your opinion was it a good position to command the front of the house?—A very good position.

10289. *By the Commission.*—Could Mr. O'Connor at all times from that position see anyone who left from the front of the hotel?—Yes.

10290. Then if the woman and child, described by Mr. Carrington as leaving the front of the hotel, did leave would Mr. O'Connor see those or anyone?—He could see anyone in daylight, no doubt.

10291. Did you consider, when you rounded up the prisoners, as you say, towards Mr. Sadleir, that you were doing so to try and prevent the escape of the Kellys?—Certainly. We had a revolver each and we presented it at them.

10292. And turned them up towards Mr. Sadleir for the purpose?—Yes.

10293. Do you consider now, as you have given your evidence, that you were giving praise to Mr. O'Connor as a volunteer or as an officer?—As a volunteer only.

POLICE.

3A

J.D. Melvin,  
*continued,*  
7th June 1881.

10294. You considered him a volunteer?—Yes.

10295. You would not have given him praise if you had thought he was the officer in charge of the men for what he did?—No, I think as an officer he ought to have taken a more active part in directing the operations.

10296. *By Mr. O'Connor.*—By what authority do you know I did not give any orders?—Merely from what I hear from Senior-Constable Kelly.

10297. *By the Commission.*—This is a letter from Mr. O'Connor, dated 7th September 1880, in which he makes use of the following expression:—"In conclusion, I have to point out, as a Queensland officer of police, voluntarily serving in Victoria, assisting in searching for the Kelly gang," &c. Is that the position you thought he was in that morning?—That is the position I thought he held—that he had been asked and came up as a volunteer.

John McWhirter  
7<sup>th</sup> June 1881.

*The witness withdrew.*

John McWhirter sworn and examined.

10298. *By the Commission.*—What are you?—A reporter on the *Age*.

10299. Were you in here during the morning?—Only occasionally.

10300. The best way for you to do will be to give a short narrative from the time the first notice was that the Kellys were in the Glenrowan hotel?—In order to prevent my going over it again, I may say I heard a portion of Mr. Carrington's evidence, and he seemed to be under the impression when at Benalla, when the special train reached Benalla, that the lines were torn up; such was not the case. Constable Kirkham was present in front of the engine in order to watch the line in advance of the train, but it was afterwards resolved to send on a pilot engine as a precaution against surprise.

10301. In other words, we understand that the pilot engine and all those precautions were taken not from any specific information, but to prevent any accident from the outlaws, or their firing into it?—Yes. When within about a mile from the Glenrowan station we were stopped. I saw the pilot engine in front waving a red light. Some men got out of the train and some of the policemen got out of the train, and met the pilot engine. Mr. Melvin, of the *Argus* got out of the window of the carriage which I was in and obtained a key from the guard, and opened the door for Mr. Hare. Mr. Hare followed the other men and went up the line towards the pilot engine. We then heard that the Kellys had taken the people of Glenrowan, and had torn up the line half-a-mile below the station—that is on the Wangaratta side. I heard Mr. Hare giving orders to run on to the platform of the Glenrowan station quietly, and a few minutes afterwards we started again. On reaching the platform the reporters at once got out of the train. We had opened the door prior to that, and I then saw Mr. Hare with Mr. Rawlins go down the line towards the station-master's house. In a few minutes they returned, and I heard from some one that the Kellys had been on the station a few minutes before and had taken the station-master off in the direction of the Warby Ranges. Mr. Rawlins was speaking to Mr. Hare, and told him that he knew the Warby Ranges well and would take the police party that way. I asked Mr. Hare for firearms for the reporters, as we had none at that time, and told him we would help him to carry on the fight, and he told me in a few minutes he would give me some. He left with two other men, I think, and walked in the direction of Jones's hotel. He had not gone far when a man came running towards them and called out, "They are there; surround them." Mr. Hare at once started to run, calling out, "Come on, boys." He had crossed the drain between the station and the hotel, in fact was on the outside of the fence, when I noticed three figures coming into the verandah of the hotel and fire. Some of the then were still on the platform, and they picked up their arms and ran towards the hotel.

10302. Will you describe at this stage who went with Mr. Hare from the station?—I think Mr. Rawlins went with him from the station, but I was under the impression that it was Senior-Constable Kelly, but I cannot say it was.

10303. How many left with him?—About two when he went first.

10304. I mean after you heard some man say, "They are in Jones's hotel, surround them"—had many left with him then?—The greater proportion of men—nearly all of them, but there were some of them engaged at the time taking out horses who did not hear, I think, Mr. Hare call out to them to come on.

10305. Did you see Mr. O'Connor leave then?—I heard him say something to the ladies in the train

and run off, preceded by some of his black trackers.

10306. How far was Mr. Hare from the station, should you think, before Mr. O'Connor left?—A very considerable distance. He must have been seventy or eighty yards. Mr. Melvin called on me to come on, and I ran with him—he ran straight towards Jones's hotel whilst I ran more in the direction of the station-master's house.

10307. Could you see the direction Mr. O'Connor took?—Yes, I came to the drain and jumped into it—I saw some one jump into the drain and I jumped into it, and I saw Mr. O'Connor in the drain.

10308. Will you show where that is on the map?—[*The witness examined the plan.*]—I could point out the position on the ground. There were two black trackers further up the drain than Mr. O'Connor, to his right.

10309. Then it was one of the drains near the wicket-gate?—Yes.

10310. What time was it you saw Mr. O'Connor there?—Only on the starting of the firing, the firing was then continued, the first volley. The police were firing and the outlaws were firing also. I suppose I had not been there an instant before I heard that Mr. Hare was wounded, and having no arms, I thought it was better for me to go back to the station. I ran back at once. The next thing I heard was Mr. Hare, who has a peculiar voice, which I knew well, call out, "Cease firing."

10311. Could you tell about where he was?—Outside the fence when he called out that, between the house and the fence. I may tell you it was a very clear night, we could see far and hear well, because it was frosty and the atmosphere perfectly still. The firing stopped, and we heard one of the outlaws using very bad language to the police, telling them to come on or they could fire away, as they could do them no harm.

10312. Could you indicate where the outlaw was that made use of the bad language?—Yes, I should say very close to the Wangaratta corner of the hotel.

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10313. On the inside?—On the inside of the hotel—called out in a very loud voice.

John McWhirter  
*continued,*  
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10314. Was that immediately after the first volley?—Immediately after the first volley, and the order had been given to stop firing. I heard also, immediately after the outlaw had spoken, the cries of women inside. It was very hard to guess the time on an occasion like that, but I should say in about ten minutes Mr. Hare came back to the platform. His leg was drenched with blood, and he asked us to tie something round the wound in his wrist. I removed his overcoat and Mr. Carrington bound up the wound with a silk pocket handkerchief. This occupied some little time, and Mr. Carrington was assisted by the other members of the press, Messrs. Allen, Melvin, and myself. Mr. Rawlins, during this time, was holding Mr. Hare's gun, and when the wound had been tied up, Mr. Hare asked Mr. Rawlins for the gun. Mr. Rawlins said, "Surely you are not going back, let me have the gun." Mr. Hare replied, "I am going back," and I advised him that he had better remain where he was for a short time. He took no notice, but walked off in the direction of the hotel, taking the gun with him. He was away some little time, about five minutes I should think, and returned again; when I saw him coming towards the railway station, he was staggering like a drunken man. I ran up to him and gave him my arm, and we assisted him into the railway carriage, he was then in a fainting condition, and we gave him some sherry which the ladies had. I advised him that he had better return to Benalla, and have his wound attended to by the doctor; that by doing so he could send more men from Benalla, and could himself return with them if necessary, after his wound had been dressed by the doctor. After a little persuasion he consented to do that, and I ran to the engine-driver to tell him to go back to Benalla with Mr. Hare, and to assist Mr. Hare in rousing the men at the police barracks as quickly as possible. The engine-driver seemed to misunderstand what was said to him, as he proceeded down the line a short distance and then ran rapidly past the station without taking Mr. Hare with him, and went on to Benalla. I then asked the driver of the second train to take Mr. Hare, and Mr. Hare got into the engine and was taken back. Before leaving, I spoke to the engine-driver, telling him not to forget to bring back the doctor, and one or two things of that sort.

10315. Was it long after the first engine started that the second engine went?—I think about five minutes between the two engines.

10316. Not more?—I think not, five or ten minutes, just a safe distance.

10317. The engine was ready to start as soon as it could safely?—Yes. I should have stated that on going back to the station the first time I saw Constable Bracken, and he was then in a very excited condition, running about the verandah posts saying he had escaped death. I learned from him he had been made a prisoner in the house, and that there were about thirty more prisoners there. He suddenly disappeared from the platform, and a minute or two afterwards I heard him ride rapidly down the line on one of the police horses in the direction of Benalla. After the departure of Mr. Hare I think Mr. Stanistreet, the station-master, came out of the hotel. I heard him challenged by the police, and heard him say, “Stanistreet, station-master.” He was questioned as to who were in the house, and he said about thirty or forty prisoners; that they were lying on their faces. I think it was in the front room he said.

10318. Who questioned him?—I believe it was Senior-Constable Kelly. He said that Mrs. Jones’s daughter and son had been wounded. There was very little firing done for some time afterwards. Senior-Constable Kelly at once started to take the men round the house, and placed them at intervals. About twenty minutes, I should think, after Mr. Hare had left, Senior-Constable Kelly returned to the station (I think, carrying with him a rifle stained with blood and wearing a skull-cap. He told us he had found the rifle in the bush at the Wangaratta side of the hotel, and he feared one of the outlaws had escaped, and the ground was stained with blood near there, and he asked what was best to be done under the circumstances. We (when I say “we” I mean the members of the press) advised him that he could do nothing till daylight, and as the man was evidently wounded the black trackers would have very little difficulty in tracing him. Constable Phillips came up at that moment and stated that he had heard that all of the outlaws were in the place. Mrs. Reardon, soon after that, came outside and began to scream; Mrs. Jones was also screaming and cursing the police.

10319. For what?—She was calling them murderers, and said Ned Kelly was man enough for any of them, and why did not they come up and take them out of that. She just heaped one abuse on the back of another.

10320. Did you see Constable Kelly go to the carriage door where Mrs. O’Connor was when he came with the skull cap?—Yes. Mrs. O’Connor, or one of the ladies in the carriage, was calling out asking where Mr. O’Connor was—was he all right, was he safe, and Senior-Constable Kelly stepped forward to the van and said—“He is quite safe—he is in a drain.”

10321. When Kelly discovered that rifle, was that the first time he had been round, or before the placing of the men?—I could not say that. He was going round the house, and I think he was placing Constable Phillips at the time on the Wangaratta side when he found the cap. I think Mrs. Reardon did not come out till after Sergeant Steele arrived. After remaining on the platform some time, watching the hotel, I heard the sound of men coming down the side of the range—from the Wangaratta side. I called to some of the police nearest that there were some men coming down the hill. I then heard Senior-Constable Kelly’s voice challenge some one on the side of the hill, and heard the reply that it was the Wangaratta police with Sergeant Steele. At that moment we heard the train coming from Benalla with the Benalla police, with the second party; the one party arrived about two minutes before the other. Mrs. Reardon came out of the hotel; she was told to come towards the police. She was carrying a child in her arms and she did so; at the same time she said—“Let my husband and boy come with me.” She came up to near the railway fence when two men came out of Mrs. Jones’s hotel.

10322. Where were you standing at this time?—At the back of the station. One of the men was running with his head down, and several shots were fired; both then turned round and went back into the hotel.

10323. You could hear Mrs. Reardon’s voice plainly?—Yes, she screamed and was very excited. She said they had killed her boy, or they would kill her boy, or something of that sort. She came to the station, and I at once spoke to her and took her story down. It was published in the *Age* the next day.

10324. Did you see, prior to this, a man come out of the hotel with a wounded child in his arms?—Yes the man carried Mrs. Jones’s child out, and Mrs. Jones accompanied him. He was challenged by the police, and he carried the child across towards the station-master’s.

10325. Did you see him leave the hotel?—No, I saw him immediately after.

John  
McWhirter,  
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10326. You do not know whether he came out at the back or front?—No, he was carrying the child. When at the back of the police, Mrs. Jones left the man and began to abuse the police again.

10327. Did she go back to the hotel again?—Once or twice she came out and went back. She came towards the police, and eventually came out to a position at the rear of the police, abusing them, calling them murderers and one thing and another.

10328. At what time were the police aware those people were in the house?—Immediately after the first volley had been fired.

10329. Would all the police be aware of that fact?—I cannot say. All the police must have known. We knew, and they were in a better position to know than we were. We certainly had the benefit of the stories of the prisoners who did make their escape, and the police at the back of the house would know at once. I know when I knew there were so many prisoners inside I made enquiries about the firing into the place, and was told the police were instructed to be careful and fire as high as the height of a man above the ground. It was described that the prisoners in the house were lying on their faces on the floor.

10330. Do you know who gave the instructions?—I do not. I was simply told by some of the men.

10331. About what time did you first bear of that?—About the time I heard of that was, I think, in the first rush—many of the men had taken wrong ammunition with them, and the consequence was that they had to send back for ammunition, and Mr. Melvin and myself sorted the carbine and Martini-Henry ammunition and gave it out to the men as the messengers came to the station for it.

10332. Who came for it?—Rawlins took the first lot and Senior-Constable Kelly the next.

10333. When did you first know when the police were instructed to fire high?—I believe it was from Kelly or Phillips when they came for ammunition, because I thought at the time it was dangerous to fire into the house where there were so many innocent people, that is, according to the statement received from Stanistreet that there were thirty or forty prisoners in the hotel—inhabitants of the place. That led me to ask the police which room the prisoners were in and the position, and I was told they were to fire high.

10334. Do you know the time Mr. Sadleir arrived?—It was before that.

10335. You swear positively that before Mr. Sadleir arrived the police were instructed to fire high?—I will not swear that, but I will swear I was told they were instructed to fire high. Immediately after Steele arrived the train came in, and the Benalla police were distributed on the Benalla side of the house, I think. The boy came running out with his head down, and there were several shots fired.

10336. Did you see the boy running?—I saw the figure of a man—I took it to be two men, and I could tell that one was running stooping his head and shoulders.

10337. In what portion of the hotel was that?—He came out of the front door and ran towards the tree near which Mrs. Reardon got over the fence.

10338. From the position you were standing in could you see that boy or man coming from the hotel?—I could, and did.

10339. Were you then stationed at a point further removed from the hotel, or nearer the drain where Mr. O'Connor was?—I was further from the hotel.

10340. And you could see from your position this boy or man coming out of the house?—Yes, as I say I saw them.

10341. You were further from the hotel than Steele was?—Yes.

10342. Do I understand you that you were between the station and the hotel?—I was between the station and the hotel. You will see the station has a raised platform, and on the side of that platform, between the station and the hotel, we took up our position, and sat on or lay down on some police saddles. It was very

cold at the time.

10343. You had a full view of the house from there?—Yes. When the Benalla and Wangaratta police came, the firing at the hotel was more rapid than it had been for the three hours prior to that.

10344. Would that be about five o'clock?—It would be hard to fix the time. I did fix it pretty near at the time.

10345. Was it before daylight?—It was. I think it was not daylight till about seven o'clock. Nothing of any great moment occurred till after daylight, when I noticed the figure of a man coming through the woods from the direction of Morgan's Look-out. He walked straight towards the hotel, and when within twenty yards of Constable Arthur, who was lighting his pipe at a log, he raised his revolver and fired in the direction of Arthur, who fired three shots at the man. Of course the man was Ned Kelly, and as Kelly still continued to advance, he (Arthur) ran in a circle for cover to a tree—that is in the direction of the railway station. I believe the shots hit the outlaw, because I could see him stagger distinctly and almost step backwards to recover his position again. Senior-Constable Kelly and Guard Dowsett closed in on Ned Kelly and both fired at him.

10346. From the back?—I saw Dowsett the first approaching Kelly from the railway station, and Senior-Constable Kelly came from Kelly's rear. Ned Kelly got between two trees, and several shots were fired at him there by Guard Dowsett and Senior-Constable Kelly.

10347. Did you see Senior-Constable Kelly retreating from the figure or advancing?—Always advancing.

10348. It would not be true to say he retreated?—It would be absolutely untrue.

10349. What distance would Arthur have to retreat to the tree?—I suppose about forty yards from the position in which he was. He ran towards the station to a tree, got behind the tree, and I saw Constable Phillips, Constable Healey, and Constable Montford come up and take part in the fight, each selecting a tree. Montford stood at the side, and I saw Constable Healey standing down in open ground, and firing at Ned Kelly, and before the shots had been exchanged, Senior-Constable Kelly and Dowsett being the closest to the outlaw. Dowsett was particularly close to him. There was only the log which Kelly came back to and stood at in a curve, and another log about ten or twelve yards distance sheltered Dowsett and both exchanged shots with their revolvers at one another. I saw a man coming rapidly down the side of the hill—that is from the direction of Mrs. Jones's house and Sherritt's to within about ten yards of Kelly, near the stump. He fired in rapid succession two shots, and Kelly disappeared, I suppose he fell. I could see his head before that, but immediately after those shots were fired he disappeared behind the log as if hit by the man. The police at once ran towards the outlaw. I ran with

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Mr. Melvin and Mr. Allen, and when we got to the log where Kelly was I saw Sergeant Steele kneeling and holding one arm. Guard Dowsett was holding another arm.

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*continued,*  
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10350. Do you know which Dowsett was holding?—The left arm, the one nearest the log. Kelly was lying with his feet towards the railway station; Dowsett was partly across his body, but he appeared to have his arm on the man's shoulder and across his legs, so to speak. Steele was on the other side of him, that is on the right-hand side of him. Senior-Constable Kelly was sitting across his head. They pulled the helmet off Kelly between his legs.

10351. Did you see that?—I saw them take the helmet off, and Sergeant Steele exclaimed, "It is Ned Kelly"; and, with that, I heard a man approach and give vent to something like a war whoop, and kick Ned Kelly on the side.

10352. Did you hear any other remark made by Steele?—No.

10353. Did you hear him afterwards say, "I swore I would be in at your death, you b——wretch"?—No. I noticed the man who kicked him was Constable Dwyer. Somebody warned him not to do that—that he had done wrong, and, a few minutes afterwards, Dwyer ran back to where Superintendent Sadleir was, on the other side of the hotel, and expressed sorrow for what he had done. I believe Kelly was

taken to the railway station then, and while we were assisting him to the platform, there were several shots fired from the hotel in the direction in which we were. We heard them whistling over our heads.

10354. Were you under the impression that the other outlaws knew that Ned was caught?—Yes. When we first got to the log, I saw the smoke come from the side of the kitchen, and heard a ball whistle over our heads, and Senior-Constable Kelly called on me to pick up his rifle—he had dropped it on the other side of the log on which Kelly was prisoner. I picked it up, and Mr. Allen was told to keep a look-out to see that none of the outlaws came out again to fire.

10355. Did Senior-Constable Kelly advance when he picked up his rifle?—I think he attended the party. We took the outlaw to the station, some had to carry the armour, and it took four or five of us to lift him over the railway fence. The other men carried this weighty armour down to the railway platform, and Kelly was then placed in the guard's van.

10356. Did Kelly appear to be drunk?—I did not think he was drunk, but he appeared to be ill, and had a wild look on his face—a wasted look. I then saw Superintendent Sadleir.

10357. Where?—On the railway platform. He came in and questioned the outlaw.

10358. Was that the first time you had seen Mr. Sadleir?—That was.

10359. How long was that after Kelly was taken?—It must have been about fifteen minutes, I should think. Kelly was stripped of the armour at the log, and he had to be partly carried to the station, and he had been placed in the guard's van when Mr. Sadleir came in and questioned him.

10360. Was Mr. O'Connor there then?—I did not see Mr. O'Connor. He may have been, but I did not see him at that time. I was particularly interested in taking notes of what Kelly himself said. Of course it is possible Mr. O'Connor may have been present, but I did not see him.

10361. Where did you first see Mr. O'Connor after you had seen him at the drain?—When the prisoners came out of the hotel.

10362. Where was he then?—On the Wangaratta side of the hotel, standing close to Mr. Sadleir.

10363. Did you see any officer give orders to the men after Mr. Hare left in the morning?—No; except Senior-Constable Kelly.

10364. You never saw Mr. Sadleir give any orders?—I did not. I can tell you where I first saw Mr. Sadleir taking any active part. After the escape of the prisoners, I saw Mr. Sadleir take up a position on the Benalla side of the hotel.

10365. What o'clock was that?—After ten o'clock in the morning.

10366. What position did he take?—He stood behind a tree. I could see him distinctly.

10367. There is a very large tree on that side pointed out to the Commission—would that be the tree directly in a line with the front of the hotel on the Wangaratta side?—It was on the Benalla side I saw him—between seven and about ten o'clock, there was nothing very much occurred.

10368. Was there much firing from the hotel between seven and ten?—There was a considerable amount of shots came from the hotel soon after Kelly was caught.

10369. Were there any shots fired from the hotel in the direction where Kelly was captured at or about the time of his capture?—When he was captured I heard the shots. In fact the shots stripped the leaves off the bush close to where we were assisting Kelly over the railway fence.

10370. Do you know those came from the hotel of your own knowledge, or from those stationed in the gully or from those stationed on the Benalla side of the hotel?—They may have come from the people stationed on the Benalla side, but it is my impression that those shots I refer to came from the hotel, because, when the first shot was fired, I saw the smoke from the hotel.

10371. Then that must have come from?—One of the outlaws.

10372. What portion of the hotel?—Between the kitchen and the hotel it seemed to come from.

10373. At the back?—Yes.

10374. Was there much firing from the time of the first volley in which Mr. Hare was wounded until seven o'clock—from the hotel?—Occasionally I could see the flash of a gun from the hotel, and it was generally followed by two or three shots from the police. The police fired about three shots for every shot fired by the outlaws. It appeared to me that the outlaws had taken up a position in a room at the back of the hotel, from the door of which they fired through the windows—that is some considerable distance from the windows.

10375. Then your impression is that the outlaws fired most of their shots from the back window of the hotel?—Yes.

10376. Between that and the kitchen?—Yes.

10377. Did you see much firing after early in the morning from the front windows of the hotel?—I saw the flashes back in the centre of the house.

10378. I ask did you see much firing after early in the morning from the front windows of the hotel?—No, I think they very seldom exposed themselves near the windows.

10379. That would be the heavy fire drove them into the back?—Yes, and their being more secure in the inside room.

10380. Did you hear that Byrne had been shot in the hotel?—Yes.

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John  
McWhirter  
*continued*,  
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10381. About what time?—Early in the morning. I do not know how I heard of it, but I did hear it. It came as a rumour at first that he had been shot whilst drinking with some one else in the bar of the hotel.

10382. Can you fix the time?—About the time Kelly was caught—before the prisoners escaped.

10383. Did you hear Ned Kelly say anything about how his best man was shot, and so on?—I did not. He was told that Byrne was shot, I recollect, at a later hour in the day.

10384. Did he say anything?—He said something about his being a good man or something of that sort.

10385. Did you remain with Kelly after he was taken to the railway station?—I remained in the guard's van for some time, trying to hear what I could.

10386. Did you see any one putting warm bottles to his feet?—Not in the van. I think he received some treatment of that sort in a room in the station. After he had been in the van some time, by the advice of Dr. Nicholson, he was taken to the station and placed in a bed there. His feet were very cold. I know that because I cut the boots off and assisted the doctor when he was dressing the wounds. His feet and hands were very cold, and he fainted two or three times.

10387. Did you visit Kelly during the day after the first interview?—Yes.

10388. Did you see any one?—Sergeant Steele was with him.

10389. All the time?—All the time.

10390. Did you see Mr. Sadleir any time with Kelly during the day?—I think I saw him there once, he

was in the room when I went in. I do not know how long he remained.

10391. You stated you first saw Mr. Sadleir after the capture of Kelly. You next saw him at the time the prisoners were released?—Yes, standing on the Wangaratta side.

10392. After that you saw him stationed on the Benalla side?—Yes.

10393. When next did you see him?—Just prior to the house being fired.

10394. In the interval, between seven o'clock in the morning and just before the house was fired, was Mr. Sadleir particularly engaged giving instructions to the men under his charge?—I did not see him engaged in going round the men, but I saw Constable Dwyer going up to him on several occasions, and going to other parts of the field. I saw Dwyer pass in front of the house on several occasions.

10395. Did you hear about the cannon?—I heard of it in the evening for the first time.

10396. It has been said that the advice to send for that was tendered by some of the reporters?—I think Mr. Sadleir was mistaken in that.

10397. Did you tender that advice?—Certainly not.

10398. Did you hear any one volunteer to rush the place prior to setting it on fire?—I did not hear them offer; but I was told that Constable Armstrong had done so, and Constable Dwyer, and some other constable—it may have been Johnson. I cannot say, but I heard of three.

10399. Did you hear of that previous to burning the hotel?—Yes, some considerable time before the burning of the hotel.

10400. Did you that day form any opinion yourself as to the best means to adopt for the purpose of capturing the two outlaws?—I did not that day; but, on thinking the matter over since, I have arrived at an opinion.

10401. Did you believe it was a good thing to set fire to it?—There is only one thing that would prevent my saying it was the best thing, and that is that it was known that the wounded man Cherry was in the hotel.

10402. That would have deterred you from taking that course?—Yes.

10403. Was that fact known?—Yes, I knew of it; and I am sure if I did that Mr. Sadleir knew it.

10404. Did you hear any one report that to Mr. Sadleir?—Yes; it was stated when the prisoners made their escape from the hotel, I believe. I will not say positively. I believe it was stated by the prisoners when coming to the station. If you understand, when the prisoners made their escape, at half-past ten in the morning, they were all brought round to where Superintendent Sadleir and Mr. O'Connor were standing, and they were called up one by one, and all but two were allowed to go away—to clear out; and I think, on the way to the station it was stated that Cherry was the only man left in the hotel, and he was wounded, and had been carried back into the back kitchen, and was sitting against some bags of oats. That is what I heard. Anyway it was a well-known fact for four or five hours that Martin Cherry was in the place, and was wounded in the groin; we knew the position of the wound.

10405. Did you hear any one volunteer to go and take Cherry out before the house was set on fire?—No; but I noticed Kelly's two sisters came from the Greta side—Mrs. Skillian and Kate Kelly. Mrs. Skillian was stopped by Senior-Constable Kelly; and I heard him asking her if she would not go to the hotel and advise her brother to surrender. She said she would sooner see them burned first. I did not know at that time; something must have been said to Mrs. Skillian, otherwise she would not have known it was intended to burn the hotel. That was the first intimation I had it was intended to burn the hotel.

10406. How soon afterwards was it set on fire?—Twenty minutes. Senior-Constable Kelly then went to the Catholic priest on the ground, who also had an interview with Mrs. Skillian, to get her to go up to the hotel, and get her brother to surrender. She again said she would sooner see them burned first but she would like to have an interview with her brother before he died. Kelly said, "You had better come round with me to

see Mr. Sadleir.” They walked round the Benalla side, close to the railway, and Mrs. Skillian then walked towards the hotel, and was ordered by the police to stop, or they would fire on her. She stopped, and a few minutes after I noticed Constable Johnson take a bundle of straw to the Benalla side of the hotel, and set fire to it. I spoke to the Catholic priest, who was standing near me at the railway gate, and said he was the only man who could save Cherry. He asked me if I did not think there was any danger, and I told him no, because they would not do him any harm.

10407. In consequence of his religious dress?—Yes. He walked towards the hotel, and the police ordered him to go back or they would fire; but he took no notice of them.

10408. The police threatened to fire at him?—That is, the police stationed at a tree just between the station and the hotel. It is the nearest tree to the house I think. He entered the house with his head uncovered, and, as he entered, the whole place seemed to take fire at once. I feared for a moment for his safety, and ran round to the back of the hotel, and there saw several policemen carrying Cherry out. The priest said they were all dead, that they were lying in the room on the Benalla side as he passed

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through, and that a dog was lying dead alongside of them. I noticed some of the police also taking out the body of Byrne.

10409. Did the police rush up immediately after the priest?—Immediately after the priest.

10410. After he came out?—I did not see the priest come back. I have heard it in evidence that he came back at the front door, and signalled to the men, but I did not see that. He may have done so. Cherry was just dying when he was brought out.

10411. You said, when Mr. Hare rushed up after the first volley, he gave the order “Cease firing.” Why did he do that, have you any idea?—I do not know. It is very possible that, from his position, he heard the cries of the people in the house, and was so induced to order the police to stop firing.

10412. You did not hear him calling to Mr. O’Connor to surround the house?—I did not. Oh, I heard him say to Senior-Constable Kelly, at one time, to be careful and surround the house—“For God’s sake” to surround the house.

10413. Then, in your opinion, Senior-Constable Kelly had full charge till Mr. Sadleir arrived?—I think so.

10414. There was an expression made use of this morning by one witness. He said Senior-Constable Kelly kept things all right. Would that fairly represent his conduct in your opinion?—Yes. That was a peculiarly dangerous time—between three in the morning and six o’clock—because the police on the ground were not numerous. They had to take up places at considerable intervals in order to surround the house.

10415. Their whole aim was then to carry out the orders given by Mr. Hare not to let them escape?—Not to let them escape.

10416. You went round the hotel later on in the day?—Yes.

10417. About what time did you first make the attempt to go round any portion of the hotel. You went to the scene where Kelly was captured?—Yes.

10418. Did you run considerable risk in going to that spot?—I do not know. I did not feel the risk at the time.

10419. Later on in the day did you go round the other sides of the hotel?—I was on the Benalla side.

10420. Round the back?—Yes, about one o’clock, and got a view of the horses.

10421. From seven in the morning until the time that the place was set on fire, was there any very great risk in any one going from point to point if they were at a respectable distance from the hotel?—No, I think not.

10422. Suppose an officer of police having men under him there, he would not run any very great risk in going round to see if the men were properly stationed, and giving instructions himself?—No, he would not.

10423. Did you see any of the police moving from point to point during the day except Senior-Constable Kelly?—Yes, I did.

10424. Did you see Dwyer?—I did.

10425. Did you see him going from one point to another?—Yes.

10426. Do you think he ran any unnecessary risk in doing so?—Yes, I think he did.

10427. That he was rash?—Yes, foolhardy.

10428. That the same work could have been performed quite as effectively with safety?—Yes, quite as effectively. I do not believe the man has any sense of fear at all, that is my idea of him.

10429. Was there any considerable risk in a careful man going round to give orders and so on?—No. At the same time, if an officer had taken up his position on the station, he could very nearly see the men were at their positions. He had only to walk to the Benalla side of the house and he would know the position of all the men from those points of view.

10430. Did you see Mr. Sadleir going about at all?—Well, with the exception of the times I have stated, that is when he came to the station, when I saw him with the prisoners, and when I saw him round the

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Benalla side of the house, that is the only time I saw him.

10431. Would it astonish you if an officer of police gave this evidence—Mr. Sadleir says, in answer to question No.2792, “It was a very difficult matter, I found, to get round, myself, from post to post. You had to run the gauntlet of the outlaws’ fire from the building, and there was danger too from the crossfire of the police. Constable Dwyer, an active, zealous fellow, seeing me going round myself, asked for any messages I had to give, and I gave him some messages to the different points, and to ascertain for me particulars of how the thing stood at all sides, and he ran round from place to place where I directed. As he went along, I saw him jumping and skipping as sheep will, apparently over nothing.” Then he says that he went back to Mr. O’Connor in the drain. Do you think that was the position for a superintendent of police to place himself in?—It certainly was not a good place to observe the encounter in, to take up in order to watch the progress of the fight, or to meet any emergency that might arise.

10432. Were you in that drain when you saw Mr. O’Connor?—Yes.

10433. What was your impression of the position of Mr. O’Connor for the purpose for which he was there?—I did not think it was a good position.

10434. What do you mean by good?—Not good to take up in order to observe what was done by the Kelly gang. For instance, I may point out that when Kelly made his appearance, I did not believe that any person in that drain either knew what was going on or anything else.

10435. Was it a good position for an officer to take up to prevent any person escaping from the hotel?—No, it was not.

10436. Why do you say “good,” was it not safe?—Yes.

10437. Was it not good in that respect?—Yes; but it was not good for observation.

10438. But for preservation?—Yes, for preservation.

10439. It would not be likely to prevent the Kellys from escaping from the front?—The men would be in a good position, supposing the Kellys ran in that direction towards the drain, to give them a surprise when they were crossing the drain; but it would be very unlikely, because, if they attempted to escape at all, I imagine they would have made for the woods at the rear of the building, and towards Morgan’s Look-out. The way Kelly did make his escape was at the rear towards Morgan’s Look-out.

10440. Have you formed an idea of the time Kelly did escape?—Only from the prisoners in the hotel. Some of them said he never came inside the hotel again; that directly the police fired he walked

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off calling on Byrne to come with him. Others say he walked straight through the building, and spoke to Byrne, and asked him to come with him to the back. They all agree that he did not remain in the house.

10441. The building was not surrounded at that time?—No; I am certain he made off directly the first volley was fired, and before the police had time to surround the house, otherwise I feel certain he would have been seen by the police who were posted there.

10442. Is there anything else of importance?—I noticed, in hearing the evidence given, there was some doubt in the minds of the Commission as to the character of Aaron Sherritt’s hut. I may say I visited the hut after the murder, and Constable McColl, who had been at one time stationed in the hut, described to me the position of the police. I saw some bullet holes through the wall. The house was constructed of colonial hardwood sawn timber, not weather-boards exactly, like slabs together, one on top of the other, like that—[*illustrating his meaning*]. Run down between two uprights inside of this bed-room there was a lining of mud; and it was apparent that the balls of the outlaws had penetrated the outer wall, and carried away a large portion of the mud inside. It would be impossible for men armed with shot guns to fire through that wall, for I tested it with a revolver to see if a revolver would pierce the walls from the outside, and found that in no instance did the revolver ball go through the hardwood. It was only a rifle ball that would go through.

10443. The slabs would be an inch to an inch and a quarter thick?—Yes.

10444. It would have been possible to have shut the doors?—Well, in the first instance, they were in a very awkward position, they were surprised; but, according to the evidence of the men in the place, when they heard one of the outlaws at the rear of the house or the end of the house striking matches to set fire to the hut, there would have been no difficulty not only in closing the doors but in getting outside.

10445. Is that the case that there was a partition between the front door and the back, a beam running from one wall plate to another?—There was a plate laid from one side to the other from the front to the back of the house, and between that and the roof was an aperture.

10446. There was nothing above the square?—No.

10447. The front door opened back to that partition?—Yes.

10448. Would there have been any difficulty in any one on the bed reaching over from the bedroom and closing both the doors?—It would have exposed them to the outlaws who were supposed to be at the door, but they were great clumsy doors that required some trouble to close them.

10449. Could you give any idea of the height of the top wall plate from the door?—I had to stand on something to look over.

10450. How high?—Standing on something—a stool about two feet high.

10451. The height of a bag of flour?—Yes, the walls were about 7 feet 6 inches.

10452. Was the bedstead in the room when you saw it?—No.

10453. You can imagine the height of a bedstead; could a man have stood on a bedstead and seen over that plate?—Yes.

10454. Do you think the police acted cowardly in remaining?—I think they acted with a considerable amount of wisdom in the first part, and I do not believe, in the first instance, they could have been expected to have gone out. Had they done so, it is my impression they would have been shot; it would have been a useless show of courage. I do not think there was any want of courage displayed.

10455. They only knew that two outlaws were there?—Yes, but they heard voices. You must remember they would look at it this way, that the gang kept pretty much together, and if two were there you might expect that the remainder of the gang were not very far off.

10456. *By Mr. O'Connor.*—When Bracken gave the information that the Kellys were at Jones's, you stated that Mr. Hare and a mob of men rushed up towards the hotel?—No; I say that when Mr. Hare was proceeding in the direction of Jones's, he just got round the side of the station when I heard a man say, "They are there, surround them."

10457. Did you know those men at the time or afterwards; you found out their names afterwards?—Some of the men I knew. I knew Phillips, I knew Arthur, I knew Senior-Constable Kelly. I distinguished Guard Dowsett by his uniform, and I was told who Montiford and Healey were.

10458. At the time, as these things took place, you recognised those men?—Yes.

10459. It is not from after conversations and talks?—With reference to those two men, Montiford and Healey, I asked who they were afterwards, in order that I might frame my report concerning those who were engaged in the fight.

10460. *By the Commission.*—That was, in consequence of something you had seen them do, you were anxious to know their names?—Yes, exactly.

10461. Do you consider Dowsett acted with great pluck on that occasion?—I do.

10462. *By Mr. O'Connor.*—Where were you on the platform when the men rushed up to the house?—On the Benalla side of the station house.

10463. Not off the platform?—On the platform.

10464. Have you any idea of the distance from the platform to the hotel?—About 150 yards I should say; or perhaps 200 yards.

10465. After the first fire was there not a heavy smoke hanging about?—Yes.

10466. Was it possible for anybody to distinguish by sight any person after that volley?—The smoke gradually rose and cleared off the valley; it did not hang about long.

10467. Was not there heavy firing continually at the first?—Yes, until Mr. Hare gave the orders to cease.

10468. How do you know he gave the orders?—I heard his voice.

10469. Are you positively certain it was his voice?—I do not think I could mistake his voice, it is a peculiar voice.

10470. Were you acquainted with him before this?—No; but I had heard him speaking often prior to that.

10471. What was the first occasion you ever had any intercourse with Mr. Hare—when he came back wounded?—No, I had spoken to him at Benalla before that, and once at the time of the Lancefield robbery. Those were the only two occasions.

10472. *By the Commission.*—After Mr. Hare gave the orders to cease firing, what time did the firing commence again?—I suppose there was an interval of about ten minutes or a quarter of an hour.

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10473. Was that after Mr. Hare left?—About the time he left, I think. Oh, there was some firing, when he went out the second time.

10474. That was after you had bandaged his arm?—Yes.

10475. Would that firing be at the outlaws appearing outside, or at the hotel only—have you any idea?—I did not know from my own knowledge; I believe it was in consequence of flashes from the hotel, and they returned the fire.

10476. *By Mr. O'Connor.*—When Mr. Hare returned wounded to the platform, you state his arm was bound up and he returned to the fight?—Yes.

10477. Of your own knowledge, did you see Mr. Hare go up into the fight?—I did.

10478. Where were you placed at that time?—The station.

10479. What part of the station?—The Benalla side.

10480. You remained at this Benalla side from the time of the first rush to the time Mr. Hare went back wounded?—No, I did not; I walked towards the drain, into the drain, and back again, and took up my position again on the Benalla side, because we could see from there what was going on better than from any other position.

10481. Could you see how far Mr. Hare went?—I could say he had plenty of time to go.

10482. Could you see, I ask?—Well, I am positive I saw him go as far as the drain, if not further.

10483. You say that Senior-Constable Kelly took the men and stationed them here and there; did you accompany him?—No; several times I saw him and heard him speaking. I saw him going round with

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Phillips.

10484. Where did he get Phillips?—He was going down the Wangaratta side of the hotel.

10485. Where had Phillips been previously?—I do not know where. He came down to the place for ammunition.

10486. Did Kelly tell you he was going to place Phillips in a certain position?—No.

10487. How do you know he was?—When Constable Kelly came to the back with the rifle and was asked where you were, he replied, “In the drain,” and he came back and said, “He would not come out of the drain when I asked him, and I had to place the men myself.”

10488. Whom did he say this to?—On the platform.

10489. Whom to?—I believe it was to me he said it.

10490. Had you seen Senior-Constable Kelly before?—Yes, I had spoken to him twice; first of all at the murder at Schnapper Point, and I had seen him in Benalla once or twice.

10491. *By the Commission.*—How many years ago was the murder at Schnapper Point?—The Hastings murder—about four or five years ago.

10492. *By Mr. O'Connor.*—You have given a very free opinion of your own as to my position—did you take into consideration, when you made that statement, the time at which the first rush was taken, the circumstances under which it was?—No, I was simply asked. I based my opinion in this way—I was asked the question whether I thought that that was an advantageous position for an officer of police to take up.

10493. An officer or a man was the question—a position for keeping the outlaws in the hotel, and you gave your opinion that you did not think it a good position. Now, considering this, did you take into consideration the time at which the rush was made and the meagre information we had, and not knowing the ground—was it not, under those circumstances, a very good position to take to prevent the outlaws from escaping?—No, certainly it was not.

10494. If you had been in my place, where would you have gone, will you tell the Commission—you can give your opinion about that just as well as the other, I suppose?—My courage has never been tested, and I cannot say what it would be under the circumstances—I can only imagine.

10495. What would you have done?—I would have done as Senior-Constable Kelly did.

10496. What did he do?—He occupied positions in which he could observe the gang had they come out of the hotel.

10497. He was round at the rear most of the time?—Yes.

10498. How about the front of the house; if I had been round here also—by your opinion I ought to have been round where Kelly was—what would you have said if they had come out at the front if there had been nobody there?—It would have given the reporters an opportunity to distinguish themselves.

10499. *By the Commission.*—Did you see any particular reporter go out with a body of police during the day and act with them?—No, I did not.

10500. Were you or any of the reporters out upon the ground during between the time of the arrival of the Benalla train and the burning?—Mr. Melvin, myself, and Mr. Allen were all out.

10501. Where did you go to?—Round the Wangaratta side of the place in company with the others. Then after that, before the burning of the place, I went up by myself on the Benalla side of the house, near where Mr. Sadleir was at the time the house was set fire to. He was behind a tree.

10502. Did you see Mr. O'Connor on that occasion?—I did see Mr. O'Connor on that side on one occasion, but I forget whether it was then or before that.

10503. Where was he when you saw him?—I think he was with Mr. Sadleir.

10504. Was that in the trench or at the tree?—At the tree.

10505. *By Mr. O'Connor.*—You stated when the prisoners were coming out of the house you saw me with Mr. Sadleir?—Yes.

10506. What time would that be about?—Half-past ten.

10507. Was that the first time you saw me after the rush?—Yes.

10508. Did you know from hearsay where I was before?—Yes, and from personal observation—both.

10509. And you saw me get into the position at that time?—Yes.

10510. When did you see me first?—At the time of the first rush.

10511. Do you mean to say you rushed up with the police at that time?—I did not rush up with the police at that time; the police were in advance of me.

10512. Did you see me take up my position?—I saw you get into the drain.

10513. Where were you?—I was near Stanistreet's place at the time.

10514. How did you get to that position?—I followed up the police, almost with them; I was just a yard or so behind some of the men.

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it?—I have no cause to doubt that; that was the position you maintained till the morning was well advanced.

10518. Did you ever go into that position of mine in the trench before any subsequent rains?—Yes; I went into it on the day after the fight.

10519. You could see the whole front of the house?—I could not.

10520. Why not?—Because your eyes were about level with the ground, and the fence also stopped your view of the place.

10521. Could you not see the house from the position?—You could see the house.

10522. Could you not see people going in and out?—With an effort.

10523. What effort?—By raising on tiptoe.

10524. *By the Commission.*—Did you see the top rail of the fence riddled with bullets?—Yes.

10525. On which side?—Between the house and the position in the drain occupied by Mr. O'Connor.

*The witness withdrew.*

*Adjourned to to-morrow at Eleven o'clock.*

WEDNESDAY, 8<sup>TH</sup> JUNE 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

E. J. Dixon, Esq., J.P.,

J. H. Graves, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.,

W. Anderson, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.

Mrs. Margaret Reardon sworn and examined.

Mrs. M  
Reardon  
8th June 1881.

10526. *By the Commission.*—Do you remember the time at which the Kellys tore up the railway line at Glenrowan?—I do.

10527. Do you know what time it was that the Kellys demanded of your husband to tear the line up?—It was twenty minutes past two on Sunday morning when we left our house.

10528. What time were you taken to Jones's hotel?—I was not taken there just then; all the prisoners were left at Mr. Stanistreet's, the gate-house.

10529. You were taken there?—Yes.

10530. What time was that?—We were taken straight from our place to there, and left there while the men were taken away to take up the rails.

10531. Were the whole of your family in the house?—Yes, there was myself and eight children and my husband.

10532. Did the Kellys say for what purpose they took you prisoners?—I begged of Kelly not to take my husband to take the line up. He said he had to do it, as the people up there told him nobody could do it but a platelayer.

10533. Did he tell you why he took the line up?—He said it was to wreck the special train that was coming after him with a lot of police and volunteers.

10534. Did he mention how he heard that?—No, he did not. I asked him how he knew they were coming, and he said, "I quite expect them."

10535. You were in Mrs. Jones's house about two o'clock that morning, before the special train came up?—Yes, I was in there from about four o'clock on Sunday afternoon.

10536. Then you were there all Sunday night?—All Sunday night.

10537. How many were there?—A great many people. All the rooms were full; all the front of the house was full of men, women, and children.

10538. Could you get any food there?—No, I saw no food there.

10539. Was there much drinking?—I did not see much drinking, in fact I did not see any. I did not take any notice. I was not in the bar.

10540. Did you see the Kelly gang frequently?—I never saw them in my life till that time.

10541. I mean in the house that night?—Yes, I did.

10542. What were they doing, generally speaking?—There was one of them, Hart who was not there. He remained in charge of Mr. Stanistreet's family, and allowed them to remain in their own house. I saw Ned Kelly in the kitchen with Mrs. Jones and her daughter. The most part of Sunday night he was not in sight at all—only when they were having a dance, and I saw the other two men. I believe they were playing cards with Mrs. Jones in the little parlour; and during that time it was Mrs. Jones's daughter was minding us with a revolver in her hand, reckoning where we women and children were, and to count the number up. She used to stand and reckon us like that—[*holding out her arm*]*—*with a revolver in her hand.

10543. Were you summoned by the police at Beechworth to give evidence of that?—No, not of that; they asked me nothing of that.

10544. Were you at the trial of Mrs. Jones at Beechworth?—Yes.

10545. Did you give this evidence there that you are giving now?—No, I was never asked it.

10546. You state that Mrs. Jones's daughter had a revolver?—Yes, in her hand, and she carried it in the pocket of her jacket.

10547. What age was she?—A young woman—I daresay between 15 and 16.

10548. Did Mrs. Jones seemed to be very pleased the outlaws were in the place?—She seemed quite

pleased and merry.

10549. Did she dance with any of them?—Mrs. Jones danced, but I cannot say with whom.

10550. Were you in the house when the police first came?—Yes.

10551. What was done inside when the firing commenced?—When the police first came the people were all going out the rooms, from one room to another, and Constable Bracken came to the room where we were in and said, “Lie down as flat as you possibly can on the floor, it is the only chance you have got,” and we did so.

10552. And did the firing commence immediately?—The firing commenced in about fifteen minutes after that.

10553. Did you see what Constable Bracken did after he told you that?—No, I did not see him after that, for we were in the back room.

10554. Can you tell us how the rooms were situated?—There were three different rooms—the dining room, the bar room in the middle, and the little parlor, at the Benalla end.

10555. How many doors in the front?—Two—one from the bar and the other from the dining room.

10556. How many rooms were there behind?—Two, and a little narrow passage.

10557. Did the passage go right through the house?—Only from the bar to the back kitchen.

10558. It was only between the two back rooms?—Yes.

10559. And in coming through it you entered the bar coming to the front?—Yes.

10560. Do you remember the time the firing commenced?—Yes.

10561. Can you describe anything you saw then in the house?—I did not see anything in the house just then, for there were very dark window blinds, and they were all drawn down.

10562. Was there no light?—No.

10563. How many windows were there in the front?—There were three windows on the front—one in each room, and one in the bar.

10564. Was there a door going from the verandah into the dining room?—Yes.

10565. And one from the verandah into the bar?—Yes.

10566. No door from the verandah into the little parlor?—No; you entered that from the bar.

10567. Was there a skillion room at the back?—There were two.

10568. And then at the back of those a small yard?—Yes.

10569. And two or three steps up to the kitchen at the back?—There were no steps; it went straight on up a little incline to the kitchen at the back.

10570. Do you remember anything of what occurred when the firing commenced?—After there had been a few shots exchanged, I heard a scream in the front room—that was the time Mrs. Jones’s boy got shot.

10571. Do you remember when the first volley was fired?—Yes.

10572. Do you remember where it was fired from?—I could not say that, but it was fired from the outside; the firing all commenced from the outside.

10573. Do you remember seeing the outlaws come into the house immediately after?—No; I did not see them, but I heard them come round the back and into the little passage, but I did not know how many came in.

10574. You were shut in the room?—Yes.

10575. Did you hear any talk of their surrendering?—No; I did not.

10576. Did you hear Ned Kelly ask any of them to come out?—I heard a voice in the yard say, “Come along boys, follow me”; but I did not know who it was said it.

10577. You did not know whether Ned Kelly went out or not?—I did not.

10578. Was it after the volleys you heard that?—Yes; after the first firing was over.

10579. You were then in the back room?—Yes.

10580. How many were with you?—Oh, the place was full of children and another woman and men.

10581. Did that room contain all the prisoners that were in the hotel?—Oh no.

10582. Which other room were they in?—They were all over the front of the house; there were some in every room.

10583. Were there any in the bar, of your own knowledge?—I could not say; I could not see it.

10584. Did you hear the Kellys offering to allow the prisoners to go?—Yes; some time after the first volley was over Mrs. Jones’s daughter came in with a lighted candle and said, “All women and children are to come out.” We accordingly did so. There were two other women, a good many children, and Mrs. Jones and her daughter and I all went out in a great group.

10585. Which door did you go out at?—At the back, round through the back yard.

10586. And went outside?—Yes.

10587. Did you get away at that time?—No. One of my children was not able to walk, and we had to wait to help her on.

10588. Had you to go back into the house again?—The others had got away while we were getting the child out.

Mrs. M Reardon  
*continued,*  
8th June 1881.

<p>10589. How old was she?—Thirteen years.</p> <p>10590. Why could not she go?—There were a great number of them lying under the bed, and when she came out she was cramped and could not walk. That lot got away, and three of my children with them. We got close to the gate-house, when a voice called from under the bridge, “Who comes there?” and we said “Women and children”; and a little higher up in the gutter or drain there came shots against us, and we had to run back to the house again—my husband, my two biggest boys, and two little ones, and myself.</p> <p>10591. What gate is that?—The large gate that goes across to the gate-house, crossing the line.</p> <p>10592. Down by the station master’s house?—Yes.</p> <p>10593. Where did the voice come from?—From under the bridge leading along there.</p> <p>10594. There are several bridges?—The main bridge leading to the gate-house.—[<i>The witness pointed it out on the plan.</i>]</p> <p>10595. Did the police come from the bridge nearest the wicket-gate?—Yes.</p> <p>10596. Do you mean to say those shots were fired at you as you came along?—I could not say who fired them, but they were fired right across our face, and I shut my eyes once with the fire and smoke. We turned back again, and were coming to the other large gate that leads to the station-yard, and we had to return up to the hotel again.</p> <p>10597. How many were there?—There were a good many gone on, but at this time there were my husband, my two big sons, the two little children, and myself and the baby.</p>	
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<p>Mrs. M Reardon <i>continued,</i> 8th June 1881.</p>	<p>10598. And you all went back to the hotel again?—Yes.</p> <p>10599. The same way as you came out?—Yes.</p> <p>10600. You came out of the hotel at the back, and came round by the chimney, at the Wangaratta side, in front of the hotel?—Yes.</p> <p>10601. And then down towards the railway gates at the station master’s house?—Yes.</p> <p>10602. You were then challenged, and retreated the same way as you had come from the hotel?—Yes.</p> <p>10603. In what position were you at the time the firing took place—were you in front of the hotel, between the railway gates and the hotel?—We were nearer down to the corner. We were not in front of the hotel, we were nearer down to the railway gate.</p> <p>10604. Could those people who fired see you?—I cannot say it was daylight, but it was a bright clear moonlight morning.</p> <p>10605. Did any of the shots strike any place that would lead you to believe that they were intended for you?—I heard them strike the railway fence.</p> <p>10606. That is fired towards the house?—No, not towards the house, but where the fence turns round.</p> <p>10607. Did you get a bullet through your shawl?—Not at that time I did not.</p> <p>10608. When did you get it?—About seven o’clock. I had to return to the house, and there was then no other woman in it but me, and the firing was kept on occasionally.</p> <p>10609. Was not Mrs. Jones in the house?—No; they were all gone away.</p> <p>10610. You remained in the house some time?—I remained in the house for a long time after that. I remained till about seven o’clock in the morning.</p> <p>10611. From the time that you returned till you left that place did you see either of the outlaws?—No, I did not.</p> <p>10612. Only the men that were prisoners?—I saw only some of the men as I passed in again.</p>
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10613. Did you go back to the same room?—I did; and there were a lot more people there—a good many men.

10614. Did you know Byrne was shot at that time?—He was not shot at that time, and at the time I left the house at seven o'clock he was standing in the passage.

10615. Was Ned Kelly in the house?—I did not know whether he was or not.

10616. How did you know he was standing in the passage if you did not see him on your return?—You shall hear it in a minute. I went straight in the house and did not take any notice, and we stood in the passage; but the police had ceased firing for a considerable time, and I said to my son I would try and get out; and I came round out of the room I was in, and I saw three of the outlaws standing in the passage, and I said, “Will you allow us to go?” I could not say which of them they were, but they were the outlaws and had the armour on. I am sure they were the outlaws. They said, “Yes, you can all go; but if you go out the police will shoot you.”

10617. Did you go out at that time?—I went out at that time. I put the little girl out in the yard, and she screamed, and I came out myself next. One of the outlaws (by the voice I took it to be Dan Kelly) said, “If you escape”—and I said “What shall I do?” and he said, “See Hare, and tell him to keep his men from shooting till daylight, and to allow these people all to go out, and that we shall fight for ourselves.” I came into the yard, and I screamed for the police to have mercy on me. I said, “I am only a woman, allow me to escape with my children”; and I added, “The outlaws will not interfere with us—do not you.”

10618. Could you see them?—I could see the men behind the trees.

10619. Did they cease firing?—A voice said, “Put up your hands and come this way, or I will shoot you like —— dogs.”

10620. What direction did that voice come from?—From a tree close behind the stable on the Wangaratta side.

10621. Do you know whose voice it was?—Not at that time I did not.

10622. Was it Sergeant Steele?—It was Sergeant Steele, but at the time I did not know who it was; I saw him afterwards. I put my baby under my arm and held up my hand, and my son let go one hand and held the other child by it, and we went straight on. The man commenced firing, and he kept on firing against us.

10623. Did he fire at you?—I cannot say he was firing at us, but against us.

10624. He was firing in your direction?—Yes, and I got close to the fence, and this tree stood at some distance from the fence of Jones's yard, and as I did I saw a gun pointed at me. I then turned round and went down along the fence towards the railway station, and two shots went directly after me, and two went through the shawl that was covering the baby—I felt my arm shaking, and I said, “Oh, you have shot my child.”

10625. Have you the shawl now?—Yes, the shawl is here—[*The same was produced and the holes in it examined.*]

10626. Are there two holes, or was it from one shot?—I do not know whether it was two or one, and the holes have got a good deal larger since. The shawl was doubled and wrapped round the baby.

10627. How many holes were there together when you first looked at it?—Those were all that were at first.

10628. How many holes are there together?—Two.

10629. Were those two distinct holes?—Yes.

10630. You are satisfied it was a bullet?—I could not tell whether it was a bullet or what it was.

	<p>10631. But it was from the police firing?—Yes, it came from a gun, for I was very close to it.</p> <p>10632. Where was your son at this time?—My son was close beside me, coming about a yard away from me, and he said, “Mother, come back; you will be shot”; and I said, “I will not go back; I might as well be shot outside as inside”; but I said, “I do not think the coward can shoot me.” My son turned away and walked back towards the house, pulling the little child by the left hand, and with the right hand up. I looked round and saw him going, and that was the last I saw of him.</p> <p>10633. At that time were there only yourself, your son, and two other children making your escape from the hotel?—I believe the father was also, but I did not see him.</p> <p>10634. If the father was there, there were no others?—Not that I knew of.</p>
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10635. Was it clear enough daylight to see?—It was quite bright; I cannot say whether it was daylight or moonlight. Mrs. M Reardon  
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10636. Sufficiently light to tell a man?—Yes; I heard the police call to Sergeant Steele, saying, “Do not shoot her; you can see it is a woman with a child in her arms.”

10637. Was that from the house?—No, it was from a policeman close beside him.

10638. Do you know who said that?—I found out afterwards that it was a constable named Arthur. I did not know at the time, for I did not know any then.

10639. Was your son close to you?—About two yards from me.

10640. If the man had been firing at your boy, could he have struck you?—I could not say.

10641. How many shots were there?—Just as I turned two shots went past me. I did not see my son shot. He got shot when retreating to the hotel. He said it was just as he was going in the door, and he fell against the door.

10642. Did any one, before the shots came, call out to you to stop, or they would fire?—No, they did not. Only one called out what I have said, “Put up your hands, or I will shoot you like —— dogs,” and we went where the man called us.

10643. It was either moonlight or daylight, so that it was not possible for you to have been mistaken for a male?—I could not be.

10644. You dressed in your ordinary female attire?—I was; and, not only that, but they had been firing from the station at me. There was a gutter along there; and, when Steele commenced shooting at me, they all commenced shooting at me from the other place.

10645. Do you recollect the exact words Constable Arthur used?—I cannot say exactly, but I heard him say at the first set out, “Do not you see it is a woman with a child in her arms”; and when those two shots were fired at me, I heard him speaking very angrily, and then the firing ceased. I could not say the exact words, but I heard him say about “shoot” and “her.”

10646. Do you know whether Ned Kelly had been captured before or after this time?—I know he was captured after what I am now relating. I walked straight on to the slip-panel, and I got behind a tree, and, when all the firing had ceased, I called out again for them to spare my life—that I was but a woman, and for a long time nobody spoke. And then Guard Dowsett came out from the railway station, and, as I was not able to get there alone, he helped me to the station. I do not know how he got me there, whether it was over the fence or through.

10647. How long after you arrived at the station; was it before you saw your son?—I did not see my son until about ten o’clock in the day.

10648. He remained at the hotel, after being shot, until the male prisoners were released?—Yes.

10649. And then for the first time, you knew he had been shot in the morning?—Yes.

10650. Has the attempt to extract the bullet been unsuccessful?—There has been no attempt made yet to extract the bullet.

10651. Has he suffered much in consequence?—He is suffering very much at present.

10652. What age is he?—He will be nineteen on the 17th of November next.

10653. What medical man has seen him?—Dr. Fitzgerald, of this town.

10654. What was this lad doing prior to the Glenrowan outrage?—He was working on a piece of ground his father selected.

10655. What has he been doing since?—Nothing; he has not been able to do anything.

10656. In consequence of the injury he sustained that day?—Yes.

10657. Have you the means to provide him with the requisite medical or surgical attention?—We provide him with the best we can.

10658. Are your means sufficient?—No, they are not.

10659. Did you apply to the Government for assistance at all?—His father did.

10660. To whom?—I cannot say to whom.

10661. Have you a certificate from Dr. Fitzgerald?—It is at home.

10662. Has anything been done to afford surgical assistance, in consequence of your husband's application?—No, nothing.

10663. Has Dr. Fitzgerald expressed any opinion on the lad?—Yes; he said the weather was too warm just then, but when the cold weather would come he thought he would be able to extract the bullet, though he said there was a good deal of butchering attached to it.

10664. Does your husband apply for any portion of the £8,000 reward?—No.

*Mr. Graves.*—The papers, together with Dr. Fitzgerald's certificate, are presented by me on behalf of Mr. Reardon to the Chief Secretary, who told me he would forward them to the Reward Board.

10665. *By the Commission (to the witness).*—Is your son in town now?—Not just now.

10666. From the appearance of your son every day, do you think he is failing in health or that he is getting stronger?—He is getting weaker and failing in strength.

10667. Can you yourself tell where the bullet is, by feeling?—He can.

10668. Where is it?—Dr. Fitzgerald stated that it was buried in the muscle of his breast bone.

10669. Are you and his father anxious for the operation to be performed?—Of course anything his father thinks will do him good.

10670. You want him treated properly by some surgeon?—Yes. Dr. Fitzgerald stated that the boy wanted quietness and good nourishment, that he was very weak; his certificate stated that.

10671. Were you very much excited when you attempted to leave the house the second time?—I was, when I got into the yard, and found how I was treated by the police.

10672-3. Did you think your life was in danger?—Yes, indeed it was.

10674. About your being shot—you stated that there was a constable behind a tree—how do you know it was a constable?—I knew it was a constable, for there were no others there.

10675. How do you know who it was?—I found out who it was by enquiring.

10676. Remember you are speaking very strongly against that man?—I am.

10677. What is the evidence on which you say it was that particular man?—I found out particularly that same afternoon. Sergeant Steele told my second oldest boy, some sixteen years of age, that it was he who shot him. Another lad from Winton—I think a son of Mr. Adhearn's—was speaking to my second boy about the shooting affair. The latter said, "My brother was shot," and the other lad asked by

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Mrs. M Reardon whom, and Sergeant Steele made answer and said, "It was I who shot him," so I think that is plain enough.  
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10678. But whoever shot him was behind the tree?—Yes, that one particular large tree, close to the fence at the Wangaratta side—it might be a couple of yards or three. I never looked at the place since.

10679. You have also stated that Constable Arthur remonstrated with him for shooting—how do you say that?—I did not know him at the time, but two months afterwards I saw him and recognized him, and enquired as to his name, and found it was Constable Arthur.

10680. *By Mr. O'Connor.*—You said when Sergeant Steele was firing at you the police at the station commenced to fire at you, and then you explained you meant the police in the trench in front of the house?—I could not say it was at me, but it was in the direction of the house.

10681. I understood by what you said that the police commenced to fire at you?—If they had fired towards the house from the platform while I was in front I would have been shot, but the firing towards the house at the time came from the front.

10682. You say now the platform?—No, from towards the station, between the gate-house and the station.

10683. You said those people were in the trench?—I mean they were in the trench; it was from the trench.

10684. You say that persons or the police commenced to fire from the trench?—I could not say who they were, but it came from the trench.

10685. *By the Commission.*—What time were you fired at by those in the trench?—When we went out first we were driven back by the fire from those parties, but, on the second occasion, when Sergeant Steele commenced firing up there, the parties in this trench answered.

10686. *By Mr. O'Connor.*—Have you any idea how far the persons in the trench were from you?—I have no idea.  
James Reardon  
8<sup>th</sup> June 1881.

10687. Would you be surprised if the persons in the trench could not possibly have seen you at the time?—I would not, because I stood in the open, not far from the slip-panel in the open yard; but perhaps they were not looking.

10688. *By the Commission.*—Have you been there often since?—No.

10689. You do not know whether it was the black trackers?—I could not say who it was, but it was the party in the gutter between the fence and the railway station.’

10690. *By Mr. O’Connor.*—Will you look at this plan, and show where you were?—[*The witness did so.*]

10691. Could a person from a position in that drain fire at you there?—I did not say they fired at me, but I said they fired towards the hotel.

George V Allen  
8<sup>th</sup> June 1881. 10692. Then you are not positive they fired at you?—No, I am not. I only say they fired at the hotel at the same time.

*The witness withdrew.*

James Reardon further examined.

10693. *By the Commission.*—Did you notice that Sergeant Steele has stated in his evidence that your son was crawling on his hands and knees?—Yes.

10694. Is that true?—It is not true.

10695. Did you see your son shot?—No, I did not. I believe I was lying on my face and hands, between the two houses, when he was hit.

10696. How do you swear that he was not crawling?—Sergeant Steele said he was crawling, coming out, but I saw him walking. He had the child by the hand, and the other hand up. I was behind at the time and his mother before him.

10697. Did he continue when going back to the house to run along with his hand up?—No, he did not.

10698. Did you see him returning to the house?—I would not swear that. I was lying down myself, between the two houses, because there were four or five bullets skimmed my hair.

10699. Did you see him going out?—I did. I was walking behind him.

10700. Did you see him pass from the house?—Yes.

10701. Did you hear him challenged by Sergeant Steel, or any voice?—No, I did not.

10702. Did you see him holding his hand up?—I did.

10703. Did the boy make any remark that he was shot?—He did when he went in. He said, “I am shot.” It was at the door he was shot, and he wanted a drink of Water, and nobody could rise to give it to him.

*The witness withdrew.*

George Vesey Allen sworn and examined.

10704. *By the Commission.*—What are you?—Reporter on the staff of the *Daily Telegraph*.

10705. Have you heard the evidence given by Mrs. Reardon?—Yes.

10706. Can you give any information relative to that?—In the main, it is perfectly correct. I saw her leave the house screaming, some time after the first fire, and approach the gate preceded by a number of people. I heard them challenged. I heard her challenged, and reply that she was a woman with children. The man who challenged her somewhere near the gate said, “Come here and show yourself.” There was a cross fire from, I think, the trench or gutter that ran down from the station.

10707. Where the black trackers were?—Where I understood they were. That cross fire in the direction of the corner of the hotel from their position disturbed her, and she ran screaming back to the hotel. I could not see her distinctly. Some one said it was Dan Kelly in disguise—some one down near the trenches.

10708. You could not say whether they fired at her?—No; the shots were fired in the direction of the corner of the hotel near where she was—they were across near her. I saw her come out of the back of the hotel again later on, and saw her fired at. I heard some one (who I afterwards learned was Constable Arthur).

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10709. Have you any doubt now, from what you saw and heard, that it was Constable Arthur?—No  
doubt at all. George V Allen  
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10710. What did he say?—I could not say exactly what his words were, but I heard “woman” and about not to fire—“do not fire at her.”

10711. Was this addressed to some one in the act of firing?—Some one closer in, up by the stable, and who had just fired at her.

10712. Did he fire again?—No, not at her. She came down closer, in the direction of the station, and Guard Dowsett ran from the trench or drain through the fence, and dragged her through the fence, and brought her to the station. She was screaming and making a great noise all the time, from the time she left the hotel till Dowsett took her.

10713. Just give us a short account of what you saw?—I left Melbourne in the special train with the black trackers, and picked up Mr. Hare and his men at Benalla, when two engines were placed on to the train, and we proceeded through. Prior to arriving at Glenrowan the train was pulled up by a signal from the pilot engine, and on the guard or driver (one of the men) coming back, we were informed that the rails had been pulled up, and that the Kelly gang was waiting for us. Mr. Hare and some of his men, and Mr. O’Connor, I think, held a consultation, and they proceeded slowly up to the Glenrowan station, where they all immediately got out of the carriages, and, at an order from Mr. Hare, proceeded to land and saddle the horses. The men were very actively at work when a man rushed on to the platform, calling out, “They are here; they are here”; and he went up to Superintendent Hare, and in so many words told him that the gang was at Jones’s hotel, and that there were a lot of people there. Afterwards I found that was Constable Bracken.

10714. Did he tell Mr. Hare at the time that there were a large number of prisoners?—Yes; he was very excited, and jumped about the platform a good deal. Having satisfied Mr. Hare as to the position of the gang, Mr. Hare called to his men, saying, “Come on, boys.” They left the horses, picked up their arms, and scampered away in a body together—very bravely, I thought. Mr. O’Connor was in the van, and surrounded by his black trackers. I read or heard that one of the reporters stated that he was some seventy or eighty yards behind.

10715. You had better give your own evidence of what you know?—I think it was yesterday the evidence was given.

10716. Give what you know yourself—did you see him amongst the number of the foremost men?—Yes, surrounded by his black trackers. He went away amongst them. They all went away together. I think there was only one who left anything like ten yards behind, and he was a man who had mislaid his gun.

10717. Was he a white or black man?—A white man, and he picked up with his companions—before they had got twenty yards away he went running after them—when the police and black trackers had got about to the drain.

10718. Did you remain on the platform or follow them?—I remained on the platform. Two of the other reporters, Mr. Melvin and Mr. McWhirter, followed them some distance and returned. I stopped on the platform with Mr. Carrington. When they arrived about the drain, I saw some men standing in front of the hotel, on the verandah I thought, and they called out, “Come on you ——” something to that effect, and immediately opened fire—fired one volley on the police.

10719. Who fired the first shot?—The four men who were standing in front of the hotel.

10720. The police were not the first to fire?—Oh, no. They received a volley while they were in sling trot, running in the direction of the hotel.

10721. Could you, from the platform, see the police in front of the hotel when the first volley was fired?—Yes, indistinctly somewhat, but still you could see the body of men.

10722. Not clear enough to distinguish individuals?—No.

10723. Were you able to distinguish Mr. Hare, who is a very tall man?—No; you could not distinguish them clearly, you could just see the forms, that is all. The police scattered apparently on that volley being fired, and replied at once very warmly—a pretty warm fire was exchanged for a few minutes. The police scattered, and took up some positions, but immediately after the first volley, Mr. Hare returned to the platform, wounded, and after having his arm bandaged up, returned back to the field.

10724. How long might that have been from the time he left the platform till he returned?—About eight or ten minutes.

10725. Before Mr. Hare returned to the platform, and after the first volley was fired, did you hear him or any one else giving any instructions to the police?—No.

10726. Was it possible for you to have heard, if you had been paying attention, anything that was said

from that distance?—It was a still quiet night, and the slightest word could have been heard a long distance off.

10727. Although you did not hear any orders given by any one, it was possible for any one to have heard orders given if they had been given?—Yes.

10728. If those orders had been given while the firing was going on could you have heard?—Not while the heavy fire was going on, but during the desultory fire I could.

10729. Did the desultory firing follow the general volley first given?—Yes, and was proceeding while Mr. Hare was on the platform.

10730. Did Mr. Hare go back?—Yes, immediately upon his wound having been tied up. I did not take any part in it. I was looking on. The other reporters, I think, tied up his arm.

10731. How long was he away the second time?—About five or six minutes—a few minutes only. I could not exactly say to the minute.

10732. Had he time to go up to the wicket-gate again and do any thing and return?—He had time to go to his men—to where I saw his men, and return, but nothing more. He may have fired a shot or two—it is quite possible—a great deal of firing was going on from the trench. He had his gun with him.

10733. It would not take him more than a quarter of a minute to load his gun and fire?—Oh, no, not as much as that—two or three seconds. After being away a few minutes, Mr. Hare again returned and complained that he was very weak and losing a lot of blood; and arrangements, which have been already described, were made, and he was forwarded to Benalla on the engine. Mr. Melvin went to arrange for the engine to take him back, and it came along the station to the platform for the purpose, but a heavy

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George V Allen fire was opened between the police and the gang at the time, and the engine proceeded on to Benalla without waiting for Mr. Hare.  
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10734. Did you look upon that as the desire of the driver to get out of the way?—I thought so at the time.

10735. Did it occur to you it might have been a mistake of the orders?—I understood the orders were definite and could not be misunderstood—they were to take Mr. Hare back to Benalla, and instead of doing that they proceeded directly back themselves.

10736. We have it in evidence that the order was two-fold—to take Mr. Hare and bring up reinforcements?—Yes.

10737. Mr. Hare went back on the second engine a few minutes after—Senior-Constable Kelly took charge, I understand, in his absence—did the reporters generally understand that Kelly had charge?—Yes.

10738. Did you see him making any arrangements?—Oh yes, going from position to position, instructing the men; he made several circuits of the whole position, some distance back from the house, and frequently visited the platform for ammunition and to make enquiries.

10739. In fact, according to your notion at the time, he was taking fair oversight of the whole proceedings?—That was my impression then, and nothing has occurred since to shake it.

10740. Were you present at the taking of Ned Kelly?—Yes.

10741. You heard the description of that from different parties?—Yes.

10742. I suppose that is tolerably correct?—Yes; the description in this morning's paper given by Mr. Melvin is the most accurate, to my notion.

10743. Did you see the struggle between Kelly and his captors?—I did not see any struggle; I saw all of it. I saw Guard Dowsett crawling up beside the log beside which Kelly fell, with a revolver.

10744. Did he fire many shots at him?—Yes, several shots from that position behind the log, the other side of which Kelly fell.

10745. Is it true he fired more shots at Kelly than any other person at this time?—I would not like to say, because there were a great number of shots being fired all round. I think he was the closest in—indeed, I

thought that with another step Kelly would have brained him—he was so close, he could have struck him down, he was walking right on to him.

10746. Did you see the rush made on to Kelly?—Yes.

10747. Who was the first to seize him?—Sergeant Steele was somewhat the first, being closer in.

10748. Did you see Steele fire at him?—Yes, I saw they were all firing; Arthur and a number of them were about that position.

10749. Did he trip at Steele's fire?—He seemed to be affected by Steele's last shot, but I do not think any one shot more than another contributed to his capture—it was the accumulation of the shots.

10750. Strong evidence was given here, I think, upon the conduct of Senior-Constable Kelly—did you see him?—Yes.

10751. Would it be the fact that he retreated it all?—No, as the outlaw, Ned Kelly, came down from the scrub—he was half on to the hotel and half on to the station, at the angle between the two like—the police gradually retreated from their positions; several of the police gradually retreated from the trees they had taken advantage of up there when they were firing at the hotel.

10752. He was coming in rear of them?—Yes, they retreated, and I at the time thought they were running away, the retreat seemed to be so unanimous, and I said to the ladies in the carriage, "The beggars are running away from them."

10753. You do not hold that opinion?—After I went forward again and watched them I found they were only taking up better positions, that is they got round him; they retreated for the purpose of getting round him, and when they made a circle round him they gradually closed in on him. Steele and Kelly were the nearest to him. They closed on him and grappled with him.

10754. Constable Kelly and Dowsett were closing on the outlaw at the time Steele came from the other side?—Yes.

10755. Would it be correct to assume that if Steele had not been in that position at that particular time Ned Kelly would have been able to make his retreat to the hotel good?—Oh no.

10756. You think he would have been only closed upon by one of the other constables or Dowsett?—Yes.

10757. Were you close enough to see who wrenched the revolver from Ned Kelly's hand?—I saw a struggle for a moment, I thought it was Steele. I am not sure about that point, however, because they were all up together at the moment.

10758. If Dowsett swore he wrenched the revolver from Kelly's hand you could not contradict him?—No.

10759. It was sworn yesterday by Mr. Melvin that Senior-Constable Kelly advanced from the first. Is that your view, that he advanced on from the first moment as against Kelly the outlaw. Did you see any retreating on his part?—No, my impression is that Kelly from his first position, his position low down, made a gradual advance right up to the outlaw.

10760. He did not retreat?—No, his advance was right up to Kelly.

10761. Did you hear any conversation between Ned Kelly and his captors at the time?—Yes.

10762. Did you hear Sergeant Steele say, "I swore I would be in at your death you —— wretch," and he was about to shoot him then, so it appeared, when Dowsett said, "Do not shoot him, take him alive"?—I heard Steele make some remark like that, I think those were the remarks, but I think it was Constable Bracken who jumped across the outlaw's body and held Steele's revolver off. I thought Steele put his revolver into the cap of the helmet, that was the impression at the moment. He had his revolver and he was using it in some way, and I thought he meant to blow the outlaw's brains out, when Bracken, to whom Kelly appealed, saying

“Save me—I saved you,” jumped across and said he would shoot any man who dared to touch him. Dwyer came up at the moment, rushed up in a great hurry to kick him, and, I think, did kick him.

10763. Did you hear Dr. Nicholson say he would report him if he did that again?—I do not think Dr. Nicholson was there then. There was great excitement at the moment of his capture. All the police circled round him, and seemed inclined to pull him to pieces. Bracken stood over him and protected him. Constable Kelly was down on his knees, taking off his helmet.

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10764. Are you sure it was the helmet?—Yes.

10765. We have heard that the helmet fell off when he fell down?—No, I am quite sure it was taken off. I am in doubt whether it was Senior-Constable Kelly or another; but I think it was Kelly, because, as Kelly stooped down to do something, he gave me his rifle and ammunition bag, and I took his position behind that dead tree there.

10766. After giving his rifle, it was for some purpose?—It was for the purpose of taking something off Kelly—relieving him of his armour.

10767. Who first called out, “It is Ned Kelly,” do you think?—I could not say; I would not like to say. At the time I think I knew. I think in my report I noticed who it was, but I could not remember now. I have not thought of the evidence since, more than passing conversations.

10768. Was there any firing coming from the hotel during the time that Kelly was being captured?—No. I was just going to point out that they seemed to have forgotten the hotel in the capture of Kelly; and I called out to them that they were firing from the hotel—it was merely to arouse them from Kelly, to make them take their positions. There was no firing going on, but I called out there was. If they had fired then from the hotel they could have picked off the whole lot of them. They were all exposed, and it was quite an easy shot—it was a revolver shot.

10769. About fifty yards?—Yes.

10770. Would it be true that Ned Kelly was lying up against a log, not able to move, when Steele fired?—No; he was advancing slowly down.

10771. Did he lean against a log, as if to take rest?—No; he was closing up to the log, and Dowsett was at the other end of it, firing up at him with his revolver.

10772. The outlaw Kelly was apparently coming from the bush towards the railway station?—At an angle between the railway station and the hotel. He rested several times in his passage down; and I thought he knelt down, or stooped down behind the tree at one time to reload his revolver. He took it very coolly and quietly.

10773. He was taking aim very steadily?—Yes.

10774. How long did the whole affair last?—About a quarter of an hour, I suppose, or twenty minutes.

10775. You did not see the outlaw Kelly retreating after going towards the hotel?—No, he kept steadily on; and I think the action and fire of Steele and Arthur had the effect of turning his course off a little from that. I do not know whether it was to meet Senior-Constable Kelly—I think it might have been to miss him; but, whether or not, the fire that was kept up from Steele and Arthur was too hot, he turned from their direction to the direction in which Constable Kelly was.

10776. In the direction of the station?—Yes, more in the direction of the station.

10777. Did you see the grey mare?—No; I saw some horses in the back yard.

10778. At any point within fifteen yards of where Kelly was shot?—Not within half-a-mile; I searched half-a-mile.

10779. You did not see the grey mare there?—No; I went up through the scrub. Kelly said something about the grey mare, and I went up through the scrub afterwards to see if there was anything about it, but there was nothing there. The only horses that were there were the police horses that were scattered about.

10780. That was inside the fence?—Yes; the police horses all stuck together.

10781. You have seen and heard the evidence about the people coming out; I suppose it is in the main correct?—Yes; perfectly correct in the general way.

10782. Did you hear much firing from the hotel?—After early morning—after Kelly’s capture there was very little.

10783. When do you remember, if you can remember, was about the latest shot that was fired?—I do not remember having seen any fired from the hotel after Kelly was caught, and my impression is that no shots were fired from the hotel after the outlaw was captured.

10784. What time would that be?—About eight o’clock.

10785. You do not remember any more shots being fired after that?—When I said I took Senior-Constable Kelly’s rifle to allow him to do something with Kelly, I took his position, and stopped there to ascertain how the firing was going on, and I moved up a bit to the police, those in a line across the hotel with the black trackers in the drain, and for the hour I was there I am perfectly satisfied that no shot was fired from the front or the Wangaratta side of the hotel, but the shots that came across the hotel from the drain and from the police at the Benalla side of the hotel passed through the top of trees where the police were on the

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Wangaratta side, and you could hear the ping of the ball.

10786. Those all came from the police and the black trackers?—Yes.

10787. Did you think that was reasonable firing?—I thought it was very reckless, hitting off the limbs and beating against the trees. They were all firing high.

10788. When we went there to examine the place we found the whole of the galvanized iron riddled from end to end?—I think that was in consequence of the order that was given about half-past three in the morning to fire high.

10789. What was the good of that?—To intimidate the outlaws I suppose.

10790. Did you hear the order given?—Yes, by some one in the drain before half-past three, to fire high; and I several times heard orders given to cease firing.

10791. You are quite sure it was before five in the morning, the firing high?—Yes.

10792. You do not know who gave that order?—No, I was trying to recollect. I was under the impression that it was Mr. Hare before he left.

10793. Would you know Mr. O'Connor's voice?—No.

10794. You do not know whether it was he or not?—No.

10795. We have it in evidence that it was after Mr. Sadleir came—half-past five?—No. I heard the order given long before that.

10796. Was there any reason assigned for the order to fire high?—No.

10797. You did not hear it was on account of the captives inside?—No, I do not know why the order was given, but the reporters on the platform had emptied the van of all its contents, the luggage and ammunition, and stuff to find ammunition for the men, a lot of the saddles and stuff, and piled those up; and I

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George V Allen lay on them watching the proceedings, and it was while I was there in the dark, the order was given to fire high, and two or three orders were given to cease firing.  
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10798. We have it in evidence that Mr. Hare gave the order to cease firing before he left?—Yes, I think he did.

10799. Mr. Sadleir sent to town for a cannon, and we asked him why. He said he thought one of the reporters suggested it. We ask you did you suggest it?—Certainly not, I was never more surprised in my life than when I heard such an absurdity. Mr. Sadleir must have made a mistake.

10800. Were you about the station a good portion of the day?—I stopped there all through the early morning.

10801. Did you see a rope about the station or hear of one for the purpose of pulling the chimney down?—No, I left the station after Kelly was caught and went about the field.

10802. Did the officers at all consult as to the best means of getting the Kellys out or the civilians?—After Mr. Sadleir came out, I think some consultations or meetings were held amongst the officers and the men.

10803. Do you know of your own knowledge?—No.

10804. Did you see Mr. Sadleir when he arrived?—Yes, I was on the platform at the time.

10805. Do you know when he went there?—I saw him go down in the drain where the black trackers were. I next saw him on the Benalla side of the hotel at one of those trees that were opposite the kitchen or the lean-to, at the back of the house.

10806. What time would it be?—About half-past seven, I think.

10807. What time was Ned Kelly taken to the station?—About half-past eight.

10808. Was it before or after he was taken to the station that you saw Mr. Sadleir at the Benalla end?—Long before. It was some time before Mr. Sadleir had been about the front and up on that side. I did not notice him go further; I was not near enough to notice him.

10809. When did you next see him?—At the log where Ned Kelly fell, talking to Ned Kelly the outlaw.

10810. Just refresh your memory, because I may tell you you are the first witness that swore that Mr. Sadleir was at the log where Kelly was. I want to protect you?—I am much obliged to you. I cannot help the other people's opinions. I distinctly remember Mr. Sadleir being at the log where Kelly was lying before he was removed. I heard him ask Kelly to give some sign to make the men surrender; and I heard some conversation between him and Kelly. Some one asked Kelly for Sergeant Kennedy's watch, and Mr. Sadleir interposed and told them to let him alone.

10811. Was that up at the log?—Up at the log.

10812. Not at the station?—At the log.

10813. What others were there that could have heard at the time as you did?—Dowsett.

10814. Phillips?—I think so

10815. Arthur?—Yes, Sergeant Steele and Senior-Constable Kelly. I do not think Mr. O'Connor was there; I am not sure the three reporters were there; and Constable Dwyer was there. I remember that, because I drew his attention to Kelly when first he appeared.

10816. Are you positive this was not in the station house?—I am very positive.

10817. Although six witnesses swear to the contrary, you would maintain you are right?—Although 150 witnesses swore to the contrary I would maintain I was right.

10818. You knew Mr. Sadleir?—Very well. I knew him in Melbourne very well.

10819. Are you aware that it has been sworn here as a fact that Kelly was carried down and helped over the fence and brought to the railway station, and then saw Mr. Sadleir for the first time?—I think I heard Mr. Sadleir give the order for his removal from the log.

10820. Then your impression is that it would be wrong if it was stated that he was brought down to the station and then first came in contact with Mr. Sadleir?—I think it would be wrong. I think, if you question Mr. Sadleir, you will find that what I say is the ease.—[*The witness was requested to consider the point during the adjournment for lunch.*]

10821. *The Witness.*—I now wish to add that that is my impression; but if Mr. Sadleir, who ought best to be able to judge, says he was never there, I will not for a moment contradict him.

10822. If he swears he was at the drain at the time?—He ought to know best; but my first impression is, even now, that he was there, and that he prevented me putting some questions to Ned Kelly; and I have looked up the papers since the adjournment and I can find nothing to say it was not so; but in the statement made by Senior-Constable Kelly, he says that, after asking Kelly about Kennedy's watch, he handed him over to Mr. Sadleir and the doctor.

10823. As a matter of fact Mr. Sadleir swears that the first information of the capture of Ned Kelly came to him in the drain, and that he went up to the station to see him?—I merely give my impression.

10824. You will see it in the evidence here. At question No. 2797 Mr. Sadleir says—"Presently a constable came and explained that this was the capture of Kelly—this noise that we had heard; that was the first I had heard of it." And at question 2894 he says, "After hearing that Kelly was captured, I went up to see him at the station?"—My impression is still that I saw Mr. Sadleir at the log.

10825. You would not contradict that statement of Mr. Sadleir?—No.

10826. You say you did not hear any more shots fired from the building after the capture of Ned Kelly?—Yes.

10827. Do you consider the shots that were fired at that time and heard by constables at one side or the other were the shots from the constables themselves on either side?—Yes, and the black trackers.

10828. Do you remember the letting out of the captives, about ten o'clock?—I do.

10829. Did you see Mr. Sadleir there at that time?—I saw Mr. Sadleir at the tree—standing at the tree close to the hotel, on the Wangaratta side.

10830. That was not the tree that Steele was behind?—Oh no; it was lower down.

10831. Who was near at the time?—I think Mr. O'Connor was there—some of his men.

10832. Did anything occur between the time of letting the people out and the burning of the hotel, that you remember particularly, of importance?—Nothing of importance took place. The men were scattered—placed at all the trees around the hotel, and I understood that overtures were made to rush it by Constable Arthur, Senior-Constable Johnson, and some one else, I am not sure.

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10833. Was it Armstrong?—Yes, I think Armstrong was one. I was not there while the overtures were made, but I learned about that time they were made. George V Allen  
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10834. At all events there seemed very little attention paid to the place after, except keeping watch?—They were watching, and there was occasional firing going on from the police at the hotel, but no response. I am quite satisfied there was no response after ten or eleven o'clock.

10835. There have been witnesses here who swear that about one o'clock the outlaws came to the back door outside, between the kitchen and the building, and that they fired and the police fired in return could that occur without your noticing?—It might, but I think I would have heard of it, and I did not hear of it.

10836. We have heard it positively sworn by men who said they exchanged shots?—If there were men close up to that place, but I do not think it could take place without everybody in the field knowing.

10837. Did you see the priest go up to the house—which way did he go up?—From the corner of that fence, from the wicket-gate, right up to the front door.

10838. Did you see him when he came out again?—Shortly after he came out at the back.

10839. You did not see whether he came out at the front or back door?—No.

10840. Were the police near the place when he came out?—I think some were as close as eight or ten yards on the Wangaratta side.

10841. Did he give any information when he came out—did you hear anything?—I think he gave some information to the police, but I was not close enough to hear it. The policemen who occupied positions close to the hotel on the Wangaratta side, behind the trees, challenged Mrs. Skillian, who wanted to enter the hotel, and threatened to fire on her if she did not retreat, and although very close she turned back. One of those men was Constable Armstrong, I think.

10842. Did you see the bodies after they were burned?—Yes.

10843. Before they were disturbed by anybody?—Yes.

10844. Can you say in what part of the house they were?—They were in the back room next the

Benalla side.

10845. Were they both there?—Yes, lying close together, with their heads, I thought, to the back of the hotel.

10846. And the armour was lying how?—As if on them.

10847. Was it lying on the ground beside them?—On the heap.

10848. Close to them?—Yes.

10849. They were burned beyond recognition?—Yes, charred up.

10850. If anyone stated here that one was in one back room at the south end of the house and another in the room at the north end, that cannot be true?—No, not so far apart. There might have been a partition between them, but then they would have been close up to the partition on each side, and it was burned away. They were within a few feet of each other. I think it would be a mistake. It was very hot, and there was a great crowd of people about, and you could only get cursory glances at the place.

10851. Did you notice particularly whether the men seemed to be under command or any guidance during the day?—After the arrival of Mr. Sadleir they were under good discipline, but earlier in the morning they were not. I thought they were wanting in discipline, in officering during the morning.

10852. That was the time Senior-Constable Kelly was in charge?—Yes, during the whole of the morning they seemed to be deficient in some head on whom they could rely. Although Senior-Constable Kelly worked very hard and very bravely in the morning in the dark, and without any assistance or any one to consult, the men appeared to want some head.

10853. Would they feel that want if he was the man who was entitled to take charge?—I think they would, not being accustomed to his rule, and not being certain whether he was in command or not.

10854. We have had a great deal of evidence from the force themselves, and they have all declared that they considered from the very first that Senior-Constable Kelly was their natural head when Mr. Hare went away, and that they were prepared to obey him?—Yes.

10854A. Did they show any want of discipline to your mind in consequence, as you would say, of being under Senior-Constable Kelly?—Oh no, I did not think they showed a want of discipline. I think they were wanting in guidance. They were right enough—the men behaved right enough in anything they had to do, but they were rather improperly directed, not correctly directed; they did not appear to me to have sufficient reliance or sufficient satisfaction in their leader, and did not seem to be as well disciplined or satisfied, or work as well, as if they had been under Mr. Hare all the time.

10855. Did you see Mr. O'Connor directing in any way the movements of the force during the day?—No.

10856. Would you give an instance of where you found the police were wanting in officering in the first part before Mr. Sadleir's arrival, and another instance after Mr. Sadleir came to show they were properly officered after his arrival?—In the early morning this instance would give it: The men in the morning did as they pleased, but acted under the general direction of not letting them—the Kellys—escape, and fired indiscriminately, either for amusement or some other motive, or without any apparent object, all through the morning; after Mr. Sadleir's arrival I think the firing was restrained, and I think the men had their allotted positions; and from what I saw of their movements I thought they were acting under some general understanding or general order.

10857. Was Mr. Sadleir on the ground directing their movements after his arrival?—Yes, from the time of his arrival.

10858. Near the scene—the hotel?—Right through. He was a good time in the station with Kelly, trying to elicit some information from him, and to get him to give some signal to the men in the hotel to surrender.

10859. How many times did you see him on the ground directing the men after his arrival?—I could not enumerate, but on nearly every occasion I was in the field I saw him somewhere; spoke to him perhaps by the station, and saw him farther off behind a tree occasionally during the most of the afternoon. He appeared to remain at the tree on the Benalla side of the hotel from where he subsequently directed the firing of the hotel.

10860. Then if any witnesses swear positively that Mr. Sadleir was in the railway place, smoking his pipe for the greater part of the day, that would be, in your opinion, incorrect?—Decidedly; it would be incorrect.

10861. How long do you consider he remained with Ned Kelly?—I could not define any time—any specific time. He was in with Kelly sometimes for half an hour and out again, and I think the greater portion of the time in the station was occupied by Sergeant Steele. I think Steele was in charge the greater portion of the afternoon, and did not leave, I think, for hours. I would have been better pleased if they had all been out in the field, because they prevented the reporters interviewing Kelly.

10862. *By Mr. O'Connor.*—When the special train arrived at Benalla, during the interval we waited there did you hear for a fact that the lines had been taken up?—No.

10863. Do you think if such a statement had been made that you would have heard it?—I could not have escaped hearing it, because I was among all the policemen on the platform, and heard all the orders and

everything that was going on. Of course there were a number of rumors talked about.

10864. But no facts?—No facts or any rumor of the line being pulled up.

10865. You state that upon arriving at Glenrowan you got out and saw a party of police start for the house—would you kindly show the position you were on the platform?—Yes. [The witness did so on the plan.]

10866. Then from your position there you were quite able to see everything that occurred as far as the men leaving for the front?—Yes.

10867. Did you take particular notice?—I did take particular notice of the start of the men.

10868. When Mr. Hare started, could you state positively who followed him next?—They were all very close up together; all very much excited, and with a good deal of flurry. I could not distinguish or state now which individual man was next to him. I know there was one constable remained some ten yards behind to find his rifle, which I happened to have, and he caught them before they got twenty yards away.

10869. Do you state that I left with Mr. Hare?—Yes, certainly, surrounded by your black trackers.

10870. You state shortly after starting you heard shots from the hotel?—Yes.

10871. Do I understand you mean to say that the party of police could not have got to this wicket gate, or you said near the drain, I think?—I think about to the drain.

10872. They could not have got to the fence?—No, I hardly think so; they were brought to a standstill by this fire. It seemed to take them by surprise.

10873. *By the Commission.*—You said you could see the figures distinctly?—Yes.

10874. Were those figures inside or outside the railway fence when the first volley was fired from the hotel?—About the railway fence.

10875. Were they inside or outside?—I could not say for a yard or two.

10876. You said you could see the figures distinctly?—Yes.

10877. You could not be sure they were police?—Yes.

10878. You cannot say whether they were inside or outside the fence?—I think they were on the railway station side of the fence—you could not be positive.

10879. Ten witnesses have already sworn that Mr. Hare and other members of the police had passed through the gate?—I would not say they had not, they were there about.

10880. *By Mr. O'Connor.*—Was there time, in your opinion, for the police to have got through the fence before they were first fired on?—I could not distinguish for a yard or two. The body of men showed themselves in that neighborhood about there within a yard or two. I cannot say whether I saw the fence then or not; it is impossible to say now whether they were on one side or the other.

10881. You state that when Mr. Hare was at the front you heard no orders given of any kind?—I might have heard the order of “cease firing,” I think I did.

10881a. I want you to be particular about this. You stated before you did not think there were any orders, and if they had been given you would have heard them?—I could not be positive about that. I remember the order being given to cease firing and the order to fire high, but by whom or when, to half an hour, I cannot say.

10882. Did you hear any other orders given?—No.

10883. Did you hear the order given to let the women out, any time in the morning?—No.

10884. You stated you heard the women challenged?—Yes. I heard them challenged down at the railway gate, crossing the line, and the man who challenged them also added, “Come here, and show yourselves.” As they were approaching some fire was opened from the drain.

10885. Would you swear positively that the man was about the railway gate?—Yes, about the railway gate—[*explaining on the plan*]. You could hear the challenge distinctly from the station, but could not tell exactly for a few yards where it was.

10886. You stated you heard the order to fire high?—Yes.

10887. And the Chairman informed you he saw the corrugated iron perforated with bullets?—Yes.

10888. Do you not remember the report and rumor that the outlaws were said to be in the rafters or tie-beams of the roof?—Yes; it was rumored that they were in the chimney at the time.

10889. Would you not consider firing into the roof was a good plan to hit them if they were in the rafters?—Of course.

10890. *By the Commission.*—Did you hear it reported that day that one of them was seen with his head stuck out of the top of the chimney?—Yes.

10891. Did you believe that?—No.

10892. Have you examined the chimneys since?—When the fire was going on I did.

10893. You have not examined them since?—No.

10894. You are not aware that any man could get up those chimneys?—No, I did not believe it.

10895. Was that the reason they were told to fire in the chimney?—No; I think the order to fire high was for the purpose of saving the persons in the hotel.

10896. Not to shoot the outlaws if they were coming out of the chimney or roof?—No, that was my impression as to why the order was given, to save the women and children.

10897. *By Mr. O'Connor.*—One of the witnesses yesterday stated that the train or the carriage containing the ladies went down, he believed, with Mr. Hare—is that a fact?—No. Mr. Hare went on the engine. The ladies remained there some considerable time after Kelly was captured.

*The witness withdrew.*

Jesse Dowsett sworn and examined.

10898. *By the Commission.*—What are you?—Guard on the Victorian railways.

10899. Do you remember the morning of the day on which the Kellys were captured?—Yes.

10900. Where were you on that morning?—I left Benalla shortly after five o'clock.

10901. You went up with Mr. Sadleir and his party?—Yes.

10902. You were in charge of the train that time?—No; I was to have taken the first special up—it was arranged on Sunday, but there was some alteration made waiting for the special from Melbourne, and I was told to go home, and they would call me. They did not come to call me, but, about close on five o'clock, a chap that works on the coal stage came and knocked at the place where I was living, and told me that the Kellys were fighting at Glenrowan, and Mr. Hare had come back wounded, so I jumped up and shoved on my clothes and ran over, and was just in time to go on the engine as it went away.

10903. You were not in any official capacity on the railway then?—No.

10904. You got there when?—Somewhere about half-past five.

10905. Of course it was not light then?—No.

10906. What were you first engaged in on going there?—Shortly after I got up there they were talking about that one of the outlaws must have got away. They showed a revolving rifle and a skull cap, and Mr. Sadleir was talking to Constable Kelly—asking him how things were going on—and I heard him enquire where Mr. O'Connor was, and Kelly said he was down in the drain, opposite the hotel. While they were talking like this I heard some screams that seemed to come from the hotel, as if a woman was getting hurt; and I think Dr. Nicholson was making some remark were there women and children in there—a lot of conversation; but I cleared out when I heard this woman calling out, and I went up to the back of the station and crept on my hands and knees to where there were some tents alongside the railway fence, and I could hear her screaming out, but I could not see her distinctly for the smoke; but presently I saw a woman with her hair hanging down her back and screaming, with a child in her arms; so I called to her softly to come to me. I said, "Come to the police;" and she came towards me, crying most bitterly not to shoot her child the same as they had shot the father. I put one arm partly round her and took the child in my arms, and made my way to the station the best way I could.

10907. What time?—Shortly after six o'clock, I should say.

10908. What happened then?—Of course everybody was on to her to know who was in there, and what they were doing. I stayed there myself some little time, and I thought, "I will go back to where you came from, there does not seem to be anybody up there." And I went up there again, and saw a man behind a tree that looked rather suspiciously at me, and I said, "Railway," and stepped towards him. This was a policeman, and we stayed there a considerable time, and the firing was going on; there seemed to be any amount of pellets going about.

10909. You could hear them in the trees?—Yes, and hear them whistle; and all at once something seemed to come as if somebody was hitting me at the back, and I turned round and saw this strange-looking object coming over the hill from the Wangaratta side.

10910. What time was that?—About half-past seven.

10911. Was it getting daylight?—Yes, but the smoke of the guns hung over the ground and made like a fog.

10912. What did you do?—It proved to be Ned Kelly afterwards, but at the time it looked like a great big blackfellow; I called out, I said, "Henley, what is this coming?" and somebody behind said, "Keep back, keep back"; but the object kept coming on, and presently I saw it was from that direction the shots came that seemed to strike me, and I said, "You had better scatter, boys." The figure then seemed to stop in a clump of saplings, and you could see him from the centre firing away several times, and I went along.

10913. In what direction did he fire?—Well, it seemed as if it was pointing towards where I was.

10914. Towards the railway station?—Not exactly, but at the angle between that and the hotel.

10915. You cannot say whether it was towards Arthur?—No, he fired several times.

10916. What then?—I kept going from tree to tree to try and get closer to him, and Constable Kelly was on the right; and I thought as the outlaw Kelly seemed to sit down in this clump of saplings that he was reloading, and I thought it was a chance of firing at him; in fact I kept pegging away at the foot of the clump of saplings, and I said to Constable Kelly, "If you come here you can get a shot at him."

10917. What weapon had you?—Colt's breech-loading revolver.

10918. One of the police weapons or a railway weapon?—Railway, one that the Government provided me with.

10919. Did Constable Kelly come?—Yes, he came and fired twice I believe, and I fancy that he hit the outlaw's hand. He then left the clump of saplings and seemed to be coming still nearer to where we were, and I went from the tree I was at to a big log that lay on the ground, that stood about three feet high, and got behind this. After this he seemed to be coming right straight for me, and he walked into the fork of the log as it were, and as he did, I could see Steele on the left, coming down towards him, and I could see Senior-Constable Kelly on the right, coming towards him; so then I said to him, "You had better surrender, old man, you are surrounded"; and he said, "Never, while I have a shot left"; and I could see the top of his head just

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above the log, and I fired at it, but it just went off like a parched pea, and took no effect; and I said, "How do you like that?" And he rose up and said, "How do you like that?" And as he did, I saw Steele make towards him, and fire as he travelled on, and immediately after firing the figure seemed to go down all of a heap. I jumped over the log and Steele was on him.

10920. Did you think you were going to be shot?—Yes, I thought he had got me then; but when I saw him drop and fall all of a heap, I jumped up and ran towards him, but Steele was the other side of the log, and he was wrestling with him. I got hold of his wrist and caught hold of the revolver, and it went off, and I kept it.

10921. Right or left wrist?—In his right wrist. It seemed, when he was firing the last time, he seemed to hold it down as if he could not hold it straight out. It seemed to hang down.

10922. Was it the wounded hand?—I could not say. I think the bullet was in the left arm as he laid in the station.

10923. What portion of his body had Steele his hands on?—On his shoulder.

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10924. About the throat?—Close to the throat or shoulder. They were actually on the ground. Constable Kelly was up almost at the same moment, in fact, it was almost a dead heat.

10925. Are you quite sure you did not pick the revolver off the ground?—Yes, I am sure I took it from his hand.

10926. And have it since?—Yes—[*producing the same*]. It was loaded in three chambers at the time, and the blood all round it. On the hilt there is "N.S.W.G.," meaning "New South Wales Government." I believe Kelly said afterwards that it was one that he took at Jerilderie.

10927. Had it any blood on it?—Yes; it was covered with blood, and I kept it like that for a considerable time.

10928. Do you know if he had any other revolver on him?—Yes, I believe one was picked up the following day. I don't know only from hearsay.

10929. If Mr. Marsden got another one the same day, you would not know whether he did or not?—No.

10930. You are quite positive you wrenched it from Kelly's right hand?—Yes, that is the one he was firing with at the moment of his capture.

10931. You say there were three charges in it when you got it?—Yes, they were fired off at Queenscliff, where I also cleaned the revolver. That is the tin that was in Kelly's pouch—[*handing in a mustard tin*]. That was stuffed full of cartridges, the same as if they got their ammunition in mustard tins. When they got out at the station, they said, "Tore is one of your bullets, Dowsett," and there is the mark in the mustard tin. When they were emptying it out on the station they said that, and that was how I got it. Of course it was choke full then, but that on" happened to stop the way.

10932. Did his helmet come off?—No, Constable Kelly took it off.

10933. Are you quite sure of that?—Positive of it.

10934. It did not fall off where he fell?—No, Kelly took it off for the purpose of identifying him, and the moment it was off Steele fastened his hand on his beard and said, "You —— wretch, I swore I would be in at your death, and I am," and put his hand back as if he was going to shoot him. I said, "Take the man alive—take him alive."

10935. Was Constable Bracken there?—I cannot say, because I did not know him personally.

10936. Was there a constable over his body saying, "You shall not shoot him"?—Almost immediately there was, and said, "You shall not shoot the man." In fact, I think it was the same person that spoke to Dwyer when Dwyer kicked him.

10937. Did Kelly appeal to any one to save his life?—He might have done, but I did not hear it and I

thought at the time it was simply the pain of the wounds, and that and rushing on him that made him roar out.

10938. Did he say anything at all?—It was a moment like before the helmet was taken off, and it all seemed smothered up like a rough voice in a speaking-trumpet.

10939. You could not distinguish the words?—No.

10940. Did he speak after the helmet was taken off?—Yes, he said, “Give me a chance,” or “Let me live as long as I can.”

10941. What was the reply given to him?—I do not know that there was any particular reply, only every body seemed to be busy in seeing what was on him, and pulling it off, and getting him down to the railway station.

10942. Did a constable come up and kick him while he was down?—Yes, some chap named Dwyer jumped over and kicked him; in fact, Ned Kelly challenged him with it as soon as he came into the room at the station. He said, “You cowardly dog, you kicked me when I was down”; and Dwyer made answer and said, “No, but you are the cowardly dog, you killed my poor comrade.” “Who was your comrade?” says Kelly. Dwyer says, “Poor Lonigan.” He only said, “Look here, old man, when you were out there, did not you try to shoot me?” Dwyer said, “No.” “Then,” said Kelly, “you had no business there”; and Mr. Sadleir excused the man to the outlaw there in my presence, and said he had lost his temper, and was very sorry.

10943. Was Mr. Sadleir at the log when you captured Kelly?—No.

10944. Where did you see him?—At the station.

10945. After Ned Kelly was taken in?—Yes.

10946. How long after Kelly was taken?—Shortly after he was taken into the room. I was outside with the armour. We were weighing it, getting the weight of it in the scales.

10947. Did you stop in with Ned Kelly?—I was in there about quarter of an hour, not more.

10948. Did you see Mr. Sadleir about during the day?—When I went away Mr. Sadleir was on the platform, and after I came back, when Kelly was captured, I saw Mr. Sadleir there on the platform.

10949. Did you see him anywhere in the field?—No, it was on the platform I saw him.

10950. Did you see him out amongst the men during the day?—I left about nine o’clock. In fact, I came away with Mrs. O’Connor and her sister, and brought the telegram.

10951. You know nothing further of it?—No.

10952. Was your train fired at when you came opposite the Glenrowan hotel; did any ball strike your train?—Not that I am aware of.

10953. Did you see any sign of shots being fired towards you?—No. Of course there was shooting going on, but I could not say that any came towards the train.

10954. If a shot had struck the wheel of the carriage you were in, would you have heard it with the noise and moving of the train?—No; lead hitting iron, the train in motion, I should not have heard it. If it had crashed through the window or wood of course I would have heard it.

10955. Did you see Constable Kelly during the most of the time while you were going up to the capture of the outlaw?—Yes.

10956. Did he appear to be going away from it at any time?—I do not think he had the slightest intention to go away.

10957. Did he run away in any direction as if he wanted to get clear of him?—No; he shifted about from place to place to get the best cover he could, but always seemed to be getting closer up; in fact, he was

closing on the right. I appeared to be the centre man, so that if I went right or left I would have been going away, but I went straight to him. They were going to him, but in a little more circular direction.

10958. Did you see any constable who had been firing at him running away after firing at him?—Yes, I did see some man go down towards the station. The thought struck me it was hardly any disgrace to be afeard, because it was not any use firing at him. I knew I was hitting him myself; it did not do any good. Jesse Dowsett,  
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10959. Were they running away?—I do not think they were running to run away altogether, but they went back, and very likely they came round again, but I was watching the one figure, and could not see every thing.

10960. Did you see whether there were any shots fired at Kelly?—Yes, there were a great number of shots fired.

10961. Did it strike you those men were looking for fresh cover, or wanting to get out of the way?—Not exactly wanting to get out of his way. I think myself they thought it was very strange they could not bring him down.

10962. And did you consider they were trying to secure themselves from him?—Well, I could not say anything like that, because it was a rough time just then.

10963. Did you see he had armour on while you were shooting?—No, I never heard a word about any armour or anything else, not till we were at the log when we pulled it off, because he had like a white mackintosh over the whole affair down to his heels, and the helmet standing on his head, and what with the fog and one thing and another, golly! it made him about nine feet high; upon my word it did, coming through the gloom there.

10964. What were you own thoughts?—I said it was Old Nick, and upon my word I thought it was at the time.

10965. Did you know then it was Ned Kelly when you were shooting him?—No, and I do not believe anybody else did till the helmet came off; because directly the helmet came off Steele fastened on him and said it was Ned Kelly, and we knew him by that exclamation.

10966. Do you think from what you saw and know now that you would have failed in the attempt to capture Kelly had it not been for Steele?—Well he did his part towards it, but I think Kelly would have been taken if he was not there.

10967. You do not think it would be right for any one of you that were there immediately close to Kelly then to say, “Had it not been for me he would have escaped”?—No, it would not be fair for any one man to say, “Alone I did it.”

10968. Suppose you stated, “Had it not been for me Ned Kelly would not have been caught”?—I would not say such a thing.

10969. There were men enough to rush him?—Yes, if anybody had known what he had on they could have jumped on his back and rolled him over.

10970. How far was Senior-Constable Kelly from the outlaw when Steele rushed up?—He was on the right, perhaps twenty or thirty yards away on the right hand side of him.

10971. Where was Steele before he rushed?—Kelly, the outlaw, was in that fork, and I was at the butt of it, about twelve yards off. Steele was up on the left-hand side, and he ran to within about fifteen yards and dropped down like behind a little stump there and fired. I could see the lot of them, and Senior-Constable Kelly was then twenty or thirty yards on the right hand side.

10972. Did they both rush on him simultaneously?—As soon as Steele fired and the figure dropped, I ran towards him, and Steele was on to him while I was running, and Senior-Constable Kelly was up as quick as myself.

10973. Not two seconds between?—It was nearly a dead heat.

10974. You swear now positively that you took the revolver out of his hand?—I do. I took the revolver from Ned Kelly.

10975. When you came in the train to the railway platform with Mr. Sadleir’s party, had you any conversation with any of the police that were there as to the position of affairs?—I heard what Senior-Constable Kelly was telling Mr. Sadleir—where the men were, and how he had placed the men round.

10976. Did he speak as if he was in charge, as if he considered that, after Mr. Hare left?—He seemed to be pretty forward in it. He had this Colt’s revolver in his hand, and the skull cap, and said he had got men here and there.

10977. Were you out of the train first, or Mr. Sadleir?—They were in the van, and I had only just time to jump on the engine with Driver Colman and his fireman.

10978. Who got out first?—I could not say.

10979. Did Mr. Sadleir call Senior-Constable Kelly to him, or did Kelly go up to Mr. Sadleir?—When I saw them they were in conversation on the platform, and I drew near to hear what was going on, and heard what I have said.

10980. Did you hear Mr. Sadleir say anything to him?—Yes; he asked where Mr. O’Connor was; and he said, “He is in the drain in front of the hotel.”

10981. What did he say then?—I do not know.

10982. Did you hear him say, "Take me to him"?—No.

10983. Did he make any further remark about Mr. O'Connor's position?—No, not that I am aware of.

10984. Did you hear Mr. Sadleir give Kelly instructions what to do then?—No; I went away then through this woman, Mrs. Reardon, screaming out.

10985. What induced you to go?—I had been out with every police special before this, looking after the Kellys—in charge of every one; and it was on the Sunday the station master sent and asked for me to come over and see him, and he told me I would have to run a special to Beechworth; and I said, "What time do we start"; and he said, "I cannot tell, but do not go far away." And then the arrangements were altered.

10986. You went there voluntarily?—Yes; when they came over and roused me in the morning they said the Kellys were there.

10987. You did not have charge?—No.

10988. Were you armed at all?—Yes, a breech loading Colt's revolver. In fact, I have been carrying it for a long time, and Mr. Hare, only the Friday before, chuffed me about it.

*The witness withdrew.*

*Adjourned to to-morrow at Eleven o'clock.*

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THURSDAY, 9<sup>TH</sup> JUNE 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

J. H. Graves, Esq., M.L.A.,  
G. R. Fincham, Esq., M.L.A.,  
E. J. Dixon, Esq., J.P.,

J. Gibb, Esq., M.L.A.,  
W. Anderson, Esq., M.L.A.,  
G. W. Hall, Esq., M.L.A.

William B. Montfort further examined.

W.B. Montfort  
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10989. *By the Commission.*—You have been in the North-Eastern district now for some time—how long?—I went on the 4th of May last.

10990. Have you acquainted yourself with the condition of the district generally, so far as police protection is concerned?—I have acquainted myself with what I think is required for the purposes of defence.

10991. Should there be another outbreak in the district such as the last do you think you would be prepared in any degree to cope with it with the present force?—Certainly we would be in a position to cope with it to a certain extent, but I think we would be better able to do so if some of my recommendations are carried out.

10992. Are those the recommendations that were brought before the Government by Mr. Superintendent Chomley?—No, nothing to do with his recommendations at all.

10993. What are the recommendations?—I think I have them included in the report. One point is a foot constable stationed at Oxley, and the formation of a new station on the Fifteen-mile Creek.

10994. Will it be better for the public interests that what you are about to say should not be published?—What I am going to say should not, I think, be published. The less that is known about our movements the better.

10995. The question is: are matters looking serious there now, and are the police unprepared for another outbreak?—I am not in a position to give a positive statement that matters are not serious, but to say that we are not prepared for another outbreak is not correct; we would be more prepared if my recommendations were carried out.

*The room was cleared.*

*The Commission deliberated.*

*The witness was again called in, and his examination was continued with closed doors.*

*At the request of the Chairman, this evidence was noted by the Government Shorthand writer the use of the Commission only, not for publication.*

*Mr. O'Connor was called in.*

*The Chairman directed that the evidence to follow should be printed in the usual course.*

10996. *By the Commission (to the witness).*—Have you had any experience whatever of their powers of tracking?—Not myself personally, but I provided myself with the information.

10997. From whom?—From Mounted-Constable Kirkham. I made him write a report in connection with certain cases in which the black trackers were engaged. That is since they came up. They came up when I was in Benalla.

10998. That is the last batch?—Yes, the present men; they came in July, when I was there. I produce his report [*handing in the same*]:—"North-Eastern Police District, Benalla Station, June 8th 1881.—Report of Mounted-Constable Kirkham, 2986, relative to ability of Queensland trackers—I respectfully report for the information of Inspector Montfort, that during the period I have been in charge of the above trackers and on all occasions when out with them in search of offenders and otherwise, they have worked with alacrity,

determination and good will, and are most obedient and attentive, and require very little skill in order to work them. The following is a return of duties performed by them, under my immediate observation

Return of Duties performed by Queensland trackers:—

“Monkey Brown, Peter Brown—27/9/80.—To Violet Town, to track an offender who damaged property of Mr. Judd, station master there, on night of 26th; succeeded in tracking the footprints to Ben. Gould’s house; arrested Gould, and proved his boots corresponded with footprints traced; was afterwards tried, convicted, and sentenced to one month’s imprisonment.

“Moses Bulls, Peter Brown—4/10/80 to 17/10/80.—In search of jewellery, &c., stolen from Mr. Wallace’s, Pine Lodge, Shepparton. Tracked offenders three miles from Mr. Wallace’s residence, and found jewellery in a hollow log. Two persons arrested, named Brown and Freeman.

“Moses Bulla, Paddy Brown—13/12/80 to 14/12/80.—To Euroa, to search for a girl named Mavor Curtin, who was lost in Strathbogie Ranges. Found girl nine miles from her home on 14th.

“Jim Crow, Dick Brown—23/12/80 to 25/12/80.—To Euroa, to search for stolen sheep, taken from Mr. Cusack. Tracked sheep nine miles from Mr. Cusack’s residence—straying, not stolen.

“Jim Crow, Billy Nut—6/1/81 to 8/1/81.—To Wahgunyah, to search the Murray River for the body of a man drowned while bathing. After a day and a half searching and diving in the river, the trackers recovered the body three miles from where it was drowned, in 30 feet of water.

“Jim Crow, Moses Bulla—5/2/81 to 12/2/81.—To Shepparton and Yalca, to trace and track offender Smith, alias Rohan, from the farm-house, where he was working with the murdered man ‘Shea,’ to the well where Shea was found dead. Tracks and traces of blood found by the trackers, and sufficient evidence obtained to have the offender Rohan, alias Smith, arrested, and committed for trial for murder. This offender was tried, convicted, and executed in Beechworth Gaol on 6th June 1881.

“The above return will show the ability of these men to track during the period they have been placed in my charge.—THOMAS KIRKHAM, Mounted-Constable 2986.”

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And there is the sergeant’s report upon the back of that. “Forwarded for the inspectors information. I have examined this report, and find the duties correct, when the trackers were on special duty. This return does not include patrols, where the trackers were sent out to be made acquainted with the district.—J. WHELAN, Sergeant 1305. 8/6/81.” In addition to that I sent out Sub-Inspector Baber some days ago, for the purpose of testing what they really could do, and carrying out the system of practice that I intend to continue with regard to them. Not anticipating any questions on the subject, he is away, and I did not get any report. He intended to write, but he had to go away on duty. He was away for some hours on horseback. He dismounted, and took a course on foot through farms and fences, and along the tops of fences, and pursued a course calculated to puzzle the trackers as much as possible. He then left the following day with three trackers, and accompanied by himself, having no one with him but Kirkham, so that no one should know what the trackers could or could not do, as it would be inadvisable it should be known generally. He reported to me that their ability was unquestionable, that they acted splendidly, and that everything that was expected of them was fulfilled. It was my intention to go out to-day or to-morrow with the other three myself, but, having been summoned here, of course it was not done. These are only instances at present in which I can speak personally of their knowledge and ability to track. Their conduct is exemplary, and they are most attentive and subordinate in every way.

W.B. Montford,  
*continued,*  
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10999. Do they keep in good health?—In very good health, and never enter a public-house, that I am aware of. They never drink. There is no difficulty in controlling them at all.

11000. What pay are they getting?—Five shillings a day, and find themselves in everything.

11001. Are they kept away from the barracks?—They live in a little brick house, but they mess in the barracks, and are usually about in the barracks.

11002. Do you think they would be satisfied if they were separated—would they fret?—I do not think it would be a good plan, especially when we have railroads to send them to any point desired.

11003. You do not think it would be desirable to put two at one station and two at another, say?—No.

11004. You think it better to keep them massed together, and send out two or three when necessity arises?—Keep them together and send out where required.

11005. Would you send the whole of them together?—Not the whole.

11006. You consider they desire to live together?—Yes; I am guided a good deal by conversations I have with Sergeant Whelan and Kirkham, and Mr. Baber seems to take a great interest in them; in fact, they are continually under my observation since I went up there. They are men not a bit afraid to go out at night, and will go with a message anywhere at night.

11007. They are not so much use on a well-beaten track with a great deal of traffic about?—That would depend upon the freshness of the trail, I should say.

11008. There is a report here, when they were endeavoring to find the tracks of a saw, it appears they lost the tracks on a beaten road near Greta?—Yes, of course, they are not infallible.

11009. Do you think if they had been under charge of some one who understood them better they

would have picked those tracks up and followed them on?—I do not think so. In point of fact, the saws never went in that direction at all, but in a different direction altogether, in my opinion.

11010. Have you ever heard anything about the saws since they have been stolen?—I did. I heard it was supposed they were taken for spite, because Acock's sheep were killed, and he poisoned a dog that killed them. I formed that opinion after I had been there three or four days. I was told you could make armour with them.

11011. Are they not very thin?—They are thin, but the question is whether they could be shaped into armour at all. I was told by a person they could be softened specially to shape them, and then hardened again so as to make them hard, but I do not believe that was the purpose at all. I think they were taken by Acock's neighbor for the purpose of spite.

11012. Have you seen at any time any signs of insubordination amongst the black trackers?—None whatever, nor ever heard of any.

11013. Nor ever heard of any difficulty in managing them?—Not the slightest.

11014. Has Mr. Baber ever said that he had any difficulty with them in dealing with them?—I do not know of his having gone out with them lately since; what I have said he told me. The question never arose; the difficulty was never anticipated, and none arose. They worked well with him, and seemed quite flattered with his presence with them.

11015. You never experienced any difficulty in handling them in any way?—I never heard of any.

11016. From all the information you have obtained since you have been in Benalla, do you think it is possible for the blacks stationed there to be better officered, and be more amenable to what is required of them than they have been in the past, or are at present?—I can only judge of what I have seen myself I do not see any difficulty about them at all, nor have I been told of any. I questioned the persons who were in immediate contact with them, and I have judged of their demeanor myself, seeing them about the stables and station, and they have helped to unload my things when they were brought up, and when I was away and no person to take charge of the house. I sent a couple over, and they remained there till I came back; a more easily manageable set of men I never met in my life.

11017. For the purpose for which the present black trackers were brought from Queensland, have you heard any officer in the district, who had the opportunity of knowing and judging of the way in which the trackers were managed under Mr. O'Connor, express an opinion that they were better managed by him than the present under Victorian police?—I have heard all the police there say—I have spoken on the subject to Sergeant Whelan, Constable Kirkham, and, I think, I heard Mr. Baber say the same; I am not certain—that those trackers are infinitely better for general purposes than Mr. O'Connor's trackers.

11018. I was speaking of the management of them?—Well, Mr. O'Connor's trackers would do nothing for any person but him—in fact, Senior-Constable Smyth, the police clerk, said so, yesterday. I forget what question I asked about. He heard me ask some question of Kirkham, and he said if any other person told one of Mr. O'Connor's trackers to do this, that, or the other, or gave him any instructions at all, he would say, "Oh, I am not going to attend to you, you are not the boss."

11019. Do you think that if the present trackers at Benalla were under the management of Mr. O'Connor that they would rather obey him than the officer that has had charge of them since?—I cannot say that. In order to judge that I would have to see Mr. O'Connor in charge.

POLICE

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W.B. Montford,  
*continued,*  
9th June 1881.

11020. The men have not been acquainted with Mr. O'Connor. I want to see, as far as you know, have you obtained any information from any of the officers that had the opportunity of judging of Mr. O'Connor whether he had special qualifications to guide those black trackers for the object they were brought to this colony?—I do not know; I never heard. Of course it must be assumed that when Mr. O'Connor came with the black trackers from Queensland that he was better capable of managing the Queensland black trackers than anybody else.

*Mr. O'Connor.*—The native police in Queensland are taught only to look to their officer—to take no commands from anybody else. If the Chief Commissioner came up they would take no commands from him. That will account for their not listening to any one else.

11021. *By the Commission (to Mr. O'Connor).*—If the trackers brought from Queensland were placed under an officer here who would be kind and efficient in his management they would obey him equally with the man who came with them?—They would.

*The Witness.*—I was going to say that was my opinion. I can only speak of those six that are there.

11022. Do you see any necessity for any change of the management of trackers. at the present time?—Of course the effect of that question is—

11023. Do you think their efficiency would be increased by a change?—That is apt to bring me in contact with other parties.

11024. It is simply a matter of opinion. So far as I gather from your remarks, you think they are perfectly efficient by the tests you have applied to them. I want your opinion as to whether you think they would become more efficient by any change?—I do not think so.

11025. There is one black tracker, I understand, that was with Mr. O'Connor during the time he had

charge?—Yes; I believe so.

11026. Have you heard any complaints from Kirkham, or Baber, or Whelan, that this particular black has disobeyed the orders given by any of the officers?—They never disobeyed any. Moses is his name. He is a most active little fellow, not the slightest difference from the others. I think he is more intelligent than the others.

11027. Are you aware that that intelligent boy did not come from Queensland?—I am sure he did come from Queensland. He said he did.

11028. The question I ask is this: are you aware that Moses, the black tracker, did not come from Queensland with Mr. O'Connor's party?—I am. I did not know it until a few days ago.

11029. Are you aware he was found here and enlisted into the party by Mr. O'Connor?—I did not hear he enlisted him. I heard that he joined Mr. O'Connor's party here.

11030. Do you know now that he received no Queensland training in the police?—I am aware of that from what I hear.

11031. You have altogether six trackers at Benalla?—Yes, six.

11032. If Kirkham and Mr. Baber, who have had the principal charge of them recently, were removed from the immediate charge of those men, and the trackers were made acquainted with that fact, do you think they would obey some one else placed in charge in course of time, equally with those in charge of them in the past?—I have no doubt of it.

11033. In point of fact those men have simply to be made aware that a certain officer has the control of them?—Yes; they are wide awake enough, and know me now very well. I am endeavoring to answer you as straight as I possibly can—in fact, I have no reservation in the matter. I do not care what the effect of my answer may be, but I can only offer an opinion, of course, on the majority of these questions.

11034-5. *By Mr. O'Connor.*—This work your trackers have been doing is play, one may say, but, supposing a great emergency arose, would you give the opinion that you would be quite competent to see whether those men did their work properly or not; say another gang came out, and there were murders and banks stuck up?—I think the trackers could be made to track just as well by the men that are there as they would even by the trackers you had.

11036. I am not speaking of that. I ask this—this is all play and child's work so far?—I do not call it that.

11037. Well, perhaps I am wrong?—It as nearly as possible approached what would have taken place if a murder had been committed—that is, the blacks were right up to a certain point twenty-four hours after the person was there that was supposed to commit the murder. The officer and the troopers with him rode their horses; when it came to a certain point, the officer dismounted and he went away on foot, and walked some miles on foot in and out through the most difficult places he could find, along rocky places and places denuded of vegetation; he selected every possible condition that was difficult, and I would not call that child's play; that was what would take place in case of murder.

11038. No, excuse me, it was different—those trackers and the men with them knew they had nothing to meet—if it had been a gang of four outlaws who, at the first moment of seeing the men, would shoot them, it would be different. The trackers knew they were running after Mr. Baber, in a friendly way, but, as a fact, has it not happened in the North-Eastern district that when trackers were on the tracks they swore they could not tell them, although the white men could actually see them?—No, I never heard of that. I can only speak of these trackers.

11039. Have you ever heard of this case where two trackers did that?—I heard something of it, but I paid very little attention to it. Those trackers were, I think, natives of this colony.

11040. "Spider," and another boy, New South Wales blacks?—I heard of "Spider." I thought he was a Victorian, but I am not speaking of them at all. I am speaking of these six that are here now.

11041. Put the men in a position of danger, and I just ask you, what do you think?—I could not possibly express an opinion of what these men would do if they were placed in a position of danger, further than this, that I would have no hesitation in going myself with them, not the slightest.

11042. *By the Commission.*—What effect would the appointment of Mr. O'Connor have on the rest of the force in the district—the general police. It was stated by Mr. Chomley, or rather Mr. Sadleir, that it would be very unpopular amongst the general body in the district?—Of course the appointment of any outsider to the police force as an officer, would be a very unpopular proceeding.

11043. You refer to any stranger?—I think any stranger would be unpopular.

11044. *By Mr. O'Connor.*—You do not mean me personally?—I never heard any objection to you personally.

11045. *By the Commission.*—Have you heard any one express the opinion, since you have been at Benalla, that the appointment of Mr. O'Connor would be very unpopular in the district?—I have. W.B. Montford,  
continued,

11046. By whom?—Some of the police, but I could not remember who it was. I heard it in conversation. 9th June 1881.

11047. Would that be general talk?—Of course it only came that way, but I do not speak with everybody; they must be very particular friends of mine, or they would not broach the subject at all.

11048. Would the appointment of Mr. O'Connor to the charge of the black trackers, in the North-Eastern district, have a tendency to strike terror into the minds of the Kelly sympathizers, or any others that are likely to become troublesome in the district?—I cannot say whether it would or not—there is no means of consulting the persons who would be affected by it.

11049. My reason for asking that is in consequence of the statement of Mr. Chomley—he recommended the appointment of Mr. O'Connor, and said his appointment would be very popular amongst the people in the district, and he said it would create a feeling of terror in the minds of the Kelly sympathizers in the district. Has anything of that description come within your own knowledge since you have been there?—No.

11050. Were you at Benalla at the time Mr. Chomley visited the district?—No.

11051. Would the appointment of Mr. O'Connor cause much dissatisfaction in the force in the district?—I am sure it would; it would create great dissatisfaction in the whole force.

11052. Then that would not have a good effect on the general body of police as being contrary to regulation?—As being contrary to regulation and as creating a precedent, a thing never done before and being contrary to the expectations of a number that are aspirants for promotion.

11053. Before you leave I would ask you one question: you say you desire the troopers to be, in fact all the police in the North-Eastern district to be, armed with the Martini-Henry carbine?—Yes.

11054. Do you think it is of such importance that it would be desirable for the Commission to make a report to the Chief Secretary on that one subject?—I do decidedly; people up there, civilians, highly approve of the report they saw in the papers to the effect that the Commission were going to take that step.

11055. You think the sooner it is done the better?—Yes, and that it is the right thing.

11056. This is a copy of the Victorian police regulations, page 36, paragraph 263, "When a vacancy occurs in the higher grades of the force, and the duties of the vacant office are of such a nature that the Governor in Council shall be of opinion that there is no person of lower grade in the department who is competent to discharge them, the Governor in Council may appoint such person as he may think fit, although not previously engaged in the police force, and with or without examination or probation." Do you think the time has arisen in the North-Eastern district in which an officer such as is there mentioned should be appointed by the Governor in Council for the purpose of taking charge of the black trackers?—Solely to take charge of the black trackers?

11057. That is the only reason, solely to be in charge of the black trackers?—I do not think so.

11058. I will repeat the question again; in your opinion has the occasion arisen in the North-Eastern district in which a departure should be made from the regulation in the police force to admit one who had not been previously in the force?—I do not think it is requisite for that purpose alone. With great respect, I would say that I am placed just in this position—I am given to understand that Mr. O'Connor's appointment has been proposed, or is about to be made by the Ministerial head of the department, on the recommendation of the permanent head of the department, and it is directly placing me as a subordinate in the position that I am criticising their acts, which I am very much averse to doing. I have no objection to give my opinion; I cannot help holding an opinion. For Mr. O'Connor, I need not tell you for a moment, I have a very great respect; but if you ask my opinion personally as regards whether I consider it would be absolutely indispensable in the present state of affairs to ignore the usage of the service, and incur the dangers arising from setting the police force in a state of ferment over it, I say I do not think the necessity is so great as would warrant the Government in doing anything of the sort, and that is what I mean. I have no personal objection at all to Mr. O'Connor's appointment, not the slightest but if I am asked my opinion as to the effect on the morale of the force, I consider it will be very deleterious. I do not say the force have a right to have that feeling, but I know as a matter of fact it would have that effect.

11059. Outside the feeling of the force, has the necessity arisen in that district for the appointment of such a gentleman as Mr. O'Connor?—If you ask me as a matter of opinion I say I do not see that it has in reference to the present state of affairs. Of course in giving my opinion on this I do so with great reluctance, because I am placed in a position of antagonism to the Chief Commissioner, and likewise to the action of the Chief Secretary. I can only answer the questions I am asked as truthfully as I can I have no objection to answer the questions so long as I am not misunderstood. I did not volunteer the information.

11060. How long does it take for a man to rise from the ranks to the position of sub-inspector?—It took me eighteen years, and then I was promoted by a fluke.

11061. Missing the fluke, how many years would it have taken?—I might have been in the ranks still, perhaps.

11062. Is it not better for a country like the Kelly country to have young active men there for officers?—Certainly. An officer old and crippled cannot knock about the district.

11063. Mr. Hare said he was too old for the work, he said so himself?—I am as old as Mr. Hare, and he may not be fit, but I am perfectly fit. I rode ninety miles the other day, and came back as well and better than when I started. The system in vogue in the Irish Constabulary is the system that I think is the best, as I said in the first part of my evidence; and that is the Government are in the habit of appointing cadets by competitive examination when vacancies occur. At the same time they promote certain head constables, who are reported upon favorably by their county inspectors, to the position of sub-inspectors. Therefore it is not alone that men can rise from the ranks, but there is also the infusion of new blood through the appointment of cadets to be third-class sub-inspectors. I may say my father was a sub-inspector of police, I have an uncle an ex-county inspector, and a cousin a second sub-inspector; so I have had some experience.

11064. In the 25th section the last clause says, "The Chief Commissioner may also, if he think fit,

discharge him without assigning any  
reason." Do you think that is just to the force itself; do you think

W.B. Montford, a clause like that is likely to be of service to the police force generally?—It was put in as a sort of safety-valve after that clause empowering the Government to appoint an outsider to a certain position in the force, if necessary. For instance, if it was necessary to appoint an officer in charge of the detectives, it might be necessary to send to London, to England, and it is only exercised in extreme cases; that power of dismissing a man without a reason has not, during my experience of twenty-eight years, ever been exercised.

11065. It could be exercised with impunity against a man if there was nothing against him?—No.

11066. *By Mr. O'Connor.*—Are you not aware that the late Chief Commissioner was appointed from outside the force?—Yes, but the Chief Commissioner joined in 1858, I think. He was appointed under the Regulations that immediately preceded these, of which those are a copy. Captain MacMahon was Acting Chief Commissioner immediately preceding him in the same way; but when I say the officers, we never look upon the Chief Commissioner as an officer; he is in a different schedule in the Estimates even. He is entered down along with the clerks.

11067. Would it not be just as much against the interests of the men if any new regulations were framed that would debar a man from rising from the ranks?—Yes.

11068. Anything new would tend to interfere with them?—Yes.

11069. And therefore, if you studied the temper of the men, things should go on just as they are, and you would get officers of fifty, sixty, and eighty, eventually?—I do not think that is likely to be the case. I do not wish to criticise what is past, but I believe the retention of certain officers in the force has militated considerably against the promotion in the service.

11070. *By the Commission.*—It was stated by Sergeant Steele that it would require political influence for a man to raise himself in the force—is that the general feeling in the force?—Yes, it has become very much so of late years.

11071. That is the feeling among the men?—Yes, some men will not resort to it.

11072. Have any been appointed apparently through political influence?—That I do not know—I was not in a position to know what influence was brought to bear on the Chief Commissioner.

11073. Might that not arise from men hoping to be the next, and fancying they should be?—It might be very likely. A man came to me when I was in charge of No.1 division and asked to see the superintendent, and wrote a report, calling attention to the fact that he was not promoted. He is an exceedingly good man, and he, in making his complaint to me, said, "The reason, I presume, that I am passed over is that I do not apply to members of Parliament. I do not intend to do so, and therefore it is but right for me to send my report applying for promotion, because I contend that the clause in the manual about not applying does not apply in that way"; and he thought it better to apply personally, instead of through members of Parliament. I only say that is the feeling in the force, and I know it is. I do not know of any case of my own knowledge. When a man thinks he is due for promotion and is not promoted he looks around for some means of redress, and that naturally seems to be the member of Parliament for the district.

11074. You do not know any glaring case as the result of political influence?—No, I do not; I do not remember any.

11075. Within your own knowledge?—No.

*The witness withdrew.*

James Arthur sworn and examined.

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11076. *By the Commission.*—What are you?—Mounted constable.

11077. Were you out in any of the search parties after the Kellys?—Yes.

11078. In the time that Mr. Hare was in the North-east?—Yes, I was out with him.

11079. And with Mr. Nicolson?—Yes.

11080. You have been there all through?—Yes, I have.

11081. Did you in any of those parties believe that at any time you came near upon catching the Kellys?—No; I cannot say that.

11082. You had no information that you had come, or were coming, close up to them at any time?—No.

11083. Did you, in acting upon information you received, ever have the idea that you were getting close to them?—No.

11084. Did you form any opinion while you were in that district as to whether it was a good method to go out in large parties and scour the country, as was done under Mr. Hare?—Yes, I have; I don't think it was—going out in large parties.

11085. You do not think it was calculated to catch the men?—No; it was impossible.

11086. Did you form any opinion as to the private agents that Mr. Nicolson had?—Some of them were good; in fact I know one that was good.

11087. Did you ever get information that led you to believe you were near the Kellys, or in acting upon it that brought you anywhere near?—Well to where they had been.

11088. How long before?—A fortnight before.
11089. Do you think that information was of any value?—No, not any.
11090. Have you formed any opinion of what the best method of dealing with such a gang would be?—The only way is to send out men to watch the sympathizers by night, but not go out in large parties; say two or three to watch them night and day
11091. Do you think it would be a good method now, before anything of the sort should occur, to have strong, active young men riding through that district, and making themselves acquainted with all the inhabitants?—Yes, it would.
11092. Do you think they would be in a better position, if an outbreak came, to catch the men at the time, than men going into the district?—Yes; they would have a better knowledge of the country and the people round.
11093. They would know all the people?—Yes.
11094. Do you think a pursuit carried on on that principle would be much more likely to drive the men out of the country or catch them?—Yes, it would.

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11095. Small parties?—Small parties.
11096. Riding in different directions?—Riding in different directions.
11097. By concert meeting at different places and comparing notes?—Yes.
11098. Were you in the cave party?—No, I was with Mr. Hare in the first party, when he watched Byrne's house.
11099. Did you understand when you watched Byrne's that you might have been watched yourselves?—Yes.
11100. Did you think you were?—I did.
11101. That it was known while you were there?—Yes; Sherritt knew, and he was not to be trusted.
11102. Would you trust Sherritt?—No.
11103. Did he ever give any reliable information as to where the outlaws were?—No; he would say, in speaking about Byrne, not to shoot him; and as for Ned Kelly, he said that he would never be taken, not by all the police in Victoria; they would never get him. That is the way he would be talking.
11104. Did you consider at the time he was an agent of Ned Kelly?—I did.
11105. You always thought so?—I always thought so.
11106. Did his actions at any time lead you to suppose that was the ease?—By his talk and the way he would go away, come and stop with us a night, and next night be away, and move out all hours of the night, and never have anything that was any account. He would be always blowing about Ned Kelly and Byrne never being taken.
11107. Did you believe he knew where they were at the time?—No.
11108. Did you believe he knew anything of their movements?—The way I thought he did it was he went to Mrs. Skillian and carried information to them.
11109. He was giving her information about the movements of the police?—Yes.
11110. How do you account for their hatred to him that led them to shoot him?—Well, the time that Mr. Nicolson's party was up there, Sherritt was supposed to be seen by some of the sympathizers, and they took the word to Kelly afterwards, and that was the reason he was shot.
11111. Was it possible he was shot for being supposed to give information that was really given by others?—That was all I could make out the reason.
11112. Were you at the Glenrowan affair?—Yes, I went up with Mr. Hare.
11113. About three o'clock in the morning?—Yes.
11114. Where were you stationed?—At different places. First when I went there I was stationed alongside of Mr. Hare, through the gate. He was partly through the wicket-gate when the first shot was fired—just going through. When the first volley went he was clear; he was struck on the second volley.
11115. Were you by when he was struck?—I was about five yards from him. His hand fell. I saw him loading with the gun between his knees, and I asked what was the matter, and he said he was shot in the wrist.
11116. Did he load and fire after he was wounded?—Yes.
11117. How many times?—I saw him fire twice.
11118. Was it a double-barrelled gun?—Yes. He was in the act of loading when I saw him the second time. He had discharged the barrels before.
11119. Do you remember the women getting out before daylight?—Yes. There were some tried to get out just before Mr. Hare left, and they went back again frightened.
11120. Did you hear the screams as soon as the first volley was fired?—Not the first; but after the second or third there were screams, and then Mr. Hare gave orders to cease firing, to allow them to come out.
11121. Do you remember Mrs. Reardon coming out, and her son, and Mr. Reardon?—Yes, that was near daylight.
11122. Where were you stationed at that time?—About thirty yards from the house, on the

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Wangaratta side of Jones's hotel.

11123. Were you stationed towards the back or front?—Between the two, opposite in a line with the passage.

11124. That was about due north of the house?—Yes.

11125. Did you hear Mrs. Reardon cry out anything?—Yes, when she came out she screamed out. I could not make out what she said. She screamed out as loud as she could, and had a child in her arms, and when she came out Steele sang out, "Throw up your hands, or I will shoot you like a —— dog," and the woman was coming towards him, and he fired.

11126. Did you suppose him to fire at her?—He fired direct at her; we could see it in the moonlight, and then she turned round, and then he fired a second shot, and then I spoke to him and told him not to fire—this was an innocent woman. I could see her with a child in her arms; and then afterwards he turned round and said, "I have shot Mother Jones in the ——." Constable Phillips was on his right, on the right hand behind, and I heard him make some remark about a feather. I could not say what it was.

11127. Did you make any remark at that time?—I told him not to fire—it was an innocent woman. I said I would shoot him if he fired.

11128. How far were you from him?—About 20 yards.

11129. What door did they come from?—The back door of the hotel, out of the passage, and just as she came out of the passage Steele fired.

11130. Right behind the hotel?—Yes.

11131. Did you see her son coming out?—Yes, I saw the young fellow coming out, leading a child.

11132. Could you distinguish it was the figure of a man?—Yes, I could see it was a young man.

11133. It was light enough?—Oh, quite light.

11134. Was he crawling or walking?—Walking, leading the child.

11135. Had he his hand up?—After Steele called out to him, he held his hand up, and Steele fired.

11136. After his hand was up?—Yes, and he turned round, and as he went into the door he was shot—I would not swear who fired it—and he fell.

11137. Could you be positive that Steele deliberately fired at that young fellow?—No, because he was the nearest to me, and had to fire past me.

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11138. You have no hesitation in saying Steele deliberately shot at the young fellow?—Yes, he shot at him.

11139. Did you see him fall?—Not with the shot Steele fired, but with another shot he fell in the door. I would not swear it was Steele fired that second shot.

11140. Did Steele make any remark?—Not then. After the youth, a man came out with a child in his arms, and Sergeant Steele sang out to him to hold up his hands.

11141. Did he do so?—He threw up his arm, and he fired at him. The man crept on his stomach, and crept into the house.

11142. Would that be the act of a sane man or a madman?—He seemed like as if he was excited. He fired from the tree when he first was there. He fired when I could see nothing to fire at.

11143. You did not see that he had been drinking?—No. When he came first in the morning, he came to where Constable Kelly and I were standing, and we went to tell him about the outlaws being in the house, and he would not wait; he rushed over to a tree close to the house leaving his men to place themselves.

11144. He did not place his own men?—No, not his own men, or anything—he would not wait.

11145. Who placed his men?—Senior-Constable Kelly took two, and the others went by themselves.

11146. You recollect you are on your oath; are you quite positive in these statements you have made?—I am.

11147. And that young Reardon was not crawling?—He was not, not when he came out.

11148. And the man that held up his hands after, you say Steele fired at him?—Yes.

11149. We have it in evidence that the elder Reardon fell upon his knees or belly, and crawled in?—That is what I say. I would not swear it was Reardon or young Reardon, but those that came out after Mrs. Reardon.

11150. You have no doubt in your mind that this was a woman?—Any man could see her and hear her voice.

11151. You had no suspicion in your mind that it was one of the outlaws?—None at all.

11152. You could tell the voice?—Yes.

11153. Sergeant Steele had the same opportunity of knowing that as you?—Just the same.

11154. Did he make any remark when you said you would shoot him if he fired again?—No; the only one was that he had shot Mrs. Jones in the ——.

11155. Were you at the capture of Ned Kelly?—I was.

11156. About what time was that?—About a quarter past seven, or half past.

11157. Was it pretty clear light?—It was foggy in the morning.

11158. If it had not been foggy it would have been clear?—Yes.

11159. Might that occur from the smoke from the guns?—No, I think not; it was a very foggy night

all through.

11160. Where were you when Ned Kelly first appeared coming in?—I was about 100 yards from the house at the Wangaratta end. After Steele fired at this woman I shifted back, took up another position at the log, and then shifted further back again. I had a Martini-Henry rifle; it was as good at 100 yards as at twenty, and I was afraid if I stopped too near I would hit some one the other side. I was kneeling down when I heard something behind me, and I turned round and saw—I could not make out what was coming from behind the bush, and I told him to keep back or he would be shot.

11161. Were you the first that saw him?—I was. He made some rumbling noise through the helmet, and I said I would shoot if he came up, and with that he raised a revolver, and as he did so I fired at him, and he staggered, and then fired in the direction of me. The shot fell about half way. He could not raise his arm very well.

11162. Why not?—He seemed to be crippled. The left arm was holding his right, and the right he had the revolver in. Then I fired at him again a second shot, and he seemed to stagger, but it had no other effect on him; and then I knelt down and aimed at a white mark—a slit in the helmet—and he staggered again, and I made a step forward, and he fired again a second shot. I then called on Constable Phillips, and he turned round and fired the same time as I did. Then I turned round to the other men, as it was no good firing at him, and sang out, and Constable Healey and Montifort were the nearest, and they came up and fired their shot-guns at him. He then walked and turned to the tree where we found the rifle and the cap. Then the other men further back, where Sergeant Steele and the others were, started firing right past Constable Phillips and me, and we had to shift or we would have been shot,

11163. You were in danger?—We were in danger; and then Sergeant Steele sang out to steady firing—it was a blackfellow; and Steele went behind a bush; and after Kelly went to the tree where the rifle and cap was found he turned round and was walking in the direction of the railway station.

11164. Down hill, in fact?—Yes; and he tripped over the limb of a tree and fell. As he was falling Sergeant Steele ran up and fired two shots, and then all the other constables rushed—there was a general rush on him.

11165. Do you say he tripped over that before Steele fired?—I do.

11166. That he was falling?—That he was falling.

11167. And when he came out in the morning he was staggering?—He could hardly walk—crippled. I could not say what from, perhaps loss of blood. He seemed to be crippled and weak the way he was tottering along—not able to walk.

11168. Are you positive now. I want you to be very certain about whether Steele brought him down with a shot or whether he had fallen before he fired?—He had fallen before he fired. If there were any shots it would be either Constable Healey or Montifort.

11169. Where was Dowsett?—He was down towards the railway fence, and Bracken.

11170. Did you see Dowsett fire?—Yes, I did. He was on my left, firing.

11171. Steele has stated he fired, and when he fired Ned Kelly went down, or collapsed rather?—No. In coming along there was a limb came out towards the drain, and, in stepping over the limb, he tripped, and staggered along, and fell.

11172. You are prepared to say that those who have sworn that he was struck by Steele, before he fell, are wrong in their impression?—I never saw Steele fire a shot till afterwards. He was down on the ground—not exactly on the ground—he was stumbling and falling.

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11173. Did Kelly fall forwards or backwards?—Forwards.

11174. Who was upon him, then, first?—I could not swear who; there was a general rush, and we were all up about the same time.

11175. How far were you from him at that time?—About thirty yards.

11176. Were you up the hill from him?—I was towards the railway station.

11177. Had you been any nearer during the time?—When he first came out I was fifteen or twenty yards off.

11178. Why did you retreat?—I had to, because of the shots of my comrades. I was between the two fires—they were right round, and Ned was here and I was there.

11179. You were not frightened of Ned?—No.

11180. You never ran away from him?—I never turned my back. I moved round to get at his back.

11181. Your moving was only to get a better position?—Yes, and to get out of the line of the others firing.

11182. It would be untrue to say you were attempting to escape from him?—Yes; because if I had shown cowardice, I could have waited behind the tree.

11183. Did you form the idea that he came from another world?—I could not form any idea. The only thing I thought at first it was some madman in the horrors who had put some nail keg on his head.

11184. Did he look a big man when he came along?—Yes; I could not make out what it was—a tremendous size.

11185. Much taller than a human being?—Yes.

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11186. It has been stated that he took deliberate aim with his arm and hand?—That is not true. He held it in that position—he did not raise his hand up at all. It was like that—[*indicating same*].

11187. Did you form the impression he was wounded?—It seemed as if he could not lift his hand; and after Montifort and Healey fired he shifted his hand, and held the right hand with the left.

11188. So as to steady it?—Yes. He was more dead than alive when he came out.

11189. Do you know where he came out of the house?—I could not tell.

11190. You do not know anything about how he got out?—No. After we were firing the second volley, there was a man came out from the yard, and as he came out there were two rockets let up between the railway station and McDonald's, and I was looking round to where they went off, and there was some firing went on then, and as I turned round I saw this man going out. I do not know whether it was Ned Kelly.

11191. We never heard of rockets?—Constable Gascoigne can tell about that. I think it was some sympathizers letting them know they were attacked by the police. One was very faint, and the other was a large one.

11192. Did you form any opinion about the taking of those men, whether the whole time of that night and day should have been spent on it?—Yes; it could not have been done any other way, without the loss of life. If we had gone in we would have been shot.

11193. Was there any offer to rush the house?—Yes.

11194. Would the police have been willing to?—Yes; in fact, if they had not fired the first shot, we would have been in the house in the morning.

11195. If Inspector Hare had not been shot, would he have gone into the house?—Yes, if they had not have fired. If they had kept quiet we would have been right into the house.

11196. How long would it have taken you to get there?—About five strides we would have been into it.

11197. What distance were you from it when you first fired?—About twenty yards, and we were running.

11198. You were running from the wicket-gate to the hotel?—Yes.

11199. Were you half way through?—Yes, just on the corner of the fence when the first volley came, and we stopped and returned the fire.

11200. Where was Mr. O'Connor at the time?—I did not see him.

11201. Do you know who were outside the railway gate when the first volley was fired?—The only one I could recognize was Gascoigne; I could not any others.

11202. The only one you could recognize was Gascoigne?—Yes.

11203. Where was Mr. Hare?—I saw him and three others besides myself, but I could not tell who they were.

11204. You could not tell whether they were either of the black trackers?—No.

11205. Did you see Mr. O'Connor outside the gate?—No.

11206. Did you see him leave the platform?—No.

11207. Did you leave before him?—I could not say.

11208. Are you sure he was not in advance of you?—I would not swear he was or he was not.

11209. Did you see Mr. O'Connor after in the day?—I saw him, after Kelly was taken, with Mr. Sadleir.

11210. Do you know where he was stationed before that?—No.

11211. Did Mr. Hare give any orders after he was shot?—Yes; I heard him call out, "O'Connor"; and then the next was to bring out his boys and surround the place, and, for God's sake, not to let them escape—he was wounded and must go.

11212. Did you hear Mr. Hare give any other orders?—No, I did not.

11213. Did he say, "Cease firing"?—That was before he left, but not after he gave those orders to Mr. O'Connor. He never gave any others. The first was to cease firing and to let the women out, and then he went to Mr. O'Connor and gave that order to him.

11214. Did you see Mr. Hare after that?—No.

11215. Who was the next officer in command after Mr. Hare left?—Senior-Constable Kelly.

11216. Did Kelly take the management after that time?—He came out about half an hour after Mr. Hare went away from the drain, and came to me and asked where the remainder of the men were. I told him there were two up higher than I was; and he said, "Come on, we will go round and place them." The only man he called to was Barry. Gascoigne was next to me; I pointed him out; I said he was all right. Then we went round—about 100 yards round—and spoke to Barry. He had Hero, the tracker, with him; and then we went round the back to the Wangaratta end, and there were no men there, and going round we found the rifle and cap.

James Arthur,  
*continued,*  
9th June 1881. 11217. Did you consider Kelly was carrying out the order of Mr. Hare to surround the place with the men at his disposal?—Yes. They did not require any man to put them round; they knew what to do themselves.

11218. Did you hear Steele arrive?—Yes.

11219. Did you hear Kelly tell Steele anything?—Steele would not wait. Kelly said, “Hare is wounded, and one of the outlaws is gone,” and was going on, but Steele ran up to the tree, and would not wait; and I said to him, “Do not go up there, you will be shot by men between.” I meant he would spoil the shooting at the men in the passage, and he went to the tree.

11220. Did Steele place his men?—No did not.

11221. Did Kelly attempt to give instructions to Steele’s men?—He did to two of the men—he took two of them.

11222. For the purpose of placing them?—Yes.

11223. How many men had Steele?—Five, I think.

11224. He never attempted to place the men at all, but ran up to this tree?—No.

11225. Did you see Mr. Sadleir when he arrived?—No.

11226. When was the first time you saw him?—About half an hour after Ned Kelly was taken.

11227. Where was that?—He came over to the tree I was standing near, about sixty yards from the hotel, on the Wangaratta end—[*indicating on plan*].

11228. What time did you see Mr. Sadleir?—About half an hour after Kelly was taken.

11229. You were then at the same tree?—Yes.

11230. Who was with him then?—No one was with him that I can remember.

11231. When did you see Mr. O’Connor?—Shortly after that again, it might have been ten minutes. He was with Mr. Sadleir, towards the hotel; between the railway fence and the hotel.

11232. Were they behind the tree?—No, they were standing talking.

11233. Had they any shelter?—I think Mr. Sadleir was standing with his back against the tree, and Mr. O’Connor standing in front of it.

11234. Did you see Mr. Sadleir any other time during the day?—Yes, several times after that.

11235. Where was he?—At different places on the ground.

11236. Was he going round?—Yes, I was with him when they were firing at the house, when Johnson set fire to it.

11237. Did you see Mr. O’Connor any further during the day?—Yes, I saw him several times with Mr. Sadleir, at different parts of the ground.

11238. Was there any firing after one o’clock from the hotel?—I think, at half-past two they were shooting out of the front, down towards the people on the railway station.

11239. Are you sure that the shots were fired from the hotel, and did not come from the police outside?—You could tell when within thirty or forty yards, by the difference in the sound. The sound of those outside would be sharper, those inside would be dull.

11240. Would the sound from inside appear to be from ordinary guns or rifles, or was it the sound from being fired inside the house?—Yes; it sounded deadened. It was different from any shot outside, from within twenty or thirty yards you could tell.

11241. Are you sure there were no shots fired as late as that?—Yes; I would take it to be half past two. I would not swear to the time exactly.

11242. You say you were there when the house was fired?—Yes.

11243. Did you see the dead bodies after the burning?—Yes.

11244. Where were they?—Lying in the small bedroom in the back.

11245. Which end?—On the Benalla end of the building.

11246. Were they both together?—Yes, about two feet apart.

11247. In the same room?—Yes.

11248. Did you receive any instructions during the day other than those you received early in the morning?—The only instruction I received was to come round and fire into the end of the house just before they burnt it.

11249. That was all the instructions you received during the day?—Except when Senior-Constable Kelly asked me to come round with him.

11250. Did you see Constable Dwyer going round?—Yes.

11251. What was he doing?—I saw him with a bottle of brandy or something in his hand.

11252. Did you hear him giving any orders he had received from anybody?—No.

11253. Did he give you any?—No, he never came where I was.

11254. What weapon had he in his hand?—He had a bottle.

11255. What had you?—A Martini carbine rifle.

11256. Did you fall short of ammunition during the day?—No, I looked after that. I was served out with twenty rounds when I left Benalla, and I kept nearly all of it. I fired about ten when the outlaws were on the verandah, and I got five off Senior-Constable Kelly.

11257. Was he serving ammunition round?—Not when he went with me.

11258. Do you know whether he served ammunition round during the day or not?—He gave me five after he had been down to meet Mr. Sadleir and came back.

11259. Did he say whether that was his own, or he had got it from the station?—No, he did not say. I said, had he any spare ammunition, and he gave me five.

11260. Had he also a Martini carbine?—Yes, I think there were four carbines there and one long Martini-Henry; Gascoigne had a long Martini-Henry rifle.

11261. Do you remember seeing Ned Kelly’s helmet taken off?—It fell off.

11262. Are you quite sure of that?—When I got there it was off, and no one had had time to take it

off.

11263. You were not present when he fell?—They had not time hardly to take anything off him—not the helmet.

11264. Was his head towards the station house?—Yes.

11265. And you swear that now—there is a great conflict of evidence about that?—He was going in this direction. Say there is the hotel—[*explaining the same*]—he fell over a log. It would not be

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towards the station or the hotel, but in a line between them. He rolled over. They struggled when they came up; they tried to get up, and got half in a sitting position, and rolled over on his back. James Arthur, continued, 9th June 1881.

11266. Did you see the revolver taken from him?—No. Guard Dowsett, Senior-Constable Kelly, Sergeant Steele, and Constable Bracken, had hold of him at different places. We had made a rush to him the same time.

11267. Were Steele, Dowsett, Senior-Constable Kelly, and Bracken in and about the person of Ned Kelly before you were close to him?—No, I was not five yards off.

11268. Were they closer than you?—Yes.

11269. They would have a better opportunity of knowing the position than you?—No, they would not have time to shift him.

11270. Would either of those four be in a better position to say whether the helmet fell off or whether it was taken off?—Yes, they would.

11271. You are satisfied his head was towards the station?—I am, and then when I saw the lot on him, they had him safe enough, and no one to look at the house, as he had called out to the others to come out, “Come on boys, we have got them.” I left immediately to watch the house from the tree in case the others came out and fired on to the police.

11272. You did not see anybody taking the revolver from him?—No, I cannot say who took it. One had hold of his arm, and one his beard, and another his arm.

11273. Who had hold of his beard?—Senior-Constable Kelly and Bracken was standing over him.

11274. Might you be mistaken on that?—No.

11275. If anybody swore that Steele had him by the beard, would it be true?—The lot of them might have got hold of him at different times.

11276. The upshot is that you had not the same opportunity of observing the first struggle as others?—I had, except Kelly, Steele, and Dowsett.

11277. Did you see Bracken stand over and threaten to shoot anyone?—I heard him say, “Do not shoot him; he never did rise any harm. I am going to take his part.”

11278. Whom did he say that to?—Apparently to the lot.

11279. Was anyone going to shoot him?—I never saw it. Of course they had a revolver of his in their hands.

11280. Would anyone have had time to have said, “I swore I will be in at your death, and I will shoot you now”?—Yes, I heard Steele say that.

11281. Did he make any movement to draw his revolver?—If I mistake not he had his revolver out. I am not sure about that. There were two or three revolvers out. I heard him make the remark, “I said I would be in at your death.”

11282. Was it after that that Bracken said not to shoot him?—Yes.

11283. What did Constable Bracken say—the exact words—do you remember?—Ned Kelly said, “For God’s sake do not shoot me”; and Bracken said, “I will look out for you, old man”—no, I could not be certain what the words were; but one stood over him in this position—[*indicating by gesture*]. I know he said something about taking his part.

*The witness withdrew.*

William Phillips sworn and examined.

11284. By the Commission.—Were you in the North-Eastern district during the time of the Kelly outbreak?—Yes.

William Phillips  
9th June 1881.

11285. What time did you go there?—12th June 1879.

11286. What are you?—Mounted trooper.

11287. Were you in any of the search parties?—No.

11288. Where were you stationed?—At Benalla.

11289. You remained at Benalla?—Yes.

11290. You were never out with any of the parties?—No, not one.

11291. You remember the time the Kellys were in Mrs. Jones’s?—Yes.

11292. Were you there then?—Yes.

11293. What time did you come in the morning?—Three o’clock.

11294. Then you arrived there with Mr. Hare?—Yes.

11295. Did you go out with Mr. Hare when the train arrived?—Yes.  
 11296. Were you with him at the time he was shot?—Yes.  
 11297. How far from him?—Between five and ten yards to his left.  
 11298. You were more in front?—No, he was opposite the fence of the house and I was to the left, Barry and Gascoigne were there alongside of me.  
 11299. Are you the constable that said at the barracks that you had not captured the Kellys because they had not come into the barracks yet?—Mr. Hare asked me, “how have you not caught them?” and I said, “They have not come into the camp yet.”  
 11300. What did you mean?—I meant—he said, “What have you done since you have been up?” and I said, “I have not done anything, except practise shooting.”  
 11301. You were at the barracks the whole time?—Yes.  
 11302. Was that what you meant?—Yes.  
 11303. Did you hear Mr. Hare say he was shot?—Yes, he said, “Good gracious, I am shot,” and I thought he was larking.  
 11304. Did you see his hand fall?—No, the moment I heard bullets passing I fired, and he was there, shooting with his wound, right opposite the verandah.  
 11305. Did he continue firing at all?—Yes, I think it was he fired the first shot.  
 11306. After the first two shots from his gun did you see him load again?—No, but I saw him there shooting—I know he was there shooting.  
 11307. Did you remain all day on the Benalla side?—No. At four o’clock Neil McHugh came out of the hotel, carrying Mrs. Jones’s boy on his back. Constable Gascoigne was alongside of me. We said to one another quietly, “If this man does not come our way, we will not speak to him.” We were right  
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William Phillips across and could see right across the verandah, and the man proceeded down and went over the bridge under the road, and I said, “Paddy, perhaps it is two of them getting away.” That was to Gascoigne.  
*continued,*  
 9th June 1881. 11308. Which door of the hotel did he come from?—From the back.  
 11309. Did he come round by the wicket fence?—He walked straight down.  
 11310. When he came from the hotel what road did he take to reach the station—did he get over the fence?—He did not go to the station, he went through the railway gate.  
 11311. Then he must have passed in front of the hotel to get to the railway gate?—Yes, and I said, “Gascoigne, perhaps it is two of them clearing out, come on and stop them;” and we ran down to the gate and he would not stop, and one of us threatened to shoot him, and then he came back, and between us he told us they had armour and there were thirty or forty in the house, and I said, “Who is inside?” and he said, “Three, I think, there is one or two of them wounded;” and he said, “Look out in the morning, they will shoot you all out at daylight.”  
 11312. Did he tell you he put the armour on them?—No, he said some red-whiskered man did, I forget his name.  
 11313. What weapon had you?—A Martini-Henry rifle.  
 11314. Did you shoot often?—I fired one shot straight at the figure that was in front of the house and then got behind a tree just opposite the verandah. There was a bush fire the other side of the house, and I could see three figures plainly, and I fired about four shots at them during the encounter, and I was surprised that none fell at about forty yards distance, so I fired a couple of shots low, and they walked off at once inside, and the figure that came out the second time fired about six shots, and Gascoigne said, “That is Ned Kelly, I know his voice.”  
 11315. Do you know whether he went into the house then?—The way he went then, in my opinion, was round the Wangaratta end and round the back yard.  
 11316. Did you see him after?—I saw him at seven o’clock in the morning.  
 11317. Where were you then?—I was at the tree at the rear of the hotel. After I challenged McHugh I went round, and I thought Mr. Hare had not gone. I wanted to tell him about the armour, and I did not find him, and I went and told Kelly. He said, “My God they have all got away.” I said, “Never fear, they are in the house;” and I said, “I stopped a man who told me all about the armour that came out of the hotel,” and Senior-Constable Kelly stationed me at a tree here—[*explaining the same*]. He showed me the spot where he had found the rifle. I stopped there from about a quarter to four to six, and then I challenged the Wangaratta police.  
 11318. Did you see Mrs. Reardon come out of the house?—Yes, I had my back to the house, and was watching the spot where Senior-Constable Kelly picked up the rifle.  
 11319. Did you see Mrs. Reardon coming from the hotel?—The first thing I heard was Steele challenging somebody and firing, and then I heard a woman screaming; and with that there were from the front of the house several shots came up.  
 11320. Did you hear Arthur say anything?—He said, “Do not shoot—that is an innocent woman,” or “that is a woman and children”—something to that effect.

11321. Was there any difficulty in yourself, Arthur, or Steele knowing that it was a female?—Not the slightest.

11322. Before he fired you could see distinctly it was a woman and children?—Yes, it was bright moonlight.

11323. Was there any one else?—Two or three children, and I thought three or four women.

11324. Did Steele shoot immediately he challenged them?

11325. Did you hear him say anything?—First, I asked him what he was shooting at, and he said, “By Christ! I have shot old Mother Jones in the ——;” and I said, “It is a feather in your cap.”

11326. Did you see what happened after—what did the woman do?—She was singing out, and went away out of the place. Steele was at some of the trees there, and she walked down. The fence was between her and Steele, and that was what saved her no doubt. After he fired there was loud talking going on, and screaming, and I do not know who took her away.

11327. She was taken away at all events?—Yes, and did not go back to the house.

11328. Did you see any other figure besides her?—No, only the boy.

11329. Where was he?—He was following her, and all at once I saw him run back to the house.

11330. Did you see that he had hold of a child?—No, I could not swear that.

11331. Did you hear any one challenge the boy?—Sergeant Steele was the only one who challenged them.

11332. Did you see the boy shot at?—I do not know of it. I asked him what he was shooting at.

11333. Did you see whether the boy was shot or not?—No, I did not know he was shot.

11334. Did you see whether the boy was crawling?—Walking.

11335. You could not say whether he had any one by the hand?—No.

11336. Or his hand up?—No.

11337. Did you see any man after the boy?—I saw a man at the back door, that is all. He walked out and walked in again. I did not see anything further.

11338. You got placed you say by Senior-Constable Kelly?—Yes.

11339. What time was that?—About four o’clock.

11340. Did you receive any orders from any one else during the forenoon?—None except from I Hare before he left.

11341. What did he say?—When I was with him on the pilot engine he said, “Do not fire, boys, unless you are fired on, and if anybody fall do not mind him, do not wait to pick him up.”

11342. Did he give any instructions after he was shot?—Yes, he said, “Cease firing, the women are screaming. Kelly, for God’s sake, take the men and go and surround the place.”

11343. Did he say Kelly or O’Connor?—He said Kelly first, and then O’Connor.

11344. What did you do then?—I was stationed; where I was I had a good position, and the others went round the house.

11345. Did you see Mr. O’Connor going round to surround the house?—No, I never saw him.

11346. When did you first see him?—Some time in the day; eleven or twelve o’clock.

11347. Did you know where he was?—Yes, I knew he was in the drain.

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11348. How did you know?—Kirkham told me early in the morning. I said to Kirkham, “How did you not challenge those men who passed down?” I said, “It might be two of the outlaws.” He said first, “Phillips, where are you?” And I said, “Where were you when that man passed?” And I said, “The whole mob might pass for all you might know.” I left there then, and I said, “Where is Mr. Connor?” And he said, “Oh, he is up above the bridge in the drain.”

William Phillips  
*continued,*  
9th June 1881.

11349. Did he appear to be making fun of Mr. O’Connor as to his position?—No.

11350. What was your opinion; was he in a safe position?—He was safe, no doubt.

11351. Did you think he was able to do good service where he was?—I did not think so. I did not think he could shoot anybody that came out of the house.

11352. He could not be shot out of the house?—Oh! no.

11353. McHugh must have passed round from the back to the front to reach you?—I had to run from my post to stop him.

11354. Had he to pass round to the front and between the trench and the hotel before you challenged him?—Yes.

11355. Then any one stationed in the trench could have seen McHugh pass before you saw him?—Yes.

11356. Passed through to the gate?—He had passed over the bridge and out on the railway when I challenged him.

11357. If any one was stationed in that drain and had the command of the hotel they ought to have challenged him long before you did?—Yes, they ought.

11358. Had you been in the position the black trackers were, would not it be your duty to challenge that man coming down towards you?—Yes.

11359. And you came from your post to see that man did not get away?—Yes.

11360. When did you first go up to the north-eastern district?—About the 12th June 1879.

11361. Who was in charge then?—Mr. Hare.

11362. Were you stationed at the depot?—Yes.

11363. Do you recollect the first party of men that were ordered from the depot on the 12th December of the previous year?—No, I was not amongst them.

11364. Do you know who could give us information who those men were who were ordered up then?—When they were delayed there?

11365. Yes?—I do not know the men's names, but I know the occurrence.

11366. From your own knowledge or hearsay?—From hearsay.

11367. The man who could give the information is dead—could any one else give the information?—No.

11368. Do you recollect there being a report that men were delayed at the depôt after being ordered up to the north-eastern district?—I do.

11369. Can you tell who can give information on that point?—I never talked to any one except Sergeant Porter on it. He is the only man who could give the information.

11370. Is he dead?—Yes. He told me he sent the men away as they had been delayed there, I forget how many hours, contrary to Mr. Nicolson's orders.

11371. Who ordered them away first?—I think the Chief Commissioner.

11372. You were all day at Glenrowan?—When I saw Mr. Sadleir it was about half-past eight or nine and I went to him. He was down by the railway fence, and I asked him what he was going to do, that the men had armour; and he said he had heard that, but he had sent for a cannon to Melbourne.

11373. Did he say that he had been advised to send for it?—No, he did not; he said to me, "You get on a horse and ride down to Benalla, and take another telegram," and the engine was going down, and I went with it and came back at twelve.

11374. What position did you take up when you went back?—Anywhere; there was nothing to be done when I went back. I went back to the back of the hotel, where I was among my mates.

11375. You went to the back of the hotel to your old position, at the Wangaratta end?—Yes.

11376. Did you remain there all day?—Yes, until we were told off to fire into the front of the house, when it was set fire to.

11377. Were there any shots fired out of the hotel after the time you came back—did you see any?—No, I never saw any.

11378. Could they be fired out towards the front without your seeing them?—Yes.

11379. Or could they be fired out of either side without your seeing?—I could hear the report.

11380. Could you be sure it would be a gun fired there, or somewhere near the house?—Yes, I was near.

11381. Your opinion is there were no shots fired out of the house after twelve?—No.

11382. If any others have sworn that they saw, about half-past one or two, two men come out in the small passage of the house and fire, would that be correct?—I do not think it.

11383. From the position you were in you could judge?—Yes, I could see any part of the back of the building.

11384. You say you went to Benalla and were kept in barracks?—Yes.

11385. Did you wish to go out yourself?—I would like to go out in five or six of a party.

11386. When they were going out?—There was never a party out. When I went first, there was one party went out, and none afterwards.

11387. Were you kept in contrary to your own inclinations?—We were.

11388. How many?—All the men were desirous of going out to catch them, to do the best they could.

11389. Do you know the reason why you were kept in?—No.

11390. Did you ever think of any reason?—No.

11391. Was there ever any reason assigned why you were not allowed to go out?—Well, I cannot say there was.

11392. Were you told off for special duty in the barracks?—I was guarding the banks in the town of Benalla; there were two of us doing that.

11393. What time did you see the figure of Ned Kelly?—Shortly after seven.

William Phillips  
continued,  
9th June 1881.

11394. What position did you have in relation to the position Kelly was in?—At a tree at the back of the hotel.

11395. Did you see him advancing towards you?—Yes.

11396. How many members of the police did you see around there?—Montiford, Healey, Kelly, Arthur, and I and Sergeant Steele.

11397. Did you fire at Ned Kelly at that time?—Yes, I took four or five shots before I left the tree.

11398. Were you there immediately after he was captured?—Yes, I was behind Steele when he put his hand on his wrist.

11399. How many others were close to him?—Kelly and Steele were the first.

11400. Before you arrived?—I was about the fourth or fifth; I was there when Bracken and Dwyer and Montiford came up.

11401. Did you see Dowsett?—Yes.

11402. Did you see any members of the police attempting to make their escape from Kelly?—Arthur was about ten yards from me, and Healey between me and Arthur at this particular time; and after I had fired two shots I said, “Run round him, boys; that is the only show we have with him”; and Arthur and Montiford ran round. Ned Kelly stopped then and took a look round when he heard that, and went and sat down behind the stump, and sat there for seven minutes.

11403. Did you or any other member of the police make a movement at that time that would indicate that you were trying to escape from the outlaw?—No.

11404. And the movements made by the police were for the purpose of getting into better position?—Yes; we were all like this round the hotel at first—[describing the same]. Ned Kelly did not go individually towards Steele at all, but towards the house.

11405. Then it would not be the fact for any one member of the police to say that if it had not been for his individual efforts Kelly would have been able to make his retreat to the hotel?—No.

11406. It would not be right to say that any one was showing the white feather, and trying to escape?—No; I am convinced of that. Of course when Kelly and Dowsett were behind the tree he was walking right up to them; if they stopped there he would put a hole through their heads.

11407. Did you see him when he fell?—Yes; I was right up with him.

11408. Did Steele or anybody shoot before he fell?—That I cannot say. I had my eyes on Ned Kelly, and I rail down after him, and ran full butt against a stump, where he crossed this gutter. Whether Ned fell I cannot say.

11409. Did you receive any orders direct from Mr. Sadleir after that all the day?—Yes, he sent me to Benalla.

11410. Did any member of the police come to you stating he had been instructed by Mr. Sadleir to do certain things?—No.

11411. In point of fact you received no orders but those from Mr. Hare and Constable Kelly?—Yes.

11412. As far as you are concerned no officer gave you any other order?—No; of course Mr. Sadleir sent me to Benalla with the telegram.

11413. What time in the morning was it?—Between eight and nine.

11414. Did you hear Ned Kelly call out, “Look out you will snag yourself”?—No, I did not. I was the closest to him there.

11415. Did you hear any member of the police volunteer to rush the hotel?—Yes, Montiford, and Dwyer, and all of them. I said to Mr. Sadleir to put Dwyer in the armour; he is the biggest man, and let him walk in.

11416. Did you hear Dwyer volunteer to go in that way?—No.

11417. Was that the only reason that they recommended it in consequence of his strength?—Yes, to carry it in.

11418. You were not under the impression that he could see bullets specially?—That I did not know of.

11419. Was it told you any time that Dwyer had a faculty for seeing bullets and jumping over them?—No.

11420. Did you see him skipping?—Yes, he was skipping all about the place.

11421. What reply did Mr. Sadleir make?—He said, “I am not going to lose any lives over them, they are not worth it.”

11422. Is Dwyer considered in the police, amongst his comrades, as a little eccentric?—he is considered eccentric.

11423. Is he considered a courageous man?—He is. I wish to state that Sergeant Steele has sworn on oath that he was there at three minutes past five; when I read that I did not think he would swear that; I said if he did he would get into trouble. Superintendent Sadleir’s report, dated 1st June, is wrong about the time of his arrival there—there is no doubt they have a motive in it.

11424. Where is the mistake of Steele, first?—I asked Mr. Lang, the station-master at Wangaratta, what time the special train left there in the morning, and he said, “I can tell you by looking at the book.” The time was 5.20 a.m. that it left Wangaratta. It would take them half-an-hour, so the engine-driver told me, to go down; and Mr. Sadleir says in his report of the 1st June that, after finding Mr. O’Connor, he made himself assured that the hotel was surrounded by the police, and in that he was greatly assisted by Constable Dwyer. It will be plainly seen Mr. Sadleir could never have been on the ground till six o’clock, because Dwyer never left the Wangaratta station till twenty minutes past five, and he was there on the ground to see Mr. Sadleir, and the latter and party left the railway station, Benalla, at 5.30 a.m. Neither parties were on the ground before six o’clock, the returns of the railway will prove it. The object is this: they found that Joe Byrne was shot dead between five and half-past, and they wanted to lie there to take the credit out of that party that were there, and that wounded Ned Kelly and killed Byrne, and kept the other men in the house.

11425. Your contention is that Byrne must have been shot before Sergeant Steele or Mr. Sadleir arrived on the ground, or their men?—Yes, I have stated that in my claim, and I have stated I could bring witnesses to prove it too.

11426. What proof have you that Byrne was shot before six in the morning?—I have got the man he

fell on top of.

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11427. What is his name?—John Delany, of Greta; and also Sandercook, of Glenrowan.

11428. What is Sandercook?—He is a platelayer or something.

11429. Engaged on the railway?—Yes, working about there. There is plenty of evidence to prove that.

11430. Have you anything else you desire to tell the Commission?—I only wish that you will satisfy yourselves about the time that those two trains left the two stations; there is nothing else.

11431. How will the train-book tell that when it did not come up to the station?—It was twenty minutes after five when he left the Wangaratta station, and they swore they were on the ground at three minutes past five. I told them then, but they would not listen to me, and of course I told them what their object was.

The witness withdrew.

Adjourned to Tuesday next, at Eleven o'clock.

TUESDAY, 14<sup>TH</sup> JUNE 1881.

Present:

The Hon. F. LONGMORE, M.L.A., in the Chair;

E. J. Dixon, Esq., J.P.,

J. H. Graves, Esq., M.L.A.,

W. Anderson, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.

Stanhope O'Connor further examined.

11432. By the C Commission desire to know the position you held under the Queensland Government before you came here?—I joined as a sub-inspector of the native police of Queensland on the 1st January 1873; my salary was, before I came here, £180 fixed pay. I emphasize that because the fixed pay is the only pay that is counted in Queensland for our retiring allowance—it is different to this service altogether. The fixed pay of all the officers in Queensland is very low, and the allowance is very high. My travelling allowance as a sub-inspector was £25 a year, and ration allowance £100 a year, with free quarters and a servant or an orderly allowed.

11433. Do you have the engagement of the servant?—He is one of our men.

11434. Are you supposed, as in the army and other services, to pay the orderly anything?—No, nothing. We do, but we are not supposed to do so.

11435. You joined as sub-inspector and remained as sub-inspector?—Up to the present time.

11436. You were never a sergeant?—No; I joined as an officer. After fifteen years, we can retire upon a medical certificate, upon half-pay.

11437. That is if your health is injured?—Yes. After twenty years' service, we can retire upon two-thirds; twenty-five years, three-fourths; and after thirty years, upon full pay. All those are with a certificate; but if an officer is sixty years of age, has served fifteen years, he can retire without any certificate. The officers in the Queensland force are sub-inspectors, inspectors, travelling inspectors, and commissioner.

11438. Is sub-inspector the title of the lowest officer?—Yes, the lowest commissioned officer.

11439. Is there promotion from the ranks?—Promotion in the white police can be from the ranks.

11440. Is that provided by the regulations?—Yes; but a great many officers, all the native police officers, are appointed independent of the police altogether. An officer, upon being appointed sub-inspector of native police, is sent to the senior officer of native police, and there he remains for six months, generally, and if he is found to be adapted for the service, he is given a detachment. If not, very often they are drafted into the white police as officers. Any native police officer is eligible to be transferred to the white police, and I might say nearly all the inspectors are native police officers, because our duties consist of both white police and native police duties. I may state that, a few months ago, when I was in Queensland, I saw the Acting Commissioner, who informed me that, if I remained in the service, I would be due for my inspectorship in a very short time, that I was on the top of the list.

11441. Would that be inspectorship in the black police or the other?—An inspector in the Queensland police is over both branches. He is equal to the rank of superintendent here.

11442. But does he change as he gets promotion from one to the other?—He goes to head-quarters, and is in charge at head-quarters of all the native police in that district and all the white police.

11443. You had an opportunity of still joining that again after your connection with this force?—Yes.

11444. You came here at the request of the Victorian Government originally?—Yes; I was doing duty in Cooktown at the time. I had been sent for. Two men had been murdered, and I came down 120 miles, and just after returning from this duty a telegram was handed me from the Commissioner of Police, Brisbane.

11445. There was no promise at any period given to fix you in the same relative position here that you had occupied in the force in Queensland at the time, or subsequent to your engagement?—I understood

William Phillips  
*continued,*  
9th June 1881.

S. O'Connor,  
14th June 1881.

from Captain Standish I was an officer here.

11446. You had no authority in writing?—No; none. This telegram from the Queensland Commissioner of Police stated that the Government of Victoria required a detachment of native police, with an officer who was capable of commanding them, and that he had chosen me for the duty, and wished to know if I was agreeable to go. I received it about 4 o'clock in the afternoon, and I accepted it before 5, and sent an answer. The telegram I have not got, because it came to the inspector of the district and was only submitted to me to peruse. I had to wait a day for the boat to leave, when I proceeded to Brisbane and Sydney; thence by train to Albury. There I met Captain Standish and placed myself under his command.

11447. Before you left did you ascertain exactly what your pay would be?—No; I understood I was to get double pay.

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S. O'Connor,  
*continued,*  
14th June 1881.

11448. Did you understand that?—Yes, double pay; I was informed that by the Commissioner of Police in Brisbane.

11449. Did he tell you he had written a letter to that effect?—Yes, and he showed me a lot of correspondence.

11450. Did he say double pay?—He said—"You will get double your fixed pay, and the allowances due to an officer of your rank in Victoria."

11451. Did you get the double pay?—Yes.

11452. An allowance of 12s. a day?—Yes, 12s. one month, and 12s. 6d. another.

11453. Did you get an orderly?—No, I had one of my own men.

11454. Was there any provision made for the statement that you then were on leave from the colony, or any memo. made of the position you still held—was it understood that in the event of any vacancies occurring your promotion should go on in your absence?—Certainly; I was down on the roll of officers as if I was doing duty in Queensland.

11455. So that if any vacancy occurred by death, or otherwise, your absence would not prevent you getting promotion?—No.

11456. And you left the Queensland force voluntarily?—Well, hardly that. When I proceeded to Brisbane, after the Kelly Glenrowan affair, I took everything over with me.

11457. Did you proceed to Brisbane by orders?—I did.

11458. You stated you were about proceeding to Brisbane on a letter of recall—have you that letter?—It was upon a telegram.

11459. Have you that telegram?—I think it is there. No; I believe it was not a telegram. I believe it was a telegram from my Government stating that Captain Standish had received orders to at once allow us to return.

11460. "Brisbane. To Inspector O'Connor. Leave will be granted to return if required. June 15th 1880"?—Yes, that was in reference to an application of mine, I believe.—[*The telegram was shown to the witness.*]

11461. There is the 14th before—"You will receive instructions from Captain Standish, who has been requested to send you back as soon as convenient. The leave you ask cannot be granted, you must accompany boys"?—That telegram was in reply to a semi-official note of mine to the Commissioner in Queensland. I stated about the way this boy had been taken from me, and that I considered the Chief Commissioner here was simply making a catspaw of us—would keep us until he got the other men over, and then give us the kick-out. I explained that to Mr. Seymour, the Commissioner of Police, and that telegram came.

11462. That implies you asked for leave of absence?—On the 14th, that was a reply to my letter. I then sent another telegram.

11463. Mr. O'Connor to Commissioner of Police, Brisbane, 14th June—"Of course will accompany, troopers, but request leave such time as required to arrange affairs. Will pay for boys myself during leave"?—Yes, this is the reply—"You must return with troopers without delay on receiving instructions from Captain Standish. Leave will be granted you to return if required."

11464. Where was King?—He misbehaved himself at the Lancefield bank robbery trip, and I recommended his dismissal, and he was dismissed in Queensland; and eventually on the recommendation of Captain Standish he was taken on with his rank taken from him, and he went into the police as a constable.

11465. King being away, if the Queensland trackers were ordered back, unless you went with them they would be without an officer?—Yes.

11466. In your letter dated 7th September 1880, you say, speaking of Captain Standish—"He made a series of communications to the Queensland Government, tending to depreciate me and to remove the men from my control and supervision. This was done without my knowledge, and, consequently, I had no opportunity of explaining to my Commissioner." Captain Standish's communications were these, and I may state that I applied for them to the Queensland Government, whom I am representing officially now, and they evidently misunderstood, and sent me the wrong letters, not the ones I asked for; so, if the Commission wish for them, it will be fully a fortnight before I can get them." have you those letters now?—No, I have not.

11467. Have you applied for those?—I have.

11468. What was the answer?—The answer to the last telegram I have never received, but I have applied several times.

11469. Have you got a copy of the letter you wrote applying for those communications that you think were sent unfairly by Captain Standish?—I wired sometime in August, and the reply was a private letter from Mr. Barron, the Acting Commissioner, dated 6th August 1880, stating that he had not succeeded in obtaining them.

11470. What was the nature of Mr. Ramsay's communication?—A letter from Mr. Ramsay to the Government, stating my services here and what he thought of them. Then I sent another telegram stating that was not what I wanted, and received a reply dated January 11th 1881, stating the necessary papers had been posted on that day. Those were not the papers that I wanted, and I then sent another application for them, dated March 17th 1881. Then he sent me an answer to that—"Copy of papers required posted this evening," that is March 18th, the next day.

11471. Have you received those?—I received papers—not the ones that I wanted, and I sent another telegram which I cannot find a copy of—it was when the Commission a short time ago referred me to the fact; I have not got those papers. I then sent at once a very strong telegram requesting the papers and mentioning the ones I wanted, and I have never received an answer to that. Mr. Barron, the Acting Commissioner, has got into a trouble over there, and I do not know what to do; I have not been able to get any reply.

11472. Have you written any letters since the 30th of March last?—No.

11473. What we require bears on a portion of your complaint which you state is borne out by this telegram that the correspondence had not been supplied, but on the 30th you stated you had received that—it will be fully a fortnight before you can receive those?—I then went on and said the copies will be in the office that will answer the same purpose, but now it is found they are not. All I can say is I have not got it, and that was what the Commissioner of Police told me at Brisbane.

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11474. Can you inform the Commission of the date of the first order directing your return to Queensland?—The first positive order to return, I believe, I got from Captain Standish through Mr. Hare—it was a memo. S. O'Connor, *continued*, 14th June 1881.

11475. That is the one you mentioned in your evidence?—Yes, I believe that was the first positive order I received.

11476. What was the date of that?—About the 24th of June 1880—I think I came down on the 25th, the next day.

11477. Have you any idea what representations led to that order being sent?—I can only tell what the Commissioner in Brisbane told me in Brisbane, and what he told me here again on his way to England.

11478. On the 3rd of May came this telegram to the Commissioner of Police, Queensland—"Re Mr. Palmer's telegram to our Chief Secretary desiring return of native police to Queensland, would you object to two of them being discharged if they consent to join our police? Moses was in our employ, but joined Queensland police on death of Sambo. It would be a great convenience to us to have two left. 3rd May 1880, from Captain Standish to the Commissioner of Police, Queensland." On the 19th May this letter is written to Mr. Nicolson by Captain Standish—"Memo. As Mr. Nicolson is aware, the Queensland Government not only refuse the black trackers to be employed save under the supervision of their officer, but have intimated to the Honorable the Chief Secretary their desire that they should be sent back to Brisbane as soon as possible. On receipt of this intimation I telegraphed to the Commissioner of Police at Brisbane to ask him if he had any objection to Moses and one of the other trackers being left behind with the view of their being permanently attached to our force. I attach copy of Mr. Seymour's reply. Mr. Nicolson will therefore be good enough to see Moses, and ask him if he is willing to join our police. I have obtained the authority of the Government to engage the services of four other trackers, and I am on the look-out for them both here and in N. S. Wales. Their pay will be 5s. a day, which will be handed to the officer in charge of the station where they stay, who will provide with food, clothing, and necessities, giving them the balance of their pay in small amounts from time to time. I shall be glad to receive an early reply?"—It was that letter that I considered put the finishing touch upon the discourtesy I had received up to that time.

11479. Was not your return ordered before that telegram was sent?—No, not to my knowledge.

11480. What we want is this, some communications that you lay considerable stress upon, that Captain Standish has acted unfairly by you?—Yes I consider that letter does it.

11481. That letter appears to me to have emanated from the Queensland Government?—No.

11482. Prior to that there must have been some decision by the Queensland Government to withdraw the trackers previous to that; there must be some correspondence on that?—What my Commissioner told me was that Captain Standish had repeatedly tried to get the services of my men, and dispense with me. That was the cause of it, and I kept on writing to my Commissioner that I did not think we had any justice shown us; and I suppose the Queensland Government, before this letter was written, ordered our return through the Commissioner, which never reached me. Then they wrote and asked for the men without consulting me or anything else, and then eventually sent that letter to Mr. Nicolson; and I consider, in a disciplined force, that is a most disgraceful course to adopt, actually to go behind me and induce one of my

men to leave, and my Government thought so also. There is some mystery connected with it.

11483. There is, because we are left in this position, that prior to that there must have been some communication with the Queensland Government?—Certainly, I admit that.

11484. We are left in this position of doubt, whether that communication came from you or any one else?—I have told you I did write to my Commissioner.

11485. Have you a copy of that?—No. I have been moving about so much since I came here that, upon my word, I cannot find half my papers. The purport of the letter was that I was complaining that Captain Standish, as far as I could see, was jealous of us so far, and would not let us go out if we got anything good. That was my communication.

11486. Independent of other considerations, there are those matters you complain of in this letter; in your evidence you stated that Captain Standish and yourself were on the best of terms for a very long time?—No, privately.

11487. I thought you said officially also?—For the first two months we were privately and officially, but after that we were not privately.

11488. You complained in one case, I think, during the two months?—No, I did not complain till the end of the two months; that was the first symptom I considered of his showing me discourtesy.

11489. You ought to write to the Acting Chief Commissioner of Police in Queensland, or to the clerk in charge of the papers, and ask him if copies of all the correspondence that has been forwarded from Victoria by Captain Standish have been sent?—I have done that; I have wired.

11490. But in the position in which you are placed, I think you ought to go into the reasons, and by letter?—It would take such a long time.

11491. In fairness to the Commission, you ought to give us every opportunity of judging between the parties?—I have wired three or four times.

11492. There was plenty of time to write?—When the Commission spoke of it before, I said that “The copies must be in this office, and there is no use sending.”

11493. You told us just now that you had sent a long telegram since the 30th March?—Yes.

11494. But there had been some difficulties with the then Commissioner of Police. I think you ought still to write?—Certainly, I will write.

11495. You took a note in your diary of the dates, I suppose?—I could only generally, because I never saw any of this correspondence; that is what I complain of. I was told by my Commissioner of Police about it. I do not know what dates they are.

11496. Was it at your suggestion, as to the expediency of recalling your men, that this letter was sent from Queensland?—Certainly.

11497. Was that by letter or telegram?—By letter.

11498. What date, about?—Sometime in the beginning of May or the last week in April.

11499. Have you a copy of the letter you wrote to the Queensland Government?—I have looked everywhere for my letters and cannot find them. I never thought it would be of any use at any time, through moving about at Brisbane and Sydney.

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*continued,*  
14th June 1881.

11500. A copy of that letter will be in the possession of the Queensland Government, the first letter you wrote asking them for your withdrawal?—No, I have made a mistake. I remember now that my communication to my Government, requesting our immediate withdrawal, was immediately after the boy Moses was taken from my command.

11501. Will you now make a note and ask the Queensland Government to furnish you with a copy of that letter you wrote, and all other letters written by yourself in reference to the withdrawal of yourself and the black trackers from this colony?—*[The witness made a note of the same.]*

11502. Were you under orders then from your Government, at the time of that letter of Captain Standish's to Mr. Nicolson, to take your men back?—No.

11503. Because up to that time you were, by instruction of your Government, absolutely under the control of Captain Standish?—Yes.

11504. You complained just now of the black tracker Moses being taken away from you without your being consulted?—Yes.

11505. He was no part of the body of men you originally started with?—Yes, he was.

11506. From Queensland?—No, but he was one of my detachment when my boy died. This man was a good-for-nothing fellow, and he came to me and said, “I am a Queensland boy, and I would like very much to go back to Queensland with you.” I said I would ask Captain Standish, and he said, “He is no good to us, and you had better take him if you like,” and I saw the boy and asked him if he would enlist, and I asked Captain Standish and wrote to my Government telling them what I was doing, and I enlisted the boy. The boy was then under me. I taught him everything I could of the work there, and when he got of some use Captain Standish tries to get not him only, but another of my men.

11507. Did you enlist him under the Queensland Government as a trooper?—Yes, and he was to go back with us to Queensland with the same pay as my men, that was the inducement.

11508. Was he selected merely for the temporary service of the Victorian Government?—Yes.

11509. He understood he was engaged on behalf of the Queensland Government and not Victorian?—Yes.

11510. If Captain Standish said in his writing to your Government Moses was in our employment, but joined the Queensland police on the death of Sambo, which would be correct, your statement or Captain Standish's?—Both of them would be correct.

11511. Surely that answer does not look as if he was in the employment of the Government—it says a useless fellow?—They were all useless, the trackers they had here.

11512. Was he in the employment of the Victorian Government when you enlisted him?—I cannot say whether he was or not positively.

11513. You cannot say whether Captain Standish is right or wrong about that?—No; but no doubt if he says so it is true. I must point out that I am under great disadvantage here, a long way from Queensland, and my Commissioner of Police is at home in England on leave, and the Acting Commissioner is suspended, for I do not know what, and most of my letters were semi-official and private nature to my Commissioner.

11514. What specially now do you want to prove to the Commission in this respect—that you suffered personal loss?—No, I do not want to claim anything.

11515. What is the nature of your complaint, and what redress do you seek through the Commission?—No redress at all. I only want it to be plainly seen by the public and everybody else that Captain Standish, from the time he refused me to go out to the hut business, treated me, officially, most discourteously, up to the time of the Glenrowan business.

11516. To prove that you, as an official of the Queensland Government, were not recognized with that civility which your position deserved?—Yes, officially; and at the time I applied for this Commission I was in the Queensland police, a very different position from what I am now. If I had resigned at that time I would not have called for an enquiry at all, but I considered it damaged me in my own Government's eyes.

11517. Was there any complaint made of your conduct as an officer of the Queensland Government officially, by a superior officer of the Victorian force?—No officer, to my knowledge, ever commented disparagingly upon me but Captain Standish, and I only knew that from my own Commissioner of Police. He said to me these words, "O'Connor, I could not make out what was the matter—Standish was writing to us wanting to take the men under his own command, and dispense with you—that was what we inferred from it, and we did not know what you had done."

11518. As a matter of fact, did the Government of Queensland look upon you as in any way degraded by the representations made, or was your official position damaged in the slightest degree by the representations made?—When I arrived in Brisbane, after the Glenrowan affair, I was met by a constable who handed me a letter, which was a formal communication, calling upon me to explain my conduct at Glenrowan; that I had never been mentioned in the press, and that the officers had never mentioned my name, and therefore calling upon me to explain exactly what had happened. I considered this letter was damaging, and I wrote an account of Glenrowan there and then, and I sent in my resignation at the same time. Next morning, I called upon the Commissioner, and he said, "O'Connor, I am very sorry you have taken that step, you are riding the high horse, we never meant it like that. The Chief Secretary wished to find out from you the real facts of the case, in your opinion, of Glenrowan, and he caused me to write that letter. I request you will withdraw your resignation." After a little conversation I withdrew it, and I wrote another report about Glenrowan, just dealing with my own self, and I think it was the next day the Governor sent for me, and the Chief Secretary and the Governor both had a long talk with me about the whole thing. Mr. Seymour told me about Captain Standish's writing, and trying to get those men from under me, and when I told him about the boy being taken in the way he was, he was quite shocked he said he never thought for a moment, he said, any man an officer of police, would ever have thought of taking him from under my charge until he had finished with my service.

11519. Was it said in the presence of the Governor?—I do not think so.

11520. Assuming that impression may have existed at that particular time, the subsequent reports, congratulatory reports, which were forwarded by this Government, by the Chief Secretary and Governor, removed any sort of feeling which may have existed prior to that time?—I quite agree it would but I had left just as the latter came to Queensland.

11521. As a matter of fact the complaint, if there was any necessity existed for it at all, is, by your own admission, at once removed by those documents, received officially from the Victorian Government subsequently?—I do not blame anybody but Captain Standish, the Government never treated me wrongly.

S. O'Connor,  
*continued,*  
14th June 1881.

11522. You have alluded to a report you gave to the Queensland Government about the Glenrowan affair; will you produce that official report?—I have not got it, but it is nearly the same statement that I gave here—there is nothing further in it that happened there. I will send for it.

11523. If we have the correspondence you referred to, shall we not be in a better position to judge as to the treatment you received at the hands of Captain Standish?—Yes.

11524. The Queensland Government must have those letters in their possession, written by Captain Standish to them?—Yes. May I point out you may not see what I mean in reference to taking these men over. As my Government stated at the moment, they never understood that Captain Standish intended to

have taken these men from under my charge while we were actually doing duty in the colony. That is what I found fault with.

11525. You mean those men could have been left behind when you left with the troopers?—Yes, they could have been left in the Victorian service.

11526. Is not that in keeping with that letter of Captain Standish's to Mr. Nicolson—he asked for two to remain?—He said he had communicated with the Queensland Government, and they had eventually allowed him to keep Moses; but Captain Standish was in an official position, and knew it was an improper thing to take this man from me while I was doing service here. If he had said, "You are dispensed with, and we wish to keep this boy," there would have been no harm in it. He kept us as a catspaw, and tried to take the whole lot of my men from me, that is the discourtesy.

11527. Is that borne out by the letters?—Certainly; he is telling Mr. Nicolson to go over and take the boy over at once. Of course there were rumours months before that we were going.

11528. It is an arrangement to take two men simply, apparently?—No; that was what my Government meant; the letter came at 11 o'clock and he was taken over into the Victorian force by 12.

11529. This is the letter:—"Re Mr. Palmer's telegram to our Chief Secretary, desiring return of native police to Queensland, would you object to two of them being discharged if they consent to join our police. Moses was in our employ, but joined Queensland police on death of Sambo. It would be a great convenience to us to have two left"—There ought to be another telegram in reply to that; I saw it myself when it was sent up to me. It was this:—"You can take over or retain the services of Moses."

11530. Is there anything inconsistent in that telegram with the position that Captain Standish held with the Queensland Government in asking them to allow it to be conceded to him?—No; that is right enough, though he might have done it through me.

11531. You say it was in consequence of Captain Standish trying to get trackers other than those you brought that you wrote to the Queensland Government?—No; I had been writing a series of letters complaining of the way I was being treated, but this letter put the finishing touch, in my opinion, and I wrote after this boy was taken over, complaining of what was done, and asking for our immediate withdrawal, as I thought a great act of discourtesy had been done, and my Government said it was with the understanding of our withdrawal that this boy was taken over.

11532. You say that Captain Standish continually attempted to get some of those trackers away from your control. Now this letter of his to Mr. Nicolson sets out that the black trackers are to be relieved, and he has telegraphed asking that some may remain in the colony, and the only one dealt with is Moses; so there is nothing in that letter to say that Captain Standish wished to take the trackers from your control during the time you had charge of them?—Yes.

11533. As a matter of fact, did he take Moses from your control there and then?—He did, and at the same time retaining us as you can see; and on the 24th he told us we could go, and he took Moses over on the 19th, the date of that letter, and would have kept us for the month if he could, until he got his own men over from Queensland. It is not this one act of discourtesy, but I complain of a series of acts of discourtesy.

11534. This is one of considerable importance?—Yes.

11535. I want to ask you this: I have read Question No. 1203 over, where you lay particular stress on Mr. Hare's report of the Glenrowan affair; do you think there is any force in your objection to that portion of Mr. Hare's statement, under date of the 20th July 1880, after listening to all the witnesses examined in the Glenrowan affair?—I think that Mr. Hare's statement is the most improper one; he admits that my evidence is correct; he does not give my statement—he just puts two lines in.

11536. Mr. Hare states, on his return after being shot, he saw you running up the drain?—I say that is wrong; I will not say anything further.

11537. Listening to the whole of the witnesses examined, do you consider Mr. Hare was not justified in making that statement that he saw you in the drain?—It is false, because I was not in the drain when Mr. Hare was there. We have got it in evidence, from the man Reardon, that I was not in the drain, but in another position.

11538. Mr. Hare does not say any particular drain; he simply says after he was shot you retired, and he saw you in the drain?—He states in his evidence-in-chief it was not a drain, it was only a depression in the ground. When I asked him he said he did not mean the drain—there was a depression in the ground—[*indicating on the plan*]. I admit Mr. Hare has got several men who swear to his statement, but still I say his statement is not correct; that is all I can say.

11539. I am dealing simply with his report; the only thing he says about you there is that, after he was shot, he saw you running up the drain?—Mr. Hare never saw me in the drain, because I never was in it when he was on the ground.

11540. You will understand that the Commission urgently desire you to apply for those documents that have been mentioned, and request you to apply forthwith?—I will do so.

*The witness withdrew.*

*Adjourned to to-morrow, at Eleven o'clock.*

WEDNESDAY, 15<sup>TH</sup> JUNE 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

J. H. Graves, Esq., M.L.A.,

W. Anderson, Esq., M.L.A.,

E. J. Dixon, Esq., J.P.,

J. Gibb, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.,

G. C. Levey, Esq., C.M.G.

Stanhope O'Connor further examined.

S. O'Connor,  
*continued,*  
15th June 1881.

11541. *By the Commission.*—Did you ask the Secretary to write to the Police Department, to Moors, the chief clerk, for telegrams?—Yes, and for all correspondence between the Chief Commissioner of Police here and the Chief Commissioner of Police in Queensland.

11542. Is this the reply to it?—Yes.—[*The same was read as follows*]:—"The attached are all I can trace bearing on the subject.—H. MOORS, 14.6.81." "N 577, of January 1880, was a telegram to police, Brisbane, about the detachment of two troopers from Mr. O'Connor's party, and keeping them at the depot. We asked if any objection to this; the arrangement would be advantageous."

11543. That refers to the correspondence you have been asked to produce?—Yes.

*The witness withdrew.*

Charles C. Rawlins sworn and examined.

C. C. Rawlins,  
15th June 1881.

11544. *By Mr. O'Connor.*—You remember the special train arriving at Glenrowan with the police and yourself?—Yes. I wish to ask if I am to be cross-examined on the evidence I gave before the Reward Board, because there were certain corrections I made in that, and I have not yet seen the revised copy.

*Mr. O'Connor.*—I do not wish to deal with that evidence at all.

*The Chairmen.*—There is certain evidence before the Commission as to what was done by Mr O'Connor, given by Mr. Hare, Captain Standish, and others, and Mr. O'Connor wishes to traverse that.

*Mr. O'Connor.*—I will not go out beyond what I have stated in my evidence.

*The Chairman.*—The evidence from the Reward Board is not before us at all.

*Mr. O'Connor.*—I will not deal with that at all.

11545. *By Mr. O'Connor (to the witness).*—When you got out of the special train what position did you take up on the platform?—I went off that—went away with Mr. Hare.

11546. But when you got out of the carriage?—I went up to Mr. Hare.

11547. And you proceeded where?—He said, "What shall we do?" and I pointed to Jones's hotel, and said, "There is Jones's, that is McDonald's, that is the station-house. You come with me to the station-house I know the station-master; I will get the information where they crossed the line"; and he said, "All right, but you are not armed."

11548. Did he give you any weapon?—Yes, a Webley revolver.

11549. Whose was it?—I do not know.

11550. Did you see where he got it from?—He took it out of his belt; it belonged to the police, I believe.

11551. Was it a weapon he was carrying?—I think so.

11552. You got some information at Stanistreet's and returned to where?—We came back—ran back to the platform.

11553. What was done then?—They were getting out the horses when we got back.

11554. What did Mr. Hare do; did he come up and speak to me?—I did not notice; I was standing at the end of the platform, next the railway station.

11555. Did he give orders for the horses to be taken out?—He did before he went away. I understood when we went away that you were to see the horses were taken out.

11556. *By the Commission.*—How did you understand that?—Simply because Mr. Hare turned round when he came there and said, "The horses are being taken out"; and Mr. Hare walked down that way, and I saw him speaking to Mr. O'Connor. I did not hear any order given or anything else.

11557. *By Mr. O'Connor.*—In the act of taking out the horses, was it correct that Bracken ran down on the platform?—Yes, just after one truck was unloaded he came down, before there was a horse taken out. The first horse that was tried to be taken out stuck.

11558. What did Bracken say?—He spoke to me first when I was standing at the end next to the Glenrowan hotel, watching Jones's.

11559. The Benalla end?—Yes, I was looking out for the Kellys to come out, because Mrs. Stanistreet told me they had just left there. I saw Bracken come out of the house, and jump the fence.

11560. *By the Commission.*—Do you remember the conversation you had with the station-master's wife?—Yes.

11561. Tell us exactly?—I looked in and saw her sitting on the bed with all the clothes huddled round her. There was a light there, and she had the children with her. We tapped at the window, and Mr. Hare at the

	<p>door, and she did not reply, and I tapped again at the window, and she said—"Who is there?" and Mr. Hare said—"We; the police." She was sobbing, and Mr. Hare said—"What is the matter?" and she said—"Oh, the Kellys, they have taken my husband away"—she said—"into the bush," and we said—"How long ago since they were here?" and she said—"Five minutes ago; they were to go"—and she pointed over to Jones's, and said—"there at the back." I asked her just as I was coming away—"How many are there of them?" and she said—"Forty."</p> <p>11562. Did she say they were taken to Jones's hotel?—No, she pointed to the back of Jones's from the bedroom where she was sitting on the bed, and Jones's was there—[<i>indicating by gesture</i>].</p> <p>11563. <i>By Mr. O'Connor.</i>—What happened after Bracken gave the alarm?—Mr. Hare said—"Let go the horses, and come on."</p> <p>11564. Where was he standing when he said that?—He was standing about opposite the door where you went to take the tickets, between that and where you put Bracken against the wall. You caught Bracken by the arm, as far as I remember, and Mr. Hare came up and said—"What is up?" or "What is the matter?" and then Bracken told you and Mr. Hare together again what it was.</p>
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11565. Then what took place?—Mr. Hare said—"Come on, boys," or lads, and we went.
11566. Did you accompany Mr. Hare?—I did.
11567. Were you in the lead?—I was immediately behind Gascoigne, I think it was.
11568. In reference to Mr. Hare?—I was about three yards from him.
11569. *By the Commission.*—Who was first?—Mr. Hare.
11570. Who next?—I think Gascoigne or Kelly—we were all together, the three.
11571. *By Mr. O'Connor.*—Did you see myself?—I know you left the platform with us. I did not see you after we got past the first culvert.
11572. Will you explain which?—[*The witness explained on the plan.*]
11573. Will you explain where Mr. Hare was when the first volley was fired?—He was through the wicket gate.
11574. *By the Commission.*—How far from the hotel?—About sixteen paces from the nearest corner, next Benalla, before the shot was fired. There was not a shot fired until he was as near as that. I thought he was going to rush the place, and we who were going—there seemed to be no stop at all.
11575. *By Mr. O'Connor.*—Where were you when Mr. Hare reached that position?—Between him and the fence. I was nearer the gate, just about where the posts began to turn off.
11576. Did you see anybody else through the gate?—Yes, there were either five or seven. Five rough the gate and two over, because I counted the number when I thought the place was to be rushed, and some men ran across here, some jumped the fence between the railway wicket gate and the station master's house.
11577. Upon arriving in this position it was where Mr. Hare received the wound?—I think so. I did not see him receive it.
11578. If he states that was where he received the first shot, was that where he received it?—Decidedly, if he says he was shot by the first shot, that is where he must have been shot, because he never went any further. I know there was one shot, just like that—[*the witness clapped his hands*]—and then four quickly afterwards.
11579. Then the police returned fire?—Yes, fire opened up all round.
11580. That is you mean in front?—Every man in front, because they went close. Bullets went through the fence, close to me. I heard them go through, and strike the wire too.
11581. What happened immediately after Mr. Hare was wounded?—I do not know. I could not tell because I did not know whether he was wounded. When I first knew he was wounded he was doubled up like that—[*illustrating by gesture*]. That was the first information I got. I heard him say he was wounded. I was not thinking anything about him at the moment, I was excited.
11582. Did he tell you he was wounded the moment he was?—I could not tell you; I do not think so. I do not think he could.
11583. You mean he remained standing up without saying he was wounded?—I could not tell you really; I do not understand the question.
11584. Will you state to the Commission what Mr. Hare said to you?—He said, "I am wounded; I must go back."
11585. Did he do anything else?—He did not go back at the moment, but very shortly after.
11586. Did he hand you his gun?—Yes, his gun and bag.
11587. Saying what?—He said, "I must go back." I went down to the station with him.
11588. Did he say these words, "Rawlins, I am wounded; take my gun and bag, they are, no use to me, I cannot load again"?—He made use of an expression of that kind. I asked him for the gun before.
11589. *By the Commission.*—When he made use of that, had he retired through the wicket gate or not?—He was on the side next the hotel at the time he spoke to me about the gun, between the hotel and the gate.
11590. Was his hand tied up at this time?—No, not at all; he was holding his wrist with his other hand.

C. C. Rawlins,  
continued,  
15th June 1881.

11591. *By Mr. O'Connor.*—Will you state where he went to?—I went down first of all with him to this first culvert, and then I stopped there, and we met some of the reporters; and then I went down to the station-master's house; and then I went with ammunition back to Senior-Constable Kelly, who had asked me to go back. I left the gun at the station when I went away.

11592. *By the Commission.*—Were you close to him after he said he was shot?—Yes, standing within three yards.

11593. Did he load again?—I could not tell you. In the excitement of the moment it would be impossible to tell, the smoke was so thick, and the yells, you could not see one another, the firing was so rapid. The smoke was blown gently on to the hotel, and it came up from the railway fence quite thick. You could not see anything at all, you could only hear people yelling and talking.

11594. Did he load?—My impression was at the time he did not load again, but, of course, I did not see. I say this merely because the wound seemed to me to be so severe that he could not load again.

11595. Several witnesses have sworn that after Mr. Hare was shot, he sang out to Senior-Constable Kelly to surround the place, that he was shot, and not allow them to escape; did you hear that?—Yes, I did, and I heard Kelly answer him too.

11596. Did you hear him sing out to Mr. O'Connor at any time, "O'Connor, I am shot, do not allow them to escape"?—No, not "Do not allow them to escape," he said, "I am wounded, O'Connor, I must go back."

11597. Do you know in what position Mr. Hare was when he said that to Mr. O'Connor, was he inside or outside the wicket gate?—He was inside, within the railway station reserve, just at the bridge.

11598. The first or second bridge?—The second bridge.

11599. Did you see Mr. O'Connor at that time?—No, I heard him.

11600. Do you know where he was at the time you heard his voice then, when Mr. Hare addressed him?—I cannot tell very well on this plan.

11601. Did Mr. O'Connor answer?—Yes, he was somewhere here about the fence, but I know I heard him shortly afterwards, when the wounded boy Jones and the woman came out. He challenged and said, "Let the woman come out"—just there—[*pointing to the plan*].

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C. C. Rawlins,  
*continued,*  
15th June 1881.

11602. If you can, I want you to indicate where Mr. O'Connor's voice came from at the time Mr. Hare addressed him?—From here—[*pointing to the plan*].

11603. Where is that?—I did not see him.

11604. Do you know there is a gully running down there?—Yes.

11605. Was it in any portion of that you supposed the voice of Mr. O'Connor to come from?—Yes.

11606. Was that the gully nearest to the railway fence?—Yes, there is a corner in the drain, I looked at it in the morning, in which you can stand up and get a shot at the house. When I was at the railway gate where McHugh came with the wounded boy, I was most anxious that this part of the road should be defended.

11607. *By Mr. O'Connor.*—Before coming to that. On not seeing me you were not prepared to swear where I was?—I could not swear where you were when Mr. Hare was shot, because this was several minutes after.

11608. You accompanied Mr. Hare, you stated, back from the field?—Yes.

11609. Carrying his gun and ammunition?—Yes.

11610. Where did you eventually leave Mr. Hare?—I eventually left him in the railway carriage while I went with ammunition to Senior-Constable Kelly.

11611. How long were you away before you again saw him?—About ten minutes.

11612. Where was he when you saw him the second time?—He was in the railway carriage.

11613. *By the Commission.*—You stated you left him in the railway carriage?—I left him to get into the carriage, but I do not think he had sat in it. I went away twice from the platform.

11614. *By Mr. O'Connor.*—When you first brought Mr. Hare back from the field?—That was Stanistreet's—we did not go to the station at first.

11615. And then from there you accompanied Mr. Hare to the platform?—Yes, and he was to get in the train and be sent back.

11616. Ten minutes after this you found him?—I went with ammunition to Senior-Constable Kelly because they were short, and I then saw Mr. Hare in the railway carriage with your wife and Mrs. Webb.

11617. Can you remember any remark the ladies made to you in reference to Mr. Hare?—They asked me to go down in the train with Mr. Hare.

11618. For what reason?—Because Mr. Hare was calling out—they were frightened.

11619. Do you remember Mr. Hare asking you to get him a horse to ride to Benalla?—Yes.

11620. He asked you. He said, "Rawlins, get me a horse, get me anything, so that I can get to Benalla"?—He said, "Send me down to Benalla," and I then went to see the engine-driver to take me down, and your wife wanted me to go down in the carriage with them because they were frightened, Mr. Hare seemed so ill. The engine-driver told me that he was frightened to take the train.

11621. Then he said to you. "Rawlins, go and get the engine ready"?—Yes, he said, "Get an engine, get anything, send me back to Benalla."

11622. And you went and told the engine-driver?—I did. He wanted to take him back. The engine-driver did not seem to know what to do.

11623. This engine went down without Mr. Hare?—No, the one that went down without Mr. Hare went down when fighting was going on.

11624. Before Mr. Hare got to the platform?—Yes.

11625. This second engine—what did Mr. Hare do—did he get into it?—I arranged with the engine-driver to take him on the engine, instead of taking the carriages back, to run down without them. He said, “I will run him down in ten minutes;” and I went and brought Mr. Hare out of the train and put him on the engine, and he went away.

11626. How long was that from the time he had been first wounded—to the best of your opinion. Time appeared to go very slowly there, I know, but you can give an opinion?—Well, I do not suppose it could have been more than twelve or fourteen minutes the whole thing, but of course it is so difficult at this moment to remember what happened.

11627. A quarter of an hour?—About that.

11628. Were you at Glenrowan the remainder of the day after Mr. Hare left?—I was there to the end.

11629. Did you see me going about?—Yes, I saw you twice before the prisoners came out. After that I saw you repeatedly.

11630. *By the Commission.*—Which prisoners?—Reardon and family, and the others.

11631. *By Mr. O'Connor.*—The mob of prisoners?—Yes.

11632. What was I doing during that time?—During the time I saw you?

11633. Yes?—You came to the carriage to see your wife and tell her you were all right. The other time you were in conversation with Mr. Sadleir. That is all that I saw up to ten o'clock. You had a big handkerchief round your neck.

11634. At the time the prisoners came out did you see me?—No.

11635. Do you not remember standing alongside of me and calling to the prisoners in a loud voice?—Yes, that is the time you were with Mr. Sadleir. We went down together to the tree. That was just the time the prisoners came out. I remember I asked you who it was that fired the shot at the flag of truce, because it came from the drain.

11636. What time was it when you first saw me?—The first time when you came to tell Mrs. O'Connor it was all right—that was after Mr. Hare was gone.

11637. Can you fix about the time?—No, it was dark, and I never dreamed of looking at my watch at all.

11638. *By the Commission.*—Was it before the capture of Ned Kelly?—Yes.

11639. Did you see him at the capture of Ned Kelly?—No.

11640. What was the next time?—The time he refers to he had a red comforter on, and there was a flag waved at the door. The moment it was out some shots were fired from the drain, and I said, “For God’s sake, do not fire at a flag of truce,” and then we went to a tree and we gave them ten minutes to come out.

11641. Where was Mr. O'Connor?—He was with us.

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11642. Was that before the capture of Ned Kelly?—That was after the capture of Ned Kelly.

11643. That would be about ten o'clock?—It was half-past ten when the prisoners came out.

11644. Did you see him between the time at the drain and the time when the prisoners came out?—C. C. Rawlins,  
continued,  
15th June 1881.Once, when he came to Mrs. O'Connor.

11645. *By Mr. O'Connor.*—You mentioned that you saw me shortly after the capture of Ned Kelly—can you remember the time?—I saw you with a comforter round your neck with Mr. Sadleir; but you were about with Mr. Sadleir all day after that.

11646. That was when the people came out?—Yes.

11647. *By the Commission.*—What do you mean by being about with Mr. Sadleir?—I saw Mr. O'Connor with Mr. Sadleir. They were going round from point to point round the place, the time the firing was going on into the place at different angles, so as to get at the chimneys. That was after the prisoners were out.

11648. *By Mr. O'Connor.*—Were you there at the burning of the house?—Yes.

11649. Were you near Mr. Sadleir when Senior-Constable Johnson proposed burning the house?—No.

11650. When did you first know the house was going to be burned?—I was at the tree with Hart’s brother, and Johnson ran across from there. I was between the railway gate station and Jones’s public-house. When the fire was put in, Mrs. Skillian came along from the station along the road, and was going up to the house. The constables called out to her to come back, and she came out to this tree, at the Benalla end. I saw Johnson run across with a wisp of straw all on fire. The police were firing at the side of him; and he put it under the chimney at the Benalla end, where there was a hole, and he ran back, and it gradually lit up the inside.

11651. Who was it called out to cease firing—do you know?—Well, the first call I heard about cease firing was when that man called out, “For God’s sake, do not fire into the building, it is full of women and

children"; and I heard you call out, "Let the women out." This was a man inside the building. I do not know who he was, because just before that there was a terrific volley fired at a man who came out in the front, and that was accompanied by shrieks and screams inside. That was the first time I knew there was anybody inside.

11652. Did you hear anybody call out "Cease firing"?—Yes; three or four people did, and "Lie down till daylight."

11653. You cannot swear who it was?—No; I heard you call out, "Let the women out," when McHugh came out with the boy on his back. Do not you remember you bailed him up?

11654. When this man came out and the women came out, did you hear me speak at all?—Yes, that is how I found out exactly where you were.

11655. Will you say what I said?—You called out, "Bail up; what have you got; who is that?" or something of that kind, and this man called out, "A wounded man." Mrs. Jones was standing at the railway gates at the time, and the daughter was with me there. She had bleeding from the head.

11656. Did you hear me address a man on the left, to see that the Kellys were not coming out with them?—Yes; I heard words to that effect, but I did not know whom it was to.

11657. At this time Mr. Hare was at the platform?—Yes, that was the time I came with the ammunition.

11658. *By the Commission.*—Can you throw any light on the time Kelly came out?—He never went back again; he came out of the house when Curnow stopped the train.

11659. Where were you then?—We were down at the train.

11660. Do you know whether Ned Kelly came out to shoot at the police on the verandah?—He had not been in again.

11661. Do you know whether he came out of the house to shoot at the police—of your own knowledge?—No.

11662. Was he in the house?—He was not in the house at all.

11663. Was he one of the four that fired at the police when they came up?—Yes, but he came out from behind the chimney, and the second time after he emptied his rifle they called out to come on to the train. He went back again behind the chimney.

11664. Are you speaking of what you know of your own knowledge?—I saw a man; he came out from behind the chimney; the first shot that was fired on the verandah. He was standing on the end at first, firing down in this direction towards the gate. He fired the first shot, and then he went in and loaded again, and then came out into the open that looked on to the drain, and called out, towards the drain, "Fire on, you — cocktails, you cannot hurt us." Every one could see him quite plainly, and there was a terrific volley fired at him, and it was the time the yells occurred, and that was the first time I knew people were in the house.

11665. Was that the time that Mr. Hare called out "Cease firing"?—There were a good many called out prior to any shots being fired, "Cease firing." Mr. Hare was going through the gate; the time he had retired. He was going back. When I was on the platform, after we came back from Mrs. Stanistreet's, I stood on the end of the platform, watching Jones's. I saw a rider coming in the main road along the railway fence, and he went to the side of Jones's. Whether he got off his horse, or what he did, I do not know. I lost sight of him there through a lot of bushes. Just as he was going along here, Bracken rushed out and spoke to me first, on the platform.

11666. Have you read the evidence in this case?—No, I have not, only one man's.

11667. It appears to me that your evidence rather contradicts some evidence given before by other witnesses. I understand you to say that Bracken first came out and spoke to you after he escaped from the Kellys?—Yes, that is right.

11668. Was Mr. Hare then with Mr. O'Connor?—Well, I could not tell you exactly.

11669. Yes or no?—I could not say yes or no. He left me to look after the horses.

11670. What horses were they?—Some we had in the trucks.

11671. The black trackers' horses and Victorian police?—Yes.

11672. They would be some of those that belonged to his own party?—Yes.

11673. When Bracken came down and told you, did you tell Mr. Hare, or did Bracken?—Bracken went up, and Mr. O'Connor got hold of him and got him against the wall, at the station, about ten or twelve yards from where I was.

11674. From what Bracken told you, and told the party, did you see Mr. Hare and Mr. O'Connor run up towards Jones's house?—Yes, we all went together.

11675. Did you hear Mr. O'Connor talking to Mr. Hare when you were running up?—I do not remember that. I do not remember there was a word spoken, we went so quietly—I do not think so. We ran on tiptoe as far as we went. I did at any rate.

11676. Did you go through the wicket gate?—I did.

11677. Did you see Mr. Hare go through?—I did. He led the way.

11678. Did you see Mr. O'Connor go through?—No.

11679. Would he be in your rear?—He would, when he got to the gate.

11680. Can you say where you last saw Mr. O'Connor, from the time you saw Bracken until Mr. Hare was wounded?—At the second culvert.

11681. Was he on the culvert, or in the drain of the culvert?—I did not see him after he left the train. He was on the track when I last saw him.

11682. Mr. O'Connor says, "When at a short distance from the front of the place, we were stopped by a volley of bullets from its verandah"—would that be correct?—We were stopped.

11683. Who?—I could not tell you—the five or seven.

11684. Would Mr. O'Connor have been one?—I am not prepared to say he was not with us. I know the three men who were with us, three men and myself, that is all out of the seven.

11685. You were by at the time that you believed Mr. Hare was wounded?—Yes, I was standing close to him.

11686. Did you hear him say, "O'Connor, I am wounded, shot in the arm, I must go back"?—Yes.

11687. If Mr. Hare was shot outside the culvert, how do you reconcile that with the fact that when he was wounded he said to Mr. O'Connor, "I am wounded in the arm, I must go back"?—I do not know what time exactly he was wounded. I know I heard him say that to Mr. O'Connor as we were going back to the railway station. I know Mr. O'Connor answered him, but what he said I do not know.

11688. The point we want to get explicitly from you is, did Mr. Hare say that to Mr. O'Connor "I am shot," upon the ground where he received the shot?—No, he did not. It was on time way back after this terrific volley was fired. You could not walk back where this fire was; they were shooting close to the ground.

11689. Then Mr. O'Connor was not present exactly in the position outside the gate where Mr. Hare was shot?—I could not say, because it was after that he spoke to O'Connor. I did not see Mr. O'Connor at all, I only heard him.

11690. Where did you hear him?—It was below that culvert where I heard his voice, speaking to Mr. Hare, and Mr. O'Connor said something, I do not know what it was. That was when we were going back, after all the volley had finished.

11691. Mr. O'Connor says, "Mr. Hare's statement as to having fired several shots is untrue"—can you say whether that is correct or not?—I cannot say whether it is.

11692. You say when you took Mr. Hare to the platform after he was wounded that you carried his gun up there?—Yes, I carried it in my hand.

11693. You say you then got ammunition?—Yes, I got ammunition; they were getting short of it, and I went back to Kelly.

11694. Did you see Mr. Hare's arm bound up by the reporters?—No.

11695. Can you say, of your own knowledge, whether, after his arm was bound up, Mr. Hare returned towards Jones's house from the platform?—I cannot say; when I came back he was in the train.

11696. You cannot say what occurred from the time of your leaving him at the platform wounded until you came back, when he was in the carriage?—No; that is exactly the part I know nothing about.

11697. How long was it from the time you left until you returned?—I could not tell exactly I went right round the whole place.

11698. Might it be seven or ten minutes?—It might be more; I do not think it is any more.

11699. Did you go all round the men?—I went right round the whole position.

11700. Then it must have been about ten minutes?—I did not hang about anywhere; it would not be long.

11701. Had you gone round all the positions before Mr. Hare left for Benalla?—Yes. When I got to the railway gate I gave Senior-Constable Kelly one lot of ammunition, and then I went round in about, I suppose, not more than ten minutes at the outside.

11702. To serve the men with ammunition?—I only gave to those I could find.

11703. Did you surround the hotel as far as the extreme back—the stockyard fence?—I went close to the stockyard.

11704. Did you come round to the place where the Wangaratta men were placed later in the day?—Yes, I did.

11705. After Mr. Hare left the ground, and before the arrival of Mr. Sadleir, did you at any time hear Mr. O'Connor give any orders to the men stationed on the ground?—No, I did not.

11706. Who appeared to take charge of the men after the wounding of Mr. Hare?—Senior Constable Kelly.

11707. Was he, in your opinion, acting as the superior officer?—I understood he was the man in charge, and that Mr. O'Connor only came up as a volunteer.

11708. Who really did take the position?—Kelly.

11709. Did you see Mr. Sadleir after he arrived on the ground?—Yes.

11710. About what time?—I was away at the time he arrived. I first saw him coming out of the drain at the time of the capture of Ned Kelly, when we were carrying the body down.

11711. Were you away at the time he arrived?—I had gone to stop the Wangaratta train, as it was dark, and they might come over the broken line. I stopped the train at the gap, and also stopped the man who was taking the horses away.

11712. How soon after you saw Mr. Sadleir at the time of the capture did you see him giving orders to the men?—I did not see him giving any orders in the morning.

11713. Did you remain at the ground till after the hotel was burned?—Yes.

11714. Did you hear him give any orders during the day?—No, I did not; I was not near him. I did not take any active part in it then, there were so many.

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11715. Are You sure you saw Mr. O'Connor at the railway station before his wife left in the train for Benalla?—Yes. C. C. Rawlins,  
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11716. Can you fix about the time?—No, I could not do it.

11717. You are certain that the train that took Mrs. O'Connor back to Benalla had not left the station before Mr. O'Connor returned to the station?—No, I am quite satisfied I saw him speak to his wife.

11718. *By Mr. O'Connor.*—You stated you understood that I was a volunteer—from whom did you understand that?—I understood it from Mr. Knox, that you had left the force altogether.

11719. Of your own knowledge you did not know what arrangements might have been made?—I heard you had actually gone to Queensland.

11720. You never heard that I had not made arrangements to return on the same footing as I held before?—Well, I did in the train.

11721. From whom?—The reporters. They said when you heard the Kellys had broken out you volunteered to come up to Glenrowan and do service there.

11722. You must understand that the police in another colony may volunteer to do duty and still be the police?—Yes, no doubt about that.

11723. You did not know positively that I was only a volunteer?—I merely believed so; I knew you had severed your connection with the police.

11724. Is it not a fact that you, from subsequent knowledge, only knew that Mr. Hare did not return?—That is not a fair question to put. What I may have stated outside as being my impression is not evidence.

11725. What you have heard since?—I cannot say. I have heard many things. I do not think that is a fair question. I am not going to say about what I thought. Whatever I may say of my impressions outside this building is a very different thing from giving evidence here.

11726. Have you not heard?—I have heard a great many things. I am not going to say what I heard. For one thing, I heard that Mr. Hare was not there at all, that he was shot at the railway station.

*The Chairman (to Mr. O'Connor).*—I do not think that is a proper question. The witness is on his oath, and is simply bound to reply to what he knows himself.

11727. *By the Commission (to the witness).*—At the time Mr. Hare asked you for a horse, do you consider he was in a state to have ridden a horse safely to Benalla?—Oh no; I would not have let him get on a horse at all.

11728. There could be no doubt that his retiring from Glenrowan was in consequence of the loss of blood he sustained from the shot?—The general shock to the system and loss of blood. I did not think so much of it at the time, as I could not tell exactly the extent of the wound. I was trying to stop the bleeding; it was bleeding very severely.

11729. From what you saw at the time and what you knew after, was it from any feeling of cowardice that he was deserting the field at Glenrowan?—No, I do not think so I think it was from fear of fatal results if he did not get the bleeding stopped. He must have been in very great agony, because he said, "For God's sake, Rawlins, send me back to Benalla." That was after I had been round with the ammunition.

11730. You, of your own knowledge, are not in a position to state whether Mr. Hare did or did not return to the front after you first arrived with him at the station?—I could not say.

11731. Was there sufficient time for him to have had his hand bound up at the station and have gone to the front and returned to the station before you saw him again?—I do not know really; I could not tell you. I know I tried to stop the bleeding with a towel, with a tourniquet; I suppose it took some minutes.

11732. No one else tried to stop the bleeding before that?—No.

11733. After your trying to stop the bleeding, you had in the meantime served out the ammunition before you again saw Mr. Hare?—Yes.

11734. *By Mr. O'Connor.*—Mr. Hare, in his evidence, stated that upon being wounded he went back straight to the platform; you say you took him down to Stanistreet's house?—Yes, that is quite correct; we went back to the corner and we met the reporters who came out from the drain.

11735. You went along the fence down to the station-master's house?—No, we did not. After Mr. Hare was wounded we went back through the gate, and he spoke to you, and we went down here—[*The witness indicated the various positions on the plan.*]

11736. *By the Commission.*—From the loss of blood and shock, might it not be possible that Mr. Hare might be a little mystified about what took place at that time?—Well, I think he was; he seemed completely knocked up.

11737. You accompanied him from the place where he was wounded back to the station platform?—Yes.

11738. Did you go back then by the same route that you took going?—Yes, exactly.

11739. Did you not come through the wicket gate both in going towards Jones's and in coming back?—Yes, over the same ground exactly. There is one thing about the affair that I want particularly to say.

A statement has been made that there was indiscriminate firing by the police into the building after the order was given to cease firing—that is not true. There were occasional shots fired, but there was not that indiscriminate firing that was represented by some witnesses. The police acted very well, I considered, right through. I saw the capture of Edward Kelly, if you want any evidence about that.

11740. Were you present when Ned Kelly fell?—Yes, I was. I was on the station when the first shot or two was fired, and when I saw he was moving down towards the fence I moved up there.

11741. Did you see which way he fell?—He fell with his head up rather, with the log on his left-hand side.

11742. Did you see whether his helmet came off then?—His helmet rolled off as he fell down.

11743. Did he trip or was it the effect of the shot?—He was shot by somebody, I am sure, in the knees.

11744. That would be your impression at the time?—Yes.

11745. Would it be with a revolver or a rifle?—Neither, at that time. He was shot with buck-shot from a double-barrelled breech-loader.

11746. Were you present when the revolver was wrenched from him?—Yes, I was close enough to see it—it went off when it was being taken away from him. Sergeant Steele had hold of his arm.

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11747. Who seized the revolver?—Steele got hold of the revolver and I held down the wounded arm on the other side. He was shot in two places in the arm and had his arm on one side, and Steele pulled over his hand, and as he fell back his helmet rolled off, and Steele pulled him down and took the revolver out of his hand afterwards, but it went off while we were doing that.

11748. Are you confident Steele was the man who took it?—Steele was the man who had hold of his arm. I would not swear he was the one that took it out of his hand.

11749. The railway guard, Dowsett, swears he wrenched it out of Kelly's hand?—He was there, but I could not say that he took it.

11750. He has the revolver now, and says he never gave it to anybody?—Well, I had the armour in my possession, but they would not let me keep it. I carried the armour down to the station after we took it off, so I suppose it belongs to me, at that rate.

11751. Did you see Mrs. Reardon coming out from the door?—Yes, I was there at the time.

11752. Did you see anybody shoot at her?—No. That part of the arrangement was just after the time I came back, after stopping the Wangaratta train. The reporters said the police had challenged some body up in the bush, and I said that was the Wangaratta police. I crept up to one of the tents and watched the house for a good time. We heard a noise inside, and, while listening, we also heard Steele challenging some one on the Wangaratta side, and then I heard a woman say, "Oh, my child! my child! Oh, my boys! Oh—(everybody)." Dowsett, the guard, passed close to me. It was pitch dark at that time, and I was straining my eyes to see who it was coming out. I could see it was a woman carrying a baby in her arms, and Dowsett said, "Step this way, Mrs. Reardon." He was within two yards of me at this time, and he lifted her clean over the fence and took her to the platform, and almost immediately after there was a great shout and Steele fired. It was he challenged her, and he fired two shots in quick succession. I was watching her. Steele said it was Dan Kelly in disguise, and he fired two shots at that moment.

11753. Did you bear anybody threaten Steele if he fired on the woman?—No. I heard Bracken threaten to shoot Dwyer at the time we had Kelly on the ground; he got fearfully excited.

11754. Would that be the constable that kicked him?—He kicked him on the side of his leg and said, "Why did you kill my mate, Lonigan?" I thought the police were going to kill Kelly right off.

11755. Do you think Sergeant Steele fired at the woman?—No, I do not think so; I think he fired at the house at two people, one crawling along the ground.

11756. Did you see that one crawling?—Yes; one dropped down on his face; the other walked back.

11757. Did you see that one who walked back; had he his hand up?—He put his hand up at the time they said, "If you do not go back I will shoot you." The other fell on his face and wriggled back.

11758. Did you see whether the one that walked back with his hand up was shot?—I did not think he was; he did not fall down.

11759. He fell as he got close to the door?—He got out of my sight as he got to the door.

11760. At the time Kelly was taken, did you see any movement amongst the police as if they were running away?—No; they ran the other way. I never saw a single man behave with cowardice the whole time. That one shot fired at the flag of truce was the only thing. It came from the front of the building. They kept up a tremendous fusillade from there; no one could have got out of the front of the building.

11761. Do you think that shot was fired by one of the black trackers?—It might have been.

11762. Did you hear Steele make any remarks when he fired those shots?—Yes; that was how I know him—I knew him personally. He made use of some expression with an oath in it; what it was I do not know. I was too far away to hear exactly what he said. I heard "Throw up your arms," and "It is Dan Kelly in disguise." I was lying down watching those two figures. After Mr. hare had gone from the place altogether for half—an—hour, I went to Curnow's, to get a plan of the inside of Jones's, as I had arranged with Mr. hare to meet the police on the Benalla side, so as to keep them from coming to the front of time house. 4.30 a.m.

o'clock I met an engine with two men on it, and they told me about the police coming from Wangaratta, and I asked them whether they knew where time gap in the line was, and they said, "Yes; it is at the foot of the bank." I said, "No; it is on the top of the bank." Then I went up to the station, and the reporters said something about the horses being taken away. I went off and caught a man taking the horses away, and when I got to the gap I heard the train coming up, and I struck a match, and the train stopped close to the gap. I also drove the horses back.

11763 Have you any notion of the time those troopers arrived?—It was five o'clock exactly; when I got to the gap it was about five. I struck the matches when the train came up, and a man challenged me and I told him who I was. Nothing would have prevented them going into the gap, because when he found the gap was not where it was represented to be, the engine-driver thought it was on the Benalla side, and he was going right into Glenrowan, full speed, when I stopped him—they would have been certainly wrecked. He made an affidavit to the made an affidavit to the effect that I saved the train. (mum, and Mr. Sadleir sent in an affidavit also that it was I that got the prisoners out at half-past ten.

*The witness withdrew.*

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Stanhope O'Connor further examined.

11764. *By the Commission.*—Do you purpose calling any more witnesses?—the Secretary knows of two witnesses in town, Mr. Sadleir amid Mr. Nicolson; then there is Mr. Knox amid Mr. McBain on one point only. The point is as to whether I was doing my work equally with Mr. Sadleir after he arrived. If the Commission feel justified in stating they have sufficient evidence on that point, I need not call them. Several witnesses stated they did not see me with Mr. Sadleir, but I think the other witnesses have stated that they did.

11765. The bulk of witnesses have stated that after ten o'clock, from that during pretty well the whole of the day, you were about where Mr. Sadleir was?—That is all I want those witnesses to prove, but Mr. Sadleir and Mr. Nicolson will be decidedly necessary for me to have.

11766. What point are you going to refer to now—we will continue with your evidence now. The last question was in relation to the report of Mr. Hare that you took exception to?—Yes, and I said I considered it a most improper one.

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11767. We will come to your own report—"A private quarrel occurred between Mr. Hare and S. O'Connor, myself" you state in your report?—Yes.

11768. I think it will be necessary for you to state to the Commission the nature of the private quarrel?—I must decline stating what the actual quarrel was, but I can state it generally—it brings a lady's name in. This quarrel had nothing at all to do with anything I have stated in the report.

11769. Does this quarrel affect the friendship between you and Mr. Hare after you had that quarrel?—No.

11770. The point is here. We find that each officer has quarrelled with every other officer, and they have all indicated that they have quarrelled; and it is the intention of the Commission, I think, to get to the very bottom of that quarrel, so far as it affects public business?—I can give an *ex parte* statement of what I know, if you wish it.

11771. You had a quarrel of a private nature, in which Captain Standish took sides with Mr. Hare?—Yes.

11772. The friendly relationship was revived between you and Mr. Hare?—Yes.

11773. And you would be on friendly terms in the office?—Yes.

11774. But that did not obtain as between Captain Standish and yourself?—No, we were never on terms of private friendship after.

11775. The statement is that "Captain Standish, who was not in any way concerned, took part against me, and carried it into official matters"?—Yes.

11776. "He made a series of communications to the Queensland Government, tending to depreciate me"—do you think those came out of a private quarrel?—No. Captain Standish's communications, from what I heard from my Commissioner, did not touch on what he viewed as my private character.

11777. You refer in that to correspondence carried on by Captain Standish behind your back?—Yes.

11778. "And to remove the men from my control and supervision"—that is the correspondence that we are now asking the Queensland Government for the papers of?—Yes.

11779. "Upon this Captain Standish had the man taken out of my party, and attached to his police, although he (Captain Standish) still required our services. For the discourteous manner in which this was done, my Government requested our immediate return." Is there anything in the communications between you and your Government to lead you to believe that your Government took that view of it?—Certainly.

11780. And we may expect that in the papers that are to come?—Yes. I can tell you what I stated to the Government without the papers.

11781. Do you believe that correspondence would have been of the same nature had the same friendly feeling continued between you and Captain Standish?—Certainly not; because Captain Standish repeatedly pressed me to accept service in this colony, to have my station at Dandenong, and that I would

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have anything I liked, with my men, if I would accept service permanently in Victoria; and, after that, he offered me Kilmore—that is, the appointment would be made after the Kellys were taken.

11782. Was this all verbal?—Yes; and Mr. Hare himself has heard Captain Standish himself say this. I believe in my cross-examination of Mr. Sadleir he can state so; but I know Mr. Hare has repeatedly spoken to me in the same strain, telling me, “Eventually, O’Connor, you will get the dépôt, and lead just as jolly a life as I have led.” Those were the words. The moment this quarrel happened Captain Standish, instead of being “Hail fellow well met” with me, instead of giving me the run of the city, as he said he could, and my men, ignored me completely.

11783. He was completely altered in his demeanour towards you?—Completely altered.

11784. You have nothing to add in connection with the search parties?—One thing. I want to point out this—you notice that I, from the very first, wished to work with a small party. Captain Standish would not allow me, and then he pleads that we were useless because we were so big. You can see that he states in his own evidence that I wanted only two men, but he would not allow me, and a few lines after that he says that they were perfectly useless because they were such a large party.

11785. You look upon that as depreciating your services, putting you in the wrong and then blaming you for it?—And then blaming me for it.

11786. You consider that Captain Standish did that without justification?—Which?

11787. That he made you take large parties, and then blamed you because you had to carry large parties about?—He has done that in his evidence.

11788. You think he was not justified in that?—Certainly not. When I offered to go out with two white men, that was all I wanted.

11789. You would have all your boys?—Yes, that would have made eight men.

11790. Did he not object to that previous to the quarrel?—Yes, from the very first; but he never made any objection before to us until this Commission, and then his first evidence is that we were utterly useless.

11791. He objected on the first occasion to your only taking two, is that it?—No when I came, sitting in the office with him, he said, “Now, O’Connor, what is the way you work?” I said, “Well, sir, I would like to take two white men, Victorian constables; I would like them for watches at night. I can trust everything to my boys with that one exception, and they are no good for that.” “Why,” he said, “you take two men, you do not know what kind of men those outlaws are. If you leave your horses anywhere, they will turn round and hamstring or shoot your horses. You must not think of such a thing. I would not allow it. You must take not less than six or seven men.”

11792. Then, from the first, he did that?—That was the day before we started out. And then he said to me, “Whenever you leave your horses, it would be advisable to leave a couple of those men with them, and mind, O’Connor, you go out in full charge of the whole party.” Turning round to Mr. Sadleir, he said, “Mind, Sadleir, although you are superintendent of police, you are not over O’Connor.” That has reference to the first party, and the other parties were just the same. The first time I ever heard Captain Standish breathe a word about our uselessness on account of the size of our parties was after this quarrel. I did not hear it officially, but I heard it reported.

11793. How long was that ago?—This would be about a couple of months after Mr. Nicolson went up to take charge. I heard it reported, “Standish is trying to get the men without O’Connor. He would like to break them up. He says it is no use trying to work with such a large body of trackers, a couple would be enough, and that O’Connor will not allow his men to work without himself.” This was just the

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report that I heard at this time. I wish to state to the Commission that I never did refuse to allow my men to be worked with or without myself. Captain Standish has, without consulting me, actually sent u from Melbourne for me to send two of my men down to Sandhurst for work, and I have done so without a murmur. The only objection I had was to separating the men permanently; and my opinion was that it was simply done to show that my services were no longer of any use, because the moment my men were distributed over the country I could not supervise all of them, and I took that as what his idea was.

11794. Then I understand the gist of your disagreement with Captain Standish is that you considered he was trying to circumvent you—to take the men away from you and to show that you were not required?—Exactly, to show that I was not required.

11795. And that he became more offensive after this private quarrel that you spoke of than he was before towards you?—Privately before he was always on friendly terms, but most insulting sometimes, but still always kept up a friendly relationship between us—that is in private matters; but after this quarrel of course all private friendship ceased, and until the Glenrowan time I think I only saw him once for a few minutes when he came up to Benalla.

11796. In your report you say of the Glenrowan affair—“Mr. Hare and myself were considering the best course to adopt when Constable Bracken rushed down on the platform and gave us the information that the outlaws were in Jones’s public-house. Mr. Hare and I ran up towards the house, he talking to me, and

when at a short distance from the front of the place were stopped by a volley of bullets from its verandah;” did you go through the wicket gate that time?—No.

11797. Where did you stop?—Well, I should imagine it was about five yards from the wicket gate, the railway side of the wicket gate, and I most emphatically state what I saw with my own eyes that Mr. Hare might have been in the wicket gate, but he was not through it, because there was no fence between him and me, I recollect no other men besides Mr. Hare, and simply knew him because he spoke to me—whether any other man was between—they were coming up and passing us probably. I could not mention any one man except Mr. Hare, he was speaking to me running up—that is how I knew who he was.

11798. There was no fence between you when he was wounded?—When the shooting first commenced and when he called out, there was no fence between him and me.

11799. Then you absolutely contradict those statements which have been sworn to?—I most solemnly swear that what I state happened within my own eyesight. I do not say he did not go through the gate after he was wounded, but when he was wounded he was at the gate or in the gate, but he was not through it, and I was five yards from him. I noticed him because he sang out to me— O’Connor, I am wounded, I am shot in the arm, I must go back—one after the other, and he turned back to the station I imagined.

11800. Did he pass you?—He went behind me, and that is all I know about him.

11801. Did you see him any more?—I swear solemnly I never saw him from that moment till I met him in the evening in his bed. He never came up to the fence where I was again.

11802. Then you assert it was almost simultaneous with the first firing he cried out “I am wounded”?—We had just replied. I had not time to load again. I was in the act of loading when he spoke to me, and he only addressed me on the first go off when he was passing behind me. I heard him speaking, I heard him say something about “wretches,” I do not remember any more than that. It must have been almost simultaneously with the firing, because I had not time to load my breech-loading rifle. I was in the act of loading when he spoke and I looked round at him, and he was then passing back to my rear. I was in no trench or drain, I was standing out in the open with the other men.

11803. Then you did not hear him at all cry out to cease firing?—I most solemnly swear nobody ever called out “Cease firing” until I did. After that it was taken up all along the line. What made me sing out that was I heard the women, and that was the first intimation I had of there being anybody in the house except the outlaws.

11804. Were you near enough to see whether he reloaded?—I was five yards away from him.

11805. You would notice the action if he had reloaded?—I noticed the fire of his gun, and before I could load again he spoke to me, and I had fired the same second as his bang, and he sang out, “O’Connor, I am wounded,” and turned round with his back to me and commenced to walk down to the platform, and he never loaded his gun I swear, in my sight.

11806. He could not have loaded it there?—Not while he was with me. I can hand you in the statement of Rawlins at the time where he states that he had the gun immediately Mr. Hare was wounded.

11807. And he carried it to the platform?—Yes.

11808. He gave us that in evidence to-day?—Yes, I have no wish to run Mr. Hare down in any way—that is no wish of mine. If Mr. Hare had simply stated—given credit where it was due, stated I had helped him and assisted him instead of writing the report as he did, I should never have called for an enquiry. I never wanted such a thing, and I am only stating what I saw actually with my own eyes. I wish to hand in this letter dated 8th June, it ought to be 8th July. It is from Constable Kirkham.—[*Reading the same as follows:*]—“Benalla, 8th June 1880.—Sir—If there is any investigation, will you be up? Steele has called Constable Kelly everything. Steele says Arthur ran away. Kelly says he was surprised to find me in the trench with you, he wants to know why Riordan or that man that passed out when the girls passed out was not challenged. I say he was challenged by you both times and by me also the second time he passed out. He has talked about me running away, I don’t know what from. Sir, can you let me know when you sail, as I shall have to borrow money off Ryan to return what you so kindly lent me, if you are returning before next pay is due to me. I have sent Ensign article in Mr. Nicolson’s favour. The jealousy and slander here is something frightful; according to Kelly, Arthur and I will catch it at the investigation, there boys are tall and slender, and three say they are Barney’s Brothers; please forgive the liberty I have taken in writing. (Signed) T. KIRKHAM, Const. 2986.”—I may state it was at Glenrowan the man Kirkham wanted some money, and I gave him a five-pound note—the only change I had. I left the day after Glenrowan for Melbourne, and the constable wrote me this letter. I replied—told him to keep the five pounds and buy something in memory of my sojourn in Benalla, and asked him if he had seen my statement in the Argus and if he thought it was the correct one. He replied by letter that it was the correct statement of all others that he had seen. Again, upon coming from Brisbane, in passing Benalla I met Constable Kirkham, and he came up to the carriage window and shook hands with me, and informed me that everybody was doing their best to depreciate my services and were so — jealous, and that Senior-Constable Kelly wanted to take the credit for doing everything—All that is in reference to this letter.

he saw me running up a drain, as I did not take cover for fully ten minutes after Mr. Hare disappeared?"—I will not swear to ten minutes, but it as after Mr. Hare left the front before I took cover.

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11810. You have heard the evidence of others, will you still say you considered yourself the officer in command?—I do not now consider it. After you read me out the regulation, certainly I did not. I know I could not have been an officer in the force at any time, but I was under the impression that when I came over, all arrangements had been made and that I was recognised. I never heard it cavilled at. I never heard a soul say or hint such a thing that I was not at that time. At Glenrowan I did consider I was an officer.

11811. That was between the time Mr. Hare left and Mr. Sadleir arrived?—I considered I was the officer in charge.

11812. The sworn statements of several witnesses there say they did not consider you were in charge at all. Did you do anything whatever during that time to show that you were in charge?—I will tell you more fully than is made clear in my evidence what happened during that short period. The moment I could collect my ideas after the first firing, I told the men to take cover. I gave the order to cease firing. I ordered the women to come out, and as they passed up challenged them. I then thought there was nobody else except the outlaws in the hotel. My idea was to wait until daylight before any steps had been taken, and I looked round for the most suitable place, to command the front of the house. I looked out for the position that would be safe, and the place where I could command the front of the house. Senior-Constable Kelly came to me immediately after—after the first firing, and he conferred, if you would call it so, as I considered he was the second in command. We talked about what was the best thing to be done, and he said, "I will go round to the rear," and I said, "I will remain in the front." I deny most emphatically his statement that he asked me to go and place the men with him. He said, "I will go round to the back and put some men there," and I said, "I will remain here, it is a good place and I can command the front of the house." We conferred like that. When he came the second time, and said about finding the gun he said, "My God, O'Connor, I believe one of the outlaws have got away," and my reply was, "I will swear they have not got out of the front, not a living man has got out of the front without my seeing," and I said, "Kelly, you ought to have remained at your post at the rear." That was my idea of taking charge of both sides of the house. I have been blamed for not taking a more active part, but I did not think there was anything more to be done than guarding the front and rear. I understood Kelly was at the rear, and I was at the front, and I considered it was quite sufficient to keep those places until daylight.

11813. Then you swear that Mr. Hare did not give any command at all before he left?—In my hearing, I never heard him speaking except in an undertone, about as loud as I am talking now, to somebody behind—it may have been to Senior-Constable Kelly. He may have been giving him commands, but I did not hear him.

11814. You did not hear him telling you to get the house surrounded?—Certainly not. My men were not together—my men were separated among the police. I was just a unit amongst them myself. We were all scattered all round the front. By the evidence you would think I had my five men in a heap, and he asked me to spread them out. It was nothing of the kind, I was by myself.

11815. Is it your opinion that Mr. Hare, when he sent that report, purposely intended to reflect on you, where he stated you ran to the drain?—I considered the report. There is no doubt about it—it was calculated to make a bad impression as to my conduct.

11816. This is what I want from you—you have stated that you and Mr. Hare were on the very best of terms, even going up to Glenrowan, and up to the time of the occurrence?—Yes.

11817. Have you formed the opinion that Mr. Hare purposely made allusion to you for the purpose of injuring you?—I could not say that, but that was my impression—my impression was that there was something behind that. It was not of his own free will, because I always considered him a most manly fellow. He stated he wrote it when he was ill. Somebody must have done it for him, and I believe there was some other person gave him the idea to depreciate me, in order to raise himself—that is my opinion as you have asked me. I had not seen Mrs. Hare since this quarrel till I saw Mr. Hare when he was wounded, and the moment she saw me she came out, and shook hands with me, and said her husband wished to see me, and I said "Certainly," and went into the room, and he put his sound hand out. "O'Connor," he said, "let by-gones be by-gones—we must not think of anything but our old friendship after such an ordeal as we went through," and I seized his hand and shook it, and we were on the very best of terms.

11818. Then that would indicate that he did not exactly consider he was on the best of terms before that?—Well, we never had a real make up of the quarrel. Two letters were written. He wrote me one and I answered it. That was the quarrel. We never spoke or saw each other until Mr. Hare arrived in Benalla to take command. He shook hands with me. We never referred to the quarrel which made it so far that we were on the best of terms—friendly terms, privately and officially.

11819. You had been on the best of terms from the 2nd June 1880 to the 24th June—till you wrote?—Yes. Of course you know there was a certain restraint between us, we were not on such jolly terms as before, but to all intents and purposes we had made up the quarrel without referring to it, and it was after the fight that we, you might say, returned to our old relations—what we were before—really good terms.

11820. Do you think on the morning of the 29th, when you went down with him in the train, that Mr. Hare had anything whatever to do with the reports that appeared in the metropolitan papers giving a full account of what had taken place—the capture of the Kelly gang at the Glenrowan hotel?—Certainly I think he had, and I will explain in a few words. Mr. Hare came from the front wounded. By the evidence, Mr. Hare was tended by the reporters. Mr. Hare stated what he had done—what he knew there and then. Where else did the reporters get their information? Mr. Hare admits sending one telegram which I would very much

like to see.

11821. Which is that?—One which he sent down—the first about the fight.

11822. The one that he speaks of that he sent when he arrived at the telegraph office at Benalla?—Yes.

11823. You would like to see a copy of that?—Yes. Then Mr. Hare came down to Benalla, where he saw several people and told them all that he did—those all travelled and got into the press. Everybody was anxious to hear something about it, and I say this is what colored the whole thing. “I did this and I did that”—Mr. Hare did that. Nobody else would know what any other person did at the time, because I had not been to speak to—the reporters.

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*continued*,  
15th June 1881.

11824. Do you believe that Mr. Hare then—if your suspicions be correct—furnished the information to the reporters of the press, was really then desirous of keeping your name out of the thing?—No, I do not say that for a minute.

11825. Would it not be natural for any one in giving a description of what had taken place to have said “I did so and so”?—Certainly I admit that, but I do not admit that he did right to write that report afterwards.

11826. You suppose that after the heat of the action, any one asked for information would tell what he himself had done?—Yes.

11827. Particularly as it was done in the darkness of night?—Yes. The only communication I had with the members of the press was—I do not know how they came till Mr. Melvin came up and, as the evidence stated, touched me on the back.

11828. One of the other witnesses said it was their special province to obtain information. The constables said they were interviewed by the members of the press?—Yes.

11829. So that there were a number of police constables gave evidence to the press as well as Mr. Hare and others?—Yes, and I may state that I never spoke to a member of the press until I put that short résumé of what happened at Glenrowan into the Argus on the 30th, or some date after.

11830. We have had statements made—would you be kind enough to inform the Commission the conditions under which you stipulated that you would join the police force, in the position that was proposed recently to confer upon you?—That if they offered me a suitable rank I would accept it.

11831. Was the nature of the rank stated?—No.

11832. Would you then have accepted any position lower down the scale than superintendent?—Yes.

11833. Would you have accepted any position lower down than sub-inspector?—Certainly not; I would not take any rank, I may tell you, in the Victorian force under inspector.

11834. In other words, you would not join the service in the ranks—Queensland or any other service?—No, certainly not.

11835. Would that have been only as it affected the black trackers?—Certainly not.

11836. In the same position as any other?—As a member of the force.

11837. You would be in this position in the North Eastern district, that you would take charge if the superintendent was away?—Yes, but put me in the North-Eastern district, as it is there as an inspector I would be junior in rank to Mr. Montfort.

11838. And to two others?—No, senior to two others.

11839. Mr. Baber?—Mr. Baber would be junior.

11840. And Mr. Pewtress?—Junior, I would be second in command.

11841. And would have command if he were out of the district?—Yes, I would join as an inspector.

11842. You could have been removed at any time to any other district in the same position?—Yes, or in a higher position.

11843. Was it to be only of a temporary nature or permanent?—Permanent. I may just tell you exactly what passed. I received a telegram asking me to come and see Mr. Chomley. I came in, and he said, “The Chief Secretary wants to offer you the command of the trackers in the North-Eastern district.”

11844. What date was that?—Just the day before the Commission took action in regard to it I called, and Mr. Chomley and I had a long talk about it. I said, “Look here, Chomley, I would not accept that billet.”

11845. Are you sure it was only the day before?—Only the day before or two days before that, and Mr. Chomley said, “The Chief Secretary wishes to give you command of the trackers,” and I said, “I am very much obliged, but I would not take it.” He said, “Not take it?” and I said, “No, certainly not, I do not know those men. They have never been drilled. They do not know what a weapon is or what a horse is. They have been taken out of the bush up in Queensland and brought down here as trackers. They may be very good, but I am not going to take the responsibility of taking them under my charge, for in the event of a mistake in tracking I should have to bear the whole onus.” I said, “No, thanks, I would not think of doing it, but if the Chief Secretary wishes I would accept a suitable rank in the force, and do my best to assist them in looking after the trackers—such as picking men that are suitable, because all men are not—to look after them—teaching the men how to do so. I will do so, and take the men out and see what good they are for trackers.” Mr. Chomley said, “Will you come up and see the Chief Secretary?” and he went up with me and went in before me, and a few minutes after I was called in, and Mr. Berry said, “Mr. O'Connor, you have heard what Mr.

Chomley said?" and I said, "I hope you have heard what I said to Mr. Chomley;" and he said, "Yes, it was never my intention to give you a position solely in charge of the trackers and nothing else; my offer was as an officer in this service, and of course I would expect you would assist in any way you could in looking after the black trackers, but I never for a moment thought that you could sacrifice your duties and confine yourself solely to the black trackers as you did before." I said upon those conditions of course I would accept the appointment, he then said, "Well, Mr. O'Connor, when do you think you can go up?" "Well," I said, "I could go up at once but there is this Commission; I must first of all find out from them." And he made some remark I cannot quite remember— "Oh yes, I forgot the Commission—better let the thing remain until you get permission from them to go up." So I asked the Commission then. That is the whole thing that passed, and you gave me permission and then retracted it.

11846. Had you any conversation with any member of the police force prior to your receiving that telegram from Mr. Chomley?—Never—not one.

11847. No conversation as to the probability of your joining the Victorian police force any time within a month of receiving the telegram?—Never since the Glenrowan affair, and it was just as great a surprise to me as probably it was to a great number of others when I was offered it.

11848. Did you have any conversation with any member of the police force after receiving the offer of the appointment, and before the morning that we took objection to your appointment?—I never spoke to any member of the police force outside our men, until I had seen Mr. Berry and met them in this room, and then I spoke to Mr. Sadleir and I spoke to Mr. Nicolson.

11849. Would it be unfair to say whether they approved or not?—Mr. Nicolson did strongly approve of it and Mr. Sadleir also at that time, but they said that it would cause a great deal of dissatisfaction in the force amongst the constables.

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11850. Did he tell you that it would be contrary to the regulations, which have the effect of law?—He did not, but I have seen the regulations.

11851. If you will look at that list, you will see the inspectors there—[*The witness did so*]. Were you to be in addition to those men or to take the place of any of them?—That is more than I can tell you.

11852. You did not hear?—No.

11853. The rank was not decided upon, except that you would not take anything under an inspector?—I did not say so to them.

11854. You would not accept anything under?—No.

11855. You would not have taken a lower position than that of inspector in the police?—No.

11856. I ask you now, having reference to the regulations, are you aware that an appointment to that position, there being no vacancy, would be contrary to the regulations?—No.

11857. They provide that, "When a vacancy occurs in the higher grades of the force, and the duties of the vacant office are of such a nature that the Governor in Council shall be of opinion that there is no person of lower grade in the department who is competent to discharge them, the Governor in Council may appoint such person as he may think fit, although not previously engaged in the police force, and with or without examination or probation"?—Yes.

11858. I contend that you could not have got that legally unless there was a vacancy?—How can you tell there was not a vacancy. I believe there are two or three inspectors short, but I could not state positively. I believe when I was up in the North-Eastern district, there were one or two or three inspectors short, I cannot say positively so, therefore it would come within the Act if there were.

11859. You do not know of your own knowledge there was one short?—No, I never enquired.

11860. Those telegrams sent by Mr. Hare have been put in?—I have never seen them.

11861. "Captain Standish, Melbourne Club, Melbourne.—The pilot engine was stopped half-a-mile from Glenrowan, and we were told that the line had been pulled up by the Kellys miles beyond Glenrowan. Train and pilot went up to the Glenrowan station. I jumped out of train and went to station-master's house. The wife told me everybody in Glenrowan had been taken into the bush by the Kellys. I immediately ordered every man out of the train, and at same moment Constable Bracken rushed up saying he had escaped from Jones's public-house, and for God's sake go quickly or they will get away. I ran away with two or three men following me, and I went up towards Jones's, and when I got within fifty or eighty yards, a shot was fired from the house and struck me in the arm (not seriously). I immediately got the house surrounded by all the men I had. I have telegraphed for the men from Wangaratta, and Mr. Sadleir with all available men from here are going up at once." That is 5.10 a.m.?—May I point out the point in that. You see here is a telegram written immediately after, and Mr. Hare admits it is fifty to eighty yards. We all know that the distances seem a great deal shorter than they really are, and that would corroborate where I say Mr. Hare was. The witnesses all state he was within five or ten yards—nobody could make a mistake like that in writing a telegram.

11862. Is there anything more you wish to say?—I may just point out that there have been a great number of witnesses who stated that they did not see me, and did not know I was there and all this. Well, in any court of law if one man does see you it upsets all the evidence of those who do not—is not that the fact?

11863. Is there any one that did not see you during the day?—Yes, certainly.

11864. Is there any one witness that we have examined who makes that statement?—Yes, that they

S. O'Connor,  
*continued,*  
15th June  
1881.

did not see me on the ground, doing duty on the ground—I believe Senior-Constable Johnson denied having seen me. I wish to add as to the position in the drain being so extraordinarily safe, that the man alongside of me, Trooper Jimmy, a Queensland tracker, was wounded, and I stood exactly the same chance of being wounded that he did, and the others in the drain also, and when he came down to Essendon he showed symptoms of erysipelas through suffering from his injuries, and I called in Dr. Turner, who attended him several times and made a charge of four guineas, which was refused to be paid—I suppose by the Police Department.

11865. You made a claim?—No, the doctor did. That was done although the medical attendance on Mr. Hare was over £600, and I believe it was paid.

*The witness withdrew.*

*Adjourned to to-morrow at Eleven o'clock.*

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THURSDAY, 16<sup>TH</sup> JUNE 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;	
J. H. Graves, Esq., M.L.A.,	W. Anderson, Esq., M.L.A.,
G. W. Hall, Esq., M.L.A.,	

John Sadleir further examined.

11866. *By Mr. O'Connor.*—You have heard, during some of the evidence given at this Commission, John Sadleir, reflections cast upon me, as showing a want of courage?—I heard a good deal of the evidence to that effect.

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11867. Now will you state what was my behaviour during the expeditions when you accompanied me; did I evince any fear?—You mean in March and April 1879?

11868. Yes?—Certainly not.

11869. Did I not request that only two constables should accompany me?—Yes, I am pretty sure of that.

11870. Will you tell the Commission what I always asked you to allow when we came upon tracks which were fresh, and which we all thought were the outlaws?—I mean as to the working of the trackers?—You asked me to hold back all the white police and let you go on with your boys alone, which I refused to do.

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John Sadleir,  
*continued,*  
16th June 1881.

11871. And in your opinion it was just the opposite to showing fear in meeting the outlaws?—Oh, most decidedly; we came to an understanding that I could not allow that early in our first trip.

11872. From the time you arrived at Glenrowan on the morning of the 28th June until you left did you consider I showed a want of courage?

11873. Then, from your own knowledge of me, a charge of this nature would be untrue?—So far as after I arrived on the ground.

11874. That is from your own knowledge of me?—Yes.

11875. Do you remember the first occasion of my going out in search of the outlaws?—You went out first with me.

11876. Do you remember it?—Yes.

11877. In my evidence, page 50, question No. 1074, I said—"Prior to leaving, I told Captain Standish that I only required two of his men; but this I was told was not sufficient, and I must take not less than six Victorian constables with me. Captain Standish informed me, in the presence of Mr. Sadleir, that I was to be in charge of the party." Is this true or not?—Yes, that is perfectly true. I would like to state to the Commission, in explanation of my share in that, I was at the time not quite certain that I could stand the exposure, and thought that I should probably have to return in a day or two.

11878. *By the Commission.*—You stated in your previous evidence you had been suffering from rheumatic fever?—Yes, also Mr. O'Connor being a stranger I wished to avoid any dispute with the head of the department in his presence. Captain Standish's order was an unlawful one, he had no power to give it, it was not in his power.

11879. What order was that?—That Mr. O'Connor was to be considered as in charge of the party, and as soon as ever I found I could stand the exposure, I gave Mr. O'Connor to understand I was the senior officer. The facts as stated by Mr. O'Connor were perfectly true that Captain Standish did put him in charge or say he was in charge of that party.

11880. To you?—Yes, in my presence.

11881. You now express the opinion that, not to have any unpleasantness, you submitted temporarily to that?—Yes, for the two reasons that it was uncertain that I could remain out, and I wished to avoid disputes with the head of the department before a stranger, Mr. O'Connor.

11882. Am I to understand that this order was given without any previous consultation with you?—

None whatever.

11883. Your reasons for not remonstrating then could not have influenced Captain Standish; he was not aware of your reasons?—No, I should think not; it came upon me as a great surprise.

11884. He had not consulted you before?—No; and it was contrary to all the regulations of the service; and if he had consulted me I should have known what to do.

11885. Is not that an action in every sense that would be resented in any service?—It is actually unlawful; no officer can do it. Our ranks are apportioned by the Governor in Council, and no head of the department has any right, without actual suspension from duty, to take such a step.

11886. In question 229, Mr. O'Connor is questioning Captain Standish, "Do you not remember saying to Mr. Sadleir that, although he was superintendent, he was to be under me for that party?—Certainly not." That was an independent command given to Mr. O'Connor by Captain Standish?—We were, three of us, standing on the hearth.

11887. I mean it is not the position of parties, but it was an independent command; he gave him the command in your district independent of you?—No, there could not with that distinction. If I accompanied the party, I held my rank in spite of Captain Standish or anybody else, except the Governor in Council.

11888. Did Captain Standish say that at that time?—He said that or words exactly to that effect; there is no question at all about it.

11889. Was that said in jest or in earnest?—No, it was said in earnest, and I was very much offended, of course, and hardly knew how to take it at the moment.

11890. So that in reality you considered that Captain Standish, you being the superintendent of that district, gave Mr. O'Connor a separate command in the district, not under you in any way whatever?—It was an order that turned things so completely upside down that I did not know what to make of it—no one can give a junior authority over a senior officer.

11891. You say now by that act he did in reality, so far as his words are concerned, put Mr. O'Connor over you for the time being?—Certainly, that was his object.

11892. *By Mr. O'Connor.*—To your knowledge, did Captain Standish ever give an order of the same effect to other officers?—Oh, no; as far as my knowledge goes, that was the only order of that sort given by him.

11893. May I remind you of the time when Mr. Brook Smith was in charge of the Beechworth district; do you not remember Captain Standish wiring up Mr. Smith and telling him not to interfere in the Kelly work?—I cannot say that I do; the telegrams will show that or not.

11894. Are you not aware, in conversation then, that Captain Standish repeatedly told Detective Ward that he was to be interfered with by Mr. Brook Smith—that he was to do all the work connected with the Kelly business?—That was quite understood.

11895. In the same line of reasoning, that was an absurd and illegal order, to put Detective Ward or Senior-Constable Mullane over an officer?—It was not quite on all-fours with the order he gave to you and me, because they were not acting in the same business; but it was disparaging to Mr. Smith, no doubt.

11896. Do you not remember Captain Standish ordering Mr. Brook Smith on a tour, the longest tour he could possibly make, to prevent him being at Beechworth during a particular time?—Yes; he sent him to Tintaldra, Corryong, and all up that country.

11897. Was that not for nothing else but to prevent him having anything to do with the Kelly work?—Yes, on the particular occasion.

11898. At questions Nos. 1085 and 1086 there is this evidence:—"Had you any the first time?—None. We went up the King River, and on the fifth day out, namely, the 21st April, arrived at De Gamaro station, informed us of his having found on the run, near the Black range, a horse answering the description of one of the horses ridden away from Jerilderie by one of the outlaws, offered to show us the horse and its tracks; but just as we were arranging for an early start for the morrow a constable galloped up with a letter from Captain Standish, saying if we were not on anything good perhaps it would

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be better to return. 'Anything good'?—Any good information. The letter stated that Mr. Hare thought he had found some traces in the Warby ranges. Mr. Sadleir and I conferred together, and sent Captain Standish word of what we had been told, and as he had left us to decide, we preferred to follow our own information; but if he (Captain Standish) still thought it advisable for us to return, he was to send us word again and we would obey. This he did the next day, and we returned to Benalla immediately, on the morning of the 23rd"—Yes, that is substantially true. There is one thing I do not quite remember. I know the man referred to; he represented this horse, not as one of the Jerilderie horses, but as a horse recently very hard ridden, and that could only have been left there by some of the outlaws or their friends.

11899. I admit we did not know it was the police?—The last is quite true. I am not quite sure about your dates, and we were about to go in search for the horse when we returned on being called in.

11900. Is my statement in questions Nos. 1091 and 1092 correct:—"Captain Standish showed a great want of interest in any work in the Kelly pursuit. This was not only observed by myself, but by both Mr. Sadleir and Mr. Hare."—"Was that verbally, or how?—Repeatedly, day after day. Mr. Sadleir will be ready

John Sadleir,  
*continued.*  
16th June 1881.

to prove it, and I suppose Mr. Hare will repeat what he has often said to me. In fact, Mr. Sadleir often observed to me that he never could get two minutes' conversation with Captain Standish upon Kelly business; that the moment he began to talk upon the subject Captain Standish would take up a novel and commence to read"—Well, Captain Standish is not here, and not in the service.

11901. No matter; I made this statement, and it is to corroborate or otherwise my statement?—What is the question then?

11902. Nos. 1091 and 1092. If the Chairman thinks I ought not to put it I will withdraw it.

*The Chairman.*—I think it may be put, under the circumstances.

11903. *By Mr. O'Connor.*—Will you answer that?—It is quite true that Captain Standish showed a want of interest in the work; we all remarked it—every officer there.

11904. Do you remember Captain Standish ever telling you or you hearing his opinion of me; I refer to the time that he wrote a certain letter to Mr. Fosbery?—Oh, yes; that was immediately after you came.

11905. About a month after, I believe?—I believe it was sooner. He told me he had written to Mr. Fosbery to say he wished he had several officers like you; he spoke in very flattering terms about you. I did not feel the disparagement, at least, I do not care about other people's opinion; but I remember Mr. Hare was very angry about it. It was treated in such a way, though Captain Standish did not mean it perhaps, that it was a disparagement of every other officer in the service.

11906. *By the Commission.*—Might it not have been with regard to Mr. O'Connor's age?—It might have been, though I do not think it was.

11907. It did not strike you as being in that connection at all?—No. Captain Standish was a man to take ready fancies, and he gave expression to them. I do not wish to give any more weight to the thing; I would have passed it at the time without comment, if another officer had not felt offended at it.

11908. *By Mr. O'Connor.*—Do you remember saying how reticent Captain Standish was in his information to you and me?—He had a queer way when he got information; he made a mystery of it for a little time.

11909. But he made no mystery to Mr. Hare?—No; he went to him; he was more intimate with him than with the others. He made a mystery of it for half-an-hour, an hour, or perhaps an afternoon, and then he would come and confide in me; and I think in nearly all cases he would come to you afterwards. He had an air of mystery. He was unaccustomed to the work, and he exaggerated the importance of his information.

11910. Did not Mr. Hare receive the information and have all the arrangements made before we heard about it?—It was simply this, that Mr. Hare generally got the information before we did. Sometimes only a few moments, when he could make no arrangements.

11911. Do you know any cases where he got information which was kept from us for an afternoon?—Without specifying a case, I have already said he would keep up that air of mystery for a few minutes, an hour, or perhaps an afternoon. I think it was more Captain Standish's way than any set purpose.

11912. You have heard in the evidence several references by Captain Standish as to the slowness of the trackers working?—Yes.

11913. It has been stated that on account of the baggage horses, we could not be any good?—I think that is not a correct assertion. Of course we had to have a large number of pack-horses. Your boys were more susceptible of cold than white men, and it was necessary to carry a fly or tent for them and their blankets; but we had no real trial of your speed that I can call to mind. They were very active on foot. On one occasion we had a very long trip to search for some place, and they were certainly then quicker than our men, and in better condition.

11914. We were on tracks once or twice, were we not?—Yes.

11915. That we thought were undoubtedly the outlaws?—Yes.

11916. Did you then complain of a want of quickness on the part of the men?—No; but in both those cases the boys followed the tracks on foot, if I recollect rightly.

11917. Excuse me, I think you are mistaken—do you remember the time that Constable Graves was with our party?—Yes.

11918. Do you remember our picking up tracks on the top of the range over from Pyers' Gap?—Yes.

11919. Were we on foot?—No, not when we picked up the tracks.

11920. Did we not follow the tracks to the selector's house on the side of the range?—Your men actually on the tracks, I think, were on foot, and went down the range through burnt ground. The horses were near, I know, because you or I got on our horses occasionally. The tracks were very difficult.

11921. They were very old?—They were. I will not be positive about it, but I think that particular work was done on foot.

11922. But was our party singular in having pack-horses?—No, every party after you came had pack-horses.

11923. Every party, from March, had pack-horses?—Yes; and there was very little difference between two pack-horses and four—they make no difference.

we left our pack-horses at a Chinaman's, and one or two constables to watch them. Indeed, I think we left all our horses there, and got upon the tracks where they went through a fence, and all in there up the King to Morphy's selection.

11925. Did we not send all our white men away?—Yes, there were only you and I and the black boys, I think, out on the tracks, so that the plan you proposed at first was carried out at this time.

11926. Did we not get on the track of men that answered the description of the outlaws?—We thought we were on the track of the outlaws at the time, I know.

11927. And they were quite fresh?—Yes;

11928. Do you remember the occasion that Mr. Hare and I referred to about the boy Moses tracking?—I was not with you then.

11929. Do you remember the occasion?—I am not quite sure.

11930. Do you remember the time Mr. Hare was out and came with this boy Moses, when he came in and reported about the rapidity with which this boy tracked?—Yes, I remember that being talked about, but I was not there to see for myself.

11931. Do you remember hearing Mr. Hare's opinion about the boy at the time, about his wonderful rapidity?—Yes, I remember that before that Mr. Hare had very little faith in the trackers, though he was one that sent for them first; but I understood, after that trip up that country, his opinion was changed—it was about Tom Lloyd's, some of the ranges about Greta or thereabouts, as I believe.

11932. Then my statement in my evidence that Mr. Hare, after our first trip together, had such a good opinion of us that he said we should never go out unless upon sure information is correct?—Yes, I believe that was the occasion he said it, and I know it was about that time.

11933. In reference to the Lancefield bank robbery, will you state if Sub-Inspector Baber ever told you about it, and, if so, what did he say?—I cannot remember that he did.

11934. *By the Commission.*—Before that I wish to ask you, in your opinion, would the trackers act as well in twos or threes as in larger numbers?—Not against armed men. I have given you a written statement on that; I endeavoured to make that plain.

11935. What we want to elicit is your opinion as to whether it would be wiser, as a matter of policy, to keep the black forces at one centre, or to have them in different portions of the colony; say, in the country where the outlaws were?—If it is a mere opinion, and a recommendation, considering all the present circumstances, I should advise, as long as there was any danger in that district, to leave them there in a body.

11936. Do you think, from what you have seen of the blacks, that it is better for general efficiency anywhere that six or seven be kept together, or that they be detached?—There is no object in keeping six together, except as they combined to search for the gang; for ordinary search work, such as tracking horse-stealing in the Wimmera, where you do not expect to find an armed man at the end of your work, they will do very well in twos. If they would go singly they would do equally well, but they get lonely singly; but for ordinary duty, suppose there was no probability of another armed gang being out, you can separate them as you please, so long as you keep them contented. That is my opinion.

11937. The next question is a question of policy, whether those men will work as well under officers that one or two may be under as they would work in a body under such an officer as Mr. O'Connor?—Oh, they would certainly work under an officer like Mr. O'Connor, who understands them, better under all circumstances, singly or six together, because they are full of tricks and they have to be watched. A person must be up to their dodges, and other men do not understand them. I am satisfied they do not. I am satisfied that where those trackers have failed, in ordinary peaceful duty so to speak, it has been through want of proper handling, not through any want of skill on their part. We had no benefit from the first trackers, because there were only two, and they anticipated danger if they thought they were on the tracks. I think they may be possibly kept in small detachments if the circumstances allow and if they are properly handled. We will say suppose those six men that know each other begin to get lonely at Sandhurst or Wimmera, let them meet one another, change across; but in the face of armed resistance I would not trust two trackers, or three perhaps, or anything like a small number for a day.

11938. *By Mr. O'Connor.*—Then you do not remember hearing Mr. Baber telling you about the Lancefield robbery, about the tracking?—I do not think I saw him after that for months, and I really forget if there was any conversation. If you recall any circumstances to my mind I may remember, he has spoken in a general way certainly, and he told me the tracks were picked up under various difficulties; rain, I think he said, was the principal one.

11939. What do you know yourself about the Lancefield bank robbery?—Nothing at all.

11940. You accompanied him to Kilmore?—Yes.

11941. Was it not raining heavily all that night?—Yes.

11942. The next morning we had to go to pick up those tracks?—Yes.

11943. Did I ever refuse to let you have any or all my trackers when you asked me?—I never asked you for them.

11944. When the department asked me?—You had an objection to parting from them.

11945. But for the loan of them to work?—No; we missed horses from our paddocks, and you gave them for that and any business of that sort.

11946. Did I not send men to Sandhurst at one time?—Yes; there were two men started for Sandhurst, and did their work and came back again.

11947. Is Constable Kirkham, in your opinion, correct when he said he was never under my command?—He was under your command all the time.

11948. Could he have misunderstood his instructions when you and Mr. Nicolson handed him over to me?—I do not remember what the instructions actually were, but I know what his position was; he was placed entirely under your orders.

11949. Did he not take all his orders from me?—Yes, all his orders. If he came to me for anything connected with your party, I always insisted that it should be with your knowledge and authority.

11950. Did you ever hear that he questioned an order from me?—Never; and all the officers looked upon you as a brother officer in the service; and I believe the constables all looked upon you in the position as an officer.

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11951. Then it was impossible for Constable Kirkham to doubt that I was his immediately superior officer?—Of course, Kirkham is technically correct in saying you were not an officer of Victorian police; but we never looked upon it in that light. As a proof of that, the moment I landed at Glenrowan, knowing we had always conferred with you as an officer and looked upon you as in that position, I went straight to you; and that was my object in going straight to you.

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11952. Do you consider Constable Kirkham qualified to give an opinion as to the capabilities of my men in opposition to my opinion?—Certainly not. I think Constable Kirkham is a very poor man with the trackers. He is a very good-tempered man, and manages to get on very well with them, but I do not think he has the art of guiding them in their work.

11953. Did you ever notice a want of courage on the part of my men who were out on those expeditions?—No. I think there was a difference between them, but that was more from what I heard from yourself. I never noticed a want of courage.

11954. They were always willing to go to the front?—Yes. There were two or three of those men very brave men. There is no question at all about it.

11955. Do you remember coming to me in my position at the Glenrowan fight?—Yes, I went straight to you.

11956. You have a perfect recollection of the position?—Yes.

11957. Did you fire from this position?—I fired myself from that position at the outlaws, when they came out (or what we supposed to be the outlaws) striking on their armour, making a noise. At this time I did not believe they were in armour, and I fired from that position myself on them, with a Winchester repeating rifle.

11958. Constable Barry swore that my position was seven feet deep, any portion of it, and you could only see the roof of the hotel—is that correct?—That is not correct. You might find a place seven feet deep, within a yard or two of where we were, but there was a second bank in the drain, where I stood, and sat at intervals in speaking to you.

11959. Was there a tree or stump, or any other covering in front of the house, between these drains?—Nothing, except the posts of the fence, which was not a covering.

11960. When you sent for me, did I not at once come to you?—Yes, when I sent the constable for you.

11961. Did I not accompany you round the line of men on several occasions?—You were mostly in my company the rest of the day, after that, around the men.

11962. Did I not assist you in advice, and so on?—Yes, I communicated with you fully, and conferred with you in every thing.

11963. Do you remember the conversation you had with Captain Standish the day after Glenrowan, when he ordered you to put Mr. Hare's name in general orders?—That is a matter of complaint by myself, if anything is said.

11964. It is in reference to my accuracy. Did you not ask for my name and yours to accompany Mr. Hare's?—Will the Commission say whether I am to answer that. I wish to conform to the rule established by the Commission, that is, when it is unnecessary to speak unpleasantly of another absent person that it should not be done; and I asked Mr. O'Connor to avoid making use of me in that way.

11965. I quite agree with that, but this is in reference to myself. The question is, after the Glenrowan capture, Captain Standish came to Mr. Sadleir and ordered him to put Mr. Hare's name in the general orders. Mr. Sadleir said, "Captain Standish, I want to say" (or words to that effect) "unless Mr. O'Connor's and my name appear with those," and Captain Standish refused and made a remark, when Mr. Sadleir repeated that it ought to be. Captain Standish said, "You, Nicolson, and O'Connor are so d——d jealous of Hare that you would do something or other." I want to know is that correct or not?—(*To the Commission*)—Am I to speak on that?

11966. *By the Commission.*—It is a proper thing to enquire into?—Then I would sooner state the whole circumstances.

11967. With reference to that, the question asked is a question that has a public side to it, and one that we intend to investigate very closely before we are done, so long as your statement is given fairly?—You understand I am not desiring to hide anything, or I am not desiring to go to the other extremity.

11968. I want to protect you in that by saying it is of public importance?—Then I can have no hesitation in speaking.

11969. By Mr. O'Connor.—Will you explain the whole thing?—Yes. Shortly after Captain Standish landed on the platform at Glenrowan, after the day's work was concluded, he said to me, "I have a telegram from the Governor, thanking Mr. Hare for his conduct." I said nothing to him at the time. He desired me to put this into orders, which means publishing the commendation of the Governor. On that occasion I said nothing. I was too busy. I had resolved what to do. Later in the evening, at Benalla, he came to me again, and said, "Do not forget to put the Governor's message into orders." I said to him, "Captain Standish, I think that O'Connor's and my name should also be mentioned." He said, "They are the Governor's orders, and I cannot alter them." Then I said, "The Governor is not fully informed, and I look to you to inform him fully of the circumstances of the day." I said, "I shall see you in the morning, I suppose," and he said, "Yes, I shall be at your office in the morning." Then in the morning I said to him, "Captain Standish, will you please to listen to me for a few minutes without getting irritated or angry," and I asked him to sit down and listen to me patiently. I said, "In reference to your orders about the Governor's message to you, did Hare take the Kellys?" I said, "Unfortunately he was wounded before they were taken," and I argued with him to that effect for some quarter of an hour, perhaps longer. I said, "It is not fair towards O'Connor, though I am only now speaking for myself. It is not fair towards me that our names should be passed over." I had to repeat this several times and urge it. He said it was all our d—— jealousy; that Nicolson was mad with jealousy, and that I was mad with jealousy; and I said, "No, there is no jealousy about it; I only ask you to do what is simply fair towards O'Connor and myself. If the commendation is worth anything, we deserve to share in it." I said, "I am seeking no credit for the duty beyond this: that we found ourselves with fifty policemen around the outlaws shut up in a house, and had to capture them or destroy them. I am claiming no heroism for myself or anybody else. It was a simple piece of work, the tamest piece of work I ever was in, but whatever the credit is we should share in it with our men." He then yielded, and said, "Then wait till you hear from me

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again." The next I heard from him I got a copy of that before the Commission, the Governor's second continued, letter. The first I never saw.

11970. *By the Commission.*—You have made a very peculiar statement, that is that you begged of him to allow you to speak to him calmly, to sit down and not feel irritated; was there any necessity for anything of that sort?—He had grown very irritable of late. Of course I should be sorry to say anything hurtful to a man's feelings, and make him appear irritable; but he was so constitutionally. His temper had become infirm—no doubt about it.

11971. *By Mr. O'Connor.*—There is still another conversation I must ask you to state, that is perhaps very objectionable to you, that is in reference to the general parade that was ordered after Glenrowan of all the men that were at Benalla who had been in the fight; will you give the Commission the facts in reference to that?—I will take the Commission's word for going on. The police, I think, at my suggestion were put on parade, the whole of the men in barracks. I asked Captain Standish to say a kind word to them after all their work was over, and he consented at once. Then we came out into the yard, and he objected to including some four or five of the trackers that were there on the parade.

11972. *By the Commission.*—Mr. O'Connor's Queensland men?—Yes. I know there were four or five, and he refused to say anything as long as they were in the ranks, so I fell them back out of the ranks. It was done publicly before the whole parade. I do not think his voice was heard. I do not think he spoke so as to be heard.

11973. But everybody saw them retire?—Yes.

11974. You heard his voice?—Yes; he used some strong words, and I had to go and order the men back. The trackers did not understand it, and possibly the white police did not know.

11975. You are simply giving evidence of what occurred within your own knowledge?—Yes; this was about 11 o'clock in the forenoon following Glenrowan. I have said so much against Captain Standish's temper that I might be allowed to say that with very few exceptions, such as that I mentioned and once on another occasion when he was angry for very little, I found him very courteous and very pleasant and very considerate.

11976. *By the Commission.*—You said that when Mr. O'Connor went up there, Captain Standish placed him in the position that, in your opinion, though he did not complain of it, was not usual in the service, that is one officer over another?—A junior above a senior.

11977. Are you aware that your predecessor at Benalla, Mr. Nicolas, complained of Captain Standish sending up Mr. Nicolson and Mr. Hare in the capture of Power, and so by that act superseding him, without any notice?—I was not aware of that. I have heard something of it during the Commission, but know nothing more of it than that.

11978. If the Superintendent or Inspector is not competent to do his duty, is it the usage of the service to send a man to supersede him and do his duty, and take portion of the responsibility; or to order him from the district and send a man to do his duty?—The proper course is to remove a man inefficient for his work from the district, and from the service, in fact.

11979. You might have been considered inefficient from your illness?—Of course, if Captain

Standish had explained that that was it, I would have quite understood it.

*The witness withdrew.*

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Stanhope O'Connor further examined.

11980. *By the Commission.*—Arising out of the question as to whether your black trackers are considered more efficient in small detachments or singly for tracking purposes, what is your opinion?—It is a fact, not an opinion, that the men are more efficient in small bodies.

11981. Of how many?—Of not less than five or six.

11982. Do they become less efficient if they are detached in twos?—They become thoroughly demoralized. They are peculiar men, and require a great deal of drilling to keep them up in a good state of efficiency. They require to be kept together, to have their friends and connections in the same barracks to make them contented, and that is often a great cause of two, or four, or five men not agreeing—that they are really enemies in their own country, and very often in Queensland it results in murder.

11983. The fact is, you consider it is better for men to belong to the same tribe?—No, I do not say that. We never do that in Queensland. There must be two men of a detachment of the same tribe, but neighbouring tribes have blood relationships, and those are friends—they are great friends; and if you get two of those men, they will remain and be as jolly and cheerful as possible.

11984. How long were you in Queensland?—I think eight years.

11985. Connected with the black trackers all the time?—Yes. I was up in the northern portion of Queensland, the Conway Barracks, near Bowen, at first, and I left that after twelve months, and went up to Palmer goldfields.

11986. So you are thoroughly acquainted with them?—Yes.

11987. Do they all speak English?—When you enlist a man he does not; you must teach him.

11988. Do you understand the language?—There are so many tribes. I understand a good deal of it, but one of the rules of the service is never to allow the men to speak in any way except in English. We take them out with the old troopers, and teach them their work.

11989. The old black trackers?—Yes; troopers we always call them in Queensland. It takes three years to make a man efficient. Very often these men are found to be utterly useless. I have had black boys who got lost half a mile from the barracks in Queensland. It is the general rule that they are good trackers, but there are exceptions.

11990. Is it not from the fact that they have very quick senses of hearing and sight they become so expert?—They have got undoubtedly quick sight, but their hearing I would not say.

11991. The sense of smell, is that very acute?—It is.

11992. Do you think an English boy might be trained in the same way?—No.

11993. Not born in Queensland?—No; they get very good, but the very best white tracker I ever knew could not come up to the worst black tracker I ever had.

11994. What is the difference?—It is sight, nothing but sight. I had one boy in this detachment named Johnny; he was without doubt—all the officers I know said—the best boy they ever saw for tracking

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—for picking up a track. I was out with him on one occasion (there had been a horrible murder committed) with another officer who had a detachment of eight men, and I had my detachment of eight men. This boy Johnny fell to the rear, while we were looking for the tracks, and the fifteen other troopers passed in a line, and the boy Johnny as he passed up to me pulled up, and said to me, “Marmie, there is the track.” I pulled up, and could not believe the boy, and I got off the track and I measured fifteen paces to where he saw the track from where he pulled up. The other men had all passed it and not seen it, and where he pointed it out to me I could not see it till he got off and traced it with his finger.

11995. What does “Marmie” mean?—It is an old Queensland black word, meaning “Mister.” All native police officers are called “Marmies.” I wish the following document in reference to the trackers to be inserted if permissible.

11996. The Chairman.—Very well. [*The same was handed in, as follows:*]—“Police Department, Melbourne, 27th May 1881. Sir,—In reply to your telegram of yesterday enquiring as to the working of the Queensland trackers, I beg to state—1. That the party of trackers who accompanied the expedition of 11th March 1879, as well as one in the following April, showed great skill in tracking. This is not merely my impression, but my actual observation of their work. On one of these trips the tracks were very faint indeed, and could not have been followed without the aid of the trackers. On the other trip the tracks were much more plain and recent, and as it was supposed that they were those of the outlaws, and that the offenders were not far ahead, a good opportunity was furnished of judging of the spirit of the trackers when danger was to be apprehended. On this point, too, their conduct was satisfactory. 2. Referring to your enquiry as to whether the trackers work better in twos or threes or all together, I am clearly of opinion that where time pursuit is of an armed hand, as were the Kelly gang, it is idle to expect a very few trackers to follow tracks into cover. With the full party the case is different, especially if they rely on one another, and are directed by a person who understands them and their work. Then one or two can be placed in advance on each wing, and

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they are almost certain to discover any ambush without themselves being seen. This gives the men actually on the tracks perfect confidence. If the offenders are discovered in concealment, the scouts will inform the whole party of their exact position. If the offenders are still moving, their tracks will probably be observed by the scouts, when the rest of the party is signalled to, and the work is thus greatly expedited. For ordinary tracking, where no dangerous resistance is expected, two trackers, and often one alone, will be found sufficient for the work. The above particulars show the result of my own experience so far as it has gone; and having made it my care during the last few years to consult various persons well versed in the business, I have found a singular unanimity of opinion to the same effect.—I have the honor to be, sir, your most obedient servant, J. SADLEIR, Superintendent of Police. The Secretary Royal Police Commission.”

*The witness withdrew.*

Charles Hope Nicolson further examined.

11997. *By Mr. O'Connor.*—Do you remember taking charge at Benalla?—I do.

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11998. On time occasion I was there?—Yes, July 1879.

11999. Do you remember me telling you that I was afraid that we would not be allowed to be in the taking of the Kellys; that was what I imagined Captain Standish intended?—That “we”?

12000. Myself and my men—the Queensland police; do you remember any conversation?—Yes.

12001. My complaining about not being allowed to be in at the death, in other words?—You were referring to something that had passed, not that you were afraid you would not be.

12002. Can you recollect any conversation I had about it with you; do you remember my saying to you that Captain Standish seemed disposed to prevent our being in; any good information—being sent out on any good information?—Yes; but you were alluding to what was past.

12003. And then what did you reply to me?—My reply to you was that whilst I was there you should receive every fair play, and that I would consider it a very improper thing—in fact, a discredit to the colony—to treat you otherwise; that is to say, to make any attempt to keep you from being present at the capture.

12004. Do you remember me referring to one case in particular, when Captain Standish received information?—I told you also I did not consider any officer in the police force would act in that way towards you.

12005. Do you not remember me telling you about one particular case?—Yes; you alluded to a case that has been mentioned in evidence about the party going out to a hut.

12006. And about Captain Standish’s reply when I asked to go out?—Yes.

12007. That he would endeavour to take the Kellys without our valuable assistance; did I not tell you that?—Yes.

12008. Some time after you were in Benalla there was a horse found which turned out to be one of the police horses from New South Wales?—Yes, I recollect that distinctly; both horses turned up at the same time, the two Jerilderie horses.

12009. But this particular one found on the De Gamera station?—Yes; it was one of the two. I understood it was one that had been described to you and Mr. Sadleir some time previous when out there.

12010. Can you give any information about the Lancefield bank robbery; it happened while you were in charge there?—Yes. I received a telegram announcing the robbery of the bank there, and an order to despatch you with your trackers to Kilmore, and that you would proceed from thence to Lancefield.

12011. You know nothing about the result?—That order came from the Chief Commissioner of Police.

12012. Did you ever hear what work was done by the trackers?—Well, I heard it from yourself.

12013. You did not hear it officially from any one?—No; and I heard it from Mr. Baber, I believe. He was subsequently up in the Benalla district, and in the course of conversation he told me of it.

12014. Did he mention how well or how badly the boys worked?—He spoke very highly indeed.

12015. He did not complain their movements were so slow?—Oh no, the very reverse. He could not find any objection. He spoke most highly of the skill of the trackers upon that occasion under great disadvantages. He spoke of the rain that you encountered—that you and he and the party encountered—sweeping away the tracks, and notwithstanding that how well you got on.

12016. In question 1109 of my evidence, after that information which Mr. Sadleir got about the armed men being seen on a certain road?—Yes, I know the circumstance you allude to. I say, “After this we were unable to get any information fresh enough to work upon, as heavy rains always had occurred before we got the news, until one day, I cannot remember the date, at 6 p.m., we had information that the outlaws had been seen on the railway line about Wangaratta, with the telegraph wires broken. We started within two hours of the notice to the scene, but upon arriving at Wangaratta got word that the whole thing was a mistake, and was explained in the press next day. It was a threshing machine pulled down the telegraph wires in passing across the railway line.”

12017. Is that a correct statement?—Yes, with the exception of this about near Wangaratta. It was near Chiltern, on the other side of Wangaratta, and at Wangaratta we were stopped by the news that it was a

threshing machine passing the line had broken down the wires.

12018. How long was it before we were ready to start after getting word?—We have reduced the time of starting to something under half-an-hour.

12019. About twenty minutes?—Yes.

12020. I say, “After this appearance of activity on the part of the police, information ceased for some time to come in, as the Kellys got a fright that if they showed out we should be after them at once. This we got from their friends; so some time passed before the outlaws began to forget the matter.” Is that correct? Can you recollect that for a long time after that we did not get—when I say “long time,” I mean some weeks after—we did not hear any further, and we heard from the friends that the outlaws had got a scare?—The outlaws were aware of that; and I believe the outlaws were aware of that. I would not like to answer that without seeing that return I sent in.

12021. I go on to say, “This put us—Mr. Nicolson, Mr. Sadleir, and myself—on our guard that unless good reliable information came to us, we, I mean the party, should not go out?”—That is certainly correct; I can say that myself.

12022. In reference to this series of communications to the Queensland Government, do you not remember me telling you that I knew there were a series of communication?—Yes.

12023. And complaining to you; mentioning my complaint to you, that I thought the private communications in reference to taking the men from under my charge was a very improper proceeding?—You complained of the attempts to take the men from under your charge. That is the complaint I showed to you in the first instance, when I came up there.

12024. But latterly, again, did I not state that I considered it very wrong of Captain Standish making communications at the time, just before the time of taking over Moses?—Yes.

12025. Will you inform the Commission about the fact of Moses’ transfer from the Queensland police to the Victorian police?—There is a communication on the subject which speaks for itself; which I would rather have produced.

12026. There was a conversation I had with you when you presented that telegram to me, as a matter of courtesy. I said I would do nothing of the kind—did I say that “I will not hand over the men”?—I remember you making some objection to banding over the men.

12027. I said Captain Standish ought to have communicated with me?—Yes; but you did hand over the men.

12028. After you represented to me it would be advisable to do so, and I listened to your advice?—Yes. I think you considered that the man was not to be handed over until you left the colony. You were going away.

12029. During your stay at Benalla, did I ever inform you that Captain Standish and Mr. Hare had, on several occasions, wished me to join the Victorian force?—Yes; that Captain Standish and Mr. Hare had several times spoken of your joining the Victorian force—not in my presence—but you told me of this previous to my coming up there in July. I may state this also, that I was requested by Captain Standish to come up before he left. About the month of March I was requested by Captain Standish to come up and see him at Benalla about some business, and bring up some documents with me, which were referred to in my evidence, for his signature, and some other things. When I arrived he told me of the arrival of Queensland trackers; that they had been despatched that morning, Mr. O’Connor and Mr. Sadleir with the party. I had never seen Mr. O’Connor at this time, and he said he wished he had more officers of the same kind in the force. He said that to me on that day.

12030. *By the Commission.*—Meaning by that smart young officers?—Yes.

12031. That is what you understood?—Yes.

12032. *By Mr. O’Connor.*—Do you remember upon my senior-constable leaving the colony handing me a Victorian constable in his place?—I do, and I might mention the circumstances. You left your senior-constable at McIvor. You came up with Constable Kirkham in charge of your men. You related the circumstances under which you had left your senior-constable behind, and you requested that Constable Kirkham would replace him at the time for the present, and he was accordingly handed over to you. Kirkham was one of the party sent out to Lancfield.

12033. Is it possible that Constable Kirkham could have misunderstood the instructions?—No, not at all. I should tell you further about his instruction. Sergeant Whelan, part of whose duty it was to oversee everything on the station, on one occasion mentioned to me, and I have no doubt he did to Mr. Sadleir—I am not sure—some fault he had to find with Constable Kirkham. I do not know what it was I think it was for being out too late at night, or something of that kind, and Constable Kirkham was disposed to repudiate Sergeant Whelan’s supervision over him. Kirkham was sent for by me, or I went and saw him and spoke to him, and led him to understand that although he was detailed for the charge of your men and under your orders, that still he was also with an understanding with you that he was also under Sergeant Whelan’s supervision—that it was the latter’s duty to see that he performed his duty, and if not, to report him.

12034. Did not Kirkham get all his orders from me?—All his orders, he was not interfered with at all; he was left entirely as your sub-officer.

12035. Then it would be untrue for him to say that he never looked upon me as his superior officer?—It was untrue decidedly. It must be known to every constable at the station.

12036. *By the Commission.*—In fact, was it to supply the same position of the old man?—Yes, exactly.

12037. By Mr. O'Connor.—I make a statement here. Question 1112, I refer to the last day on which you were at Benalla:—"Mr. Nicolson, a short time after lunch, asked me to dinner at 7 o'clock to meet Mr. Hare, and I accepted his invitation; but about 5.50 p.m. Mr. Nicolson ran up to me, and told me he had to go to town by the six train, and therefore would have to put off the dinner; but he was going to write a note to Mr. Hare explaining his apparent rudeness." Is that correct?—That is quite correct.

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12038. Did you see any cause to complain of the conduct of my men or myself during your command up at Benalla?—During the time that I was at Benalla there was no quarrel or difference amongst the officers there, either you, Mr. Sadleir, or myself whatever, and you were attentive to your duties, that is particularly to your men. Your men consequently were happy and well-behaved, so much so that they became quite favorites in the township. In your own conduct personally I never saw anything to take exception to. You were temperate in your manners and language, and in your habits and everything, and in consultation you displayed a thorough knowledge of your duty and a considerable degree of uprightness and ability.

12039. *By the Commission.*—Will you look at that document; those are the instructions given to Mr. O'Connor by his department in Queensland. Will you look at that passage just at the end of it, there where they are giving him instructions what to do preparatory?—Yes. "Sub-Inspector O'Connor will obey all instructions given him by the Chief Commissioner, and will co-operate cordially and cheerfully with the members of the Victorian or New South Wales police with whom he may be required to serve. He will also from time to time, as opportunity occurs, communicate with the Commissioner of Police, Brisbane."

12040. What I want to ask is this: does not the first passage of that convey to you yourself, as the superior officer of police, that the position that gentleman was to occupy here was still an officer of police?—In this colony?

12041. An officer attached to the Victorian police?—Decidedly.

12042. With his men?—Yes.

12043. And that he was to obey instructions from the Chief Commissioner here the same as he would from the Chief Commissioner of Brisbane if he were there, He delegates his authority to Captain Standish?—Decidedly.

12044. To order him, an officer of the Queensland police, as if he was a Victorian officer?—Yes.

12045. Is it your opinion, from the wording of that, that Mr. O'Connor was then bound solely to obey the instructions of the Chief Commissioner, or would it be competent for him to obey orders from others?—It would be competent. It was for him to obey the Chief Commissioner of Police of Victoria, excepting the Chief Commissioner in Queensland gave him some instructions to contradict him. I should say he was bound to obey all orders coming from the Chief Commissioner, even though coming through Mr. Sadleir.

12046. If Mr. Sadleir gave those orders, without Captain Standish's orders, would he then be bound, under those instructions, to obey Mr. Sadleir?—I should think he would.

12047. He was bound to obey Captain Standish, and, through Captain Standish, every superior officer?—Yes.

12048. Do you think that?—Yes, I do.

12049. Without the direct interference of Captain Standish?—Any superior officer that Captain Standish acknowledged.

12050. Do you think that, except Captain Standish, was he not, by those orders, obliged to obey any other officer?—I should think he was, any other officer that Captain Standish placed over him—any superior officer.

12051. If he did not place any other officer over him?—I considered I was over him when I was up there, and, in my absence, that he was under Mr. Sadleir.

12052. Did Captain Standish tell you he was under your orders?—No. I do not think it was necessary.

12053. Are you aware that he led Mr. Sadleir to believe that Mr. O'Connor was independent of him?—I was not aware of that.

*Mr. O'Connor.*—I do not agree with Mr. Nicolson in that. I consider that I was solely under Captain Standish.

12054. *By the Commission (to the witness).*—Those orders are very clear and distinct. Do you think his Chief Commissioner wanted him to be under any other officer of Victorian police other than Captain Standish?—Well, you see here, "And will co-operate cordially and cheerfully with the Victorian or New South Wales police." Speaking very strictly, Captain Standish should have left an order at Benalla, handing Mr. O'Connor over to me; but it was a thing that was understood.

12055. But it was understood the other way, because Mr. Sadleir stated he was placed in a very awkward position, because Captain Standish led him to believe that Mr. O'Connor was over him, or independent of him, at all events?—I was not aware of that. At the same time, I do not think it was absolutely necessary to leave it in writing. It is a thing that would be understood in a disciplined force. "With whom he may be required to serve. He will also, from time to time, as opportunity occurs, communicate

with the Commissioner of Police, Brisbane.”

12056. Supposing, now, that you were to send a man of yours to do duty in a private capacity with another gentleman, and told your man to obey “Mr. Brown’s” directions, would you consider he would be bound to obey “Mr. Jones’s” orders without being specially informed of it?—It depends upon circumstances. In the police force, if a man is specially sent up to a district to perform a special duty, he is placed under the superintendent of the district.

12057. But Mr. O’Connor was not a member of the Victorian police?—No.

12058. *By Mr. O’Connor*.—Did you ever doubt but that I was an officer of this force; did you always look upon me as an officer of this force?—No, I did not; I looked upon you as an officer of the Queensland force attached to us.

12059. *By the Commission*.—And subject to the orders of the Chief Commissioner?—Yes.

12060. And if he had any orders to give, I think he should have said, “Mr. Nicolson, Mr. O’Connor is under your instructions; tell Mr. O’Connor of that”?—There is no evidence of that.

*Mr. O’Connor*.—I consider if Captain Standish wanted to do the thing properly he ought to have first asked me if I was willing to be under another man; but if he had done the thing properly, I was only under Captain Standish by my instructions.

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C.H.Nicolson,  
*continued*,  
16th June 1881.

12061. *By the Commission*.—And the sworn evidence here is that he told Mr. Sadleir you were in an independent position, or over him?—[*The Witness*.]—I heard of that, and looked upon that as a mistake or an oversight of Captain Standish’s; that Captain Standish had no right to do so, was wrong in doing so. I do not wish to reflect in any way, but I think it was a mistake.

12062. That he was acting outside the police regulations of Victoria?—Yes, decidedly; that he had no power to place Mr. O’Connor over Mr. Sadleir.

12063. Would it not lead Mr. O’Connor into a false position?—Yes, it might; but I understood on that occasion Mr. O’Connor quite understood the matter, and waived the right of command to Mr. Sadleir—in fact, took no notice of it.

12064. As a matter of courtesy?—Yes, courtesy as between two gentlemen.

12065. The next passage is “He was still to report himself in every particular”?—I do not see anything to object to in that.

12066. From that you consider he was serving in a dual capacity, for the time being in the police force here while he remained an officer of the Queensland force, and could be recalled at any time?—Yes, could be recalled at any time.

12067. Does that indicate that he was to keep himself in communication with his Government?—Yes, with the Chief Commissioner of Brisbane.

12068. Does that indicate that he was absolutely under control, and never left the Queensland department?—Decidedly. “He will also from time to time, as opportunity occurs, communicate with the Commissioner of Police, Brisbane.” If I were sending an officer or man to any neighbouring colony on similar duty, that would be one of the conditions.

12069. Read the next?—“He will look carefully after his troopers, and be particular about their arms and ammunition—see that they are properly clothed and fed, and are always in the charge of either himself or the senior-constable.”

12070. If Captain Standish gave an order contrary to that, would he not be bound to obey that instruction in preference to Captain Standish?—Yes, but Mr. O’Connor’s duty first would be to obey that order of Captain Standish’s, and report it to the Commissioner at Brisbane.

12071. Even though he had distinct orders?—“Should it become necessary to form two parties, the sub-inspector is to take one, and the senior-constable the other.”

12072. Now, if Captain Standish ordered a second party to go out with Mr. Sadleir, without either Mr. O’Connor or his sergeant, what would Mr. O’Connor be bound to do?—Well, this is the order to Mr. O’Connor, that if it is necessary to form two parties, he is to take one and the senior-constable is to take the other—Mr. O’Connor and his senior-constable were never to part with the command of the trackers.

12073. My question is, if Captain Standish ordered two of the black trackers to go out with Mr. Sadleir or any one else, would Mr. O’Connor be bound to obey that order of the officer so given, or would he be bound to obey that written authority?—The same principle that I spoke of before applies to this. He would be bound to obey that order of Captain Standish’s, and to report it to his Commissioner; that is the principle laid down in discipline—a man must obey every lawful command of his superior, and, if he is not satisfied with it, he can report it—obey first and report it afterwards, never disobey it; of course a lawful command. A man may disobey an unlawful command.

12074. Would not that be given by an unlawful authority?—No, an unlawful command is something against the law.

12075. What is the next?—“Sub-Inspector O’Connor must recollect that he merely goes as an assistant, that the conduct of affairs is entirely in the hands of the Chief Commissioner and his officers, and therefore that in obeying any orders given him he frees himself from responsibility for anything beyond his own acts.”

12076. Does that not put him completely under the control of the Victorian authorities?—Yes.

12077. Having read that, was that the position, in your opinion, that Mr. O'Connor held the whole time you were there?—No, that must have been modified, because Mr. O'Connor had received communications from his Commissioner that his men were not to be parted from him, and not taken from under his command.

12078. *By Mr. O'Connor.*—But, nevertheless, did I not assist you in every way I could with my men, in fact, lending you men to go out on ordinary duty?—Yes, after that conversation I had with Mr. O'Connor, that he alludes to, I had the use of the trackers in any way I desired.

12079. *By the Commission.*—Did Captain Standish, to your knowledge, directly or indirectly, hold out any hopes to Mr. O'Connor that if he chose he would be retained in the Victorian police?—Only from that interview I had with Captain Standish in the first instance I have told you of, and what I was informed of by Mr. O'Connor and by Mr. Sadleir corroborating it. That was merely hearsay—nothing from Captain Standish beyond what I have already told you of, in my interview at Benalla.

*The witness withdrew.*

*Adjourned to Tuesday next, at Eleven o'clock.*

TUESDAY, 21ST JUNE 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;	
G. W. Hall, Esq., M.L.A.,	W. Anderson, Esq., M.L.A.,
J. H. Graves, Esq., M.L.A.,	G. C. Levey, Esq., C.M.G.,
E. J. Dixon, Esq., J.P.,	J. Gibb, Esq., M.L.A.
G. R. Fincham, Esq., M.L.A.,	

*The Chairman* read the following letter from Captain Standish to the Secretary of the Commission:—

SIR, 20th June 1881.

In reply to your letter of the 18th instant, I beg to inform you that all official communications which passed between the Commissioner of Police at Brisbane can be utilized, but that I cannot consent to the private communications which passed between him and me being furnished to the Police Commission.

Jas. Williams, Esq., Secretary Police Commission. Yours faithfully,  
(Signed) FREDK. STANDISH.

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Henry Armstrong sworn and examined.

12080. *By the Commission.*—What are you?—An ex foot constable. I was in the force nine years. I beg to ask that my record sheet be produced. [*The same was produced.*] H. Armstrong, 21st June 1881.

12081. I see that you have a very excellent sheet—do you know the contents of it yourself?—No; constables are not allowed to see their own record sheet.

12082. It is a very good one, at all events. Were you in the North-Eastern district before the Kellys broke out?—Yes; I was stationed at Wangaratta when the gang broke out. I had been there about twelve months. I volunteered my services, and went in search of them along with Sergeant Steele.

12083. Were you out with any of the search parties?—With all the search parties, and with Sergeant Steele till they were captured.

12084. Whom were they under?—Chiefly Sergeant Steele; and on one occasion only Superintendent Furnell was in charge. I was afterwards transferred to Wahgunyah, on the Murray.

12085. Did you form any opinion yourself as to the value of those search parties?—Well, I thought they were almost useless—to a certain extent.

12086. Did you ever on any occasion have the belief or the knowledge that you came close upon the Kelly in any of those parties?—Never in my time.

12087. Did you know anything of the secret service system?—Well, I had a slight knowledge of it.

12088. Did you understand that good information was given at any time by any of those informers?—Sherritt gave good information; that is all I can speak of by my own information.

12089. Was it given in time for you to act upon it, so as to be of any value?—It was not given to me. I cannot say I ever received any while I was in the bush to say that the outlaws were at hand.

12090. How can you say Sherritt gave good information?—He told me he informed Captain Standish that Joe Byrne was one of the men along with the outlaws; and he afterwards informed me he told Captain Standish when Byrne and Kelly passed through Sebastopol on their way to Jerilderie. Those were the only occasions of importance.

12091. He told you he had informed Captain Standish of those things?—Yes.

12092. In good time for him to have acted?—No, not in sufficient time.

12093. Were you present at any time when Sherritt was able to tell where the police were, although he was not with them?—I could not say that at all I do not see how he could.

12094. Did you understand that he was acting on behalf of the outlaws as well as the

Government?—I have every reason to believe from my experience of Sherritt that he was true to the police once he was won over.

12095. Had you any reason to believe that he was trusted by the outlaws?—I do not believe it once he was won over. I will state my reasons for saying so. The third night I was in the cave party there were only two constables in the cave, and it was time to leave for the first camping ground, and I asked Sherritt to go, and he refused to come. He said, “Two men are not enough to go to Byrne’s; you may tell Nicolson that I will not go at all; those men are not bushrangers, they are bloody murderers.” I have every reason to believe that he was true from that. I was very kind to Sherritt I always gave him tobacco when he came to Beechworth or a few shillings to buy some. I have known petty lies he told, but nothing of importance to mislead the police. I do not believe he ever told me a lie. I felt as safe in his company as with any constable in the force, from my experience; and I was seventy-five nights in his company, watching Byrne’s place.

12096. Was he ever sworn in as a constable?—I believe not.

12097. Have you any idea why he was murdered?—I believe it was because it was known he assisted the police in a general way; that is my belief.

12098. It was given in evidence here, in reply to that by a witness, that he believed it was that Sherritt was believed by the outlaws to have given information about their movements which the witness stated did not come from Sherritt, but came from another private individual; and the outlaws, not knowing who had given it, charged Sherritt with it—have you any knowledge of that?—I have heard of it, but I do not think there is any proof of it. I think Sherritt knew very little besides what he told me. I was with him up to the time he was shot.

12099. You were one of the cave party?—Yes.

12100. Did you believe that that cave party was kept a secret?—Well, every attempt was made, but I am thoroughly confident that it was discovered.

12101. The police made every endeavor, but it was impossible to do it?—Yes.

12102. Did a great many people connected with Sherritt’s family know?—Yes, Mrs. and Miss Sherritt; they are the whole Sherritt family.

12103. And some of the family were going to school along with the Byrnes?—Well, Denis Byrne was going to school with a brother of Mrs. Sherritt’s, twelve years of age.

12104. They would naturally speak of the cave?—Yes.

12105. Your opinion is that it was known?—It was known.

12106. Do you remember a report being asked from you with reference to the cave party?—I do.

12107. What occurred with reference to that?—When I was leaving Beechworth, Ward had asked me to furnish a report along with the other constables. I made a report to say that I simply carried out Mr. Nicolson’s instructions, and formed no opinion as to whether we were discovered or not. Ward asked me to report that we were not discovered, but I refused to do so.

12108. What did he say on that occasion?—He said, “Will not you report that we are not discovered?” I said, “No, I cannot.” I was leaving for my station then. Opinions were expressed in the cave by the men as to the reason for Ward keeping the party on. I had heard it said by one constable, Anthony Alexander, of Cashel, “It is my opinion that Ward is making a fool of the whole of the officers to put money in the pocket of a certain storekeeper at Beechworth.” The latter is a most respectable man. Ward and he were very intimate, and his bill, I believe, was £30 a month—about that—for provisions, spirits, and porter supplied to the cave party.

12109. You were very well kept while you were there?—Very well; but we had to put up with a great deal of hardship.

12110. The provisions were good, but the hardships very great?—We had no sleep hardly; about eight or nine days we used to remain there, and could not wash our faces; had to carry water two miles.

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H. Armstrong,  
*continued,*  
21st June 1881.

12111. It was without any result?—Yes; and it was the general impression we were discovered.

12112. Did you form any idea why Ward wished it to be said you were not discovered?—Well, I could not.

12113. Did he show any anxiety about keeping you there?—I can give Sherritt’s statement to me. Sherritt told me he believed we were kept on to show we were doing something.

12114. Did Ward show a great desire that you should state that you were not discovered, in your sheet?—He did.

12115. Is there any other reason in your mind which would be the cause of Ward wishing for this special character of report except that?—I could not form any opinion, although there were other constables called to make reports at the time.

12116. Do you think it was to show he was efficiently discharging his own duty?—Well, if I gave any opinion, that is the one I would be inclined to express.

12117. Were you ever asked before for a report in any case?—No, but I was told before the cave party was discontinued that we would have to make reports.

12118. Were you aware of any other constables’ reports being sent back to be amended?—Faulkiner and Barry made reports and, I believe, were told to make fresh reports.

12119. Do you know whether they did?—I believe they did. Constable McHugh and Dixon also made reports in reference to it.

12120. Did you hear that the fact of your being in the cave was known at the police dépôt in Melbourne?—I had heard that Constable Faulkner lost a letter there, but that was after the capture. It was written to him from the police dépôt at Richmond, but it was lost accidentally out of his pocket.

12121. Lost where?—I have only the general hearsay of the men, and mention was made in the press as to it—that a letter to Faulkner from the dépôt was found in the cave after we left there.

12122. In which it was announced that your presence was known?—I believe so.

12123. Can you say any other way it might have got known?—No, I could not say anything of my own knowledge as to that.

12124. You were in Sherritt's house, watching?—Yes.

12125. How long had you been there?—I think about twenty-three nights. The cave party shifted to Sherritt's hut before it was broken up, and I was sent to that hut again after Mr. Nicolson was withdrawn in Mr. Hare's time. They shifted then because the cave was getting very dirty.

12126. You were in Sherritt's house on the night he was shot?—Yes.

12127. Will you describe what occurred?—Perhaps I had better state the instructions I received. I was ordered from Wahgunyah to Beechworth on the 31st May 1880, to watch Byrne's place. I got a telegram when I arrived at Beechworth to return to my station at Wahgunyah. As I was starting to the station with my papers made out, Detective Ward came up from Benalla by the two o'clock train and countermanded that order. He said I would have to go out to watch Byrne's, with two other constables, McCall and Alexander. The instructions I received from Ward were in the Beechworth barrack yard. The late Aaron Sherritt was present. He (Ward) said, "Armstrong, you will be in charge; you will watch Byrne's from eight o'clock at night until about five in the morning." I asked him if I would keep a sentry, and he replied, "No; keep no sentry; keep inside." Ward left then, and he came back again about seven o'clock at night, riding with some other man. He said, "I will go away and get your ticket to go to the quarterly assembly in the benevolent asylum—you and McCall." I said, "I do not want to go." This was Thursday night, on the 3rd of June. We waited until twelve o'clock at night, and finding he had not returned, we started on our own account, we three—Alexander, McCall, and I. When we arrived at Sherritt's hut Sherritt was in bed. It was two o'clock when we arrived there. We did not watch Byrne's that night. About the 5th, Constable Magor joined us. He remained until about the 17th. He returned to Beechworth then, along with Constable McCall. Duross and Dowling came out in their place; that left the four constables who were in the hut at the time Sherritt was murdered. We used, when we would return in the morning, to be round the kitchen fire until Sherritt and his wife got up; then we took our blankets all into the room, and, by the permission of Sherritt and his wife, Duross and I slept on the bed with our blankets. Alexander and Dowling slept on the floor. It was a weatherboard hut, with a shingle roof.

12128. Are you quite sure it was not slabs let down between uprights?—Well, I have heard so many differences of opinion about that that I can scarcely recollect, but I believe the sides were weather-board and the roof shingles. I am inclined to think that the ends were slabs.

12129. One witness gave evidence that rifle bullets were fired at the house and did not penetrate quite through, but knocked the plaster down on the inside?—I noticed that in the papers; I think there was a sort of clay between the uprights.

12130. You know that a bullet fired at a weatherboard would go through both sides of the house?—Yes, indeed.

12131. Was it a boarded floor?—Yes, all boarded. The house was our own. We paid for it out of our own private money; that has never been refunded. The owner of the hut came about 11 o'clock in the morning. I was a foreigner, and he ordered Sherritt to clear out. Sherritt would not give up possession; then the man said he would go and get the police. He was the original owner of the hut. Sherritt took forcible possession of it. I said, "For God's sake bring the man back here; he will turn us out and we shall be discovered." So Alexander lent Sherritt the money to pay for the house.

12132. Had Sherritt the house rented?—He took forcible possession of it; it was an abandoned house.

12133. "Jumped" it —Yes, we paid him for it sooner than he turned out. The room we were in—I think it would be eight feet and a half or nine feet wide, by about seven and a half feet long.

12134. Then there would be just room for two to sleep on the floor?—Yes, with the exception of about two feet at the foot of the bed where we had provisions stored.

12135. You advanced the money necessary to buy it, and he never repaid you?—I do not want to make any complaint of that. We gave him money for cooking, and to please him. Nothing unusual occurred until the 18th of June. We were crossing the creek on the way to Byrne's when a lot of Chinamen came after us, and called out. Sherritt said, "They think we are going to rob their sluice-boxes." I said, "We will point the guns, and they will think we are the Kellys." Sherritt said, "Yes." We pointed the guns, and they ran away.

12136. What was their object in running after you?—Sherritt said they thought we were going to rob the sluice-boxes; they had gold there. I said to Sherritt the next morning, "Go round and see what the Chinamen have to say, and tell them we are the Kellys if they say anything," and Sherritt returned; he said, H. Armstrong, continued, 21st June 1881.

"It is all right, Harry, the Chinamen say they saw the Kellys last night. I told them not to tell, and they said, 'No — fear, we know Joe Byrne'"; Sherritt and I arranged not to go out in the moonlight till ten o'clock (it was moonlight then), and remain out two hours longer in the morning. The following night, Saturday the 19th June, Dowling and I were helping Sherritt to cut wood for Sunday; Mrs. Sherritt came running out, and said, "Mr. Hare and Detective Ward are here; Ward told you to go down to Byrne's." Sherritt started alone; that was the custom in the Nicolson cave party time for us. I went and saw Ward; he said to me, "Mr. Hare has gone down along with constables Duross and Alexander; go away and be before them, and say you had left before them, and challenge, lest the other party should fire." I got my ammunition, and I said to Dowling, who was along with me, "This is a strange affair I think I will tell the truth." Dowling said, "Certainly." When we arrived at Byrne's, Sherritt was there. After some time, I saw Mr. Hare coming with two other constables I knew him by his height. I did not challenge as Ward told me; we were too close to Byrne's house, but I shouldered my gun by which he would know I was no enemy—that is the officer's salute. I said, "I am Constable Armstrong." It was the first time I had ever met Mr. Hare. He called me back in from the bush, and said, "How are you getting on?" I said, "Doing the best we can, sir." He said, "What brought you down before this man; that man (meaning Alexander) does not know the way?" I said, "The fact of it is—I will tell the truth, no matter what is the result—Dowling and I were helping Sherritt to Cut wood; we were seen by Chinamen last night, and we had arranged not to go down till ten o'clock to-night, and remain out a little longer in the morning." Mr. Hare said, "That man has told me a lie." I could not say whom he referred to.

12137. Whom do you think?—I never could know what constable till I read in the press. I thought it was Duross, and I thought first it was Alexander. I said, "This has already been referred to before you." I said, "I cannot account for his telling a lie unless it is because I am the senior man, he might think I would get into trouble for not being out earlier." Mr. Hare said, "Do you believe in Sherritt?" I said I had every confidence in him. After some conversation, he said, "I am taking Sherritt away; what will you do in the event of the outlaws coming?" I said, "I know Steve Hart, and I could form a good opinion of the others. I will call them to bail up, and if they do not, we will all fall on them." He said, "Do not you think it would be as well to let them go to Byrne's and dismount, lie down beside their horses, and shoot them as they get on." I said, "I think that would be a very good plan, sir." he bade me good night in the most friendly manner, and wished me success; did not abuse me by any means, as he said in the evidence. When I returned to the hut I said to Sherritt, "Mr. Hare seems a nice sort of man to speak to; it is a devil of a pity that he was told; it will look bad for us." Then Sherritt said, "This is some of Mr. — Jack's work," meaning his brother, "he is always carrying stories to Ward and Mullane, to say I am drunk at the Chinese camp, and so on; if they come always in this way. I will throw up the job." On Sunday the 20th, Paddy Byrne stood on his grey mare in the front of the hut, looking in, we all watching him through the joints of the door, between the hoards. On Monday the 21st, about a quarter past eleven, we were camped about 600 yards from Byrne's house, at night. It was occasionally light moonlight. Sherritt had left us at this time; he went to have a look round towards the stockyard and towards Byrne's Gap. Dowling called out, "There is a horseman." I said, "Look out, then." I saw the horse, and recognized it as Byrne's grey mare, and also Paddy Byrne by his position on the horse—the stooping position he used to ride in. We waited till about four o'clock in the morning. We could not follow the horse, as Sherritt had left us, and we would have been seen ourselves, the night was so light; we could see as far as Madden's Gap, that is about a mile. When we returned to the hut in the morning, Sherritt was there. I said, "Aaron, it was a pity you had left us. Paddy Byrne has gone off scouting on his grey mare. I am going off to Beechworth to report and send the trackers up. Do you watch and see if you can pick up the tracks, and if the mare has returned." I said to the other men, "Whatever information you get, bring it into Beechworth, no matter what it is." I reported to Senior-Constable Mullane at seven o'clock in the morning, and the trackers were sent up by the afternoon train; but Ward had said Sherritt could not pick up the tracks, and they were not sent out. Dowling came in that night to say that the mare had returned. On Saturday morning, the 26th of June, Sherritt said to me in his own hut, "Armstrong, you are discovered. Denny Byrne passed in the rear of the hut, and looked in twice. They can set fire to this hut, and shoot you one by one as you run out." I said, "We will have to chance that; they can shoot us, too, any night on the way to Byrne's. However, I will go in to-night and tell Ward, and he can tell Mr. Hare if he likes." About half-past six on the same night, I was lying on the bed —

12138. Who was in the hut?—The four constables—Alexander, Duross, Dowling, and myself; Mrs. Sherritt and her mother, Mrs. Barry.

12139 And Sherritt?—Yes. Duross was having his tea in the kitchen. I was falling asleep, lying on the bed, about half asleep. I intended going in that night to tell we were discovered.

12140. Where were your horses?—We had no horses. I heard a knock at the door, and a voice said, "Sherritt, I have lost my way." Mrs. Sherritt said, "Aaron, go out and show him." The door was opened, and I heard a shot.

12141. He went to the door, and opened the door?—Yes. I took little notice of that shot. I thought it was Duross's revolver had gone off accidentally. Duross came into the room. I then heard the second shot, and I made some remark to say these were the Kellys. I took my shot gun and revolver and got on my knees on the bed. The other men were in a scene of great confusion, picking up their arms as hurriedly as they could. I remained for a chance to fire out of the window.

12142. Did you see what occurred to Sherritt then?—No, I had not seen that then. I remained for some time, and I heard a voice, just for a few seconds, say, "Open the door, send those men out." I think two constables went hurriedly to the bedroom door; I cannot recollect which constables. I was watching myself

through the window.

12143. It was the custom when a knock was heard for the constables to go into the bedroom?— Yes. I remained at the window for a few seconds, and a third shot was fired. It was on the front of the house, facing the El Dorado road.

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Armstrong,  
*continued,*  
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12144. Parallel with the door?—Yes. When that shot was fired I thought I had been seen from the window. Then I went up to the bedroom door, and put my gun out through the calico screen. Constable Alexander had his gun out through the screen also, pointing towards the front. I could not tell what position the other men were in. I believe one was trying to fire over the partition, and the other at the window. Byrne challenged us from the back, and said, “Come outside and surrender, or I will shoot you rotten dogs.”

12145. How did you know it was Byrne?—I did not know at that time, only Mrs. Barry called him Joe. From what I heard described afterwards I believe it was Byrne. I had never seen him in my life. I could have fired very close to Byrne that time, but I would have shot Mrs. Barry. I could hear her voice directly in the path. The two doors were open. Before this Byrne had said, “I have no down on the police,” while the women were all running in and out at this time, and an occasional shot was being fired.

12146. Whom from?—The people outside; I suppose the outlaws.

12147. There was no shot fired from inside?—No, we were armed with shot-guns, and we could not fire out through the boards. They were used by watch parties, but they were totally useless in our case, as we could not fire through the boards.

12148. Was there no rifle?—No, none. I do not blame Mullane for that. Duross blames him for our having shot-guns, but I do not. I carried my shot-gun all through, and they were used by watch parties.

12149. Had you been informed that the Kellys would likely appear in armour?—No, never anything of the kind. To have closed one of the doors, to have prevented the fire from that side of the house, would have been useless. The boards were upwards of an inch short in places, and we could have been seen distinctly through the boards of the door. Every time the women came in they were in great danger of getting shot by us. We could hear their step in the dark, and they were in danger of getting shot by us. We could not see the outlaws without appearing outside the screen; then we could have been seen and shot down from either side of the house, exposed to two fires, two doors immediately opposite, and we would have been right in the centre.

12150. You have not mentioned about Sherritt being shot?—Mrs. Sherritt said, “Aaron is shot,” after the second shot was fired.

12151. The women were going back and forwards, in and out of the house, apparently not having any fear. Had the women any assurance from the outlaws at all that they would not be interfered with, or was it at the solicitation of the outlaws that they did go out?—I cannot say. I do not think there was any treachery on the part of the women.

12152. They fearlessly rushed out, regardless of the consequences?—Yes.

12153. Do you think their danger was any less than that of the police if they had followed suit?—Mrs. Barry told me, “We knew Joe Byrne when he was a boy.” He had slept between her and Mrs. Byrne when he was a boy, and she was confident he would not shoot the women.

12154. Were they confident those were the outlaws?—I could not say—Mrs. Barry knew Joe Byrne, and she said Joe in the commencement, so I knew it was the outlaws by that.

12155. What I refer to is, that the women seemed heedless of the consequences, and you admit the danger was as great for them as for any other person to go outside the house. In that condition of things do you think if you and the other men with you had followed suit and suddenly rushed out that you might not have succeeded in capturing them or had a show for a fight?—It is my opinion, and the opinion of disinterested police at Beechworth, that had we been ready when the second shot was fired, ready under arms, we would have had a chance. I admit that, but after that I believe we would have been every one dropped.

12156. You see, as far as I understand it, I am under the impression that the women having come in at various times and gone out again, they were fearless of the consequences and they knew the desperate condition of things—could not you, under shelter of the women, have rushed out in order to have a chance?—That would have been a very cowardly thing, going under their protection. I would rather be shot myself.

12157. Could you be seen inside?—Yes.

12158. Could you see anything outside?—Not a single thing; inside there was a log fire burning, which was intended to last until morning, also a candle burning. I called out to one of the men to throw me the pillow to knock the candle out. I then said, “Never mind, the fire is showing more light; we will do nothing to attract attention.” The women were in this time. Mrs. Sherritt we told to go under the bed, to keep out of the way. Mrs. Barry came in with a very heavy step, and I said, “Oh, my God! Mrs. Barry, I was near shooting you; if you go out again you will be shot.” We put her under the bed roughly, but she did not complain. After some time, when it got dark, say about eleven o’clock, I closed the doors.

12159. That was when the fire began to get a little low?—Yes; there were no catches for the doors. I had to close them with my gun; they used always to fly back. Then I rolled some of the logs on one side from the fire, and threw what tea I could find on the fire. I shifted the body of Sherritt to one side also; the body had fallen inside. We could hear voices distinctly all night. About four o’clock there was a lot of conversation

heard. Mrs. Barry said, "They are there yet." She spoke first. I said, "It is all right; they are waiting for daylight, when it is getting light." I had my gun through the back door, and I could see or hear nothing of them. The dog was also lying asleep. Alexander then came from the bedroom, and he said, "They are gone," and he went to open the door. I said, "Look out from behind the tree." I had seen a Chinaman standing at the tree. Dowling had lost his ammunition in the early part of the night.

12160. How?—He could not find it. I said, "Wait till Dowling has got his ammunition ready."

12161. Your ammunition would fit his gun?—I had given him a little of mine the night before. When I went out Alexander went out before me, and we searched about the bush and could see nothing of them. Duross and Dowling remained in reserve; only the two of us remained at that time, thinking to drive the outlaws out, had they been about. I then prepared to start to Beechworth with information.

12162. What time was this?—About a quarter to seven. After consulting with the others we agreed to send all the messengers we could find on the creek and remain on the ground ourselves. They came down so suddenly on us at nightfall, and as I thought without horses, I thought there might have

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been a possibility of their returning. I thought it would have made matters still worse had the gang shown up during my absence. I wrote out three letters addressed to the Beechworth police; there was a Chinaman passing and I gave him a letter; I gave him some money too. He returned after a while and said he was afraid to go. I then sent him to Mr. O'Donaghue, the school teacher. Mr. O'Donaghue said he would go, that he was not afraid of Joe Byrne. He remained away about an hour and a half, when he returned and said his wife would not allow him to go, besides he heard the outlaws were in the ranges to shoot any person who would go in with word I then said I would go. I went up to the Sugarloaf Range to look for one of Sherritt's horses, but I could not find any. I started then myself on foot. When I got a mile along the road I saw Paddy Byrne on his grey mare. He came at a fast gallop to meet me. I still thought the outlaws were about. He turned off the road or I would have taken his horse. When I got near Beechworth, three miles from Beechworth, I met a man named Considine. I stopped him and took his horse from him perforce. I knocked the horse up in five minutes. On looking round in the bush I saw the last messenger we had sent, Duckett; he called out to me, and I told him to go back—he ran after me with the letter I had given him and I told him to tear it up. The horse was a very inferior animal, and it was near one o'clock when I got to Beechworth. There I reported the occurrence to Senior-Constable Mullane. The last definite information I had heard of the outlaws was when they were at—at Wangaratta. There were then six armed men in the gang—every officer in the charge of the Kelly search was aware of that. There was a fifth man, described unknown; was also armed with two revolvers. I am in a position to prove that.

19163. Can your evidence be corroborated?—I will give the names of persons who will corroborate it if necessary. It was the general impression that ——— was also in the gang.

12164. Had the outlaws, the Kellys, another brother?—Yes.

12165. What name?—Jim.

19166. Where was he during the outrages?—In Wagga gaol, for horsestealing.

12167. After his release the general impression amongst the officers was that he had come over and joined the band?—It was thought so, but there was no direct proof of it.

12168. Can you give the names of men who will give direct evidence on that?—I can. I merely stated it to show that we expected more than four men, to show what deterred us from going out.

12169 You have given very important evidence that there were six in the gang; it will be better to leave out the names of those other two. Did you ever see the six together?—I did not.

12170. In conversation with the Sherritts, who intimately knew all those men, was it the impression of this man and woman, the Sherritts, that there were more than four?—Well Sherritt did not think so. I spoke to him about that, and he said the man alone he believed was a man named ———, a horsestealer from Kilmore.

19171. Did either of those four outlaws ever speak to you about two other men at anytime?—I never had any conversation with any of them but Steve Hart, and that was prior to his taking to the bush.

12172. Did you get that from Sherritt in a direct way that the six were seen together?—No; Sherritt knew nothing whatever about the outlaws after they crossed at Jerilderie.

12173. Do you know anyone who ever saw those six together?—I do.

12174. Who can give direct evidence?—Yes.

12175. Do you know more than one?—I believe I do.

12176. Will you give the names of those privately?—Yes.

12177. Are they, in your opinion, reliable men?—They are. I am not the least afraid of a new gang breaking out, and I know as much about them as any man who was in connection with the search parties.

12178. Did you ever suggest to your superior officer the advisability of taking action in this matter?—No.

12179. Did it ever strike your mind without suggesting that in the interests of justice it was advisable to take action against those men?—I had not seen any officer after that.

12180. Did the officers know it?—I heard it was suggested to the officers, and it was not considered advisable to take action, fearing it might prevent or injure the search for the Kellys.

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12181. This information was equally in the possession of your superior officers?—I have reason to believe it was. I had been speaking to Jim Kelly for an hour and a half at Glenrowan before Ned's execution. He said, "I will not enter the bush; I have got a good trade; I can earn £3 a week by making boots, and I am too fond of going to theatres, and taking girls in the gardens at night, for the work; but should I ever be interfered with by the police I will not do as Ned has done; I will shoot every man, and have satisfaction." Tom Lloyd and Dennis McAuliffe, two of the most prominent of the Kelly sympathizers, went out voluntarily and helped us when we were stationed at Glenrowan, and looked for a horse down in the bush after Kelly's execution.

12182. Do they express any opinion to the police?—They seem inclined to be most friendly with the police, if the police will treat them in the same friendly way. I have been drinking on three occasions with Tom Lloyd since the capture, and found him most friendly.

12183. Do you think it dangerous?—By no means whatever, if he is treated well by the police; he is a splendid fellow.

12184. Do you think that wrong treatment by the police hurried them out?—I could not say, but I can tell what would drive a gang to the bush—the improper arrest of any of the friends of the late outlaws—for instance the arrest of the Byrne family for that saddle belonging to the late Aaron Sherritt. I think there is evidence forthcoming that will prove that is a put-up case.

12185. If so, what policeman will be responsible?—The family was arrested by Detective Ward.

12186. You think there will be evidence that that was the case?—If the Commission will examine the witnesses I will name them; and if they will allow me to repeat the statements made to me by Senior-Constable Mullane, so that he does not back out of it, it will be shown it was a put-up case.

12187. By Ward?—Well, I would not like to say the name.

12188. It would come out in evidence?—Tom Lloyd boasted in the hotel of the civility he had received from the Glenrowan and Greta police; but if they were wrongfully arrested it would have a very bad effect on the Kelly sympathizers in the district. I know Dick Hart, and I do not think he would ever take to the bush.

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12189. We are now coming back to the time that you were in Sherritt's hut; did any of the men that were with you show a desire to go out at any time to meet the Kellys?—No; I suggested a rush about nine o'clock, and asked if the men were game to follow me, and every man said "Yes," and every man repeated the words, "I do not consider it advisable"; and I then said, "You do not consider it advisable," and every man said, "Yes." At the inquest held on the remains of Sherritt, I stated how every man answered "Yes," and I omitted to state how every man said the words, "I do not consider it advisable." At the same time had I taken the lead I have no doubt but some or all might have followed and shared my fate; but I honestly admitted I did not see my way clear to run it, because I thought every man would have dropped at the door, and by hanging out I thought there would have been the opportunity of following them after. In addition to other disadvantages, I 'had been treated by the doctor for inflammation of my eyes, and the inflammation was gone, but my eyes were very bad at dark nights. I was guarding the bank at Wahgunyah. I was wearing a green cover over my eyes.

12190. Then your own opinion is that you were hardly fit to undertake such a service as that?—Had I calculated on only two being there, but I hardly think there was that, I might have made an attempt at going out, or had I calculated on the gang leaving; but the night was unusually dark. I might as well have thrown up my hands.

12191. Were they behind cover?—I could not say. There was plenty of cover beside the hut. They seemed to me to be right at the door. Any man who will take cover with a Webley revolver I will undertake will drop three men out of four as they come out, a man close up to the door under cover, and you need not expose your arm; and had any one escaped in the rush and gone to the back, they would probably have gone down the shafts; there were old deep shafts.

12192. This is an old deserted diggings?—By the front there was a drain, two or three feet deep, about four yards from the front, and going on from the yard, about five yards from the hut, there was an embankment of about three feet, so any man going out by the front would have very likely fallen down had he escaped.

12193. Then your opinion is, that you could hardly have escaped with your life?—I verily believe no man would have gone out of that hut alive had all the outlaws been there.

12194. Have you decided to leave the colony?—Yes.

12195. On account of this—Something to do with that, but I have means of my own and have better prospects; I am going to try my luck in the States of America. I think any man would have done the same in the same condition.

12196. You do not think it would have been wise to have kept a watch outside at night?—Well, we got instructions to keep no watch, but with the murders of the Mansfield police no party of police should have been sent to a place, either with a search or watch party, without the permission to keep a sentry. Had it been left to ourselves I would have kept a sentry, by all means, in the shed at the back, and he could have, at least, shot Byrne and would have saved Sherritt's life, and he would have been a useful man to the police yet. There

were two sheds at the back and also a tree with two forks immediately at the door—in the front there were three trees quite close to it. Now, a shot was fired over that hut during my absence at Wahgunyah, and I never knew anything of it till after the murder. It has also turned up in evidence that Jack Sherritt sent a letter to Mr. Hare warning him of a likely surprise, and Mr. Hare never told us of that, I got no information. The reason was that Mrs. Sherritt's brother, twelve years of age, Barry, was going to school along with Denny Byrne, brother to the outlaw, and also at the hut at the same time. I told the boy not to come back any more, and cautioned Sherritt and Mrs. Sherritt not to let him come back any more, fearing he should tell who were there.

12197. Is that how you got news of their determination?—No; but I was afraid the boy might tell Byrne.

12198. Do you think a boy twelve years of age, going to school, and seeing strange policemen in the house, is likely to be silent to his schoolfellows?—It would be possible he was too young. Denny Byrne was then about fourteen, an old-fashioned boy. He used to speak to the boy that passed the hut, passing twice a day. I have also heard that Mr. Hare received information that the outlaws were about to do something to astonish the world. I heard nothing of it, although I was twenty-one days out in the bush.

12199. You consider Mr. Hare should have allowed the men to know what rumors were going about?—I think so. I tell you candidly I did not know the outlaws were in the country at the time. No information whatever was given to the men.

12200. Did Aaron Sherritt communicate with you whether they were in the country?—He told me honestly he did not know a single thing about them. He said, "My belief is, Harry, that they are in the ranges between the Rose River and Gippsland, and there is a fifth man, unknown to the police, supplying them with provisions. They may come round here once in three months, or they may not come. I have seen or known nothing of them since they passed on the way to Jerilderie. I was talking to Joe Byrne and Steve Hart then;" and it is also my own opinion that they never trusted him after he refused to go to Jerilderie.

12201. Did he get an offer from them to be one of the party?—So he told me.

12202. The place between the Rose River and Gippsland would be up towards Mount Typo?—Yes. I wish it understood that the Sherritt family did all they could to assist the police. The old man was most attentive in carrying provisions to the cave when Aaron was getting married.

12203. Was old Sherritt a policeman?—He told me he had been in the Irish Constabulary.

12204. Did you see Jack Sherritt and the one that joined the police?—Yes, I saw them in the dépôt.

12205. Would you include those two in your statement that you believe the family did all they could to help the police?—I believe they did, although they told some petty lies. Of course Aaron chiefly boasted of his past movements, but nothing to deceive me. He used a great deal of policy with the officers; for instance, on the night of Mr. Hare's visit he told Mr. Hare that the outlaws were in the habit of coming about after his departure. I said, "Aaron, why did you tell Mr. Hare a different story?" "Well," he says, "I must use a little policy." He said at the house, "I am as true as you are; I am just working for the pay I am getting for my wife; I am as true as you are. I would take some other calling if I were dismissed from the service of the police. I am getting 7s. a day."

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12206. In the occupation of Sherritt's hut, was it a matter of conversation with you and your comrades as to not keeping an outside guard?—It was immediately by the road, and we could not, during the day, keep one up; but, if I had permission, I would have kept one at night.

12207. Was it ever a matter that suggested itself to your mind, the inexpediency of not ordering an outside guard at night?—No, I cannot say it was. I said once to Sherritt, "It is a strange thing Ward gave us instructions to keep no sentry," and Sherritt said, "Ward is a good-natured — fool; he has got no brains." I had been so long in the bush, and round Sebastopol, I was beginning to feel no surprise, and not knowing the outlaws were in the country.

12208. That not being expressed by your comrades, did it ever strike you to report that in writing to your superior officer, you being in charge?—No.

12209. Did you ever verbally mention it?—No, I simply did what I was told, that was all.

12210. Water was not very abundant in the place; was there any water in the building at the time the attack was made?—No, only a little that was made into tea.

12211. Not a bucket?—No.

12212. Were you out with any search parties under Mr. Brook Smith?—Yes. I am independent of any officers now. My instructions, in going to the cave, from Mr. Nicolson were—"Should the outlaws go to Byrne's, let you all fire on the tall man; that will be Ned, and then you will have so many boys to deal with. But should Byrne come alone, take him alive if possible, convey him to Beechworth by night; or if you cannot convey him by night, keep him all day until the following night. That is with a view of using him to assist in the capture of the three remaining outlaws." I have also heard how Mr. Nicolson was called a cranky Scotchman by Sherritt. Well, I will state what Sherritt said of Mr. Nicolson to me before death. He said, "Nicolson is as cute as a fox; he would know your thinking. He would walk into the mouth of a cannon. I parted with him in Benalla, good friends, and he shook hands with me. This is his cap he gave us; I am wearing it; he gave his cap to me on leaving Benalla." I will ask permission to make reference to Mr. Hare's visit that time, as short as I possibly can. Mr. Hare, in his evidence, said the outlaws did not know the police

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were in the hut, or they would have gone there. The outlaws asked for Jim Dixon; he is a constable, then stationed at Millewa, thirty miles away. Dixon was not in the hut at the time, but he had been in the Nicolson party some four or five months before with me. Their asking for him is a sufficient guarantee that he must have been seen by some person who conveyed the news to the outlaws. He must have been seen by the outlaws; and he joined as a probationary constable, and had a special down on me. Provision came out of Beechworth in the middle of daylight; that was wrong. There are several houses in view of the hut; they would have all known that Sherritt and the wife could not have consumed all the provision there.

12213. How often did they come?—Once a week, or every ten days. Mrs. Byrne has also stated, I believe to Constable Alexander now at Cashel, that her son Denny tracked us in the sand for a hundred yards every morning to and from the hut. Straps, I am also informed, have been found; I lost a strap myself at Byrne's. I am convinced the outlaws knew we were there.

12214. In fact they came there to shoot the lot of you?—I can state the admission Ned made to me, Ned Kelly. I escorted him to Melbourne with Inspector Baber and two constables. He said, "Was Senior-Constable Johnson in the hut when Sherritt was shot?" I said, "No; why do you ask me that, Ned?" He asked me if I tortured Sherritt. He said, "What men were there?" I said, "I am sorry to say I was." He said, "To have gone out in you light would have been foolhardihood; you would have all been shot but one. It was not our game to shoot you all. We wanted one man to go in and draw the police away from the barracks." There is no doubt whatever but that the outlaws knew we were there. Mr. Hare said, in reference to young Byrne's mare, that we did all we could have done. Sherritt was not there that night. About the lie that has been spoken of, I believe it was through good nature at the time that Ward told us to tell it. Mr. Hare said one constable took him astray wilfully. Well, that constable could not find the way if we were to go there again. He dare not keep, on the track, for fear of leaving tracks, at night. I could only find it by going a mile out of the way by Byrne's Gap. He could not find the way. Though I was seventy-five nights there, I could find the way only by going a mile away. The constable told me only for a guess he never would have found it.

12215. About the Byrnes, how did they conduct themselves?—I cannot say of my own knowledge, but Sherritt told me they had a great deal of cattle about after the Jerilderie robbery. They were poor before that. They have got land there. I do not think they have got any land fenced in from the Government. There is a great plain, a common or reserve, I fancy.

12216. Up to the time of the robberies they were poor?—Yes.

12217. Is there an old Byrne?—He is dead. There are only Mrs. Byrne, Paddy, Denny, and one girl; she was at service. This grey mare Paddy purchased at Tarrawingee for £20. Mr. Hare said he gave us a blowing up. He spoke to me in the most friendly manner, so much so that I remarked to Sherritt that "Mr. Hare seems a nice man to speak to." In reference to this statement of Mrs. Sherritt's, about the police concealing themselves under the bed, that is totally untrue.

12218. That was the statement in the papers?—Yes. About the outlaws coming in. I only lost sight of the door once when I was kneeling on the bed, and there were three other men looking on then.

12219. You would have shot them if they had appeared?—Yes. I was not taking any notice of the Outlawry Act having expired.

12220. You would have shot them?—Yes.

12221. Were you at a disadvantage in rushing, having to go out into that lighted room and outside?—Yes. I think two men would have shot the whole gang if they were in the same position. If I had them there I would have only asked for one man at each door. Reference was also made to my having, in the morning, asked Mrs. Sherritt for a drink of tea; but that is put the wrong way. Something like that did occur. I took Mrs. Sherritt a drink of tea in the morning. She said, "I will not drink that—Dan Kelly was outside the door and may have thrown poison in it." I never asked Mrs. Barry to do anything.

12222. Did they seem terrifically cut up at the death of Aaron?—Yes, they were pretty much so. I have a letter from Detective Ward which is very damaging to him. I wish to speak in the plainest terms of the Sherritt family, after the statement in the papers. The letter is as follows:—"Melbourne, May 9th 1881. Dear Armstrong, I saw Mrs. Barry and Mrs. Sherritt, they will tell the truth and carry

you through the whole affair clear; they were going to give what they were going to say, but their father, old Barry, was present, and he said, 'She'—meaning Mrs. Sherritt—'made a statement to Mr. Gale, reporter for the Age, and that he, Gale, brought down Mr. Ingram to hear her swear to it before him.' Mrs. Barry has written to Gale to have this statement returned and not published, and on these grounds. Barry would not allow any more written statements to be given, but I have arranged all right for you. Mr. Allen will work for me. Mr. H. has promised to have Mr. Allen called, and he will be able to corroborate Mr. Hare's statement with reference to what Aaron said to him about you. I will see Mr. Ingram—he is in Melbourne—and ask him what was the contents of the document he had sworn to before him, and will let you know what the result is. I was at the Board to-day, but have not been examined. Dowling and Falkiner have been examined. I asked Dowling if he received any instructions from me on the night of the 19th of June, when Mr. Hare and I were down, he said 'No.' He heard me say 'Go down to the hut to watch.' In cross-examination he said he heard me say I told Duross to tell a lie. He could tell me whether you or himself met me first, or which of you were wheeling the barrow of wood. I will most likely be examined to-morrow, if so, will let you know and send

you the particulars as to the opinion of the Board as to the four men's conduct. Allen will make all right for you; stick to the truth. Please burn this letter and write me a short note as to how you are getting. Dowling in his cross-examination broke down and contradicted himself very often." This is Mrs. Sherritt's letter; that does not correspond with the last statement made by her—"Dear Henry, I wish to write you those few lines just to let you know that me and my mother will say all we can in favor of you and Alexander and the rest, and you may let Alexander know about it. I would not wish for anything that you and the other three would get into a trouble about that night when Aaron was shot; and my mother says she was very thankful to you and the others for not firing out that night when ye were hemmed in by the Kellys, for she and me would very likely be shot as we were out in the dark and it was better ye did not fire." On the 6th of May I met Detective Ward at the Assize Court, Beechworth. He spoke to me in reference to the lie he told as to Mr. Hare. I gave him no reply. He met me again at night, outside the court house, and got Senior-Constable Mullane to witness the conversation. He said, "I have seen Mrs. Sherritt and Mrs. Barry. They say you ordered Duross and Dowling out of the hut—they would not follow you—and they had their feet under the bed, crushing the women under it. Prove that like a man; study your own character; and come out scot-free." I said, "Apart from an action the Government may take in reference to my conduct in connection with the murder of Sherritt, I do not want to remain in the police force." I said, "I would stick at a lie independent of any person." I left him then. On Sunday the 8th he wanted to see me at Senior-Constable Mullane's room. I met him there. He said, "I have been out at Sebastopol. I saw Mrs. Sherritt's father, and he said the women screened the police at Beechworth at the inquest, but they will do so no longer if the next two men gave such evidence as the Melbourne men had given," meaning Duross and Dowling. Mullane said, "Mrs. Sherritt made a sworn declaration before Mr. Ingram in reference to the conduct of the police at Sebastopol, which has never so far been published, fearing she will be pulled for perjury." Ward and I left together. I said, "Ward, are you and Mullane together in this enquiry?" He said, "Yes; but Mullane is too conscientious." (Mullane is a very upright man as far as my dealings are concerned.) I said, "What do you want me to do for you, Ward?" He said, "I want you to take me out of this lie before Mr. Longmore. Mr. Hare says it is only the concoction of those two men, the statement they made." He said "Ah! man, look at Mr. Fincham there, too." I said to him, "I will"; but I had no notion of doing it. He said, "If you do I will win the women over again to carry you and Alexander through. I have got Alexander right. I will get a statement from Mrs. Sherritt, which will prove it to you, and forward it to you at Wahgunyah—you will have to burn it. I will send you a copy of my own evidence from Melbourne; you will have to burn that also. I will get Hare to call Mr. Pat Allen to prove that you and Alexander are good men, and the two Melbourne men are no good. That will be you, Alexander, the two women, Mr. Hare, Pat Allen, and I, against the two Melbourne men."

12223. Duross and Dowling?—Yes. I received that letter that has been read from Ward a few days after. At the time of Ned Kelly's trial I was sent down to board at Bolam's hotel by Senior-Constable Mullane. I saw Mrs. Sherritt there and we spoke about the matter. She said, "Armstrong, you will have to look out for yourself, Ward told me not to take your part any more; he said he would not. He is afraid he will get into trouble for leaving the camp without a sentry, allowing the camp to be stuck up, and Aaron shot." She further said, "What a pity but what you told me what to say at the inquest." I said, "Oh, my God, that would never do." Mrs. Sherritt was only fifteen years of age when her husband died. She would be only too willing to assist any person who would invite her, to serve any policeman who would give advice in her favor. She gave us every assistance at the hut, kept a watch out for us, and always told us when any person was passing. Now Sherritt ventured opinions as to officers and their mode of search. He said, "No party of men on horseback will ever catch the Kellys." He said, "In the first place they have not got the horses, neither have they got the riders—there are a few men in the force, such as Johnson and Lawless—they could ride them on level ground, but they cannot gallop down ranges like the Kellys. If a strong party is sent in the bush the outlaws will keep out of the way. If a small party, such as four, be sent the outlaws will surprise them and shoot them down." He said Byrne used to practise riding down steep ranges; he said they would never be caught unless from direct information—they might be surrounded in a hut or shot at crossings.

12224. But never caught in the open bush?—No; and that is my opinion also, and Mr. Sadleir remarked the same. I was in a party he sent up to Rats' Castle; Steele was in charge of the same party. Mr. Sadleir said, "Beat round there for about a week; you may drive them down, and they may be shot at some of the crossings." The crossings were being watched at the time, but I never expected a party of men on horseback would ever catch the Kellys. Sherritt said the men who were along with me in Sherritt's house were the best conducted men he had ever seen in the party, "and I will ask Mr. Hare to allow them to remain here." That is all, I think, I have to say.

12225. Were you at the Sebastopol business when the thirty constables were?—Yes.

12226. Do you know anything about how the information was given that the outlaws were to be there or were there?—That was given by a man named —; he is a person of little importance, a worthless fellow to the police.

12227. Was it authentic?—It was, but it was late; it was behind time.

12229. Do you know the name?—No.

12230. Was the information given late, or was the action upon the information late?—Well, I do not think there was a sufficient party at Beechworth at the time to go out in search.

12231. You believe the information was given in time, but the party was not strong?—I think by the time the information was given they had left.

12232. Who will be a constable who can give the information on that point?—Constable Timothy Cane. He is in the city now; he is a foot man, lately transferred from Beechworth.

12233. What time did you get to Glenrowan?—Nine o'clock.

12234. Was there much firing from the house after you arrived?—There was an occasional shot up to about one.

12235. Did you see any shots so late as one from the house?—I believe I did, but very few. There was one shot near where I was, near the tree where Constable Dwyer was with me, about one o'clock.

12236. Are you satisfied that shot came from the house?—I could not say for certain, but I am inclined to think so.

12237. Might it have come from beyond?—It might, but I am of opinion that it came from the house.

12238. Some have sworn there were no shots fired after eleven?—I think there were; I think up to one.

12239. What part of the house were they fired from?—Partly from the front, towards the railway-station.

12240. Did you see Mr. Sadleir about on that day?—Yes.

12241. Was he going about among the men?—He was. He went round the back, circling the out posts twice, with Mullane assisting him.

12242. Did Mr. O'Connor go about with him?—Yes, he was there at ten o'clock, when I volunteered first to go into the hotel.

12243. You did that?—Yes, the first.

12244. Where was Mr. O'Connor then?—Posted with Mr. Sadleir, on the Wangaratta side, at a tree about 60 yards from the building. He was firing at the hotel.

12245. What did Mr. Sadleir say when you volunteered?—He said, "There is plenty of time; we have all day." He gave instructions to fire nine feet from the ground, and be very careful, and not injure the prisoners. They came out about half-past nine in the morning.

12246. Did those instructions remain in force after the prisoners came out?—No, I think not. The constables fired any place they thought the outlaws were likely to be.

12247. Is there anything you know with reference to the Glenrowan affair that has not been given to the Commission as you have seen by the evidence?—Well, I cannot say; there is a great deal of contradictory statements as far as I know.

12248. Are there any of those that you think of now that you know are wrong?—No, they were prior to my going there.

12249. There was very little done after nine o'clock?—Very little, and it is my opinion the outlaws were shot. I was close to the building when a heavy volley was fired, and I heard a great noise as if a heap of iron was thrown down, immediately after the volley. I went and told Mr. Sadleir I thought one of the outlaws was shot.

12250. Did you see the bodies?—Yes. Dwyer and I went in first at the back, after the priest—Father Gibney. I saw two bodies at the right-hand side, but I took no notice of them. I knew Hart, but I could not recognize him; they were in the little room to the right of the passage. I took very little notice because of the flames around us.

12251. They were shot together?—Yes.

12252. If Dwyer said they were one in one room and one in another?—I could not corroborate him in that.

12253. What he said was altogether wrong?—I could not say that; he might have seen more than I did. I believe they were both lying together.

12254. Every witness but Dwyer has sworn they were in that right-hand room?—Yes, I do not think Dwyer had much time to see where they were.

12255. It might have been imagination?—I think so.

12256. You and he carried out Byrne?—Yes. I took the armour off; the armour was on Byrne where he lay.

12257. On the 8th December 1878, you were then stationed at Wangaratta?—Yes, I believe I was.

12258. Do you remember Wild Wright coming there one night and stopping at O'Keefe's hotel, at Wangaratta?—I do.

12259. Do you remember he missed two horses and the saddles and bridles?—I do.

12260. Were you sent by Sergeant Steele with Dixon to make enquiry into the loss of those things?—No, I was not.

12261. Did you find out anything in reference to those missing horses after that?—No.

12262. Or the saddles and bridles?—No.

12263. Did you hear anything about them after?—I heard a statement once, three months after.

12264. Do you remember a rumor about that, that the saddles and bridles were afterwards found in the closet on the Agricultural ground?—Yes, I have heard that. I think there was a man in charge of the gardens, and he told Steele about this saddle, and it was identified as one of Wright's saddles.

12265. Do you know, in fact, that those things were found afterwards in this closet?—Nothing but what Steele told me.

12266. Were you at all aware of James Dixon having been sent by Steele to take this horse's saddle and bridle away, in order to bring a charge against Wild Wright?—Oh, by no means.

12267. There is no truth in that?—None whatever; at least, I would be the wrong one to get up a trumped charge against any one. I think that is pretty well known.

12268. Were you selected on your entrance into the police for special service?—Yes.

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H. Armstrong,  
*continued,*  
21st June 1881.

12269. What was it?—I was told off for cab duty after I joined; that is a privilege, and then I was told off for plain-clothes duty with Sergeant Dalton.

12270. That was amongst the criminal classes in Melbourne, Little Bourke street and those streets?—Yes, and general duty.

12271. Here is a letter you have written to Mr. Nicolson, 31st May 1881, in which you write—"You also gave us instructions on that occasion to keep a vigilant guard or watch night and day, which order was also obeyed. A strict watch or guard would also have been kept by the men in Sherritt's hut at the time of the murder, in accordance with your previous instructions, were it not that I had received orders from a person to the contrary." Who was that person?—Detective Ward.

12272. "Who I suppose acted on the advice of your successor. Although no man looks on the conduct of the police at Sebastopol in a worse light than I do myself, I think those who sent us there with improper instructions, namely, to keep no watch, immediately beside Byrne's, knowing Sherritt to be a marked man, made the first blunder and are not free from blame." Why was he a marked man?—It was pretty well known he was in the employ of the police, and the shot fired over the hut would show he was a marked man.

12273. Your officers had not told you of that at the time?—No.

12274. Is that what you complain of—that you got no information?—Yes, I look on it as a general misfortune. It does not affect me; I will soon be where no one will know me.

12275. Have you seen your record sheet?—No.

12276. If you were in the same position again would you venture out under the same circumstances?—I believe I would, but I would be shot.

12277. It is right to tell you that your record sheet, from all your officers, speaks in the highest terms of your courageous conduct. You were one of the party going to search Rats' Castle?—Yes.

12278. Were you aware how many were at Wangaratta on duty when you left it?—I could not say.

12279. Were you in Sergeant Steele's party?—Yes, I was always with Sergeant Steele.

12280. Was it your impression that those were the traces of the Kellys at the time at the bridge?—Yes, I am thoroughly confident they were, but we were not going to Rats' Castle at that time—we were going round to beat the ranges.

12281. Did you feel you were justified in going away from the tracks?—I did not hear what instructions Sergeant Steele got from Constable Twomey at the time.

12282. We have it in evidence that Mr. Sadleir gave the instructions?—Yes, he did, to go round to Yackandandah and the ranges, but Twomey gave those instructions to Steele at Wangaratta, in the train.

12283. Steele has said that, although he was on other duty, and could not turn round, he stated there was nothing to prevent him going?—Well Sergeant Steele, I think, would hardly like to disobey Mr. Sadleir's instructions, I fancy. I could not give any other opinion on that. He was in charge of the party, and he thought he was justified in going on.

12284. You do not think it was an act of cowardice?—By no means; Steele is the wrong mark for that; in fact, I have noticed no cowardice. Any of the constables would have been only too glad to meet the Kellys on equal terms.

*The witness withdrew.*

*Adjourned to Tuesday next at Eleven o'clock.*

TUESDAY, 28TH JUNE 1881.

*Present:*

Hon. F. LONGMORE, M.L.A., in the Chair;

J. H. Graves, Esq., M.L.A.,  
W. Anderson, Esq., M.L.A.,  
E. J. Dixon, Esq., J.P.,

G. R. Fincham, Esq., M.L.A.,  
G. W. Hall, Esq., M.L.A.,  
J. Gibb, Esq., M.L.A.

Francis Augustus Hare further examined.

F. A. Hare,  
28th June 1881.

12285. *By the Commission.*—You know Jacob Wilson?—I do.

12286. Did you employ him to watch on behalf of the police, or to give any information?—I had better state exactly what occurred. He came to Benalla shortly after my arrival there on the second occasion, and told me he had given information privately concerning the Kellys, and said he was anxious to get his son

into the police force. I told him we were not taking on any fresh men then, but that if he could give me any information concerning the Kellys that I would do what I could to get his son in the force; in fact, I would guarantee that he should be taken in. Knowing that he lived within a very short distance of the Lloyds, I said to him, "Would you have any objection to take a man to live with you who is in my employ. He is not a policeman, but he has been one." We had some conversation about it, and at last he agreed to do so, and told me to send him as if in search of work; to come with an old horse that he could turn out in his paddock, without the Crown brand. I made all the necessary arrangements to send a man named Stevens to his house. The man remained there for some time, and left the day after the Kellys were captured. I think he was at Wilson's place about ten or twelve days, not more. I do not think I saw anything more of Jacob Wilson.

12287. Is it your opinion that he was compelled to leave his selection through fear?—I cannot say that. I know nothing at all about his case whatever. He referred in his evidence to my having put my horses in his paddock. I did so; but I put my horses in many settlers' paddocks whilst I was out searching for the Kellys. Some people there consented, and some I put in without saying a word to them about it, and I paid him for the forage I took for the police horses. It was with his consent I put the horses in. The man was particularly anxious to assist me—I must give him that credit—and did what very few other men

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would have done, that is, allowed us to send a stranger to his place; and he, I was told by Stevens, watched with Stevens at Lloyd's house. That is all the information I can give on the subject.

F. A. Hare,  
*continued,*  
28th June 1881.

12288. When you told him you would do what you could to get his son in the police, that was provided he was fit?—Yes, of course.

12289. Are you aware that he is ruptured, and unfit?—I heard Wilson say so here, but nothing beyond that.

*The witness withdrew.*

The Reverend Matthew Gibney sworn and examined.

12290. *By the Commission.*—What are you?—I am the Vicar-General of the Roman Catholic Church in Western Australia.

Rev M. Gibney.  
28th June 1881.

12291. We just want the few things you know yourself at Glenrowan?—Yes.

12292. Do you remember the taking of the Kellys at Glenrowan?—I came there by the train, I do not know the exact hour the train arrived, but I believe it was the first ordinary train from Melbourne. I was staying in Kilmore the previous night and started then with the train.

12293. It would be about 12 o'clock?—Coming on twelve, I think.

12294. Did you take any particular notice of what was going on at that time?—I had not heard previous to my getting into the train of the Kelly capture or that the police had found them, but when I came to Benalla I was told there that Kelly was taken, that he was wounded, that the others were stuck up at a place of which I could not remember the name then—that was Glenrowan. I enquired myself if there was any Catholic clergyman there, and I was told no; and then I made up my mind if there was not I would stay to attend first to Kelly, and then to any others I might be called on to.

12295. You were a witness of what occurred after 12 o'clock?—I was a good deal of the time.

12296. Where were you principally stopping?—I made my way into where Ned Kelly was lying. I understood he was in a dying state at the time.

12297. That was in the station?—Yes.

12298. Did you notice anything that occurred at Mrs. Jones's hotel?—I observed that the police stationed around were firing into the hotel just as the train came up—in fact the firing seemed to be then vigorously carried on.

12299. All round?—All round. It took me some considerable time to get into where Ned Kelly was lying. There seemed to be a great press of people about the windows and door, curiously trying to see him; but I think it was a Dr. Nicholson to whom I was very thankful for the manner in which he assisted me to get to Kelly, and attended to any call now and then when, as I thought, Kelly was in a dying condition—he was fainting, he was always ready to attend at any call to give me any assistance he could.

12300. Did you hear anything during the afternoon about the proceedings of the police with reference to the Kellys?—Well, there were just some few incidents came under my notice that I do not think they were stated, as far as I could see, correctly. That is, I was told that Kelly's sisters were coming on the scene. It would be some considerable time after I had attended to Ned Kelly.

12301. Some time in the afternoon?—Yes, and I was then glad to find that because I thought she could proceed to Mrs. Jones's house safely to speak to the men. I stepped forward and asked her would she go to her brother and tell him there was a Catholic priest here who was anxious to come and see him, and to ask him would he let me in. She said, "Of course, I will go up and see my brother." She was very excited. She started then for the house but was stopped.

12302. By whom?—I could not say. I did not know any person on the scene—by some police authority, I suppose, so I was told. The officer in charge of the police was off in one direction of the semi circle which the police formed, standing in different groups here and there behind trees. I was told he was off

in that direction, so I went on from one group of police to another to find the officer in charge, and when I had gone to the extreme end there, I was told he was not there, so I was directed then on to the other end, and when I came to the last body I was told that was he—I think Mr. Sadleir; and then I sent the girl to ask (I did not go myself) for permission for her to go up to the house, mentioning that I advised her to go; and she went and she was told she would not be allowed to go. I was strongly inclined to go myself prior to that, but when I had been with Ned Kelly, after I had attended to him, I asked him did he think it would be safe for me to go up to the house and to get this man, his brother, I think, to surrender. He looked very steadfastly at me, seemingly reading me, and he said, “I would not advise you to go, they will certainly shoot you.” I said, “They would not shoot me if they knew I was a priest or a clergyman;” and he said, “They will not know what you are, and they will not take time to think.” I saw that I could not justify myself in going up as long as I did not see the probability of doing any service. That alone was what kept me back during the course of the day. I was surprised a good deal that there seemed to be no sign of truce at any time offered; there was no signal given that the men might see, that they might have the idea their lives would be spared if they came out. I was rather surprised at that, and remarked it repeatedly, but still I did not know whether it was to anyone in authority or not, because there seemed to be an incessant feeling of anxiety in the minds of those men that were around.

12303. Did they seem to be under any control?—I could not say that they were guided by any orders. I could not make a statement on that subject.

12304. Did they seem to have the appearance of being guided by orders?—I do not think they had. I do not think really that there was any disciplinary order guiding them, as far as I could be a judge.

12305. In point of fact, that there was a want of generalship?—Oh, that was evident.

12306. They seemed just to be shooting away at random?—Firing at the house was the only thing that anyone could say there was any uniformity about.

12307. Just firing at the house?—Yes.

12308. Did you hear any shots fired from the house after you arrived?—I repeatedly tried to ascertain for myself whether there were, and I could not. Sometimes there would be shots fired that I could not really say whether it would be from the house or not, but the reason of that was that sometimes, in my position, the police were above and beyond the house, and I could not really say then whence the sound came.

12309. So far as you know there was no further attempt made to communicate with them after Mrs. Skillian and the sister came?—No further attempt was made to communicate with them that I saw or heard of, only that, until the house was set fire to.

POLICE.

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Rev M.  
Gibney,  
*continued,*  
28th June  
1881.

12310. Did you feel it your duty to rush in to see them when the house was fired?—It was at that particular time that the crisis occurred that then buoyed me up to do what I did, when the house was being set fire to. My feelings revolted very much from the appearance it had, and I was wishing in my heart that it might not take fire. That was my own feeling in the matter; and then I should not have gone but that when the fire seemed to have taken well, just as it seemed to break through the house here and there, there was a volley fired into the house, and I then said to myself, “These men have not five minutes to live. If they stop in they will be burned, and if they come out they will be shot.” That was what decided me, and I thought then they will be very glad to get any service now—they will be very glad to see anyone coming to them.

12311. Did you go in at the front door?—I was then close down to the gate at the railway crossing, and I started from there direct for the front of the house. I think I might be about half the distance between where I started from and the house when I was called to. I was told afterwards it was Mr. Sadleir who called to me not to go there without orders, without consulting him—that I should not go there without consulting him.

12312. You were told afterwards it was Mr. Sadleir?—Yes; so I stopped then a few moments, and stepped towards him, perhaps two or three paces, to remonstrate with him. I said something to this effect, “I am not in the police service, I am going on my duty, and there is no time to lose.” So he did not interfere with me further, and I walked on. As I was going on towards the house there was a large number of people about. I am not a very good judge of numbers that way, but I thought there could not be less than 500 or 600 people.

12313. Then they had collected from all parts of the country about?—They were coming in from various directions.

12314. Did you see the two young men when you went in?—When I was going up towards the house the excitement of the people was very great, and they clapped hands as if I was going on a stage; their excitement was high at the time. I went in then on what I think was the room on the right hand side, and it was quite vacant or empty. It was the other end of the house the fire was set to, and then when I came inside I called out to the men that I was a Catholic priest, and came to offer them their life, and asked them for God’s sake to speak to me. I got no answer of course, but I thought to myself that they might be on their guard, watching to see whether I was what I said I was. Then I found first the body of Byrne. There was a door leading out of this room towards the door. His body was lying there where he had fallen in a straggled kind of way. He seemed to have fallen on his back, like on his hip. He must have died soon, because he was just in the same position as he fell; he was still lying, and his body quite stiff.

12315. Did you see him fall?—No, he had fallen in the morning. I heard when I came there that he was shot, and that he could not have lived long after he fell. When I found this man's body, that part of the house was blazing furiously just before me. I did not think that I would go in then if I got any other passage around, so I went into another back room that was off the one I entered first, and there was no exit out of that—no door—so I had to come back to the same spot again, and the place was blazing considerably. I was afraid at the time that I might be caught with the flame; I just blessed myself in the name of God and rushed through. Then when I came in that passage down from the bar towards the back of the house there was a little room to the left hand, and I spoke again to the men inside. I got no answer, of course, and I looked in upon the floor and found the two corpses lying together.

12316. Both dead?—Both dead. The room was small.

12317. At the time you saw the two corpses lying in that room, had the fire taken sufficient hold of the building to have destroyed those two corpses by fire, or are you under the impression they were dead prior to the fire?—Oh! I am certain they were dead.

12318. But we want your own impression whether their death was caused by the fire, suffocation, or any other means?—My impression is that they certainly were not killed by the fire—were not suffocated by the heat of the fire. I myself went in there, and stopped there safely, and just when I came into their presence they were very composed looking, both lying at full stretch, side by side, and bags rolled up under their heads, the armour on one side of them off. I concluded they lay in that position to let the police see when they found them that it was not by the police they died; that was my own conclusion.

12319. You concluded they committed suicide?—Yes, that is my own belief.

12320. At the present time?—Yes, I took hold of the hand of the one that was near me to see whether or not they had recently killed themselves—whether there was life in them, and I found it was quite lifeless. Then I looked at his eyes, and I found that his eyes showed unmistakable signs that he was dead for some time; and then I went to the other to touch him. I satisfied myself that life was completely extinct in both of them before I left, and at that time this little room they were in the fire was just running through it. I saw that the roof itself was sufficiently safe, that I was in no immediate danger. It was very hot, but still I saw I was not in any immediate danger of being caught.

12321. At the time that you entered the little room at the back of the building where the two corpses were lying, had the two men been living, there was sufficient time for them to have escaped with their lives from the fire?—Oh yes, there was if there had been life in either of them. I would have had them out myself, and I was perfectly satisfied that they would be taken out. I looked upon it that my own purpose was realized, that I had satisfied myself that what I came to do was over, that it was too late, and then I said I would give word to the police of course as so as I found how they were. I walked out the back of the house, that was the nearest way then, and called out to the police that the men were all dead inside.

12322. Did they rush to the building then?—There came two or three running up very soon after. The first man, I suppose he was a policeman, that came up, it appeared to me he was determined to have a shot into one of them. That was just the impression I had at the moment.

12323. He had his revolver ready?—Yes, he had his revolver ready, and specially so it appeared to me. I laid my hand upon his arm that way, and said, "Do not fear; they are both dead." That was at Byrne's body; he could not see the other two from there. So then I believe it was the time they rushed in, and pulled out the body of Byrne. Of course the crowd came running then quickly, and I was certain that they would have taken out the bodies. I was perfectly satisfied they would have done so, and there was plenty of time; but then I did not make sufficient allowance for appearances, or of the fact that I had

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an advantage over the police just then. I knew the room had not been burnt through; though burning, it was not burnt through. Rev M. Gibney,  
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12324. Then from the way in which they were lying, with a pillow of bags under their heads, you came to that conclusion it must have been arranged before?—That they laid it out, and that they could not have been laid in such a position except by design.

12325. Did you notice if they had any weapons in their hands?—I did not see any, and I cannot say that I saw any sign of blood; in fact, my impression was that they must have laid the pistol upon their breasts and fired into their hearts; but that is only conjecture, for I did not see the wounds about then—about the bodies, or on the bodies.

12326. I think you said you went in at the front door, that is the door facing the railway line?—Yes.

12327. And then you went out at the back door?—I went out the back, after having found the three bodies.

12328. Did you come through again out of the front door?—No, I went into the room off the first room, and thence into a room off that, thinking I could get out that way without passing through the flames, because that was the end of the house fired first, and the fire was worst there, and the spirits might have caught fire, I thought; there was a sheet of fire.

12329. About how long were you in the house altogether?—I could not really say; perhaps I might have been from eight to ten minutes I think so.

12330. Would the time not seem to be longer than it really was?—It might appear to me longer,

because all that I did, when I found Byrne was dead, was to pass on then to get the others. I went into the back room, as I said, off the one that I entered first, thinking to go out that way.

12331. You could have done all that in five minutes?—I daresay I could.

12332. How far were the police from you when you came out and said the men were dead?—There were none of them I saw nearer, I should say, than between 20 or 30 paces.

12333. There was no effort made by them to come up till you told them?—No, there was no man came up with me, or that I saw, till the first man that reached me after I came out of the back, and called out to them. He was the first man I saw come to the house. I think there were three that ran up after that. That was after I came out. My great object in going, of course, was to see to get those men time for repentance; and I would have preferred much to have seen them executed rather than to have seen them destroyed in that manner.

12334. Although you saw no firearms about them, you still think they committed suicide?—From the position; I could not judge of anything except from the position in which they were lying. They lay so calm together, as if laid out by design.

12335. It had all the appearance of a pre-arrangement?—It had. I saw sometimes in the press different remarks about casting censure upon this Police Commission, that they had not given me any portion of the reward. Now I wish to make a statement on that matter. From the first I never intended to receive anything of that reward, though I might be considered entitled to it. I never thought myself for a moment that I would accept any portion thereof; and my reason for that is simply this—that it is better for society at large that we should be (the Catholic priesthood, I mean) free of any charge of taking any money that is offered as a reward, because we can more readily move in the matter; we can approach them with some amount of confidence on that account. Of course I merely make the remark with your permission, that it, was my own determination; and if you had not given me the opportunity of saying so, of course I would never make such a remark, because it might not be understood in the way I intend it.

12336. This is not the Commission that allocated the reward?—Indeed

12337. That was a Board appointed for the purpose; but your object in stopping at Glenrowan that day was in your capacity as a Catholic priest?—As a priest.

12338. Your duties as a priest were paramount to all other considerations?—It was only that that kept me there and actuated me at all. There was another thing, I thought I might also remark. I thought it strange that as I was the principal witness in finding those bodies, that I had not been in any way consulted in the matter, that I had not been referred to at all as a witness. I did not see any reason at all why I would not be at least so far consulted in the matter, or spoken to, to hear what I had to say on that. Of course I was the witness of the manner in which those bodies were found, and the first witness.

12339. We fully intended to call you, but we did not know at first you were in the colony?—I referred simply to the inquest.

12340. And you were on the ground at the time?—I went on to Albury.

12341. But they could have found you?—Yes. I think I might say too, with your permission, that in order that it may not appear strange why I should be so far away from my own place, that my object in visiting Victoria has been collecting for the orphan institution, of which I am the certified manager myself in my own colony. It might appear a strange thing for me to be away so far from my own duties.

12342. Did you tender any advice or suggestion to the police officers during the day in any way?—Well, I did not find or see any of them. I exposed myself very considerably in trying to find one of them, because in going from tree to tree if the parties had been alive inside, as was supposed, they might have said, “He is one making himself very busy giving general directions, going from place to place, from one officer of police to another.” They might have picked me off; but still I was very intent on trying to have the sister go there, seeing no one else would be safe to go, and it was then I sought for the officer in charge.

12343. You did not find him on the scene of the fight?—He was with the party at the opposite end.

12344. Did you notice the black trackers there?—Well, as I was passing along in the front of the house, along by the railway line like—I was questioning myself afterwards about that—I think I saw some of them lift their heads and look up to me from a kind of gulf or hole they were in. I could not say for positive now, I did not pay any particular attention to that.

12345. You did not notice whether there was any particularly heavy shooting from there or not?—No.

12346. Is there anything further you wish to add?—I do not think there is anything further. There is one thing, which is hardly relevant to the matter. There was a report spread at the time, after I had been attending to Ned Kelly. Of course I was a very considerable time with him before I moved out at all, trying to prepare him for his last, because I thought he was in a dying state, the doctor could not give a decided opinion as to the result. After that I came out and heard there was a report he was cursing and

said the man was bad enough, and not to tell lies about him, and afterwards I found it had been telegraphed, but these are points that are of no importance. I forgot to mention anything about Cherry, the man that was taken out of the house. I was aware that he was wounded in the house almost from my going there. Some parties met me and told me this man, a platelayer, was shot by the fire of the police upon the house, and he was wounded, and I knew that from their information that he could not possibly come out, that he was inside incapable of moving himself, and yet they said he had not died. Well I did not find him in any of those three rooms. I came to where the bodies of the outlaws were, and I had already passed through the house, and it was a party that had been bailed up with him that knew where he was, ran and took him out.

12347. From an outhouse?—I fancy so. I believe he would have been burned; that he is the only one that would have been burned alive if I had not come up.

12348. You mean he was the only one whose life would have been sacrificed by the effects of the fire?—Yes.

12349. You saw him when he was brought out?—Yes; I attended to him as well as I could, and ministered the sacrament of my own church to him as far as I could.

12350. He made some remarks?—Not to me. He seemed to be conscious, but not able to speak.

12351. You said you went in at the front, and not at the back; did you not afterwards appear at the front door, and hold up your hands in this manner—[*explaining by gesture*]?—No; it was at the back. When I was going in I held up my hands, and kept my hands in such a position going into the house, so that the parties observing me might perhaps be justified in saying that I came back, from the fact that I turned back from the room I first entered, because I was standing between the people and the blaze, and every movement of mine, I believe, they could see with the strong light that was beyond me. They might, in the excitement of the time, think I came out. I did not come out of the house at the front.

12352. Did you appear at the door?—No.

12353. What intimation had the police from the front that it was all over, that caused them to go up to the house?—When I saw the others running to the other side, I suppose I called out to the police. They were on my right hand as I went up. After I came out, I turned to them then and called out, I dare say they were watching anxiously, and the first of that party then came running, and they all rushed after. I did not come outside the house until I came out of the back.

*The witness withdrew.*

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Charles Johnston further examined.

12354. *By the Commission.*—We want to examine you particularly upon the time you were in pursuit of the Kellys and anything else you may desire to say?—Yes.

12355. Do you remember the time when it was supposed the Kellys had passed Wangaratta, and a party was sent out after them in charge of Mr. Brook Smith?—I do.

12356. Can you fix the date of that?—I can; it was on the 6th of November 1878 that we left Wangaratta.

12357. That was almost immediately after the murder of the men in the ranges?—Yes, immediately after.

12358. How many of you were there in the party?—There were twenty-two.

12359. Did you come upon any tracks?—I might say on the afternoon of the 6th we divided when we went about twenty miles from Wangaratta, at the station where Morgan was shot; I do not remember the name of it.

12360. Pechelba?—Yes, where Morgan was taken. Mr. Brook Smith took one party, and Mr. Kennedy—who was then a first class detective—took the other party.

12361. Did the parties go in different directions?—Mr. Kennedy's party went across the ranges towards Lake Rowan. Mr. Smith's party went on to Yarrawonga. I was with Mr. Smith's party.

12362. Did you come upon any signs of the Kellys having been recently at the place, or did you hear anything?—We heard nothing until the morning of the 8th. I might mention we went to Yarrawonga on the night of the 6th, and we remained there during the night. The following day we left Yarrawonga and arrived that night at Lake Rowan. Coming back towards Wangaratta on the morning of the 8th we passed Mr. Ryan's place at Lake Rowan. After coming across the ranges I saw the stockyard, which I went into, and I found that horses had been recently in the stockyard. That would be within 48 hours prior.

12363. It might have been a shorter time?—It might have been; but I think it would be within 48 hours.

12364. Was there anything remarkable about them?—There were some of the horses shod and some unshod. I told Mr. Smith that there had been some horses in the yard. I do not remember what answer he made, but he had gone on in front with some of the other men, and about a quarter of a mile from the stockyard I picked up the tracks again of five horses. I coo-ee-d on Mr. Smith and brought him back, and pointed out to him that I believed those were the outlaws; and he concurred with me that it was so.

12365. You mean the outlaws' tracks?—Yes, the tracks of their horses. There were three of them riding singly, and there was evidently a pack-horse beside one of the others. The ground was very soft, and on the flat country it was easy tracking them. We traced them on to the Warby Ranges, somewhere about, I should say, about 25 miles. A man named Dixon and I did the tracking.

12366. Would it be going in the direction of Greta?—It would be partially, but they would have to go round a considerable distance to get to it. It would be going in the direction of Wangaratta more from Lake Rowan.

12367. Further north?—Further north.

12368. But would it be in the direction taken by men who were endeavoring to evade observation to get to Greta?—It would. It would be a very good outline to follow.

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12369. Did you think they were then disappointed in trying to get home, and were trying to get back again?—That is my impression, that they had tried to get across the Murray and found they could not and were making back to the ranges, and that they had called at Ryan's, at Lake Rowan, to get provisions. That is my impression.

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12370. What followed?—Night came on, and Mr. Smith deemed it desirable that we should return to Wangaratta, as we had no provisions.

12371. The night of the 8th of November?—That was the night of the 8th of November.

12372. You say "deemed it desirable"—how do you arrive at the conclusion he did that?—Because we had no provisions, and night came on, and we had no trackers.

12373. What did he say that made you aware that he "deemed it desirable"?—From what he said, We will go to Wangaratta to-night and get the black trackers, and be able to run the tracks to-morrow."

12374. From the impression you formed on the night of the 8th November do you believe then you were on the tracks of what you supposed to be the outlaws?—I do.

12375. Were you enabled then to form any opinion of the probable time they had passed those tracks up to that point?—I do not believe they were more than 48 hours in advance, that is at the time and from the appearance of the tracks, and from certain hairs that were on the fence, showing that they had taken the brush fence—white hairs, where the horses had scratched themselves crossing the fence. We knew there was one of the police horses had white legs, and there were some white hairs on this brush fence.

12376. One of which police horses?—One of the horses that were taken from the murdered police. There was a chestnut gelding, M 42, with white legs and face; that was the horse I supposed that had left the hair on this brush fence.

19377. Do you know whether that horse was shod or unshod?—I could not say, because all the horses had gone across, and he was the only horse that could have left white hairs.

12378. You last stated that it was coming on night, and Mr. Smith told you it was desirable to go into Wangaratta to get black trackers?—Yes, and to get provisions.

12379. Did the constables agree with that?—Yes, we all agreed that night to go.

12380. Did you go?—We did go.

12381. What time did you reach Wangaratta?—About nine o'clock at night.

12382. How far was that from Wangaratta?—About between nine and ten miles.

12383. Did you see any superior officer when you got to Wangaratta?—I did not.

12384. Was there any officer there?—Mr. Smith told me that Mr. Nicolson was there.

12385. Did you see him?—I did not see him that night.

12386. Where did you go to?—To Kitts' hotel, where we were putting up our horses.

12887. Did you receive any instructions?—Mr. Smith came and told me to have the men ready at four in the morning, that he had received instructions from Mr. Nicolson to pick up the tracks and follow them.

12388. Did anything occur till that time?—No.

12389. Did you get up?—Yes; I got the horses together and men ready, and called on Mr. Smith. There were seven horses and men.

12890. What time did you call Mr. Smith?—About four o'clock. He was sleeping in one of the rooms at Kitts' hotel.

12391. Did he get up?—No. He said he would get up immediately. I waited for an hour and re-called him about five o'clock. He told me he would get up immediately.

12392. Did he?—Not till about seven o'clock.

12393. What did he do then?—He came out and told me to proceed out as far as Bryan's place—that is, Morgan's Gap—and that he would follow.

12394. Did you go?—I did. I arrived at Bryan's about nine o'clock.

12395. Was your officer there before you?—No, I did not see him until night. I remained there until one o'clock, and then I suggested to the men the advisability of going on and picking up the tracks and fighting the outlaws, and they all agreed with me to go and we did go.

12396. You were delayed until that hour by your officer?—Yes.

12397. Did you pick up the tracks?—Yes; we took them up in the direction of the Warby Ranges, and to a point above Bryan's house.

12398. Is that the orange grove?—Yes.

12399. Did the tracks you were then following correspond in every particular with the tracks you had been following the previous day?—Yes, exactly, and we followed them to the summit of the range immediately over the orange grove over Bryan's place, where they had evidently camped—where the horses had been camped for the night.

12400. What hour was it when you found the tracks there?—About four in the afternoon.

12401. What did you do then?—We searched about for about an hour, and different tracks were about where the horses had been grazing, and we picked up the pack-horse.

12402. You were then searching about for the tracks; ‘the horses had been out—all loose?—Some of them had been loose, and we wanted to find out what direction they had gone.

12403. Where was Mr. Smith then?—I do not know.

12404. What did you find then?—We found the pack-horse, B 87. That was the pack-horse that was taken from the murdered police.

12405. Was it Kennedy’s pack-horse?—It was.

12406. Was he the one with the white legs?—No.

12407. What did you do with the horse?—Left him there until it was dark and took him down. My intention was to put him in the paddock, and leave him there until I sent one of the men in for provisions to Wangaratta, so if we went further on we could remain at night.

12408. To keep on the tracks?—Yes, at the foot of the range, to pick up the tracks immediately the next morning.

12409. Did you do that?—No, we met Mr. Brook Smith. It was just getting dusk.

12410. Was this the first time you saw him after seven o’clock, when he ordered you to take the men?—Yes.

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12411. What did he do?—He rode up and gave the order—“Halt; form up. Any applications or complaint?”

12412. Did you form up in line?—Yes.

12413. Were there any?—I said there were none that I was aware of. I said we had got one of the horses that were taken from the police. He said, “Who found it?” I said, “The party was all together when we got the horse in the ranges.” He said, “Right; proceed to Wangaratta.”

12414. Did that mean to face right?—I do not know what he meant by the word “right,” but that was what he said—“Right; proceed to Wangaratta.”

12415. Is that the word of command?—“Right” is not; “Right face” is. He meant, I presume, that it was right we had the horse, and we should proceed to Wangaratta.

12416. Did you go there?—Yes, we took the horse.

12417. Did you see any superior officer there?—Mr. Nicolson, about ten at night.

12418. Was Mr. Smith present when you saw him?—Yes.

12419. What did Mr. Nicolson say?—Mr. Smith told him about the finding of the horse. Mr. Smith had sent word when we were about three miles out of Wangaratta—sent in word by one of the men to tell Mr. Nicolson that one of the police horses was recovered.

12420. Did Mr. Nicolson meet you there?—No, he sent a message back by the man not to mention it anywhere that the horse was found. We went to the stable then, at Wangaratta, and left the horse we found at the police station. We stayed at the hotel where we had been stopping. After we had dinner I went with Mr. Smith and saw Mr. Nicolson.

12421. Was it ten o’clock at night?—It was about eight o’clock when we had our dinner, and I went about ten o’clock with Mr. Smith and saw Mr. Nicolson. He told him to proceed in the morning the first thing, and follow the tracks on.

12422. Did you say anything to him about your desire to have black trackers?—We had the trackers then; we got the trackers the previous day.

12423. Is that all Mr. Nicolson said?—He had some conversation with Mr. Smith.

12424. Did you hear it?—Some of it. I heard Mr. Smiths say to him, “If we get on to the outlaws what are we to do?” He said, “My men will shoot them.” Mr. Nicolson told him to obey the orders he had given him to proceed the first thing in the morning and follow the tracks on.

12425. Did he say anything about whether he was to shoot them or not?—He did not say. I went back to the hotel.

12426. Nothing occurred with regard to that until you got up in the morning?—I did not hear anything until I got up in the morning at a quarter to four. I got the horses fed, and the men all out, and got them their breakfast.

12427. Were the men all armed?—They were.

12428. How?—I had a repeating rifle, revolver, and I think there were two repeating rifles. A man named Cameron had one.

12429. Had you any conversation with the men as to your belief that you would overtake the outlaws or not?—We had.

12430. What was your opinion?—That we would proceed on, and that we would overtake them before they would get very far, as I believed we were close on to them.

12431. When did you start that morning?—We did not leave Wangaratta till after nine.

12432. What was the reason of the delay?—Waiting for Mr. Brook Smith.

12433. Where was he?—He was in bed.

12434. Do you mean to say he would not get up?—I called him at four.

12435. Did you call him again?—I called him about six.  
 12436. Did you call him again?—No.  
 12437. Was he ill?—I am not aware of it.  
 12438. Was he fit for duty?—I do not know.  
 12439. What do you think?—It is hard to form an opinion. He was in bed.  
 12440. Did he get up at nine?—I saw him about half-past eight.  
 12441. Did you see Mr. Nicolson that morning?—I did not.  
 12442. Do you know whether Mr. Nicolson sent to see if the party had gone?—I told Kitt we could not get away, it was a shame to keep us waiting. He said he would go and tell Mr. Nicolson.  
 12443. Is he an old constable?—Yes.  
 12444. Did he tell him?—I was told by the constable that was with Mr. Smith, named Broderick, that Mr. Nicolson came down to the hotel and ordered him off after we had left. The party was gone before Mr. Brook Smith started.  
 12445. Did Mr. Nicolson take any action from the time you gave him the information the night before that you had the police horse till you started the next morning, to see the party were off?—I am not aware of it. I never saw him. Mr. Brook Smith overtook me on the road.  
 12446. How far were you on?—We were about two miles out when he overtook us. He rode on in the direction of the ranges in front of us.  
 12447. Was he by himself?—Yes, he was; the party was after him until we got within about two miles of Bryan's place.  
 12448. Was it where you left the tracks?—No, we wanted to turn off on to the left, and get up the gully, and not go near Bryan's place at all, for the purpose of getting on the tracks where we had left them. We got on near to the foot of the range when Mr. Smith ordered us to "form up" again, and he asked me where I was taking him to. I said, "We are going up this gully, and we will get on the tracks where we left off yesterday in about twenty minutes." "No," he said, "you will come this way," and turned us to the right. He said, "You must go to where I lost the tracks myself, I will follow them up there."  
 12449. Where had he lost the tracks?—About between four and five miles from Bryan's place, further back in the ranges, about ten miles further back than we had tracked them. We turned to the right and went to Bryan's.  
 12450. Contrary to the wishes of the men and yourself?—Yes, contrary to the wishes of the men and myself.

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12451. In fact, contrary to your knowledge of what ought to have been done?—Yes, quite contrary to what we thought ought to be done. C. Johnston, continued, 28th June 1881.  
 12452. You had been over the ground and knew where you were going?—Yes. Dixon was the guide with us that thoroughly knew the country.  
 12453. He could have taken you to exactly the spot?—Yes.  
 12454. Mr. Smith ordered you the reverse way, and you were bound to obey the orders of your officer?—Yes.  
 12455. What occurred when you went back that ten miles?—We again picked up the tracks where we had left off the day that Mr. Smith was with us, and followed them on to where we had left them off the night we got the pack-horse.  
 12456. You had then done the ten miles four times over?—Yes. We then picked up the tracks again, and ran them in the direction of Taminick station.  
 12457. That was on the Sunday?—Yes.  
 12458. That would be about the 10th P—Yes, on the 10th.  
 12459. Was Mr. Smith with you at this time?—He was; he remained with us then.  
 12460. How far did you get on the tracks that night beyond where you had been on them the night before?—On the Taminick station—about 15 or 20 miles.  
 12461. You had followed them up 2.5 miles that day?—Yes, about that; the trackers were very slow. They walked; they could not track unless they were on foot. It was two of the Coranderrk trackers we had; and we camped at the Taminick station that night, and the following day we picked up some tracks again, and ran them in the direction of Glenrowan. We started very early the next morning, just after daylight.  
 12462. Was Mr. Brook Smith with you then?—He was.  
 12463. You said going towards Glenrowan—that would be towards Greta?—Yes, going in the direction of Greta.  
 12464. Were they the same tracks you had before?—They were the same I believe. There appeared to be only the four horses then.  
 12465. What occurred then?—We got to Glenrowan, and from the enquiries we made we found that on the previous Friday night that three men had been seen near the railway station when the train came in.  
 12466. Was that on the Monday you ascertained that?—Yes, Monday was the 11th.  
 12467. Did you track those four horses to Glenrowan?—Not all the way, but we picked up the tracks in several places. It was very rough in some places and boggy in others. As I said when the train came in

there were three men seen near the Sydney road, and some person came out of the train and went in the direction of where the horsemen were standing. We followed the tracks from where they had seen this person, and we found them going up on to the ranges again in the direction of a place called Hell's Hole back on to the Warby Ranges again, but on the opposite side of the range to that where we found the tracks coming. This was the north side they were going up again.

12468. How far is Glenrowan from the place you first saw the tracks on the 8th November—how many miles?—I could not say round the range.

12469. How far from Bryan's to Wangaratta?—Well, I would say it must be close on 40 miles.

12470. How far is it from Wangaratta to Glenrowan?—15 miles.

12471. That would be 55 miles?—It would be by the direct route.

12472. The tracks were much longer than that?—Yes.

12473. Will you proceed with your narrative?—I said the tracks were going in the direction of the Warby Ranges again.

12474. Did you find their footsteps?—The tracks of the four horses were going on to the ranges. From enquiries we made—that would be on the Monday—we found that a chestnut horse had come down from the side of the range down on to the railway, and was caught by some man and taken on to the range.

12475. What horse was that?—I do not know. I would infer from the description of the horse that it was the chestnut horse taken from the police, because he had white legs and white face. From the description of the horse, I was satisfied it was the horse taken from the police. Night came on, and Mr. Smith and I consulted what was best to do, and we agreed to go into Wangaratta.

12476. How far were you from there then?—About 11 miles. We went in, and Mr. Smith saw Mr. Nicolson, and it was then agreed on that a large party be taken out in the morning to follow those tracks up. Sergeant Steele and his men came out; Mr. Sadleir came from Benalla, and we all met where we lost the tracks on the morning of the 12th. They joined Mr. Smith there, and Mr. Nicolson and his men.

12477. You took the tracks on the morning of Tuesday the 12th. Did Mr. Nicolson, Mr. Sadleir, and Mr. Brook Smith accompany the party of police then in pursuit of the tracks?—Yes, all of them. We went then north—almost directly north—the tracks were going for some few miles, and the tracks led into some thick scrub. The trackers were very slow, and did not appear to like to go into the scrub at all, the two trackers we had. There was then some conversation between the officers which I did not hear.

12478. Do you know of your own knowledge, on the Monday night or the Tuesday morning, when you were at Wangaratta, whether Mr. Nicolson and Mr. Sadleir were informed that you had obtained information, when at Glenrowan on the Monday, that the party supposed to be those you were tracking had passed through on the previous Friday?—I do not know that they were informed that they had passed through, but I told Mr. Sadleir myself of the information we had gained when I met him, but I did not tell Mr. Nicolson myself. I presumed Mr. Smith told him. We turned back then, and Sergeant Steele and his men left us and went away. Where he went to I do not know. We turned back the same line as we had gone, just came straight back to where we had met them from Benalla and Wangaratta. I remained back with Nicolson, Mr. Sadleir, and Mr. Smith, with the men that we had with us, all with the exception of Dixon. He went on with Sergeant Steele.

12479. Did you not follow those tracks any further?—No.

12480. Was there any reason assigned why?—I did not hear of any. We sat down and had lunch, and after lunch Mr. Sadleir and Mr. Nicolson were riding in front towards Glenrowan.

12481. You sat down and had lunch—where did you take lunch?—On the side of the range.

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C. Johnston,  
*continued,*  
28th June 1881.

12482. How far from Wangaratta?—It would be about two miles from Glenrowan along the side of the range.

12483. After retracing the steps back?—Yes.

12484. What was done then?—After lunch I intended to go up the range; in fact, I intended to go on up the range on my own responsibility, on the Warby Ranges.

12485. To the place called what?—Hell's Hole, at the back of Morgan's Look-out. I was called by Mr. Sadleir, and we all went in the direction of Glenrowan. When we got out on the road, Mr. Nicolson turned round and headed for Wangaratta, and Mr. Smith told us to follow him (Mr. Nicolson), and we did so.

12486. Was there any reason assigned for stopping upon those tracks at this time?—I did not hear any.

12487. Did you feel satisfied yourself that you were doing your duty in turning back—that is, the police were doing their duty?—I did not. I consider the police ought to have stopped out and followed.

12488. And followed them?—Yes.

12489. On this particular day, the 12th November or some prior date to that?—On the 12th, the day we are speaking of.

12490. Was the scrub thick?—Yes, very thick; but I think by beating about outside we might have picked up the tracks again without going into the scrub.

12491. Did the trackers say they were away?—They said, pointing, "Him going away this way."

12492. And did not give you any further information that they were near to it?—No.

12493. Could you not have followed those tracks through yourself?—I think we might have.
12494. And brought the blackfellows in the midst of you if they were afraid?—I think we might have been ordered to do so.
12495. And you would not, have had any objection to do it?—Not the slightest. The men were all very anxious indeed to follow on.
12496. Did they allow the officers to know they were anxious?—I told Mr. Smith myself that the men were anxious to go.
12497. What did he reply?—He said we must obey the orders we get.
12498. The track of the outlaws was completely given up?—The track of the outlaws was completely given up. I am not aware of its afterwards being picked up, because I was dissatisfied; and the following day applied and left for Benalla with three other men.
12499. Did you express yourself dissatisfied other than to Mr. Smith?—Not at that time I did afterwards to Mr. Hare and Mr. Sadleir.
12500. Did they say anything about it?—I complained on one occasion when I was talking to Mr. Hare and Mr. Sadleir that I had not been fairly treated at the Warby Ranges, and that if I was baulked again in the same way I would take the responsibility on myself, and go I complained also of Steele being allowed to go away and I was left back. Mr. Sadleir said he gave no orders to Steele to go away, but he went himself.
12501. Then if you had been left to yourself, or with a party of four or five others, you would lead us to believe you would have followed those tracks up until you lost them or found the Kellys?—I would, I would have traced them out of the ranges to somewhere else I would not have given them up at that time.
12502. Did it strike you there was any great remissness on the part of the officers allowing those tracks to be given up?—I struck me they were very remiss in their duty in allowing them to be dropped at this time.
12503. Do I understand you to say that if you were an officer of police placed in the same position again that you were on the 12th November 1879, when your officer instructed you to return, and you believing you were on the tracks, you would have disobeyed, and remained and traced those tracks?—I would have afterwards returned and followed the tracks.
12504. You were then under the impression that if the police had taken active and instant steps, you must have tracked them from that point?—I think if I and the men had been allowed to work as we would have wished from the 8th until the 13th or some later date, perhaps we would have given a very good account of what we would have done in the ranges with the Kellys, for I considered we were very close to the Kellys all through.
12505. The evidence you give now to that effect is a very severe thing for one in your position to say, that you were baulked by the officers—that they did not show the same energy in following the Kellys as the men themselves would have shown?—They did not on that occasion. I am alluding to the 12th.
12506. You have been stationed in the North—Eastern district from that time until very recently?—I was stationed in the North-Eastern district from the 29th of October 1878 until the 20th of May 1881, when I was removed.
12507. Do you know any case that had arisen since the 8th November 1878 until the capture of Kelly where the police had more reliable information than they had at that particular time?—I am not aware of it.
12508. Are you under the impression that if active steps had been taken at that time, the probabilities are that the Kellys would have been captured within three weeks or a fortnight after the murders at the Wombat?—They might, I believe. They might have been captured had we not stopped—been taken at the ranges at that time. I am satisfied that we were not more than forty-eight hours behind them. There was some orange peel on the side of the range and it appeared to be fresh.
12509. You mean they had obtained oranges at Ryan's, and they had been eating them and thrown the peel there?—Yes, when we were camped on the hill; in fact, Ned Kelly told me at Beechworth that he did not sleep any that night; that he knew we were on to them; that they held their horses in their hand all the night.
12510. Were you out any other times in the ranges?—I was.
12511. Under Mr. Hare's system, with a large number of men scouring the bush?—I was out with Mr. Hare only once. I went with him once. I was invariably in charge of parties myself.
12512. Was it under his system you were out?—Yes.

12513. Were you out under Mr. Nicolson's system?—I was.

12514. Could you give us your opinion of either of those systems, the supposed efficacy of either of them towards catching the Kellys?—During the time I was out under Mr. Nicolson, the system was similar almost to Mr. Hare's. That was at the outset, prior to Mr. Nicolson leaving, after the Euroa bank robbery—the first time he was up.

C. Johnston,  
*continued,*  
28th June 1881.

12515. Did you have any idea at any time when you were out that you were near the Kellys?—I never considered we were any way close on them after that time in the Warby Ranges, except the morning we went to Euroa after the bank robbery. I know we must have been close on them then.

12516. Had you any information when you were out that led you to believe you were near them?—

No, only once when I was informed by one of the spies that he saw them that day in the Strathbogie Ranges.

12517. Did you believe him?—I did not. I did not place any confidence in him at all, although I was despatched with a party of men to the place that night.

12518. You did not find them?—No, and no trace of any tracks where he said he saw them.

12519. Did you consider that either the spy system, or going about with large parties, was at all likely to capture the Kellys?—I did not believe in large parties. I considered that six men and a sub-officer was quite sufficient.

12520. Would you consider six a large party?—No, I would not, to meet four men like what the Kellys were.

12521. Would that other system of attempting to detect them by agents or spies be a better way?—I think in moving about from place to place would be likely to keep them moving, and they might be dropped on by some other party, or by a reserve party, that would work in with the agents.

12522. Upon the whole, during all the time you were out, you never had the satisfaction of knowing you were close to them?—I never had.

12523. Do you think the system that is being devised at present of putting good young men on good horses, and letting them continually scour the district, meet one another at different stations from certain points, is a better system towards keeping these characters in check?—I do. It gives men an insight into the country, and they can travel from one end of the district to another.

12524. And they know all the paths?—They know all the bye-ways and gaps in the ranges where they would be likely to meet any offender who had stolen horses or cattle, and know the people. In fact, my opinion is that constables should have a general knowledge of the whole of the district in which they reside, and they cannot do that unless they do patrol work to make themselves thoroughly acquainted with the people and their mode of life.

12525. If the police had been handled in that way at first, they would have been more likely to have come up to the Kellys than under any other system?—I think if they went with a thorough knowledge of the country, as they should have, and the people, they would have soon run down the Kellys.

12526. Have you been enabled to form any opinion since the capture of the Kellys, and all the information that has come to your knowledge since that, where the gang was likely to be secreted between the 12th November and the bank robbery at Euroa—have you any information or can you form an opinion as to the place?—I could not say myself. I have been informed that they were down in the Broken River, that will be in a line from the Warby Ranges to Euroa.

12527. They were not seen or anything known of them from the information you had when you got to Glenrowan on the 12th November until the time they stuck up the bank at Euroa on the 9th December. They must have been secreted somewhere between those dates. Have you been able to form any idea where they were secreted, residing, living?—No, I cannot form any idea.

12528. Do you think it is probable they were secreted somewhere at the back of the sister's hut at Greta, in the ranges at the back there?—They might be.

12529. Is that a very probable place up there?—It is, between that and the back of Kilferm, and between that and Dedongadale station.

12530. As they were not seen at the time, and no one can give an account of where they were, is there any other place where they were likely to be secreted and obtain the assistance of friends to supply them with the ordinary necessities of life even for a month?—Yes, on the Broken River and Strathbogie. It was said that Ben Gould was supplying them with provisions.

12531. I want you to consider about this particular time before they had means, where was time most likely place for them to have been between the Wombat murders and the Euroa affair?—With their friends at the back of their mother's at the back of Kilferm; and at the back of Wangaratta, the Warby Ranges. Those are all likely places.

12532. In fact, they had friends and relations in different places?—Yes.

12533. If they were secreted at the back of their mother's place at Greta, were they likely to be supplied with the necessities of life from any other source than from their mother's place?—Yes, the Lloyds and the Quinns. They could have been supplied from those or Mrs. Skillian.

12534. Then, if they were in the Warby ranges, at time back of Wangaratta, who are the probable parties?—The Harts and this Bryan I allude to.

12535. Then the Broken River?—Rody Maker and others could supply them.

12536. At the time the bank was stuck up at Euroa, were you able to obtain information as to which direction they came from to the bank?—Yes, from the Warby ranges.

12537. Then, if they had been stationed there all that time after they came from the murders of the police, they would have been supplied with provisions from whom?—From Bryan, or the Harts, or Joe Byrne's people, or this Maher on the Broken River.

12538. Would it be easy for four men, between the 1st November and the 9th of December, such as the outlaws were, to go unobserved from the back of Mrs. Skillian's place to the place where you say they were likely to be stationed at the back of Wangaratta, and from there to the Broken River?—They could travel it at night.

12539. Either by night or day is it likely they would have been observed if they travelled from one point or the other within that month?—Well, I believe I could travel myself without being observed.

12540. Is there any point now that you wish to bring under the notice of the Commission that we have not mentioned?—I do not remember anything just at present.

<p>C. Johnston, <i>continued,</i> 28th June 1881.</p>	<p>12541. Where are you stationed now?—At the Victoria barracks.</p> <p>12542. You have been removed from Violet Town?—Yes, I applied to be removed, but they removed me before they had a station to give me.</p> <p>12543. Then you are simply stopping at the barracks doing barrack duty awaiting some vacancy in some other country district?—Yes.</p> <p>12544. Do you consider you have been unfairly punished in that?—Yes. I do consider I have been unfairly punished, because I consider they had no right to remove me till they had a station to give me.</p> <p>12545. Is it considered a degradation to be removed from a district to the barracks?—Yes; it is looked upon as a punishment.</p> <p>12546. Could you assign any reason in your own mind why you have been, as you say, punished?—I do not know with the exception that I applied to leave the district—the North-Eastern district.</p> <p>12547. Did you not make urgent application to be removed because you were in danger then?—No, not an urgent application. It was promised by Captain Standish and Mr. Sadleir that I should be removed from the district before the Kellys were captured.</p> <p>12548. Was one of the reasons you applied to be removed in consequence of the feeling you thought existed in the minds of the sympathizers, that they might do you a personal injury in consequence of your being the one who set fire to the hotel at Glenrowan?—Well, it struck me so.</p> <p>12549. That there is a feeling among the sympathizers against you still there?—I have been told by other constables that the sympathizers had a very bad feeling towards me.</p> <p>12550. Have you noticed any appearances that would lead you to believe there would be another rising in the district?—I have not the slightest. I do not think there will be except some of the friends of the sympathizers he bailed up for cattle stealing, they may turn out then. They may do something that will make them fly to the bush.</p> <p>12551. Did you, before the burning of the hotel at Glenrowan, make any propositions to Mr. Sadleir or any other officer to take any other steps prior to setting fire to the hotel?—Yes, I wanted to rush the hotel.</p> <p>12552. Prior to setting fire?—Yes.</p> <p>12553. Had been placed in a position to have decided for yourself would you have set fire to the place at all?—I would not, if I had been in charge I would have rushed the place.</p> <p>12554. Did you know at the time you proposed to set fire to it that a piece of cannon had been sent for to Melbourne?—Yes, Mr. Sadleir told me he had sent to Melbourne for one.</p> <p>12555. What time in the day did he tell you that?—About three o'clock.</p> <p>12556. Was it in consequence of your being acquainted with that fact that you proposed, as a last resource to Mr. Sadleir, that you should be allowed to set fire to the hotel in preference to its being blown down by this piece of cannon?—It was.</p> <p>12557. What did you expect would be the result of setting fire—did you think they would come out?—I thought it would drive them out of the place, and then we would have the opportunity of either shooting them or apprehending them. I saw one of them, from ten to twenty minutes before I proposed to set fire to the building, at the door.</p> <p>12558. Your are sure of that?—I am satisfied of it.</p> <p>12559. Had he his armour on?—No, I do not think he had, for the noise was prior to that, as if they were taking the armour off.</p> <p style="text-align: center;"><i>The witness withdrew.</i></p> <p style="text-align: center;"><i>Adjourned to to-morrow at Eleven o'clock.</i></p> <hr style="width: 10%; margin: 20px auto;"/> <p style="text-align: center;">WEDNESDAY, 29<sup>TH</sup> JUNE 1881.</p> <p style="text-align: center;"><i>Present:</i></p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td colspan="2" style="text-align: center;">The Hon. F. LONGMORE, M.L.A., in the Chair;</td> </tr> <tr> <td style="text-align: center;">J. H. Graves, Esq., M.L.A.,</td> <td style="text-align: center;">G. W. Hall, Esq., M.L.A.,</td> </tr> <tr> <td style="text-align: center;">W. Anderson, Esq., M.L.A.,</td> <td style="text-align: center;">E. J. Dixon, Esq., J.P., G. C.</td> </tr> <tr> <td style="text-align: center;">J. Gibb, Esq., M.L.A.,</td> <td></td> </tr> </table> <p><i>Mr. Nicolson.</i>—I wish to make a short statement. Since the last adjournment of the Commission, I observed in the press a statement that Mr. O'Connor had made to the effect that I had favored the proposal as to his appointment. Lest there should be any misconception on that point, I wish to state that I know nothing of his appointment, and had no knowledge of his appointment till it was made.</p> <p><i>The Chairman.</i>—I do not recollect that having been said—what paper did you see it in?</p> <p><i>Mr. Nicolson.</i>—Copied from one of the Melbourne papers into the Benalla paper.</p> <p style="text-align: center;"><i>Mr. Nicolson withdrew.</i></p>	The Hon. F. LONGMORE, M.L.A., in the Chair;		J. H. Graves, Esq., M.L.A.,	G. W. Hall, Esq., M.L.A.,	W. Anderson, Esq., M.L.A.,	E. J. Dixon, Esq., J.P., G. C.	J. Gibb, Esq., M.L.A.,	
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J. Gibb, Esq., M.L.A.,									

<p>John Sadleir 29th June 1881.</p>	<p><i>Mr. Sadleir.</i>—I want to make an application. I see by the papers that Dean Gibney was examined yesterday, and as he is, I understand, travelling through Australia, I should like to have an opportunity of cross-examining him, as his evidence relates entirely as to what was done at Glenrowan.</p> <p><i>The Chairman.</i>—We will consider that, and see what we can do, and let you know at once.</p> <p><i>Mr. Sadleir withdrew, and was again called in.</i></p> <p><i>The Chairman.</i>—The Commission have been considering the matter, and they think if there is any thing that you definitely refer to, that perhaps it would be better, in courtesy to Father Gibney, who is a stranger, that we put it in writing, and send it to him.</p> <p><i>Mr. Sadleir.</i>—That is a disadvantageous way for me to cross-examine a witness, but I shall be glad to do anything the Commission desire.</p> <p>12560. <i>The chairman.</i>—What is the character of the cross-examination you desire?—<i>Mr. Sadleir:</i> Father Gibney's statements are very general.</p>
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12561. Want of discipline?—Yes, that is one. I am at this disadvantage, too, that I have only the newspaper report of the proceedings, and that is necessarily brief. I should not take, perhaps, more than ten minutes with Dean Gibney. He stated some facts that are quite out of my recollection, though they may be perfectly true. John Sadleir,  
*continued.*  
29th June 1881.

12562. Is there anything in what you have read or heard that you think prejudicial to you?—Certainly. I am at these disadvantages, that I do not know exactly what he said.

12563. The principal thing he said about you was that he did not observe that there was any management or control?—That is very serious.

12564. Is that what you wish to examine him on?—That and other points.

12565. There was another statement that he made, that when he went to see the officer in command, he was pointed to one group of men and they said he was with another, and he went to another group and found you. I do not think he inferred from that that you were not attending to your duty?—He is an educated man, and can perfectly well meet any cross-examination. I can trust him. He is not like any man under my authority, who may be suspected of being under terror of my authority over him. I would much sooner not tie myself to what I should ask him.

The Shorthand Writer will read over Father Gibney's evidence to you, and you can write out any questions which you desire to be forwarded to him.

*The witness withdrew.*

The Chairman read the following letters:—

## PRIVATE CORRESPONDENCE BETWEEN MR. O'CONNOR AND HIS GOVERNMENT.

(Copy.)

DR. MR. SEYMOUR,

Police Department, Superintendent's Office, 29th March 1879.

I drop you a line to let you know how matters are here at present. The gang are supposed to be near about here, but nothing reliable has been heard about them since the Jerilderie affair. I have been out in the ranges for some ten days on the chance of cutting tracks, and did do so; but after following them for some days found them to be only stockmen, &C.; all the good derived therefrom consisted in my being able to show that my men could do what I stated they could. I believe we were looked upon with a little doubt at first, but now, from the Chief Commissioner down to the lowest man, one and all give us full credit for what we can do.

We are at present idle, as the Chief Commissioner thinks it folly to go from head-quarters into the ranges on a wild goose chase, as, in the event of reliable information coming to hand, I could not be found; whereas by remaining here, ready to proceed in any direction when good information comes, not a moment is lost. I will wire you the very first news, you may be sure. You can have no idea of the sympathy shown to these ruffians, even ladies look upon them as heroes, and all the lower class unite in trying to fool the police. Nothing can be kinder than the Chief Commissioner to myself and men; anything I want I have only to ask for and I get. My boys are very jolly and happy, but eager to be at work, which I hope will not be far off now.

Hoping to hear from you soon, \* \* \* \* \*

I remain, truly yours,  
(Sd.) STANHOPE O'CONNOR,  
Benalla, Victoria.

(Copy.)

MY DEAR MR. SEYMOUR,

Benalla, 6th June 1879.

\* \* \* \* \* I will now return to the subject most at heart, viz., the Kellys.

They have never been heard of since Jerilderie, I mean never on undoubted authority. Any news we have ever got was three or four weeks old, and always came through three, four, or five people, and, when sifted, turned out to be lies. Standish will not listen a moment to the idea that they are in N. S. Wales, but persists in asserting that the outlaws are in Victoria. I do not think so, for the following reasons:—No four persons could hide so securely for such a length of time without information being received as to their whereabouts, or that some of the parties of police that are out day after day would drop across their tracks (old or new) or their camps. 2ndly. The outlaws are all men who can turn their hand to any kind of bush work, such as fencing, shearing, &c., and being so slightly known, could easily separate and take a job on a station in N. S. Wales. 3rdly. Twice we have had information that they were in N. S. Wales—first time on the 1st May,

when they were seen near the Murray by a boy; this boy's statement was backed up by a woman, the wife of a well-to-do farmer; but this information did not reach us until it was a month old, and during the interval there had been very heavy rain. The second information came yesterday, which states the Kellys have been seen at a station called Talanrobbin, and that they have been there ever since Jerilderie. The information appears good, and will be tested at once.

I think you will admit that what I say is feasible, or else how is it nothing can be heard of the dogs? \* \* \*  
Yours truly,  
(Sd.) STANHOPE O'CONNOR.

(Copy.)

MY DEAR MR. SEYMOUR, Benalla, 4th August 1879.  
I drop you only a line to let you know that we expect to hear at any moment that the outlaws are at hand. We are all ready to start in twenty minutes' notice. The boys are in good health and very happy. Hoping you are the same.  
Yours truly,  
(Sd.) STANHOPE O'CONNOR.

(Copy.)

MY DEAR MR. SEYMOUR, Benalla, 22nd August 1879.  
I am glad to be able to inform you that we have done good work. On the 17th last, the bank at Lancefield was stuck up by two armed men, who took about £800. Every person thought it was the Kellys, and we were wired to proceed by special train; we were in the train in an hour and twenty minutes after getting word, horses and all. From where the train stopped to Lancefield is a distance of 18 miles; we arrived there in a little over an hour and a half, picked up the tracks, and followed them that day about 17 miles. There had been very heavy rain since the men passed, and so made the tracking difficult, considering the men (robbers) were on foot—we, nevertheless, stuck to them to within 10 miles of Sandhurst, where the robbers hired a spring cart and man to take them in. We then sent an express on to Sandhurst, to the police, that the robbers were in the town, and through this they were enabled to arrest the two men at 12 o'clock at night. From the chief down, we have been praised, and they all know now our value, and hope that the Kellys will give us a chance, I am greatly pleased of course, and I know you will be so. I have no doubt, or never had, that we can do the work if we can only get on the Kellys' track.

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I have nothing to feel but joy, except for the conduct of Senr.-Const. King. I can well do without him, and hope you will wire to me to order him back to Brisbane. \* \* \* \* \*

The Chief Comr. here has been very kind in the matter, and he has given me a capital man in King's place, so I will be as well off as I could wish.

The boys are all jolly, and of course elated with our success.

I hope to hear from you soon. Good bye.

Yours truly,  
(Sd.) STANHOPE O'CONNOR.

We have reason to believe that the Kellys will show soon.—Yours, &c. (Sd.) STANHOPE O'CONNOR.

(Copy.)

MY DEAR MR. SEYMOUR, Beechworth, 14th Decr. 1879.  
I received your congratulations contained in your letter dated the 1st Decr., yesterday. Many thanks for your kind advice contained therein; but you may be sure I will never give up the "catching of the Kellys" until they are caught. In reference to the Kellys, I must tell you that I am confident that they have not very long to run now, as when I explain to you what we have done in the work, I think you will agree. Up to the time of Standish's departure from Benalla, nothing was done that was likely to bring about the capture; nothing, but men in large parties racing through the country upon no information, hoping against hope, to drop upon the outlaws. I remonstrated with the Chief, but anything, he thought, was better than staying quiet and working the detective business, as he was afraid that unless he made a great stir the public would think he was not doing his best. Since the Chief's departure the Assistant-Chief Comr. Nicolson has been put in command, and his plan of working is just the very opposite. During the last three months, friends and relations of the murderers have been either bought over, or induced by promises to work for the police, the whole matter as to where the outlaws are, is reduced to a small circle of about 20 miles, and I trust, most sincerely, that a very short time will suffice to put us in possession of the information that we are waiting for, viz., some one to be able to point out the tracks of the wretches.

\* \* \* \* \*

You will be glad to hear that the boys are all in good health and very jolly.  
With kind regards to yourself.

Yours truly,  
(Sd.) STANHOPE O'CONNOR.

P.S.—I am only here for a few days on account of being nearer our work; Beechworth is about 45 miles from Benalla, and connected by rail.—(Sd.) STANHOPE O'CONNOR.

(Copy.)

MY DEAR MR. SEYMOUR, Benalla, 2nd June 1880.  
For some time past the C. Commissioner has been proposing that a change should be made in the management of

the Kelly work. This change took place to day and consists of the recall of Assist. C. Commissioner Nicolson to Melbourne, and Superintendent Hare taking charge of the business. This change is one only in name, as Mr. Hare only retired from this work last July. Under the present aspect of affairs I am afraid that there is very little chance of us gaining any credit. I am convinced of this, as the C. Commissioner told me that he could do the work without our assistance, and tried to do it upon one occasion when he thought he had received the straight tip. This and other matters, some of which you are aware of, strengthens me in my opinion. It is publicly known that the moment a few scrubbers of boys can be collected, we are to go. Also, one of my men have been taken from me to make a beginning of a new team. I think you must agree with me that the sooner we leave for Queensland the better; in fact I strongly recommend that you should take the initiative by recalling us at once, or we will be told to go as soon as the other boys arrive.

I will require a month's leave to arrange my private affairs in Melbourne; for this period I can retain the boys, as they really deserve a spell from their good conduct; or, if you like, I could put them on board a steamer for Brisbane.

Wire me your wishes as soon as possible. Hoping you and Mr. Barrow are well, and that I will see you both seen.

Yours very sincerely,  
(Sd.) STANHOPE O'CONNOR.

(Copy.)

MY DEAR MR. SEYMOUR,

I never saw such an attempt to try and do us out of all credit as the heads of this force did, but, owing to the prominent part taken by myself in the attack, they had to give in. If I had not known a great many men of some weight, who were determined to see that the credit should be given to whom it was due, I am afraid we should have been obliged to have taken a back seat. Even now I think that the distribution of the reward will be all on the Victorian side, unless an impartial board is appointed. \* \* \* \* \*

I will wire you any news. I think Standish will try to prove that I had nothing to do with the Victorian police, as that when Hare left I was not in command. This is, of course, absurd, as I was sworn in a member of this force.

Now I think if the enquiry should not be for a month or so, I had better bring my men back to Brisbane and return. Supt. Chomley says nothing could be kinder than you all to him when in Brisbane. \* \* \*

Hoping to see you soon.

I remain, yours very truly,  
(Sd.) STANHOPE O'CONNOR.

6th July 1880.

Address, "wire" or "letter," The Ferns, Flemington, Melbourne.

That is the private correspondence. The following is the public correspondence:—

(Copy.)

D. T. Seymour, Esq., Commr. of Police, Brisbane.

SIR,

Melbourne, 1st July 1880.

I have the honor to report that on Sunday the 27th June, at 7 p.m., I received a letter from Capt. Standish—(copy attached.) I saw Capt. Standish about 7.30 p.m., and informed him that I was most willing to assist him, but, as I was under marching orders, I should like the Chief Secretary to wire to you, so as to hold me blameless if I should be doing wrong in going. I, with my five troopers, left here by special train, at 10 p.m., en route for Beechworth. We arrived at Benalla about 1 a.m., and picked up Supt. Hare and six men. From here our train was preceded by an engine, as a precaution. When upon nearing Glenrowan station, the advanced engine was observed to have come to a halt, and then we found that a man had rushed out of the bush, and informed the advanced enginedriver that the outlaws had torn up the rails about a mile further on. Supt. Hare and I consulted, and we decided to draw the train. We went on up to the Glenrowan station, so as to enable us to get out our horses to ride down the torn-up rails. While in the act of getting out the horses, a constable named Bracken, who had been stationed at Glenrowan, rushed frantically down to us, and said, "I have just escaped from the outlaws, who are at Jones's public house; take care, or they will be off." Supt. Hare and I started at once off towards the house, calling the men to follow us; but, owing to the confusion and noise in taking out

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the horses, I presume, some of them did not at once respond, as only Mr. Hare myself, three or four white men, and, I think, about two of my boys, were in the first rush. We rushed straight for the house, and, upon getting within about 20 yards of the place, one shot, followed by a volley, was fired at us from the verandah. We returned the fire, and before I could load again, Supt. Hare called out to me, "O'Connor, I am wounded—shot in the arm; I must go back." I think the whole party were up by this time. I ordered the men to take cover, and I myself dropped down into a creek immediately in front of the front door, and about 20 yards from it; from here I kept a continual fire, until the outlaws were obliged to retire into the house; the others kept firing also. I then heard the cry of a woman in the house, and cried out, "Cease firing," which cry was taken up by us all. I sang out, "Let the women out," and they immediately came, and passed to the rear. Supt. Hare, after stating he was wounded, retired to the railway station, and, in about fifteen minutes, went off in the engine to Benalla, leaving me, as the only officer on the ground, in charge. I kept my position, and, in fact, shot Joe Byrne before we were reinforced, or—(of course we cannot say who shot Joe)—before another officer arrived upon the ground, which happened at about 5.30 a.m., when Mr. Sadleir arrived with reinforcements from Benalla, thereby leaving me with only twelve men, viz., my five boys, and seven white men, from about 2.30 until 5.30. During this interval I think I may say the heaviest of the firing was. Of course it is unnecessary for me to give my opinion upon the conduct of Supt. Hare, in running away to Benalla; I leave you to form your own opinion, when I tell you his wound is only through the wrist. Mr. Hare was only on the ground about three minutes. Ned Kelly, it appears, after going into the house, left by the back door, and was captured a few yards from the building. We then (Mr. Sadleir and myself) thought of rushing the house; but a senior-constable proposed to fire the building, which was done, and, at about 4 p.m., we took out of the house the charred remains of Dan Kelly and Steven Hart, and at the same time we recovered the body of Joe Byrne (about 4 p.m.) but not touched by the fire.

I will communicate further with you, as I see the credit which our party fully deserve the C. Comr. is reluctant to give us.

Your obedient servant,

Inspr.

(Copy.)

Brisbane, 15th July 1880.

SIR,

I beg to acknowledge the receipt of your communication of the 1st July, giving an account of your proceedings during the encounter between the police and the outlaws at Glenrowan on the 27th June ultimo, and I regret exceedingly that, so far as I can judge from the very meagre information contained in your report, and the more fully detailed accounts given by newspaper correspondents, I am unable to find any cause for congratulation.

Your report, and that given by the correspondent of the *Argus*, who, it appears, was on the ground, differ widely on some very material points, and it will be a source of great gratification if you are able, as I trust you will be, to show that yours is the correct version.

The portions of the proceedings which chiefly call for explanation are

1st. The apparent total absence of discipline or plan with which the affair was conducted from commencement to finish.

2nd. The indiscriminate firing which was permitted, whereby the lives of innocent persons were endangered, and, as it afterwards turned out, were sacrificed; and

3rd. The seemingly unnecessary burning of the premises in which the outlaws and *others* had taken shelter.

In your report you state that upon Constable Bracken's arrival with the information that the outlaws were in Jones's public house, you "started off at once towards the house, calling the men to follow," &c., but, "owing to the confusion and noise in taking out the horses, some of them did not respond"; and you *think* about two of your boys were with you. How did you propose to capture the outlaws without your men; and under whose command were those who were left behind? It seems that each man was left to act as he thought fit—no definite plan of action having been decided upon, and the same want of management appears to have continued throughout.

With reference to the indiscriminate firing which is alleged to have taken place, your report is that "upon getting within about twenty yards of the place one shot, followed by a volley, was fired at us from the verandah; we returned the fire," &c.; and a little further on you continue, "I kept up a continued fire until the outlaws were obliged to retire into the house. I then heard the cry of a woman in the house, and I cried out 'Cease firing.' I sang out, 'Let the women out,' which was done, and they immediately came an(I passed to the rear."

The *Argus* report of this portion of the affair is very different; it runs thus—"The police and the gang blazed away at each other in the darkness furiously; it lasted about a quarter of an hour, and during that time there was nothing but a succession of flashes and reports, the pinging of bullets in the air, and the *shrieks of women who had been made prisoners in the hote*"; and again, "at about eight o'clock in the morning a heartrending wail of grief ascended from the hotel. The voice was easily distinguished as that of Mrs. Jones, the landlady. Mrs. Jones was lamenting the fate of her son who had been shot in the back, as she supposed, fatally. She *came out of the hotel crying bitterly*, and wandered into the bush on several occasions," &c. "She always *returned*, however, to the *hotel*," &c. How do you reconcile this statement with your report? But, supposing that the *Argus* version is incorrect, the matter is in no better light. The number of occupants, whether voluntary or compulsory, the strength and condition of the outlaws, the position of the passages and doors, and all information requisite to ensure the capture could have been obtained from Constable Bracken, who had himself been a prisoner, had a little more coolness and judgment been exercised on arrival at Glenrowan.

When the premises were set on fire, it appears that an officer of the Victorian police was present in command; you had, therefore, nothing to do with that matter, but it would have given much satisfaction here had you objected to such a course, which hardly seems to have been requisite when so large a body of police was present

In replying to this letter, which you will be good enough to do without delay, you will be careful to obtain from all reference to others further than stating any orders you may have received. All that I have to do with is the conduct of yourself and the troopers placed under your charge.

I have the honor to be, Sir,

Your obedient servant,

(Sd.)

D. T. SEYMOUR, Commissioner of Police.

(Copy.)

Belle Vue House, Brisbane, 19th July 1880.

To the Commissioner of Police, Brisbane.

SIR,

I have the honor to acknowledge the receipt of your letter dated the 15th July, calling upon me for an explanation of the part taken by the detachment of N. M. Police under my command in the late encounter with the outlaws at Glenrowan, Victoria.

My report of the 1st July, which you designate meagre, was written hurriedly to catch the mail, and being aware that I would return at once to Queensland I omitted details.

You particularize the features of the encounter requiring explanation as—

1st. The apparent total want of discipline or plan with which the affair was conducted, &c.

2nd. The indiscriminate firing which was permitted, whereby the lives of innocent persons were endangered, &c.

3rd. The seemingly unnecessary burning of the premises in which the outlaws and others had taken shelter.

Now, I think it only fair to recall to your recollection the fact that we were sent to Victoria to act as trackers. I was not entrusted with the command or the charge of the party, and was not in any way accountable for the proceedings at Glenrowan or elsewhere. As mentioned in my report of the 1st July, the party of police to which I was attached was under the command of the Victorian officer, Superintendent Hare, and I am unable to say what plan of operation he intended to adopt, as his being disabled at the commencement prevented him from giving me any information in the matter.

was at once stopped until the women were got out. When the women left the house I understood there were only the outlaws in it. The 20 odd prisoners were in a detached building, which I believe not a shot was fired into. The child of Mrs. Jones was wounded in our first volleys, when the gang were on the verandah. The women passed out of the house about ten minutes after the *first* shot was fired. I cannot account for the newspaper reports, but no women or children were in the house or houses ten minutes after the first shot, but they were crying out all round our lines, and probably the reporters at the station may have thought that they were in the house all the time. When Mr. Hare called upon me to come on and ran towards the hotel, I followed him, knowing that his men and my boys would follow us as ordered. As regards the burning of the house, I have merely to remark that I was not the officer in command, and was willing to form one of a storming party, but it was considered better to fire the house than to risk the lives of the constables. When we fired the building we were aware that only the two outlaws were in it alone, not as otherwise stated a lot of innocent men. I may state, in conclusion, that the house where "Cherry," the wounded man, lay was another building, and was standing intact when we left the ground. I shall be glad to furnish the Commissioner of Police with anything further he wishes to know about this matter. I think the Commissioner of Police should express his approval of the conduct of the men under my command, as they behaved very well.

I have the honor to be, sir,  
Your obedient servant,  
(Signed) STANHOPE O'CONNOR,  
Sub.-Inspector.

Ernest Flood sworn and examined.

Ernest Flood,  
29th June 1881.

12566. *By the Commission.*—What are you?—Senior-Constable of mounted police.

12567. Have you long been stationed in the North-Eastern district?—I went to the North-Eastern district in 1867, and I was removed from there in, I think, 1873.

12568. Was there any breaking up of stations when you were removed, or shortly after?—I do not recollect any particular breaking up of stations, but there were a good many removals of men from different stations.

12569. Do you know when Glenmore station was broken up?—No, I cannot say Personally.

12570. When did you go to that district the second time?—I went to the district after the Kelly outbreak. I first of all was taken up for temporary duty after the shooting of Fitzpatrick, and was there for six weeks at the time, and then after taken on the temporary duty during the great pressure of the Kelly outbreak, and before the capture of the Kellys I was permanently stationed in the district.

12571. What was your impression of the district when you were resident in it—was it that they were law abiding, industrious, and honest?—When I was at Greta the greater portion of the people at Greta were law abiding and honest people, but there were a good number of cattle stealers and horse stealers, and a good number of the criminal class. It was also a resort for persons of the criminal class coming from other places.

12572. Were those persons friends of the criminal classes about Greta?—Yes.

12573. Relations?—Some were relations; but when you said "friends," I thought you meant on friendly terms—visiting one another.

12574. And naturally you would think they would be concocting mischief when they came together?—Yes.

12575. They came for the purpose?—Yes.

12576. Did you know the Kellys?—Yes.

12577. Did you know the Byrnes?—No. Byrne had not done anything previous to the outbreak. I believe he lived a good distance from Greta; in fact, I think the member of the gang named Byrne was too young at that time to have anything to do with them. I was away for five years.

12578. Did you know the Harts?—No.

12579. Were the Kellys notorious as cattle and horse stealers?—They were.

12580. What was the method that they went upon?—It was generally thought that they used to take horses through the ranges to different parts and dispose of them.

12581. Towards Mansfield way?—In different directions.

12582. Would they dispose of them in Victoria?—Yes.

12583. Were they often suffering punishment for the depredations?—Yes.

12584. Did you prosecute the members of the Kelly family continually while you were in that district?—I did; a good number of them. I could give the names—[*looking at his note-book*].

12585. Try to do that, and give about the dates?—I arrested James and Dan Kelly when they were mere lads for illegally using horses in 1871. They were discharged on account of their youth and their intimacy with the owner of the horses—one of the brothers having been a servant of the person who owned the horses. Shall I give others?

12586. The Kellys—the Greta mob, as it is called?—Constable Mullane and myself arrested Jimmy Quin, the uncle, for an assault on an old man, and also on his own sister. I might point out that I got the information through being well liked by the people, and they having confidence in me to give me information. A man came there at night and gave me the information, and we started at ten o'clock at night, and I got to his sister's place, and he had his horse saddled and bridled to get away. I took the saddle and bridle off the horse, and turned it adrift, and got a man to hold our horses. We searched then all through the night, and did not find anything of him, but felt certain he must be about the place; and in the morning I told the people about the place that I thought he had gone to Glenmore, and I told Mullane we would start for Glenmore after him, and we pretended to do so. We went away about a quarter of a mile, and returned in a gallop to the place, Mullane in one direction and I in the other. Mullane was about 100 yards ahead, and as we got close we saw Quin go under the bed, and Mullane pulled him out. This is the man who had evaded the

police for years before.

12587. Is that the man who assaulted Constable Hall?—No I think that was Pat Quin. He is married to James Quin's sister.

12588. Which is the next case relating to the gang?—Williamson *alias* "Brickey," for aiding and abetting Quin in this case. Quin assaulted an old man over sixty years of age with a two-inch auger—bent the auger over his head, and assaulted his own sister at the same time. he got two years and a half for the assault on the old man, I think, and eighteen months for the assault on his sister; and while he was in gaol, a man whom he had previously assaulted with a bullock yoke came out from home, and he was brought out under *habeas*, and received an additional sentence. The next case was John Lloyd, for

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maliciously killing a horse belonging to a neighbor. He is married to Mrs. Quin's sister. He got four years for that.

Ernest Flood,  
*continued*,  
29th June 1881.

12589. Is he the father of young Tom Lloyd and Paddy Lloyd?—Yes. Then I got up a case once against James Kelly and William Williamson for cattle stealing. That is the brother of the outlaws and a person living in the house, but not known to us previous to that. They were convicted—got four years each. I found out the cattle were stolen before the owners knew of them being taken, and went to Wangaratta and got some assistance from the police there, and they were arrested. I gained the case against them. I think those are the only ones.

12590. Mose or less members of this family were arrested for criminal offences during the whole time you were there?—Yes. Ned Kelly was in gaol during nearly all the time I was at Greta. I only saw him once or twice after he came out, a few months before I left Greta.

12591. For what sort of offences?—For horse stealing.

12592. Did not those people and the relations keep you and other constables stationed there continually watching?—They did.

12593. Day and night?—On many occasions we were out at night; and on one occasion a detective was sent up to assist us, and we did some night duty then.

12594. When you were ordered from the district were there not petitions sent in from magistrates and residents to retain you in consequence of the way you had dealt with those criminals?—There were; but it was not exactly from Greta station, but ten miles from Greta, but still it was in the Kelly country; and my reason for leaving Greta of my own accord was the house was so unhealthy my family could not live in it, and I was anxious to be in a place where plenty work was to be done, where I could have a chance of being promoted; and I applied to go to Oxley, where the people knew me.

12595. Was not Oxley as much in the centre of the Kelly country as Greta?—Yes.

12596. And nearer to Glenmore?—Yes.

12597. Have you any information as to how those people came to that district originally?—No, I have not, except by hearsay.

12598. Have you any well authenticated rumor or hearsay that they were originally convicts in New South Wales?—No, I never heard of their being in New South Wales at all. The first I heard of them was their being about the Duck Ponds, or somewhere near Beveridge.

12599. When at Greta did you know Scanlan, the murdered man?—Yes.

12600. Where was he?—I do not know where he was at the time exactly, but I knew him before I joined the police force.

12601. Was he at Broken River?—No. Kennedy was there the most time I was at Greta.

12602. Is it a fact that Kennedy and you were continually after one or other of what was known as the Kelly mob?—Kennedy and I arrested two or three men for stealing a horse from the Kellys themselves, at the Falls River; and I know from conversations that I had with Kennedy that he was a good deal after them.

12603. That is only from hearsay and conversations with Kennedy?—Yes; he was never in company with me going after the Kellys themselves.

12604. How did the Kelly family support themselves when you went to Greta?—They seemed to have a very miserable way of living, and the general impression was that what they got they did not get by honesty. They were suspected of stealing sheep from neighboring squatters.

12605. Did the Lloyds live near them?—They did.

12606. Was Lloyd convicted of sheep stealing from Mr. MacBain during your time?—No.

12607. Do you know he was convicted?—I cannot swear it; I heard it only.

12608. It was stated at the time of the murders of the police that Ned Kelly had a very great down upon you, and would roast you?—Yes.

12609. Did you give him any reason for that—as a fact would it be justified by any reason to your knowledge?—The only reason he could have any personal animosity to me was through one occasion I met him at O'Brien's, at the public house close by, and he pretended to be drunk on that occasion, and he made use of some insulting words to me, and I said to him, "You had better look out, Ned. Now you are out you had better keep yourself as straight as you can." I said, "If I ever have to lay my hands on you it is not Hall you will have to deal with."

12610. What did that mean?—That if I had to encounter Kelly I would give him worse than Hall did when he arrested him. When Hall arrested him he assaulted him, and Hall had great difficulty in taking him to the lock-up.

12611. Is that the only reason for personal animosity?—The only reason, except having prosecuted his brother, and the continual annoyance I was to them.

12612. The continual supervision you exercised over them?—Yes

12613. Do you think it was a wise course to reduce the police force in that district?—No, decidedly not.

12614. Do you know the constable that took your place?—I think it was Considine, and he was merely a short time when Thom went there.

12615. Do you know Thom?—Yes.

12616. Do you think all the stations that were there were required so as to be able to prevent the cattle from being stolen?—I do, and more stations.

12617. Have you any idea, in your own mind, what led up to the Kelly outbreak?—Well, my impression is that it, was the removal of a number of old constables from the district who knew the district well, and the taking of men to the district that did not know the district well.

12618. And that had not got those men under supervision?—Yes.

12619. Then it is not so much a question of the stations as having the right sort of men in the district?—I think it was a question of both. I think more stations were required, and the proper sort of men. Perhaps those brought were as good as the men that were taken away; but the men taken away knew the whole of the country, and had the confidence of the residents of the place. It takes a long time to gain the confidence of the residents of a place. I think Mr. Barkly had a great deal to do with the removal of men. I know he had me removed, and I was much aggrieved at the way he got me removed.

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Ernest Flood,  
*continued,*  
29th June 1881.

12620. What reason did he give you?—There was a charge preferred against me by a man named Brown, a squatter at Laceby, and an investigation was held by Mr. Barkley over it; and I was treated most unfairly in the matter. It was a thing I did not think I was guilty of. I was prevented from cross-examining the witness against me. Mr. Barkly very imperiously would not let me cross-examine the witness, or bring a person to disprove the statements, and he recommended me to be removed from the district for this offence. I could tell you what it was.

12621. That is not necessary—we have all the papers. He charged you with going in amongst his horses and disturbing them?—Yes; but I was not allowed to go in and disprove the testimony of a woman who swore an untruth.

12622. Where were you stationed in 1878, at the time the police were killed at the Wombat?—At Yandoit. I had been five years there and there was scarcely anything to do in that time.

12623. When did you next come to anywhere near the Kelly country after that date?—Within a day or so I was telegraphed to, and brought up immediately, that was the 26th October, to Benalla.

12624. From the 26th October did you keep a diary?—Not all the time.

12625. Did you at that time?—A portion of the time I was out with a party.

12626. I mean from the time you arrived at Benalla in 1878, had you a diary of what you did from day to day then?—No.

12627. Do you remember how you were engaged after first getting to Benalla?—I could not state exactly, but for a short time I was engaged in going out with small parties.

12628. Upon what information?—No particular information, only trying to find out any information we could from people; and on one occasion to find a log that was spoken of.

12629. When were you sent to discover that—what was the nature of the information you went to discover that upon?—This information was given by a prisoner in Pentridge.

12630. You do not know that of your own knowledge?—I do.

12631. How?—From correspondence I had.

12632. I want you to give us what officer gave you instructions, and what was the nature of the instructions?—I think it was either Captain Standish or Mr. Nicolson gave the first information about it.

12633. Who was the officer in charge at Benalla when you first arrived there?—I am not quite sure now.

12634. Captain Standish was not there then?—No. The information I got was before I went there.

12635. I want you to say who was the officer in charge at Benalla at the time?—I really forget.

12636. Was it Mr. Sadleir or Mr. Nicolson, or which, or both?—I really could not swear. Mr. Sadleir was there, I know, but whether Mr. Nicolson was I do not know.

12637. Who would give you information of any particulars suspected of the Kellys' whereabouts—what particular officer at Benalla would give you that?—I got information from Mr. Sadleir and Mr. Nicolson on different occasions.

12638. About this log—what instructions, and from whom?—The instructions I got before I left Melbourne. I was ordered to come here, and I got them here.

12639. On what date did you leave Melbourne?—I have not got the date, but within two or three days

of the murders.

12640. Was it before the 30th October?—Yes.

12641. Who gave the information in Melbourne?—I think Captain Standish.

12642. Before the 30th?—Yes.

12643. What was the nature of it?—To the effect that provisions were being placed in a log, close to the Eleven-mile Creek, for the outlaws.

12644. Did he show you any communication he had received from anyone?—Yes.

12645. Did he show you a sketch of the place?—Yes.

12646. That is only dated 30th October, and you left before that?—That is strange. I would like to see if it is the same paper, because I took one of the papers up with me.

12647. You received the document from whom in Melbourne?—I think from Captain Standish, not from his hands but through him. I believe it was from Mr. Nicolson, at the railway station at Spencer street, as I was going away.

12648. Can you say for certain which?—It came through the office in Melbourne, I know, but it is so long ago, and I never thought of being asked these questions.

12649. What was the nature of it?—It was to the effect that a certain log close to Kelly's house, on the Eleven-mile Creek, was a likely place for provisions to be placed for the Kellys.

12650. When you arrived at Benalla what did you do with that particular document?—I showed it to the officer in charge.

12651. That would be Senior-Constable Whelan or Mr. Sadleir?—No, the superior officer in charge.

12652. What instructions did he give you on that, if any. Would it have been Mr. Nicolson; did he go up in the train with you that day to Benalla?—I do not think the same day, but he was up very soon after.

12653. After you gave this document to the officer in charge at Benalla did he give you any instructions?—Not at that time; but a few days afterwards I was instructed to visit this place and find out the log, and to examine it.

12654. Tell us what they were, if you can remember the nature of the instructions of the officer then at Benalla?—I think on the particular date we went out we had instructions to make enquiries near Winton's, about the report relative to the Kellys having been seen there, and then, in coming home, to come by the Eleven-mile Creek and to examine this log.

12655. Did you find the log?—I did.

12656. How far was that log from Mrs. Kelly's place?—About 400 or 500 yards.

12657. On what date did you discover the log?—I do not recollect the date.

12658. Was it within fifteen days after the 1st November?—It must have been.

12659. Were you furnished with any other information beyond the fact that there was a log there?—There was information as to the sort of ground about where the log was so that we could find it easily.

12660. What was the log supposed to convey to you?—It had a large hole in it—a hollow log—and it was a likely place to have provisions left for the outlaws.

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12661. Where were those provisions coming from?—Supposed to come, I think, from Mrs. Kelly's children. Ernest Flood, continued, 29th June 1881.

12662. Did you read the document that was placed in your hands in the office in Melbourne?—I did.

12663. Did that document state that provisions would likely be conveyed from Mrs. Skillian's place to the log?—I think so.

12664. That this log would be a likely place for provisions, that the outlaws would come down for from time to time at night?—Yes.

12665. Did you receive any information from your officer after your arrival at Benalla and till the middle of November that provisions were so conveyed at night?—I do not recollect.

12666. Is it likely you would have forgotten it if he had done so?—I think it is scarcely likely I would have forgotten it.

12667. Were you or any other police constables at Benalla appointed to watch Mrs. Skillian's place to see if she conveyed provisions there?—No.

12668. You simply went to discover the hollow log where it was indicated to be?—Yes; and at the same time to report to one of the officers at Benalla if I was certain no provisions had been placed there from the appearance of the hollow log.

12669. Do you think if you thought over the circumstances, and had some little time, you could supply the date?—Not the date of that, because at that time we were going in and out of Benalla, and kept no dates. The duty was put to us in Benalla, and therefore we kept no dates.

12670. It is important to find out those things, and we want you to be as careful as you possibly can?—I am as careful as I can be. Those dates ought to be in the books at Benalla.

12671. Who was with you when you discovered this log—can you remember that?—No, I really cannot.

12672. Was Mullane with you?—I believe he was.

12673. Was Strachan with you?—I think not.

12674. How many should you imagine would be with you in that particular party?—I think about five or six.

12675. You found this log on returning from Winton, on your way back to Benalla?—Yes.

12676. After finding that, how long did you remain in the locality?—I think we returned to Benalla that day.

12677. There was no watch party appointed to watch?—No.

12678. Do you know whether any watch party went out from Benalla from the time of your arrival and the time of the bank robbery at Euroa for the purpose of watching Mrs. Skillian's hut?—I do not know of my own knowledge. I was not one of any party. Relative to the log, if we had found any reason for remaining to watch the log, we would have done so. We were at liberty to do so.

12679. You do not know of any search party appointed for that purpose?—No.

12680. What was your special object in going to Winton?—We were sent there relative to a report which had come to some of the officers that the Kellys had been seen near the railway at Winton.

12681. When you got to Winton you failed to discover any traces?—There was no foundation for the information that was received about that.

12682. And on your way back you just made a search casually for this log?—I could not say whether it was casually on account of having this paper in my possession, or whether we had orders about it.

12683. You are certain you made your superior acquainted with this paper?—Decidedly; and I know that copy was given very much for my own information, and I know a copy was going to the Benalla office, and that paper with the plan was the one I had.

12684. Did you consider that was important information?—Decidedly, I did, at the time.

12685. And you made up your mind, after examining the log, that it had not been used?—Yes; the log was full of dust and cobwebs, and had not been used.

12686. Did it look as if it might have been used by the very man who gave you the information?—There was a big log with a large hollow in it.

12687. Are you certain that was the log?—We were quite certain from the description given in the correspondence we made ourselves quite certain that it was the log.

12688. Do you consider now that the Kellys were in the district all the time?—I believe that they were most of the time, and housed by their friends the whole of the time, except the short time they were in New South Wales.

12689. Do you think they were back in the ranges, or in amongst their friends?—With their friends. I do not think they were in the ranges at all, except in taking a run from one friend to another.

12690. How was it the police did not get better information about their whereabouts?—The principal thing was the way the names of informants were given in the papers. The people were frightened to give information, and also the terror that those men had struck into the people.

12691. Was there no chance of the police seeing them at all?—No chance whatever of the police seeing them. I was the first to whom information was given that Hart was the third man; but although I had the confidence of the people there, that was the only information I got. The people were frightened to give information.

12692. Why should the police have no chance of seeing them?—We had no information.

12693. But by searching those sympathizers' houses?—We did search their houses. We watched about their places at night—watched several places, and with no good result; but the sympathizers were very numerous.

12694. What led you to believe they were living upon their friends if you could never detect any of them?—From what I have heard since.

12695. In watching those places, did you search the houses before leaving after watching all night?—No; in most cases where we watched places, we either saw through the window or through the door or cracks. I did not allow them to know we were watching. I recollect, on one occasion, when I was out with Mr. Nicolson that plan was adopted—placed our horses some distance away from the house, and then went there after dark; and, through the window or cracks in the door, looked into the place and listened to the conversation.

POLICE.

3 M

Ernest Flood,  
*continued,*  
29th June 1881.

12696. Were you out with search parties with Mr. Hare?—No.

12697. With Mr. Sadleir?—Yes, I was out with Mr. Sadleir and the black trackers nearly all the time they were out in search parties.

12698. And you never got anything to lead you on at all in going to those houses?—Nothing whatever.

12699. The outlaws may have been in the houses all the time if the houses were not searched?—I believe it was possible for them to be about some of their friends nearly all the time.

12700. Did you consider the going about in large parties a good method?—No, I did not.

12701. What method would you consider now, if there was an outbreak, would be the most effectual?—I suggested a plan, on one occasion that I had charge of a party myself, that was that we go out at

night, leave our horses all together, and go out to some place that we had information that they were in the habit of making, and pass through and secrete ourselves, and have provisions brought to us there at night. I sent in that report, and it was arranged that the sergeant at Wangaratta was to arrange with me whenever I thought a suitable opportunity occurred for this arrangement of mine; but the Jerilderie robbery took place very shortly afterwards, and it was never referred to afterwards.

12702. Would you consider that mounted constables patrolling the district would have as good information as could be got by any others now—that they would be prepared to catch any outlaws that might go out into the field?—I do not think whatever knowledge the police had of the d at that time would have been of avail in catching the Kellys; but I know it is very important for the police to know the bush and the people, not to catch the Kellys but to prevent men going through the bush, and sweating horses and cattle and illegally using; but I do not think whatever knowledge they had, however good then, that it would have led to the arrest of the Kellys.

12703. Do you think all the information that was given did anything towards the arrest of the Kellys?—I do not think it did. I think it was just by a fluke they were caught.

12704. Was it not money thrown away appointing those agents, and having large parties?—When I made use of that expression I did. I meant really the result—the taking of them, but as to whether it was any use doing it I do not know.

12705. Do you think you will be able to remember or get any information further about that log business?—The only way would be to get the books from Benalla, and find out the dates. It must be in the books at Benalla—the date I went out there. There is a record kept of the duty of the men and horses too.

12706. Were you considered an active man when you went into the force?—Yes, always considered a most active man.

12707. A good bush rider?—Yes, a first-class rider.

12708. Is that the sort of man that is required in that district?—Yes.

12709. An ordinary man who knows little of riding would be of very little value?—It would be much better if he were a good rider. I know that one time it was also an offence to jump a horse over a fence, and I think it is a very good thing that mounted men should be able to take fences. For my part, I always had a horse able to take fences, and I am able to ride him over them.

12710. Is there anything, with reference to this whole matter of the Kellys, that you would like the Commission to know that we have not asked you about—anything of importance?—There is one thing I wish to mention—the evidence of one constable taken here, who stated he thought Mrs. O'Brien, of Greta, was a very great sympathizer. I think that most unfair to Mrs. O'Brien. During the time I was at Greta Mr. O'Brien was alive, and I consider that Mr. O'Brien was always a friend to the police—a very straight forward man, and not in any way a sympathizer with the Kellys, and I believe Mrs. O'Brien to be the same. If she showed any sympathy to them it was through fear, because of her having property there. With reference to the force do you mean, or the capture of the Kellys?

12711. Either of them?—I think there ought to be some standard for promotions in the service.

12712. You have got your regulations, have you not?—Yes.

12713. We are not dealing with that branch of the subject at present?—Yes.

12714. There is nothing else of great importance you wish to say?—No.

*The witness withdrew.*

*Adjourned to to-morrow at Eleven o'clock.*

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TUESDAY, 5<sup>TH</sup> JULY 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

J. H. Graves, Esq., M.L.A.,  
G. W. Hall, Esq., M.L.A.,  
E. J. Dixon, Esq., J.P.,

W. Anderson, Esq., M.L.A.,  
G. C. Levey, Esq., C.M.G.

Mr. Sadleir stated that the evidence of Dean Gibney had been read over to him by the shorthand writer, and he now again applied that the witness referred to should be recalled for the purpose of cross-examination by him (Mr. Sadleir).

The Chairman read the list questions which Mr. Sadleir handed in as the ones he desired to put to Dean Gibney.

Mr. Sadleir was requested to retire.

*The Commission deliberated.*

Mr. Sadleir was again called in and informed that the Commission had decided to grant his request for the recall and further examination of Dean Gibney.

<p style="text-align: center;">H. M. Chomley further examined.</p> <p>12715. <i>By the Commission.</i>—Yon see by that letter of Mr Sadleir's that he desires to be employed again in the force?—That is the letter I forwarded, I presume?</p> <p>12716. Yes?—Yes.</p> <p>12717. You gave evidence some time ago. You remember giving evidence here that the business of the country could be carried on without the presence of this gentleman?—No, the question asked me was, was it absolutely necessary that Mr. Sadleir should come back.</p> <p>12718. At that time?—Yes, and I said it was not absolutely necessary he should come back then.</p> <p>12719. Has anything arisen since to create a necessity?—Two or three officers are now wanted. Mr. Babington of Ballarat died about a fortnight ago.</p> <p>12720. I see you made no recommendation with your submission?—No, I did not consider it my duty to do so.</p> <p>12721. Is it absolutely necessary for those officers or any of them to come back?—We are getting very short-handed. It is not my duty to state that any officer is necessary; I state facts.</p> <p>12722. I bring to your notice the recommendation of the last Chief Commissioner of Police upon the last Estimates. This is a note positively for Parliament. I see eight superintendents, eight inspectors, and six sub-inspectors are provided for. At the bottom there is a note—"As these officers attain the age for superannuation the number will be reduced to sixteen"—Yes, I do not agree with that; we are now, including myself, only sixteen altogether, and I say that is too few I have got this ready for you, it is in a paper. There is what it was at the end of last year, twenty-three officers, and now you will see there are only sixteen at work.</p> <p>12723. What is Mr. Larnier doing?—He is a superior, those five officers are there.</p> <p>12724. What are those sixteen—Larnier, Toohey, and Kennedy?—That shows all the officers on duty now in July.</p> <p>12725. What are those three doing?—Doing duty in the city. Mr. Kennedy has gone to Ballarat.</p> <p>12726. Is he doing Mr. Babington's duty?—Yes.</p> <p>12727. Mr. Babington and Mr. Hare?—Mr. Babington is dead and Mr. Hare relieved for the time being.</p> <p>12728. Two are sick—what Smith is this?—That is Mr. Brook Smith.</p> <p>12729. You have sixteen altogether?—Sixteen including myself.</p> <p>12730. Two sick and one dead since, and three relieved; do you think that sixteen, as the recommendation made to the Chief Secretary and upon which the Estimates came to the House, is too small for the public service?—I think it is decidedly. You see that will show what the police force is—[<i>handing in another paper</i>]. There is the average of officers to men in all these services. In Dublin it is one to every twelve.</p> <p>12731. London, one to seventeen; New South Wales, one to thirty-three; South Australia, one to thirty-five; Irish Constabulary, one to forty-two; Victoria, one to fifty?—As we are at present, one to sixty-nine.</p> <p>12732. May it not be that in a colony like this, where we are supposed to have a better class of police than in some other places, it does not require so many officers to manage the men. Is it not a fact that we are credited with having a very superior body of men in the police to what they have in other colonies?—I cannot say from experience. I think we have.</p> <p>12733. If that is the case, is it necessary to have so many officers to manage the men in proportion?—No, but look at the proportion.</p> <p>12734. Certainly 100 good men would not require so many officers to manage them as 100 bad men?—No. I have given some different places, New South Wales, Adelaide—why should they be so very much behind us?</p> <p>12735. Surely you would not compare the New South Wales to ours?—I cannot flatter myself that we are so very much ahead of them.</p> <p>12736. Take the Tasmanian men as a body of police, do they anything like compare with our men here?—They are a different style altogether—they are not a body of police, they are simply men under the municipal councils.</p> <p>12737. Do you think that these gentlemen should return to duty at once now?—I do not know. I am not prepared to say whether they ought or not. All I can say to the Commission is, that I think we are short-handed.</p> <p>12738. Can you get on without them for another month or two?—I think we can.</p> <p>12739. There is nothing special?—Nothing special.</p> <p>12740. Would the public safety be endangered by these men being inactive?—I do not think so.</p> <p>12741. I would like you to express an opinion, as Acting Chief Commissioner, of this—would the public safety be endangered by these men remaining away?—Certainly I cannot go so far as to say that. I do not think it will be endangered.</p> <p>12742. You have to deal with the present; you know exactly, or ought to know, the present state of the efficiency of the police, both officers and men?—Yes.</p> <p>12743. You ought to be able to say whether the public safety would or would not be endangered?—Not be endangered, but things are getting behind.</p> <p>12744. How are they getting behind?—The other day a complaint was made to me by the police magistrate that a man was stabbed; and I sent for a report, and the constable reported that the man would not</p>	<p>H. M. Chomley, 5th July 1881.</p>
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<p>prosecute and made very light of it; and I referred it back to the police magistrate, and he went and made enquiries; and then I referred to Mr. Winch and asked him to go on with the case and send up an officer to prosecute.</p> <p>12745. What officer did he send?—Mr. Kennedy, and the man is committed for trial.</p> <p>12746. Was the officer of the district Mr. Babington?—There was no officer in the district.</p> <p>12747. Was Mr. Babington the officer of that district?—No, it was Mr. Hare's district. There is no other officer in it; no officer at all in it now.</p> <p>12748. In March last this Commission sent in the following resolution to the Chief Secretary:—"That the Chief Secretary be requested to allow the following officers of police leave of absence pending the result of the enquiry, Mr. Nicolson, Acting Chief Commissioner of Police; Superintendent Hare,</p>	
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H. M. Chomley, and Superintendent Sadleir." To that immediately the following answer was received:—"I have the honor, by direction of the Chief Secretary, to inform you that he has approved of the recommendation of the Commission that leave of absence be granted to Mr. Nicolson, Acting Chief Commissioner of Police, and Messrs. Hare and Sadleir, superintendents of police, and leave is granted accordingly." You were examined at the time that recommendation was sent in, and your answers appear upon the notes. Now has anything occurred to your knowledge since then to render it desirable in the public interest that this Commission should change their recommendation?—No, I do think so; we can carry on as we are, I think, but it depends upon how long it is to be.

*continued,*  
5th July 1881.

12749. I ask has anything occurred since the resolution to induce us to change our minds?—One officer is sick and one officer is dead since; there are two short.

12750. Do you think that the public interest absolutely demands it?—The police force will go on to a certain extent for twelve months, or longer perhaps, if we had no officers at all, but things get worse every day; the men are getting slack and so on. We could go on for a month or two, but if it is to be long—

12751. I see Mr. Kabat is in Gippsland—is that North and South Gippsland?—He has the whole of Gippsland.

12752. Does Mr. Kabat report from time to time where he is in the districts?—Yes, his returns come in of the stations he has visited.

12753. Does not Mr. Kabat spend about eleven months out of the twelve at Sale?—I do not think so. I was looking at his returns the other day and he seems to visit a great number of the stations.

12754. Is there a diary kept by the superintendents showing where they visit?—No.

12755. You have put this before the Chief Secretary without any recommendation—we noted that when it came?—I have simply forwarded the paper; it was not my business to recommend.

12756. You see the position it places the Commission in—if we relieve one from the leave of absence would not the other two justly claim it?—Yes, certainly; I see a difficulty myself.

12757. If Mr. Sadleir returns to duty where would you send him?—I have not made up my mind at all about it.

12758. Mr. Berry has put a minute here that he should not be sent to the North-Eastern district?—Yes.

12759. Do you know whether Mr. Sadleir has asked to be relieved from the North-Eastern district?—Yes.

12760. Have you got the correspondence?—I put it in here. I gave it to you; it was handed in here the last day. It was a private letter to me when I gave evidence about the Kelly scare; it was the latter part of the letter.

12761. I heard from the Chief Secretary, a long time before, that Mr. Sadleir had written a letter imploring his removal from the district, as he was in danger of his life?—That was the only letter. I telegraphed up and got an answer that there was no such letter in the books, and the only letter I had was the one I gave to the Board.

12762. Did you at any time prior to the 27th of June lead Mr. Sadleir to believe you would recommend that he should resume duty?—Never.

12763. Neither by word of mouth nor writing?—No.

12764. And the request was made solely upon the part of Mr. Sadleir himself?—Solely.

12765. And from no intimation from yourself?—Certainly not.

12766. Did you consider that the public service demanded from you that you should make an application for an increase of officers to the Chief Secretary?—No.

12767. Then Mr. Sadleir has taken this action altogether of his own accord?—Certainly he has. I wish the Commission to remember that had there been no Commission and had there been only sixteen officers I might have taken other steps, but I did not want to do anything to embarrass the Commission in any way.

12768. In point of fact you are under the impression that sixteen officers is not sufficient?—I am; but the Commission is sitting here and they ought to know. I do not want to embarrass the Commission in any way.

*The witness withdrew.*

Adjourned to to-morrow at Eleven o'clock.

WEDNESDAY, 6TH JULY 1881.

Present:

The Hon. F. LONGMORE, M.L.A., in the Chair;

J. H. Graves, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.,

W. Anderson, Esq., M.L.A.

Rev M. Gibney  
6th July 1881.

The Rev. Matthew Gibney further examined.

12769. *By the Commission.*—Mr. Sadleir who had charge of the police at the taking of the Kellys, thinks that some of your statements might be prejudicial to him, and he desired some questions to be put to you; and he has given the written questions here so as to elucidate his meaning in any possible way that can be done?—I may remark that if any word of mine would wound, which is not necessary for truth, I hereby desire to record my wish to blot it out.

12770. The Commission consider that you did exactly what was your duty in everything that you said, even if a wrong impression has been created. Mr. Sadleir was not present, and he desires that these questions may be put. That is the whole thing, and we thought it well to have the matter brought under

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your notice; and we are much obliged to you for coming again. I will just put the questions as they have been written down, and those are the questions you are supposed to reply to. The first question is, "Were you aware, before your arrival at Glenrowan on June 28th 1880, that all the innocent persons except Cherry had left Mrs. Jones's two hours or so before"?—I was aware on my arrival there—I became aware of it soon—at least that the innocent people had been allowed to remove from the house sometime about half-past nine or ten o'clock, some two hours before I came, that would be; but I heard there was one wounded man there—I believe it was Cherry.

12771. The second question is, "When did you learn that I was" (that is Mr. Sadleir) "the principal officer on the ground, and where was I then"?—I could not say for certain whether I learned the name of the officer in charge before the time that Kelly's sister came on the ground. Then I knew for certain, as I made enquiries in order to find the officer in charge.

12772. The second portion of the question is, "and where was Mr. Sadleir then"?—I was directed to Mr. Sadleir then by parties on the cordon, the line of police in the direction in which I found that Mr. Sadleir was not then.

12773. The third question is, "Where were you mostly from your arrival at 12 o'clock until the time approached when the house was set fire to"?—I might have been perhaps an hour. or it may be more—an hour and a half, perhaps, in attendance on Ned Kelly. In my endeavor to get to him I was, perhaps, ten or fifteen minutes before I could get in, and then I was, I dare say, three quarters of an hour with him, attending to him with my own duties. I might be more, but I believe it was not short of that time. After that time I went over to the hotel on the opposite side and spent about perhaps five or seven minutes there it might be more. I met a reverend gentleman there of the Church of England, and we walked down to where time line of railway had been torn up, and then came back to the railway station.

12774. The fourth question is, "Do you remember seeing me" (Mr. Sadleir) "about the platform"?—After the house had been set fire to I believe I saw you twice. I said I saw you. I believe it was pointed out that that was Mr. Sadleir on the left hand side of the house looking at the house from the direction of the railway gate. I saw you there with a party of men, and then I sent to Miss Kelly to go on now and ask if she might go to the house.

12775. The fifth question is, "How long before the house was fired did Mrs. Skillian or Kate Kelly, Ned Kelly's sister, arrive on the ground"?—It was Miss Kate Kelly.

*Mr. Sadleir.*—I never saw her, I saw Mrs. Skillian approaching and turned her from the house.

*The Witness.*—Understand I was told it was Kate Kelly, I saw them both.

12776. Mr. Sadleir.—My question is to elicit when the woman that approached the building—that is the one I refer to?—I never had any doubt it was Kate Kelly.

*Mr Sadleir.*—My question is with regard to the woman that approached the building from the railway gates. It does not matter if we both understand we mean the same person.

12777. *By the commission (to the witness).*—You sent on the sister to Mr. Sadleir; and I think what time Commission have to do with is, how long before the fire was it she went to Mr. Sadleir?—I believe tile man had already come hack from the house. I think he had already returned from the house—the one that set fire to it.

12778. It was just at the time the house was set fire to?—I was coming round with this woman to find Mr. Sadleir, I saw the man running from the house after setting fire to it. It was only then I became aware the house was being fired. When I made an effort to get this woman to approach the house I did not know then

Rev M. Gibney,  
*continued.*  
6th July 1881.

the house was being fired, but I had heard that there was a cannon on the way.

12779. This is number six, "In the interval between her arrival (Ned Kelly's sister) and your approach to enter Mrs. Jones's house, did you see me" (Mr. Sadleir)"—Not at the time that I was called out to—that is I did not see to take notice until the time I was called out to by Mr. Sadleir, that I should not approach there without his permission, or some words to that effect.

12780. Question seven, "Please to describe where you went to search for me and say whether this was after Mrs. Skillian's arrival or not?"—That is a question I have already answered.

12781. Question eight, "How long were you detained altogether before your ministrations to Ned Kelly were completed?"—That is answered also.

12782. Question nine, "Was it not possible that while you were so engaged, or even before your arrival on the ground, or after that, the police were acting on definite orders without your knowledge"—It was quite possible that they might be acting under definite orders. I have not made any remark that I know which would show they were not acting under definite orders. My remark, I think, was to the effect that the only uniformity I observed was in time intermittent firing at the house—that there was uniformity in that. They used to begin at the one end of the cordon and fire all round till they reached the other. But what I generally felt impressed with was (as I might say a *post factum* witness of the scene) that firing had commenced at the house when I believe it ought not to have done—that is when all the innocent people were there. I maintain that as it was the practice of those men to stick people wherever they came to it was not a fair timing to fire into the house while the innocent people were there. This is where I think discipline was wanting; and then continuing till the people burst out of the house, and then firing at them as they burst out. I am referring now as a *post factum* witness—one that came there and heard what had been going on.

12783. Number ten is, "Might not the outlaws have been called on to surrender without your hearing?"—Quite possibly, but in reply to that I might say, that if I understood they were called upon—the idea they were called upon I would look for occasions sufficiently long for them to see that they were not fired I would look for periods of time to be given them to come. Of course I cannot say exactly what length of time there would be or what time there was between one volley and the other. I can simply give my impressions in the evidence I give.

12784. Question eleven, "Please to describe the particulars in which you observed the want of generalship, bearing in mind that the outlaws were in impenetrable armour and the difficulty of knowing in what part of the building they were hiding?"—I think I have already answered that question in my general remark upon the way the thing, just as I came there, impressed me, and it was continued while I was on the scene. I looked upon the matter as being one which began in a blunder (I am simply stating my impressions), and that it was continued on until they were with difficulty allowed to go beyond the

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Rev M. Gibney, bounds of the house they were confined to. Some described their condition, lying on the ground. Reardon  
*continued,* described the condition of the women and children on the ground, and he was there until some one threatened  
6th July 1881. to kill him by firing on him if he stopped; and then there was such an uproar on the part of the people  
confined in the place, that at length they were allowed to come out and throw themselves on the ground. Now,  
I could not for the life of me, make out how it was possible that the people would be confined to that house  
for so many hours, and the police would be there, and that they would not have known the condition of affairs  
in that house.

12785. *By Mr. Sadleir.*—What do you mean by the "beginning?"—I refer to the volleys that were fired upon that house while the people were confined in it.

12786. Does that include the first attack?—Well, I daresay it will. There were more innocent people in that house than there were guilty—and if the police were to fire indiscriminately on us here what would we say?

12787. *By the Commission.*—When the first attack was made, you understood we have it in evidence, the police did not know that there were people in the house, and the first volley was fired from the house upon the police—you would not have such a strong opinion as to the first attack on the house?—Surely no one could have any misgiving about Mrs. Jones and her family being there.

12788. This was the first five minutes, when Mr. Hare rushed up and the order was given to cease firing and surround the house; you mean after they knew the people were in it?—It was considerably before I came there; but I remarked already that I informed my opinions, as I might call myself, a *post factum* witness.

12789. You simply said there should not be indiscriminate firing upon the house when there were only two outlaws and a lot of innocent people in?—If there was one innocent life to be lost amongst them I would say the guilty ought to be spared for the sake of the innocent.

12790. Do you think there was any chance of the outlaws escaping at all if there had not been a shot fired after you came?—I thought a guard might have been kept round the place, and the outlaws kept there without firing a shot, and in that condition it would have been impossible for them to have escaped.

12791. *By Mr. Sadleir.*—Not even in the darkness of night?—Well it would be hardly my place to say what would be another person's disposition in the matter, but I simply say my own.

12792. Are you making allowance for the darkness that men might crawl through the fence and might be mistaken for one of the guards. If we had let them stay after daylight would there not be the possibility of

their escape?—Then there would certainly have been the possibility.

12793. *By the Commission.*—We have it in evidence from Mr. Hare's official report that there was a very large number of prisoners confined at the house when they went to it at the first moment. Bracken, when he came down to tell about the Kellys, told them also that they had a very large number of people in there. He said, "Mr. Hare, I have just escaped from Jones's hotel, where the Kellys have a large number of prisoners confined." There is one more question, "What was the condition of the bodies of Dan. Kelly and Hart when you touched them; were they stiff as if they had been any considerable time dead"?—They were not stiff. I took hold of the hand of the one next me and it seemed limp, but from the pallid appearance and coldness I thought that it could hardly have been immediately before, only a short time dead; they would not have such a settled look upon their countenances if they had not been some considerable time dead.

12794. Was the hand cold?—No, I do not feel able to say cold.

12795. Were the flames broken through?—They were. I could not judge of my own feeling in the matter. It would not be well for me to say I could judge of my own touch, because I was hot and excited. I am told that a few minutes might cause the appearance that I saw. That is, that if those men were in terror for a good while before and lay down, and if they were wounded and lost blood, and so on.

12796. You saw no marks of fresh blood?—No.—(*To Mr. Sadleir.*)—Is there any other question you wish put?—

*Mr. Sadleir.*—No. I wish to thank Dean Gibney for the trouble he has taken in coming here.

12797. *By the Commission (to the witness).*—With reference to seeing Mr. Sadleir at first—what time did you see him?—I saw him to recognize him for the first time when I was going with the woman Kelly in search of him. He was pointed out to me then standing with a party of men on the left-hand side.

12798. That was after the house was set fire to?—It was just as the man came running down. I saw him then again when I was going up to the house, when he called to me to stop in my course; and then I thought I would have gone to speak a word or two to him at that time, only I thought if those men were observing me from within, they would say I was one of the police and was coming with a message from them, and would have been more determined to take me down; that flashed across my mind, and after walking a pace or two towards where Mr. Sadleir was, I stopped, and he then kindly gave me leave to go on. The next time I saw him was above at the house, after I had gone through, and he very kindly indeed, without demur, thanked me for what I had done; for whether those men were burned alive or not, no one would have known if I had not gone in. Then the man Cherry was found; and I moved away from the scene after that, as I have already told you. I met Mr. Sadleir again when I went to attend to Cherry. He wanted to stay me for a moment, and asked me about the condition of the bodies inside; and I said I had to attend to this man, and would explain after. In fact one of my impressions at the moment was that this man was one of the party of the bodies that I met inside, and that he had life in him, and he was taken out, and I said to myself—"Is it possible I did not observe that, because I was certain they were dead?" Again I saw Mr. Sadleir when the whole thing was over, and he took occasion to thank me then again; and I considered he was certainly very complimentary to me. He called me by a name I never got before—"a hero."

*Mr. Sadleir.*—He knows the views of people in his ministerial capacity—would you ask whether it was an act to be reprobated my giving up the bodies to the friends.

12799. *By the Commission (to the witness).*—That is only a question of opinion. We will ask your opinion whether you consider it was an act to be reprobated giving up the charred remains—the dead bodies—to their own people?—Well, at the time I had not given the matter consideration, but afterwards, if I had been asked at the moment then what I would do, I do not think I would be able to say plainly

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what to do—to give them up or not; but afterwards I thought it would have been better not to have given them up. It is a very difficult thing for anyone to say. Rev M. Gibney,  
*continued,*  
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12800. Your evidence is that you did not reprobate the action, but simply, on after thought, you would not have done it yourself?—Yes; but I might be permitted to say that, in my own action in the matter, perhaps the police may compare not favorably with me. Now I desire to record this, that I would not go up to that house for any earthly consideration. I knew any man going up there those men would have shot him. I went, just simply putting my trust in God, and just to give those men a chance, that they might have a little time to prepare themselves before they died; and I hoped God would protect me, and if not, if I fell, I would do an act pleasing to Him. But if the wealth of Victoria were laid at my feet, for that consideration I could not do it for that; so that I was actuated from a different motive from any other. I do not see how it could have been done otherwise; I certainly would not do it. I am not speaking any boastful language. I simply say what my feelings were, and what the appearances were at the time; so that I was just as little a hero as any man on the ground, and perhaps considerably less.

*The witness withdrew.*

Alexander Fitzpatrick sworn and examined.

12801. *By the Commission.*—What are you?—Timekeeper and clerk for Mr. Robb, the contractor.

12802. You were in the police force formerly?—I was.

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12803. Do you remember the time that the four constables were shot in the Wombat ranges?—I do.

12804. You were stationed in the North-Eastern district at that time?—Yes.

12805. Where were you stationed immediately prior to that time?—I beg your pardon, I think I misunderstood you. I was not stationed in the North-Eastern district at the time those men were shot. I had been just transferred from there to Melbourne.

12806. You had been in the district for how long before they were shot?—Nearly twelve months before.

12807. Where were you stationed during the time you were in the district?—At Benalla and Beechworth. About eight months at Benalla and two months at Beechworth.

12808. Were you going to any other station from Beechworth?—No. I was just transferred from the district for my own safety to Richmond depot.

12809. Will you state the circumstances that occurred at the time that you went to Mrs. hut?—That was on the 15th April 1878.

12810. Where were you stationed at that time?—At Benalla.

12811. Were you in the police district where Mrs. Kelly's house is?—Yes.

12812. Were you authorized by any warrant to seize any of the Kellys for horsestealing at the time you went?—I noticed in the Police Gazette that there was a warrant issued by the Chiltern bench for the arrest of Dan Kelly and John Lloyd.

12813. Is it usual for policemen to attempt to arrest prisoners without having the warrant in their possession?—It is.

12814. That is they are bound by their regulations to arrest a criminal when they find him?—Wherever they find him, if they are certain there is a warrant in existence.

12815. Was there any regulation in that district making provision that no single constable should go to arrest characters such as Dan Kelly?—I was not aware of any.

12816. You thought you were fully justified in attempting to arrest them?—Yes. I drew the attention of the sergeant who was stationed there to this warrant being issued for Dan Kelly.

12817. Did he agree with you?—Yes, he agreed with my arresting him, and told me to be careful.

12818. Why careful?—They were known to be dangerous characters at that time by the police, and likely to resist the police.

12819. Were you long in the house before you attempted to arrest any of them?—I went a second time to the house before I made the arrest. The reason I went to the place at all was I knew I was capable of taking Dan Kelly away if he resisted; and there was a warrant issued at that time for Ned Kelly, and the local police were in search of him for some weeks previous to that.

12820. You understood he was not likely to be near the place?—Yes, not near the place.

12821. Will you tell the Commission what occurred?—When I went first to the place Dan was not there, only Mrs. Kelly and some of the younger children of the place, and I entered into conversation for a while to see if there was any chance of Dan putting in an appearance.

12822. She knew who you were?—Yes; and I drew her attention to the sound of some one cutting wood behind the hut on the creek where they lived; and I said, "I will go up and see who they are." I went up there and found Williamson, a man that used to live with them, splitting rails, and asked him had he a license, and he said no, he did not require one, splitting on selected land; so, after I had spent a few moments with him, I was heading for Greta. I was going straight there—the station I was *en route* for. I was on horseback. I had occasion to pass by Kelly's new hut at the time, the one they were living at at the time. As I was passing that I noticed two horsemen entering the slip panels in front of the old hut. I rode round to where they were, and by the time I got round one of the men disappeared, and Skillion was holding one horse by the mane, and had the other horse, the one he had been riding, with the saddle and bridle on—he was holding that, and a third horse he had caught in the panel just after coming in. The horse that had been ridden had the bridle taken off. I asked Skillion who was riding the horse. He told me he did not know. I examined the mare, and saw it was the one Dan Kelly was riding two or three days previous to that when I had seen him. I said, "That is Dan Kelly's mare," and he said, "Yes." I said, "Where is he?" and he said, "Up at the house, I suppose." That is the new hut. So I rode up to the place again, and called out "Dan," and he came out, and as soon as I saw him I walked up to him. He had his hat and coat off, and a knife and fork in his hand. I said, "I am going to arrest you on a charge of horse stealing, Dan." He said, "Very well, you will let me have something to eat before you take me?" I said, "All right." He said, "I have been out riding all day"; so he went back into the hut, and I followed him in. As soon as I went inside Mrs. Kelly accosted me, calling me "a deceitful little —." She said she always thought I was. She said, "You will not take him out of this to-night."

A. Fitzpatrick, *continued*, 6th July 1881. I said it was no use talking that way, that I had to do my duty; and Dan says, "Shut up, mother, that is all right." I was scarcely in the place three minutes, when Ned Kelly rushed in and fired a shot at me, and said, "Out of this, you —."

12823. Were you sitting down at the time?—I was standing up; Dan was sitting down to have something to eat. I was standing up alongside of him, with my right side to him.

12824. How far was Ned from you when he fired?—About a yard and a half from me; he had just come from the side of the hut door. As soon as he had fired the first shot Mrs. Kelly seized an old shovel that was at the fireplace, and rushed at me with it.

12825. He missed you the first shot?—Yes. She rushed at me with this shovel and made a blow at me, and smashed my helmet completely in over my eyes; and as I raised my hand to keep off the shovel Ned fired a second shot, and it lodged in my wrist. With that I turned to draw my revolver, and just as I slewed to the right Dan Kelly had my revolver pointed at me. He had snatched it while my attention was drawn to his mother and Ned.

12826. Where was Williamson?—He had come to the door of the bedroom, and Skillion; they both had revolvers in their hands; they were not in the hut when I came in.

12827. Were they in the hut when you were fired at?—Yes, just as the third shot went off.

12828. Was Skillion in the hut?—He came to the hut as soon as Ned Kelly had found out it was me. Williamson came out of the bedroom door and had a revolver in his hand, and Skillion just came to the door while he was forcing himself in where Ned was standing.

12829. Then you had three men to fight besides Mrs. Kelly?—Yes; and Ned Kelly said, “That will do, boys.” If he had known it was Fitzpatrick he would not have fired a —— shot.

12830. When you left Benalla that morning were you under instructions to do a certain duty?—Yes.

12831. Who gave you the instructions—Sergeant Whelan.

12832. What were the instructions?—The instructions came from head quarters

12833. What were they?—To take charge of Greta police station temporarily in the absence of Senior-Constable Strahan.

12834. Was Strahan away from his station?—He was.

12835. When you left Benalla it was for the purpose of taking Strahan’s duty?—Yes.

12836. Did you ever do that duty; was it your first time of being ordered to do duty of that character, sole charge of a station?—Yes.

12837. Would it not have been your duty to have gone direct to take charge of the station where the man was not in charge?—The sergeant agreed with my suggestion by telling me the complaint against Dan Kelly, and to be careful with him.

12838. Did the officer at Benalla, Sergeant Whelan, know, when you left that morning, that you were to arrest Dan Kelly, if you got the chance?—Yes, he was aware of it.

12839. How was he?—Because I told him if I saw him on my way I would take him into Greta and bring him into Benalla and remand him to Chiltern the following day. I suggested that to him.

12840. Have you read Sergeant Whelan’s evidence on that point?—No.

12841. Then you say you had told the officer who gave you the instructions that you would arrest Dan Kelly if you got the chance?—Yes.

12842. Was it he who told you of the warrant being out, or did you yourself see it in the Gazette notice?—I fancy I saw it.

12843. Did you go direct from Winton to Greta upon the Greta road that morning?—Yes.

12844. Were you at Lindsay’s public house on that occasion, on the morning of your being shot?—No, not in the morning, it was in the afternoon.

12845. When you left there, what road did you go to Greta?—I turned off to the right by the Eleven-mile Creek.

12846. Did you go off that road to Kelly’s house, or were you passing by the house; did you go by the slip-panel into his paddock?—No, I kept the road round the front past the place, and would have passed it if I had not intended to call there; I went to the back of the house.

12847. Was your officer quite aware that you were going to call at Kelly’s house on your way to Greta?—I told him so.

12848. Was there a lock-up at Greta?—Yes.

12849. You know that?—Yes.

12850. Then it was your intention, with the knowledge of your officer, to arrest Dan Kelly on your way to Greta that morning?—Yes.

12851. On the morning when you left Benalla did you see McIntyre?—No, I do not think so.

12852. When you got your instructions from Whelan to go and take charge of the station, was McIntyre, from Mansfield, then in Benalla on duty; did you see him that morning you were ordered to go to Greta?—I do not know whether he came in that morning, but I recollect his coming in from Mansfield. I only returned from duty that morning.

12853. Had you a conversation with McIntyre that morning in Benalla?—I think not.

12854. Will you say you had not?—I could not really tell you.

12855. Did you know that McIntyre was in that day from Mansfield?—I do not recollect it.

12856. When you got fired at that time what occurred?—Ned Kelly prevented them from doing any more, and I fell down on the floor insensible.

12857. What really did occur afterwards?—After I got up Ned Kelly examined my hand and found a bullet in my wrist, and said, “You must have it out of that”; and I asked him to let me go into Benalla to let the doctor take it out, and he refused; and I saw he was determined to take out the bullet. He wanted to take it out with a razor, and I took out my penknife and he held my hand and I took it out. It was not very deep in; it was a small-sized ball.

12858. You did not take Dan Kelly at that time?—No.

12859. What did you do after—did you leave the house immediately?—No, I could not leave for some time. They kept me till eleven o'clock after I came round, and would not let me go.
12860. What time did this occur?—Just at dusk.
12861. Where did you go to from there?—To Winton—through Winton to Benalla.
12862. And you reported what occurred?—Yes.

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12863. You said that Williamson and Skillian had revolvers — how do you know they were revolvers?—I could swear it.
12864. You have sworn it?—Yes.
12865. What position were they in?—Just coming in; Skillian alongside with Ned Kelly with a revolver in his hand, and Williamson came in out of the bedroom with his revolver.
12866. How long before that had you seen Williamson chopping wood?—Fifteen minutes.
12867. Had he a revolver then?—No, I did not see one.
12868. How did he get into the house before you did?—I do not know.
12869. Were there two doors?—There was only the entrance.
12870. How did he get in before you and Dan Kelly?—He may have removed a sheet of bark at the back and come in. I did not see him come in.
12871. Were you under the impression that they had made up their minds to resist the arrest of Dan Kelly?—No, I did not think they would. I was on friendly terms with them in this respect, that I had arrested Ned Kelly for being drunk and I never pressed the charge against him; and he said I was the only man up in the district any good. Shortly after that Jack Lloyd, Tom Lloyd, two young fellows, and Dan Kelly committed an outrage at Winton.
12872. What was the nature of that?—One was charged with attempted rape and the others with burglary. I think it was mentioned in the warrant.
12873. Whose house was that?—Goodman's and Joe the hawker. He had a small store in Winton. There were warrants issued for their arrest. The police were some time in pursuit of them and could not get any trace of them at all; and I was going to Benalla on, I think, the second or third week after the warrants were issued and met Ned Kelly. He told me that Inspector Brook Smith had been speaking to him and asking him to give the boys up, that it was no use keeping out of the road. He said he would not give them up to him, but he said if he gave them up to anybody he would give them up to me; and he said he would keep them out of the road for a twelve month in defiance of all the police, so I advised him to make them give themselves up. I told him I did not think there was anything serious against them, so accordingly the following morning he brought them into Benalla, came galloping up to the police station and told me he wanted me, so I went down the street with him. He said the three of them had ridden in that morning from their own place or wherever they had been hiding the period they were out; so I arrested the three of them, read the charges to them, and brought them to the lock-up.
12874. Where had they been in the meantime?—Planted in some of their haunts about the bush, or with some of their relations about the Greta district.
12875. Were the police searching for them?—Yes.
12876. And could not find them?—No.
12877. You said if Williamson got into the house he might have got through by removing a sheet of bark. Was the house bark or slabs?—Bark and slabs.
12878. Where was the bark, on the side or on the roof?—There was a bark partition. How I know that is that the first shot fired at me grazed the bark behind my back, and lodged in it. I cannot say whether the outside walls were of bark.
12879. Then they had no particular reason for firing at you?—Any constable would have been in the same position.
12880. In your letter to the Commission you stated that you could give information with reference to the first outbreak that would throw light upon the cause of it?—No more than merely that the officers could have taken measures to prevent such an outbreak. There was a deficiency of police in the Greta district, where crime was being committed and horses stolen nearly of daily occurrence.
12881. Who was the superintendent of the district at the time?—Inspector Brook Smith was in charge during my time there, and Mr. Chomley at another portion of it.
12882. Who was in charge of the Greta district at the time?—Constable Thom was stationed at Greta.
12883. What officer?—Inspector Brook Smith.
12884. Where was Mr. Sadleir?—He was in charge of the Mansfield district.
12885. You give that as one of the reasons for the outbreak?—Had it not been for this case of Baumgarten's horse stealing, horses stolen from persons close to Greta; and information was received by Sergeant Steele and several other constables that there was a warrant issued for the arrest of Ned Kelly. Sergeant Lynch, stationed at Chiltern, obtained some evidence that there were two men seen driving those horses; he thought they answered the description of Jack Lloyd and Dan Kelly, and a warrant was issued for Dan Kelly and Jack Lloyd, which I went to execute.

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12886. At the time you went to Mrs. Kelly's hut?—Yes. Shortly after the outrage was committed on me Jack Lloyd was arrested and was discharged.

12887. What had that to do with the outbreak?—You see this warrant was issued—this was the ground of the warrant being issued—and they were actually against Dan Kelly and Jack Lloyd if I had brought them up at that time.

12888. How would that account for the outbreak—the mere fact of being taken up on suspicion would not justify them in taking to the bush. Had the arrest of Mrs. Kelly anything to do with the outbreak?—No; Ned Kelly told me distinctly, previous to that, that he was persecuted by the police, because he could not do as he liked; anything that occurred he was put down for it.

12889. Had the police good reason to believe he was a criminal?—They had every reason.

12890. Then there could be no persecution in trying to get him up for crime when they supposed he had committed it?—No.

12891. That does not clear up any points with regard to the outbreak. How long have you left the force?—I was discharged in April last.

12892. What for?—On the report of Senior-Constable Mayes, at Lancefield; and I asked the Chief Commissioner if he would kindly inform me why I was discharged from the police force, and he told me. He said, on the recommendation of and communication from Senior-Constable Mayes, of Lancefield, stating that I was not fit to be in the police force, as I had associated with the lowest persons in Lancefield, and could not be trusted out of sight, and never did my duty.

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12893. Had you any opportunity of reply?—I never had the slightest opportunity at all. I applied for a board of enquiry, and the Chief Secretary (Mr. Ramsay) declined, as he had left all power with Captain Standish. Notwithstanding that, there were two petitions got up on my behalf by the residents of Lancefield and Romsey, asking that I might be reinstated.

12894. You think you were harshly treated?—I did, indeed.

12895. How long were you in the police force?—Over three years.

12896. Did you plead guilty to charges of misconduct during that time?—I did, foolishly.

12897. How often?—I could not tell you how many times, but they were very trifling offences. I was charged with merely laughing in the dépôt—the hospital—after the lights were put out. I was fined five shillings. Then Mr. Hare said, “I will keep you in my district.” I was in the hospital then with my leg severely injured.

12898. Did you plead guilty to neglect of duty during the three years?—Yes, for missing the train once or twice in Sydney.

12899. Are you aware that the Inspector-General of Sydney wrote to complain of your misconduct in Sydney?—Yes.

12900. Were you charged with being in a house at unlawful hours when you had no business there?—That was in Lancefield. The charge was not proved.

12901. Were you charged with being at night on the premises of Morris Casey?—Yes.

12902. And causing trouble and annoyance to his family?—That was preferred against me, but I pleaded “not guilty,” and there was no finding at all.

12903. Those are all the charges during the three years?—Yes; there were a lot of charges brought against me, but they really amounted to nothing. Superintendent Hare said he would keep me in his district, and put me under a hard man that would watch me night and day. He accordingly sent me to Lancefield, and the first charge against me there was neglect of duty at Lancefield, being reported by Senior-Constable Mayes.

12904. What was Senior-Constable Mayes's charge against you?—For neglect of duty.

12905. And what else?—I am speaking of this one charge at present.

12906. What was the nature of the neglect?—There was an assault, one swagman struck another, and the swagman came and asked me to arrest this other man. I was in uniform at the time, and I declined to arrest him as I did not see the assault committed; and I said, “If you swear an information and get a warrant I will arrest him, or if you give him in charge and sign the sheet I will arrest him.” He would not do either, and came and told Senior-Constable Mayes I would not arrest him. Mayes sent a foot man to arrest him, and he was brought up and fined by a justice of the peace; and Mayes reported me to Superintendent Hare, and he referred it to Sub-Inspector Baber, of Kilmore, and he came over and heard the case; and as far as I remember the minute on the charge exonerated me from all blame. That is one of the charges that has been brought against me.

12907. Mr. Hare had nothing to do with bringing the cases before the court?—I was heard by the police officer of Kilmore—Sub-Inspector Baber. It was heard at the police station at Lancefield.

12908. Did you say the constable at Lancefield, Constable Mayes, charged you with keeping company with undesirable characters?—So Captain Standish told me.

12909. Did he tell you the Chief Commissioner of Police in Sydney charged you with associating with improper characters?—No, he did not tell me that.

12910. Did you ever hear of that before?—No; that is the first I heard of it about the Inspector-General of Sydney. To the contrary of those reports of Senior-Constable Mayes, there are petitions of 200 respectable citizens of Mansfield and Romsey, and nine justices of the peace asking for my re instatement.

12911. Where was that sent?—Through Mr. Deakin, to be forwarded to the Chief Secretary's office, and there was a formal acknowledgment sent to say the petition had been received.

12912. That was about the time you were discharged from the force?—Yes.

12913. How long were you in Lancefield?—Nine months. In connection with this Kelly affair, through my being mixed up with them, it has damaged my character greatly, and gained me a great many enemies in the working class whom I have had to mix up with on the Lancefield line and other places. When I went to Mr. Robb first "they swore vengeance on Fitzpatrick"—that he was the prior cause of driving the Kellys out. Many did not believe my statement a single word.

12914. Were those people sympathizing with the Kellys?—They repeatedly stated what they would or would not do to me. I was six months thrown out of employment after I was thrown out of the police force, and I had my mother, and wife and child to support, besides myself. It was very hard. I had not a chance to defend myself against any charge. I am out with Mr. Falconer at present, railway contractors.

12915. Were you never told in Sydney, by any officer of police there, that they complained of your conduct?—I was.

12916. Who told you?—Inspector Mager, I think. He told me that I was reported to the Chief Commissioner over here.

12917. By whom?—By Inspector Green, I think, there.

12918. For what?—For being in the premises of a tobacconist there, and accusing me of telling a young woman to run away from his place—this tobacconist's housekeeper.

12919. Anything else—did he tell you that Inspector Green would recommend your removal from Sydney?—He did not.

12920. Did you expect, in consequence of that complaint, you would be removed?—No. It was only a trumped up charge.

12921. Were you ever brought before any other officer there—did they ever complain except this time?—They complained of my missing the train. I had to work about twelve or fourteen hours a day.

12922. You had the opportunity of answering the charge at Sydney?—I did write out a report in reference to that.

12923. Would that have the effect of making you more careful in future when you were charged with the same offence at Sydney and Lancefield?—I considered I did my duty as straightforwardly as any

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police constable in Victoria. That has been testified to by respectable citizens, and there was not a signature put to that but expressed the wish that I should be reinstated or heard. I was there nine months. That accounted for the time I was at Lancefield, where the charges were preferred against me.

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12924. They did not know of the charges at Sydney?—They deal with the charges against me at the time I was at the place. I had not the slightest opportunity of defending myself when the Chief Commissioner sent a communication, and I was instructed by Senior-Constable Mayes to proceed to Melbourne from there. The late Sergeant Porter had my voucher made out to be stationed at Romsey, temporary duty for a few days. That night a telegram was sent to the police depot, stating I was to be discharged from the police force to-morrow. That was Tuesday. I asked Captain Standish to tell me the reason why, and he just explained that he had received this communication from Mayes; and I understood from Captain Standish that was the sole reason I was discharged from the police force; and I think, as against that, those 200 petitioners ought to go further than Constable Mayes. It is hard my character should be blackened. I might have erred in small things. There are many constables in the force who have done more serious things than I did, and have remained in the force and got promotion.

12925. In your letter you said that you would give information that would go a great way towards clearing up the question of the cause of the outbreak of the Kellys. Now it is no clearing up to say they were criminals and that there were warrants against them. You also mentioned the conduct of the police officers in charge at the time. What conduct of the police officers in charge have you to deal with what was on your mind when you wrote that?—Aaron Sherritt, the man that Detective Ward seemed to be able to get his information from, told me whilst stationed at Beechworth that he could lead me to the Kellys in a very short time. He told me that several times. I was given other information by Mrs. —, of Sebastopol. It might have resulted favorably if it had been acted upon.

12926. What was the nature of the information that Sherritt gave you?—That he had it in his power, that the Kellys were in that locality, and he had it in his power to give the information.

12927. Did he tell you why he did not give that?—He complained of having a down on Detective Ward and Senior-Constable Mullane.

12928. Why?—On account of their arresting him for some cattle stealing, or skinning a bullock near Beechworth, and he would not give them the information. I told Sergeant Kennedy of it; he was in charge of the party I was out with searching for the Kellys, and he never acted upon that in any way.

12929. Did he give any reason why not?—He said, “Oh, we will put that down as worthless.”

12930. That he looked upon it as no information worth having?—Yes.

12931. Did Aaron Sherritt at any other time tell you that Ward and Mullane would receive no information from him?—He did. He used some threats towards them that he would like to put a ball through either of them.

12932. Did he inform you that he would not give them information?—He did.

12933. Did you tell any other officer in charge?—Detective Kennedy was the only man I told. There might have been some of the other constables I was riding with heard me mention it to him.

12934. And he said it was no use?—Yes.

12935. When Detective Kennedy did not make any move the officer in charge could not know what Sherritt’s state of mind could be?—He was supposed to report all information he received to the officers, as far as I understand. I let the matter drop at that.

12936. Do you know whether he did report it?—I do not.

12937. You never enquired?—No.

12938. Did you see the officers committing any wrong by not following up information or not using their best endeavors upon any occasion—that any of the officers were lax?—I never found any of them lax in their duty. Inspector Brook Smith displayed a good deal of energy in the first outbreak of the Kellys—just after I was shot—but there could not have been more energy used. At the time of the trial at the Assize Court, at Beechworth, it was reported then currently that the Kellys were a very few miles out of Beechworth when his mother and Williamson and Skillian were being tried.

12939. There were not sufficient efforts then?—There were no search parties engaged outside the station then. It was just before the constables were shot. The search parties seemed to cease for some time. They organized parties after the time they shot me, but there were none during the hearing of the case at the Assize Court. I know very well it was not kept up with the same activity after the first month or six weeks as it was at first. Had it been so they could not have camped where they did.

12940. Were you aware where they were camped?—I was not aware where they were camped at the time.

12941. Was there a proper search for the Kellys at the time there was a warrant for their arrest?—The only search parties were Lonigan and myself from Benalla; and I was given to understand that Mr. Sadleir had a party of police from Mansfield and a party from Greta, and Inspector Brook Smith had some from Beechworth.

12942. And did Kelly seem to make a boast of it at that time that they could not catch them?—Yes, Ned Kelly said he would keep them out for twelve months.

12943. If you had gone to Greta to relieve Strahan, how many mounted constables were left at Benalla then?—One.

12944. Is there anything else you would like to inform the Commission upon with reference to the Kellys—any other point. Were you out in any of those search parties?—Yes.

12945. What time were you out?—I applied to Superintendent Hare—I was in the dépôt at the time the four men were shot—to be allowed to go up, as I knew the four outlaws, and I would know them at a great distance. This was after the police were shot—two or three days after.

12946. You sent in an application in writing?—Yes.

12947. What did you say in it?—I asked Mr. Hare to be good enough to allow me to proceed to the North-Eastern district. I could not give the exact words. It was for Mr. Hare to allow me to go up there in search of the Kellys, as I had known them.

12948. You said just now the four outlaws?—I did not say that in my application. They were not outlaws then.

12949. Did you know who the men were that shot your comrades when you applied to go up there?—I knew them.

A. Fitzpatrick,  
*continued,*  
6th July 1881.

12950. Did you know Byrne?—No.

12951. Did you know he was one of them at all?—I was called upon for a report, asking if I knew those men, and I, by the description given, thought one of them was King, and another of them was—I do not know whether I mentioned Byrne or Hart, but I fancy I did. According to the description I knew the two Kellys were there; of course I mentioned their two names.

12952. And did you say you thought one of the other men was King?—Yes.

12953. The constables did not know who they were at the time?—No; but I was called upon for a report, to see if I knew those men from the description McIntyre had given of them.

12954. Were you sent up?—Yes; Superintendent Hare sent me up some time afterwards. He put it off a day or two before he sent me up.

12955. Were you in any of the search parties?—I was in Sergeant Steele’s party and Inspector Brook Smith’s.

12956. How many?—I think there must have been about twenty-five. The first or second day I went out with the party. Mr. Sadleir and Mr. Nicolson, and Inspector Brook Smith, and Sergeant Steele, were in the

party, besides my other comrades, the mounted men. We went to the Warby ranges that day, from Wangaratta, on some information that was given.

12957. Were you with the party, while Mr. Brook Smith was in charge, when they were supposed to be close upon the tracks of the Kellys, when the pack-horse was found?—No; we went out the following day. I think this was the day I am referring to.

12958. Were you with the party when they came to the tracks in the brush, and the blackfellows were unwilling to go in?—No.

12959. Were you ever out with Johnson?—I was with Constable Charles Johnson. He was in charge. We were just sent from Benalla to Lake Rowan. There were two other constables, and himself and I with them; there were only four of us, sent there to seek information on a Sunday afternoon. We just went down to some of the Kelly's friends there, to see if we could see any strange horses about, or get any other information there.

12960. What were you supposed to do with a large party of twenty-five?—Some information that was received I never became possessed of it, but it appears that tracks were seen and picked up on the Warby ranges. This day the party had made it up to follow the tracks, but under some mismanagement or other the party got separated, and Sergeant Steele and some of us were riding wide apart in the hush. I got separated, and went up the hill, and lost the greater part of the party. I was with Sergeant Steele and four other constables. We camped out that night, searching the creeks and ranges.

12961. How long were you lost?—We were not lost as it were, but we just lost a portion of the party, or they lost us at that time. Of course we never went to look for them again. Sergeant Steele acted in charge.

12962. Where did you go in the evening then?—Into Wangaratta.

12963. Did you see your comrades then?—Yes, that evening.

12964. Did you have any conversation with them?—I spoke to some of the men, and just said—asked, “Where did you get bushed to?” something like that as to missing us.

12965. Did you have any conversation about the tracks?—No, I just asked them if they had found anything, and I think they were unsuccessful that day.

12966. They were a good many days?—A good many days unsuccessful, but they might have got some clue to some tracks, or information they had received from time to time. It was badly managed; the parties having to proceed from Wangaratta up to the head of the King River. It was a day and a half journey for the men and horses, and necessitated pack horses, and the men had their rifles and revolvers and ammunition. The horses would never have been able to follow the Kellys if they had come across them after riding the long journeys. If there could have been a temporary station at Glenmore, where the police could have camped, and kept provision there for the men, they could have scoured that country far better than what they did.

12967. Was it ever suggested to them—do you know?—I do not know I am sure.

12968. Did the men always return from the head of the King to Benalla, or any other head quarters?—We have camped out. In Sergeant Steele's party I was with there were eight or ten of us. We camped out on two different nights at Dedongadale, near the Broken River—the continuation of the Buffalo River—a branch off that river.

12969. Did you consider the practice of sending out large parties a proper one in searching, or likely to be successful?—No.

12970. How many do you consider ought to constitute a party?—Eight; not more than that, or less. It would have made a good search party.

12971. Would not the dust or the noise of eight men riding together be detected very quickly by the outlaws?—You could hear our men coming for some miles through the bush even if there were only two even; if you were lying silent you would hear them coming through those hilly ranges.

12972. Did the police usually follow the tracks?—They did in any parties I was with if they thought it likely they were Kellys'.

12973. It was reported that the Kellys could always see the dust of parties as they passed along—would that be so as a rule?—It would be from the hills where they were. They could not notice unless they had a telescope. They could not identify the persons from where they would see the cloud of dust. You would see it for miles, and that may arise from a team of horses or a bullock wagon going along those bush roads in the summer time.

12974. From the ranges constables were coming up in a body, and could be distinguished at a distance?—They could be.

12975. Did not the search parties travel at night time, very often, so they could not be seen?—They would never travel in search, as it were, only to places where they thought they could get particular information, just close round the district.

12976. You said you camped at Mount Typho at Dedongadale. Where did you come from that morning?—From Wangaratta.

12977. What road did you take up to that place?—The first day we went from Wangaratta we camped at Whitefield.

12978. You told the Commission just now it would be more desirable to have a station at Glenmore?—Yes. A. Fitzpatrick,  
*continued,*

12979. Do you know where Evans's station is at Whitefield, on the King?—I know the place we camped at. 6th July 1881.

12980. Do you know there was a police station close to that, called Hedi?—Yes, we called there.

12981. Do you know Kerr's public-house there?—I know the hotel we called at.

12982. Do you know there was a police station there?—Yes, we were at it.

12983. Do you know how far that is from Glenmore?—About eight or nine miles.

12984. Is not Hedi called the head of the King?—Yes.

12985. Is that where the Kellys' uncles and relations live?—Yes, the Quins.

12986. You know that?—Yes.

12987. And there was a station there when you went up there?—Yes.

12988. What constable was there?—Carroll was there then.

12989. Were any of those stations closed before the Kelly outbreak?—Glenmore station was broken op prior to the Kelly outbreak.

12990. Did you call at the Hedi station at that time?—Yes, coming back—as we were returning.

12991. What constable did you see then?—Carroll.

12992. Was he by himself?—I think there was a foot man there; I am not certain.

12993. You cannot say how many men?—I know there were not more than two. The large party stationed there was stationed there afterwards. There was not accommodation there for a lot of men to remain there.

12994. For a large body to stay for a fortnight or a month?—No, not the accommodation for the men and the horses. I wish to bring something under your notice with respect to my discharge from the police force, and to ask you to be kind enough to look into the case for me. Considering the petition of the inhabitants, surely some notice should be taken of this petition contradicting the report on which I was said to be discharged. My character has been greatly injured in the country through being discharged from the police force and being mixed up with the Kellys.

*The Chairman.*—The Commission will obtain and examine the papers in connection with your case.

*The witness withdrew.*

*A sine die.*

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*(Taken at Beechworth.)*

WEDNESDAY, 20<sup>TH</sup> JULY 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

J. Gibb, Esq., M.L.A.,

|

W. Anderson, Esq., M.L.A.

Robert Alexander sworn and examined.

12995. *By the Commission.*—What are you?—A mounted constable.

12996. Were you one of the party that was stationed in Sherritt's hut at the time of the murder of Sherritt?—Yes. R. Alexander,  
20th July 1881.

12997. Have you any reason to believe from what you learnt or heard that it was known you were in the hut?—I believe it was known.

12998. Do you think, from circumstances that came under your own notice, that it was possible that the outlaws had full knowledge of your being there?—Well, I think they must have.

12999. You received provisions regularly?—Yes.

13000. And they came during the day?—Yes, we usually brought the provisions to the hut.

13001. Who usually brought the provisions to the hut?—They came—I do not know the name of the party—they came by a spring cart. I think Mr. Reynolds of Beechworth brought them.

13002. Then, if it was your opinion that it was known you were there, you might expect to be attacked at any time?—Yes.

13003. At the time that Sherritt was shot was there any length of time between the first notice that Sherritt got of the presence of the outlaws and the time he was shot?—I do not quite understand you.

13004. He was asked to open the door?—Yes.

13005. How soon after that was it he was shot?—About a minute.

13006. You had all gone into the inner room to escape notice?—There were three, Armstrong, Dowling and I in the inner room, and Duross in the sitting room. As soon as Sherritt spoke to this man at the door Duross came into the room where we were.

13007. Could he be seen from the outside going in?—Oh, yes, he could.

13008. There has been a good deal said about your conduct under the circumstances. Did you consider if any of you came out that you would be liable to be shot on the instant?—Yes, I think we would have all been shot.

13009. Did you understand that the parties outside were near the premises?—Yes, when Mrs. Sherritt

went outside the house they got close to the house, and when she came inside they kept away from the house. It was by the sound of voices that I judged.

13010. Had you the impression that they had full control over the house from the front door and back?—Yes.

13011. Were the doors wide open?—About half open. I have a plan—[*producing the same*].

13012. You have been thinking over this a good deal—do you think if you were in the same position again that you would be justified in doing as you did?—It would be according to who would be in charge—according to the person in charge I would act.

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*continued*,  
20th July 1881.

13013. Would you have gone out if you had been asked to go?—Yes, I said I would go.

13014. Armstrong was in charge?—Yes.

13015. Did Armstrong consider, when you spoke of it, that you would be running an imminent risk of losing your life?—I believe he did.

13016. Do you remember?—He said the party was too small, and if we kept our ground as we were we would do very well.

13017. Did the outlaws fire at the house?—Yes.

13018. Do you know how the house was built?—Weatherboards, lined with saplings; the saplings were about a foot apart, the interval between was filled up with clay; the weatherboards were overlapped outside; the weatherboards were nailed to the saplings inside across—it was that way all round.

13019. Then a bullet would hardly penetrate?—Three bullets went through the back wall of the bedroom, and one through the front wall; it went right through the boards. There were four or five hit the knots on the boards, and did not go through.

13020. Could you not at any time have got into the sitting room so as to put the fire out and the light—if you had made a rush, would they have been able to shoot you in the sitting room?—The log was burning, and the fire was a very large one; it would not have been possible to put it out at all, and there was a candle-light on the table, and one of the men was right opposite the front door, and one opposite the back.

13021. How is it you did not go out at all during the morning?—We heard voices on to daybreak almost; there were parties walking about; there must have been above a dozen or more, to my reckoning, by the sound of the voices, and walking about. I was quite willing to go out if Armstrong and the others would have, but they would not. I told Armstrong that Mr. Hare would be wild if we did not get the men, and he said we would do very well as we were; and I thought, as he was in charge, I would be wrong in going against what he said.

13022. One of you got on a bag, and shut the front door—could you not have done that earlier in the night?—Armstrong shut both doors by pushing them to with his breech-loader.

13023. Would that not enable him to get outside the bedroom any time during the night?—The doors were put to and opened again about half.

13024. Would you have been in any better position if you had got into that other room?—Well, I do not think we could have been in a better position, because there was a window in each room. We would have been in the same position as in the bedroom.

13025. You did not fire any shot at all from the inside?—No; Armstrong said not, lest we should shoot some civilians. I got on a box behind the partition wall, and told him I could get a shot at the man at the back, and he said not to fire, for fear of hitting any civilians. We had breech-loading shot s it was no use trying to fire through; there were no rifles.

13026. Have you thought since how, if you were in the same position, you could have done better?—Yes, if the man in charge acted along with me, I would act better—I still am of that opinion.

13027. You think, if you had all acted together, you would all have rushed out?—I would have been willing to do anything, but the others would not work, and I did not like to go against the man in charge of me.

13028. What was the nature of the ground behind the house; was it an old diggings?—On the left it was diggers' holes, at the back it was scrubby, and at the right it was scrubby and diggers' holes; and there is a water-channel right before the door, perhaps two to three feet deep.

13029. Then any one outside had good cover?—Very good cover.

13030. If you had gone out in the dark—made a rush out—do not you think you would have had an equal chance with the outlaws?—Once we got outside the door we would have been right, and would have had as good a chance; but the other men were not willing to go out, Armstrong especially. I spoke to him several times during the night about it, and he always put me off, and said we could do nothing—the party was too small. I said Mr. Hare would be wild.

13031. Why did you think it advisable to send by a Chinaman instead of by yourselves?—It was Armstrong thought of that. He said, "Boys, do not separate, because they stopped so long at Euroa and Jerilderie, they will be bound not to give in to us yet." He thought they were close handy. This is the statement I made myself of the whole case—[*handing in a written paper*].

13032. Then you consider it likely the Kellys must have known you were in the hut?—Yes, I think so, because Byrne's brother used to come round the back.

13033. Do you remember making any report upon the proceedings that occurred there?—I do.
13034. You were called upon?—Yes, I remember making some short report.
13035. Did you make one?—I did.
13036. Was it accepted?—I believe it was, for I had not it returned to me.
13037. Do you remember Mr. Hare coming out one time to the hut?—I do.
13038. Did he find you all in the hut, or were you watching?—No; Duross, I, and Mrs. Sherritt were in the hut; the others were out with Sherritt getting firewood.
13039. Was it suggested to you by any one that you should go away as fast as possible and report you were watching the hut—that is, Byrne's hut?—No; Detective Ward came into the hut and said, Hare is outside, say they are gone down to watch Byrne's." That meant the others, Armstrong and Dowling and Sherritt, I understood.
13040. And they in the meantime had not gone?—They were out cutting firewood in the bush.
13041. What did you do?—Mr. Hare came in and Duross, and he had some conversation, and during the time they were talking Mrs. Sherritt came out to where I was, and then went to where the men were cutting wood. After a few minutes Mr. Hare called me in and asked me if I had not gone to watch Byrne's, and I told him I always went with the others. I did not hear the conversation he had with Duross.
13042. You did not say yourself that the others had gone down to watch the hut?—No.
13043. Did Mr. Hare ask you where the others were?—No, he only asked me why I had not gone down, and I said that I always went with the others.
13044. Would you lead him to understand by that that the others had not gone?—Yes, I would.

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13045. Did the others go immediately and get down there before Mr. Hare?—I understand so. Mr. Hare and Duross and I went down, and we had great trouble in finding the way. He asked the best way to go; I said, "By the foot-bridge behind Byrne's, or the bridge by Julien's;" and he said, "We will go by Byrne's;" and when I had gone some part of the way, he asked my opinion of Sherritt, and I said I thought he was true sometimes and sometimes not, by his conversation. He said then it was too light to go by the foot-bridge, that some one would see us, and I said, "Sherritt sometimes says to cross the creek," and we went down to the creek and got across; there was no track; it was all across the bush. I had great difficulty in finding my way. I went away some distance and got to the track by the road, and went down 150 yards and saw Byrne's a little to the left, and I found Sherritt, Armstrong, and Dowling there, and I had no more conversation with Mr. Hare.

R. Alexander,  
*continued.*  
20th July 1881.

13046. Then they had arrived on the ground before you?—Yes.
13047. How long did it take you in going?—I daresay an hour, because it is about two miles, and there was no track, and I had in consequence great difficulty in finding my way; in fact I told Mr. Hare I did not think I could find my way that way.
13048. Did Mr. Hare go away with the impression that those men were watching?—I could not say, because he spoke to Armstrong.
13049. Then, if he spoke to Armstrong and he did not tell him that they had been there, Mr. Hare must naturally have gone away believing that they had been there?—I could not say what Armstrong told him—I did not hear the conversation. I know Duross, after he had gone, said he was sorry he told him the men had gone. I said he was foolish to do it for the sake of Ward or anybody.
13050. Did he say who told him to inform?—He said Detective Ward. Of course Duross wanted me to say so, and I said, "No, I do not do that for any person."
13051. If you had been doing your duty you would have been down at the house watching at that particular time?—No, it was just a little after eight then, and we never went down till about eight o'clock.
13052. Why should you see Mr. Hare when you were not expected to be there?—It was on account of the others—Armstrong went down. I always went when he went down.
13053. Were you under the impression that Sherritt knew that the outlaws were about at the time; after the affair was all over, do you think that Sherritt was false, and knew they were there all the time?—I do; because always, when going to Byrne's, he carried a towel in his hand, and I said to Dowling, "That must be a signal he has got," and we did not like to mention it to him; he always was swinging this about going forward in the bush.
13054. Did he ever tell you the outlaws knew where you were?—No, he never mentioned that. Byrne's brother, coming from school, used to come at the back opposite the house, and make observations of the police; and Paddy Byrne, the other brother, stopped in front of the house, and would stop talking to any person.
- 13055—6. That would lead you to the impression that they were watching you?—Yes, I believe they knew we were there.
13057. Why, if Sherritt was working with the outlaws, did they shoot him?—I could not form an opinion on that; but I understand there was a party came up about a month before that, and Sherritt was among them, and they came on the ranges near Byrne's; and Sherritt made the remark to Constable Arthur—he said he was done now, it was all up with him now after the party coming up—the party of police.
13058. What did Arthur understand him to mean by that?—That the Byrnes had seen him there, and

they would lay the outlaws on to him.

13059. You may read your report;—[*The witness read as follows:*]—“I arrived in Wangaratta about 4th of November 1878; was one of Inspector B. Smith’s search party.”

13060. Were you out with Mr. Smith when he was out on the Warby Ranges?—Yes, I was.

13061. Did you follow up tracks then?—We did. We came on some tracks of horses; we followed them up to a gully near Mr. Newcombe’s—the black boys lost them there, it coming on dark. We stopped at Mr. Newcombe’s that night, and the party came into Wangaratta the next day, and never went back to search for the tracks.

13062. Were you not with the party that went out the second time to get on that track?—I do not remember.

13063. Were you with the party that found the lost horse?—Yes; I started with the first party—about eleven of us altogether.

13064. How long did you follow those tracks up?—I think they were followed up for two or three days.

13065. Were you allowed to remain out on the track to commence early in the morning?—No; we always came into Wangaratta every evening.

13066. How far away were you?—It might be ten or twelve miles.

13067. Then you rode that distance, and back the next morning, to get to the same point?—Yes.

13068. Did you get out as early as you arranged?—No; he always woke us early, and kept us waiting for two or three hours. We would be up at four or five, and Mr. Smith would not start till eight or nine in the morning.

13069. Was he called?—Yes, some man called him. Johnson was senior man in the party.

13070. Do you know whether Johnson called him or not?—I could not say for certain. We all clubbed together, and told him one day it was no use going with him; we said we had better go home. I think Johnson and Constable Couch were spokesmen.

13071. And you all led him to understand that he was not leading you after the Kellys, as he said?—We had to get up at four, or five, or six, and we would not start till eight or nine, waiting for him.

13072. Did you come close upon the tracks at any time—where you say the black boys lost it—did you come to the scrub where they were afraid to enter?—No; we came down to this gully, and the black boys got on their knees, and got their revolvers out. They would not go before us; we had always to go beside them—that was in the gully by Newcombe’s. That was the last of the tracks.

13073. Did you continue to follow them yourselves?—The black boys lost them at the gully by the sheep tracks, and, as it came on evening, Mr. Smith said we had better stop at Newcombe’s station, that was about half a mile from the gully.

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*continued,*  
20th July 1881.

13074. Did you go for the tracks next morning?—No, we went back to Wangaratta. I cannot remember the route exactly.

13075. Do you think you could have followed the tracks yourself?—A flock of sheep had passed over. I do not know what we could have done the next day, but in the evening we could see them, for they were quite fresh; but the black boys were awfully frightened. I was told since that the Kellys were not a mile off at the time; in fact, Newcombe told me himself that they were in the ranges at that time.

13076. Did he tell you that night?—No. Ned Kelly also told a party that he saw us there, and that he would have killed four of the party if each of the others would take two of us.

13077. What condition was the horse in that was picked up?—Its feet were very sore, all cut with stones, bleeding.

13078. All the appearance of being recently left behind?—Yes.

13079. What officers were with you when you left the tracks that night?—Inspector Brook Smith was in charge, Senior-Constable Johnston, and other constables.

13080. Were there any other officers with you?—No.

13081. Was Sergeant Steele at Wangaratta at that time?—I could not say.

13082. You had better go on reading?—“Until June 1879; was then ordered on transfer to Milawa; while there assisted in guarding Oxley bank and regular police duty. In April 1880 was ordered on transfer to Beechworth. About the 3rd of June was sent to Aaron Sherritt’s house, Sebastopol, with three other constables, for the purpose of watching Mrs. Byrne’s house, in case the outlaws should come there. My orders were if Byrne, the outlaw, should come alone to rush him, secure him, so that he could make no noise, and bring him into Beechworth; if the four should come, to shoot Ned Kelly by all means. Remember Superintendent Hare and Detective Ward’s visit to Aaron Sherritt’s house on the 19th of June 1880, about eight o’clock in the evening. Detective Ward came inside; speaking in a whispering manner said that Mr. Hare was outside, and for us to say that they were gone to watch Byrne’s. Presently Mr. Hare came inside; while he and Constable Duross were talking, Mrs. Sherritt came out and went towards where Sherritt and the others were cutting firewood in the bush. Did not hear the conversation between Mr. Hare and Constable Duross. Shortly after I was called inside, Mr. Hare asked me why I had not gone to watch Byrne’s; said, ‘I always go with the others.’ ‘What way did we generally go?’ Said, ‘Sherritt leads the way across a creek and

through the bush.' 'And could I take him to where we were accustomed to watch?' Said, 'I could take him two ways, one way by a bridge near Julian's, the other by a foot-bridge just behind Byrne's house.' Mr. Hare said, 'We will go by the foot-bridge.' We started, I leading the way, Mr. Hare and Constable Duross coming behind. When we had gone some distance from Sherritt's house, Mr. Hare asked me if Sherritt was true to us. Said, 'Sometimes I thought he was; again, judging by his conversation, I thought different.' When we had gone a little further, Mr. Hare said, 'We cannot go by the foot-bridge, it is too light, some one will see us.' I said, 'The creek is close by.' Waded across, found very great difficulty in leading tile way, as there was no track. Did not say to Mr. Hare that I knew or could take him this way; still I was determined to do the best under the circumstances. Came near a hut, saw a light in it, stopped, and said, 'We had better go round by the back.' Led the way until I came to a track going towards the right; led on down this track about 150 yards; could then see, by the diggings close by, Mrs. Byrne's house was to the left. Came back along this track a short distance, then crossed over to where Sherritt and we ourselves used to watch, but found Armstrong, Dowling, and Sherritt were already there. I reckon the distance from Sherritt's house to Byrne's about two miles. After Mr. Hare had gone away, Duross spoke about having told Mr. Hare that the others had gone to watch Byrne's. I said he was very foolish to say so for the sake of Ward or any one else. Remember the 26th of June 1880. I was in Sherritt's house that evening, having just had tea. Was in the bedroom with Constables Armstrong and Dowling; Armstrong, having his blanket spread over Sherritt's bed, had lain down; I and Dowling, having our blankets spread on the floor, were lain down also. Mrs. Barry, Mrs. Sherritt, and Sherritt himself were about having their tea in the sitting-room; Constable Duross was there also. Presently some one rapped at the back door, said, 'Aaron, I have lost my way'; the voice seemed to me like a German's. Sherritt did not seem in a hurry going to the door, for Mrs. Sherritt said, 'Are you not going to show the man the way?' Heard Sherritt walk towards the door. Duross came into the room where we were, and let down the calico screen attached above the door. Heard Sherritt and the German talking at the door, but did not take particular notice what they were saying. Presently a shot was fired, then another immediately after, from towards the back door. I sprang up, pulled the screen aside, saw the women jumping about and screaming; thought a revolver had fallen accidentally and gone off, frightening them, until Mrs. Barry sang out, 'Joe, do not shoot me'; rushed back for the breech-loader, which I had left standing against the wall behind me along with my ammunition; the ammunition having been misplaced by some of the others in their hurry caused me about a minute's delay searching for it. Heard this person say, 'I will not shoot you, Mrs. Barry; open that door.' Got up on a bag behind the partition wall (it was as high as the wall-plate and made of boards), in a position so that I could fire over it. Mrs. Barry and Mrs. Sherritt were both outside. Saw both doors were about half open, and they opened backwards towards the partition wall, so that I could not get a glimpse outside. There was also a log burning in the fireplace and a candle alight on the table. Heard this person talking to the women outside. Presently this person sang out, 'Look out for that window in front.' Some person in front answered, 'All right'; there was a window in front side of bed room and also one in sitting-room, but neither of those two persons were in line with me and either of the doors. The walls were composed of weatherboards, overlapped and lined with saplings about the thickness of one's arm, might be six inches apart, the space between each filled up with clay; the roof was shingles. I said to Armstrong, 'I cannot get a shot at that fellow,' might shoot some of the civilians; then watched for an opportunity if this person in front should come in line with me and the front door, as I heard the women at the back of the house. Presently this person at the back said, 'If he does not come out, I will riddle the house.' Mrs. Sherritt came in two or three times; wanted Duross to go outside. The last time she came inside said, in a loud tone of voice, he was wanted outside, then, in a low tone, for him not to go out. Heard a whistle and the words, 'I will soon make you come out'; some shots were fired at the same time. This person said, 'You must be a b—— c—— to guard yourself with a woman.' I spoke, to Armstrong that, if possible, we might be able to do something. Dowling said to keep quiet and not be talking—that they might hear us outside. Armstrong asked each of us if we would go

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outside; I and Dowling answered yes, but I could not hear what Duross said, for he was sitting at the end of the room (*see form attached*). I was sitting at right side of door, guarding front sitting-room door; Armstrong was lying on his chest guarding back sitting-room door; Dowling was in a similar position. Armstrong said, 'We will wait for a better chance.' I said to Armstrong, 'Mr. Hare will be wild with us if we do not get a man' (an outlaw). Armstrong made no direct reply just then, but frequently said our party was too small—if we kept our ground we would do very well. During this time, Mrs. Barry came inside two or three times, wanted Mrs. Sherritt to come outside; heard Mrs. Barry ask this person not to burn the house; the last time she came in Dowling advised her to go under the bed for safety. Presently this person sang out, 'Come out, I will shoot you down like b—— dogs, I have plenty of ammunition.' Armstrong said, 'Will we surrender? boys, we will all die together.' To my reckoning it would be between seven and eight o'clock then. During all this time I had no conversation with the women, expected to see the house in flames every minute, heard persons talking outside, thought the four outlaws were there and some of their friends also; saw Armstrong shut both doors by pushing them to with his breech-loader, the candle having burned out itself. I spoke to Mrs. Barry, she said, 'Poor Aaron was shot.' I did not think he was dead until then, thought he was pretending for fear they would shoot him. Mrs. Sherritt did not answer for some time. Still heard parties

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*continued,*  
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about from then until dawn. I and Armstrong wrapped the dead body in some blankets. When day was breaking, I went outside, saw a few branches of trees laid against one end of the house, but were too green to burn; also a small cask had been broken up and laid against front side of the house, but it was too damp to burn. Saw men's tracks about and also at a tree on the road side; saw mark of a bullet through front wall of bedroom, about two feet and a half from the ground; three or four had gone through back wall of bedroom, others having hit knots in the boards glanced off; one right through both doors. Armstrong said 'Boys, we will not separate, for they having stopped so long at Euroa and so long at Jerilderie, they are bound not to give in to us.' Shortly after, a Chinaman happened to pass by, was called inside. Armstrong gave him some money if he would take a note to Mr. O'Donoghue, schoolmaster, at the Woolshed. Mr. O'Donoghue came, and said he would go to Beechworth. About half-an-hour he came back again, said his wife would not allow him to go, or something to that effect. Shortly after another person was asked if he would go to Beechworth, he said he would go by Wooragee. Armstrong gave him a note for Beechworth police, and he went away. Heard some of the women say there might be poison in the articles on the table (the table would be about a foot and a half from front door, right under the window). I am quite positive neither Joe Byrne nor Dan Kelly were inside the house during the night, nor any one else except those who were in it previously. None of the women, to my belief, were outside the house until about ten o'clock in the day. After waiting some considerable time for the Beechworth police, some others were asked if they would go, but refused; Armstrong then went himself. On that evening we were relieved by some constables from Beechworth. On Monday morning, 28th of June, was one of the Beechworth party which arrived in Glenrowan between eight and nine o'clock. On arrival at the Glenrowan railway station, Superintendent Sadleir stationed us at the Wangaratta end of Mrs. Jones's hotel, and said to fire high, as there were civilians inside. I fired about ten shots at a port hole in back wall of kitchen and at the skillion. Was told the two outlaws were there. About half-an-hour before the fire occurred, was ordered by Senior-Constable Kelly to relieve the constable on guard in the room with 'Ned Kelly' and two civilians, who had been in the hotel; remained there until the proceedings closed."

13083. *By Mr. Nicolson.*—The Chairman asked you a little ago what you would do under similar circumstances again. Your answer to that was not quite direct. Have you considered, suppose you were placed in the same position, what you could have done that would have been better?—I would act according to the instructions of the man in charge.

13084. You mean to say you would not act with more decision than you did on that occasion—is that what you mean?—No; I mean that I would do as I was instructed by the man in charge of me.

13085. About the Warby Ranges, you were asked about the finding of the horse?—Yes.

13086. There is one occasion you have omitted to speak about, as to which the Chairman wished, I think, an answer from you; it is about the last expedition the party were out on, when Mr. Sadleir and I accompanied you—do you not remember that?—I was not at the time in Sherritt's hut.

13087. No, I mean at the Warby Ranges, when you found the horse?—Yes.

13088. Do you remember the party going out afterwards—about the last party that went out—and Mr. Sadleir and myself were with you?—I remember two parties—your party and Mr. Sadleir's party—meeting in the ranges, and Sergeant Steele was there at the same time.

13089. That was what the Chairman was asking about. Will you relate to the Commission, as far as you can, what occurred?—I remember meeting you on the ranges on that day, and Sergeant Steele took his party over the ranges, and Mr. Sadleir's party came back looking for Steele's party, but could not find them.

13090. Were you not down following some tracks previously?—Yes, that was with Inspector Brook Smith.

13091. But with Mr. Sadleir and myself, and Steele's party, previous to that?—I remember following a blazed track I do not remember what you speak of.

13092. Your recollection seems to be indifferent?—I do not remember. All the tracks I remember were with Mr. Brook Smith.

13093. *By the Commission.*—You never followed those tracks up afterwards?—No; I cannot remember it.

13094. *By Mr. Nicolson.*—Were you not out following tracks that morning, when Mr. Sadleir and myself were with you?—I cannot remember.

13095. There is one important thing about that hut—you say you had suspicions that your presence there was known?—Yes.

13096. What orders were given you when you were placed there about precautions against surprise, and what precautions did you take, especially after you became aware of the danger—did you appoint a guard outside, or anything?—No, there was no guard put outside.

13097. *By the Commission.*—Did you hear whether there were any instructions to have a man, or not have a man outside?—I never heard.

13098. *By Detective Ward.*—You remember the night that Mr. Hare and I went down?—Yes.

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13100. You say I spoke in a whispering voice—did I enter the house at all—who met me at the door?—You came inside the sitting-room. It was not I met you at the door; it might have been Duross, I am not certain.

13101. *By the Commission.*—You are certain Detective Ward was inside?—I am certain he was inside the sitting-room.

13102. *By Detective Ward.*—How far in did I go?—I remember the position because you shook your hands this way—[*illustrating by gesture*—and said, “Say they are gone down to Byrne’s.”

13103. What did I say?—You said, “Mr. Hare is outside, say the others are gone down to Byrne’s.”

13104. Was not I asked something?—You might have spoken to Duross, that is all I heard.

13105. How could you not hear all?—I was in the inside room, in the bedroom; I just came out in time to catch that part of the conversation.

13106. Tell all the conversation you heard?—I had no conversation with you at all, but I heard you say this, and it was as much to me as Duross—it was to both of us.

13107. Mrs. Sherritt would hear all that?—She was in the sitting-room.

13108. You say you heard me say to Duross, “Say they are gone down”?—Yes.

13109. You heard nothing more?—Duross asked me to say so, and I said I would not.

13110. When did he ask you to say that?—After you had mentioned it, and I think you had gone out again.

13111. I did not say that to you?—Yes, you said it first before Duross and myself. I heard you say the words myself, and Duross he said it a second time, and I said I would not.

13112. Then when Mr. Hare asked why did not you go down, why did not you tell him then?—He asked me why I had not gone down, and I said I always went with the men.

13113. Do you know what the instructions were—what hours you were to go down, and what you were to do?—The only instructions I got were, they were given to me by Senior-Constable Mullane in the office, that was before we went at all; he said we were to go down, and if we saw Byrne to rush him to prevent him from singing out.

13114. *By the Commission.*—When were they supposed to be in this hut?—I would not be certain, I think it was about eight o’clock he said.

13115. *By Detective Ward.*—What hour did you go on every other night?—Well, we went between eight and nine generally—we never went before eight o’clock that I can remember.

13116. *By the Commission.*—Then Mr. Ward must have considered you were not doing your duty when he told you to give that answer to Mr. Hare?—I could not say.

13117. *By Detective Ward.*—Then you were no later that night than any other night?—Well, we might be a little earlier—I never took notice—I was acting under Armstrong’s instructions.

13118. Then it was about the same time?—I never took particular notice.

*The witness withdrew.*

Anton Wicks sworn and examined.

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13119. *By the Commission.*—What are you?—A miner, and working on the roads sometimes.

13120. Do you recollect going to Mrs. Sherritt’s door and asking the way one night—the night that Aaron Sherritt was shot—were you present?—Yes.

13121. Why did you go to the door that night?—I was stuck up.

13122. By whom?—By Byrne and Dan Kelly.

13123. How many of them were there?—Two, that I saw.

13124. Did they tell you you must do that?—Yes.

13125. And Sherritt came out?—Yes.

13126. Who shot him?—Byrne.

13127. Did you see anything further at the place that night; did you stop there all night?—No, about six o’clock I came before the door, and about nine o’clock I left the place.

13128. They allowed you to go away?—I got home at half-past nine.

13129. Where were you stopping when you went away?—I came home.

13130. How far was that from the place?—Over a quarter of a mile.

13131. What were you doing between six and nine—what did they do with you?—They stuck me up and asked for my name.

13132. I mean after you got to the hut—what did you do after Aaron Sherritt was shot?—I came home. I stood an hour or two with the people outside.

13133. Who were outside besides Byrne and Kelly?—Byrne was with me, and Kelly was in the front of the house.

13134. Did Byrne keep you there all the time?—Yes, three hours.

13135. Just kept you there waiting for them?—Yes.

13136. Did you hear any conversation with Mrs. Sherritt or Mrs. Barry?—No, Mrs. Sherritt and Barry were coming out after Sherritt was shot.

13137. And going in again?—Yes; the bushrangers let them in again.

13138. Had you not a chance of escaping all that time?—No, Byrne was always quite close to me—as close as I sit next to this man here—I was handcuffed.

13139. What did you do after nine o’clock when he allowed you to go?—He allowed me not to go at all—he left me standing. He slipped me a little way in the bush, and about fifteen minutes before they had

taken the handcuffs off and left me standing there, and I stood about fifteen or twenty minutes by myself, and I went round home through the bush.

13140. Did you go to your own hut?—Yes.

13141. And remained there?—Yes.

13142. Could not you have told somebody about what had happened?—I was so frightened, I ran directly home.

13143. Were there any other people there besides Byrne and Kelly?—No, not that I saw. I heard Byrne call out, “Dan, stand and watch the window.” That is how I know it was Dan.

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13144. Were they on horseback when they stuck you up?—Yes, three horses—Byrne was leading one horse.

13145. Was there anything particular about their appearance—had they any armour?—I think not Byrne—I think Kelly might; he looked very stout.

13146. He had nothing on his head?—No, I could see his face.

13147. Did you see them try to set the house on fire?—No, I did not, he always called out for two men and said, “Mind, I will set the house on fire if you do not come out,” but he never began to do it while I was there.

13148. Did he say there were police in the house?—No, always two men he wanted out.

13149. Had you seen Byrne before?—Yes, I knew him since a child; he was a neighbour of mine about half a mile.

13150. Did you not hear Mrs. Sherritt and Byrne talking at all?—Yes, they were speaking and crying.

13151. Did you hear what they said?—Byrne asked who were there, and she said “A man in there looking for work,” and he said always, “Bring the men out,” and he sent Mrs. Sherritt in to bring the men out.

13152. Did you know there were policemen in the house?—No, I never did, and never heard it.

13153. Did you hear any one say there were policemen about there?—No, not till after the murder.

*The witness withdrew.*

Mrs. Sherritt, senior, sworn and examined.

13154. *By the Commission.*—Where do you live?—On the Sheep Station Creek.

13155. That is near the same place where your son lived?—Yes, about a mile from my son’s selection.

13156. Do you remember anything connected with the Kellys about the time they came to your son’s hut?—After they were out?

13157. Yes?—Well, the first thing I heard of them was, I think it was on a Monday, they fired off eight shots on the top of the hill close to my son’s selection.

13158. How long was that before they shot him?—That was at the beginning of the outlaws. I did not keep any exact date.

13159. Did you hear why they fired those shots?—I did not till some time after, and then I heard that it was that if my son was about it would draw his attention, thinking he would go to see who was firing, but he did not go at that time.

13160. Can you form any idea how long that was before he was shot—six or twelve months?—It was when they first turned out.

13161. They had nothing against him at that time?—Oh no, they were friendly with him then, I believe.

13162. Did you ever hear what caused them to be unfriendly with him?—Well, what I heard was that Mrs. Byrne, the outlaw’s mother, discovered that he was assisting the police, by some means or other.

13163. Did you hear what time it was she discovered it?—I believe it was some time—I could not exactly say, but not very long before she suspected him, after he began assisting the police.

13164. Do you know when he first began to assist the police?—I do not know myself when he did.

13165. Do you remember them threatening they would shoot him or anything of that sort?—Yes, they threatened to shoot him after he quarrelled with Mrs. Byrne, but not after he made a present of a horse to Miss Byrne, and then she exchanged this horse for another, and the one she got in exchange for that one my son took it and sold it, and then Mrs. Byrne took out a warrant for him and the police were striving to arrest him on this warrant, and they did so, and he stood his trial in Beechworth and was acquitted.

13166. How long was that before he was shot?—Eight or nine months perhaps, because when the warrant was out for him Ned Kelly came to my place, and I was not in the house the same afternoon as he came, and there was only two children in, and he said that he had a mob of cattle at the back of the hill, and that he wanted to get Aaron, as Aaron was a good bushman, to show him the way by the head of the King. So on that occasion when he came that afternoon he took the baby, a child of four or five months, in his arms, and he said he was hungry. And there was some bread in the oven baking, and there was some dough in the dish, and he took some of the dough up, and he flattened it on the table and pulled out the fire with his foot and cooked two or three pieces. He was alone, I think it must have been Dan.

13167. This is what the children told you?—Yes.

13168. How old were the children?—Fifteen. And then he made some tea, and he said he was sending

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Mrs. Sherritt,  
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this tea up to his men that he had on the hill; and he had a flask of brandy in his pocket, and all the time he was inside he kept the baby in his arms, and he filled out a tumbler of brandy and put it on the cupboard, and told the children to give that to Aaron, and that a gentleman was there who wanted him to assist him with some cattle, and he would be back in a fortnight or three weeks. Aaron had not been taken up at that time. He said he believed there was a warrant out for Aaron, and the best thing he could do was to come along with them; that he was accustomed to cattle and had been in the bush a long time, and would be of use to them.

13169. That was a friendly act you think at that time?—I do.

13170. Why did he keep the child in his arms?—I do not know. He nursed the baby, and made one of the little girls put the kettle on and make the tea.

19171. Did you see or hear anything of them shortly before the time Aaron was shot?—Yes.

18172. How long before?—Well, it might be a month or not quite so long.

18173. Before I come to that question, I want to ask you was there any intimacy between him and Miss Byrne at the time he made her the present of a horse?—Yes, he was an admirer of hers, I understood.

18174. Did you ever hear whether he had proposed marriage to her?—I believe Mrs. Byrne fully expected he would marry her daughter, but I do not know whether my son had made that offer.

18175. Do you think the quarrel with him originated in having left off addressing Miss Byrne?—I could not tell you that, I think it was on account of him assisting Detective Ward. She had a great

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Mrs. Sherritt, senior,  
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dislike to Ward, and how she found out that was with a schoolmate of my son's named Wallace; the State school teacher Wallace told her.

13176. Have you got any proof of that at all?—Only that she said so. I owed a draper in Beechworth a bill—. I hope my evidence will not be published in the papers.

*The room was cleared.*

*The Witness continued as follows:—*

And the next afternoon after what I have mentioned Wallace chanced to come to the place, and previously to this he used to come to my place at very unreasonable hours, but this afternoon I gave Detective Ward a cup of tea, and Wallace also, and the draper. The next day or two my daughter went down to Mrs. Byrne's, and she asked how it was we were so friendly with Ward, the detective, to give him tea, and that Jimmy Wallace had been there and told her so; and Wallace used to come to the place and used to tell my son he was writing a book, and for my son to give him all that he knew—the particulars of what the police were doing—and that when he sold this book, if he got good sale for it, that Aaron should have half the profits. And one night in particular he came, and my son had been out and had a pair of blue blankets—he used to take them in the bush with him, he laid them down on the hearth, and Wallace came about two o'clock in the morning. Then I heard he told Mrs. Byrne he could not make out what the Sherritts were doing, as he found Aaron in the ash corner. But he was not there, he was lying on the hearth. He was trying to make little of my poor son, I suppose.

13177. What further occurred to lead you to know that they knew about helping the police?—Only that.

13178. Did Wallace, from what you heard, in your opinion, lead Miss Byrne to understand that he was helping the police?—Yes, I do believe he did.

13179. Have you any reason to think that?—No; the only reason I had is that Byrne the outlaw came, and he met the children going to school, and he told them to tell their mother to tell Aaron not to sleep inside for a fortnight, because that Kelly was coming in to shoot him, and I thought it was Wallace. I only suspected it myself that it was Wallace.

13180. Byrne and Sherritt were very friendly?—Yes, and Wallace, too, was an intimate friend. But my son was an innocent fellow, and easily led astray. If you asked him a question, he would tell it to an intimate acquaintance like Wallace.

13181. Then from all that you have heard you consider that Wallace acted as an enemy?—I do believe he did, but nobody told me, I only think so myself.

13182. Do you know anything of what occurred about the time that Byrne shot him—did you hear anything of their movements?—I heard what I told Mr. Superintendent Hare. I heard a short time before my son's death that they were going to do something that would astonish not only Australia, but the whole world. It was from Byrne's sister I heard that.

13183. And they gave no notice at all other than that he should not sleep in the hut?—No.

13184. Until they came upon him?—Yes, Byrne came to me at Miss Byrne's. My son John, he came to Beechworth, and he was doing a bit of ploughing at home. He came to Beechworth, and did not come home that night; and I got up very early in the morning, and I went out to his room to see if he had come, and I saw his bed had not been disturbed; and then I went out to listen if I could hear the horse-bells of the horses ploughing; and I went along my own paddock fence, and I could hear the bells still further on. It was the horses had got into a paddock belonging to a man named Murphy that my husband had bought, and I went to bring the horses home; and it seemed to me that Byrne was waiting to see who would come over for the horses. But when I went over there there was an old calf pen, and three or four old sheds. And I saw the man first, and then a man with a horse's bridle on his arm, and this was Joe Byrne. And as soon as he saw me he

got up and came over and spoke friendly enough to me; and he said he had come to take my son Aaron's life, and also Detective Ward's. He said, "Those two had them starved to death." And he said that Ward went about the hills like a black tracker; and that if he had them two out of the way, and also Senior-Constable Mullane, he said he could go where he liked. And I begged him not take Aaron's life. I said, "He has no harm; he would not hurt you." And he said, "You need not try to impress that on my mind, because I tell you now that there was Ward and him and Mr. Hare very nearly twice catching us, and that tells you whether they will hurt me or not." Then I strove with him—I don't know what I said—not to take poor Aaron's life. So when he had done I said to myself in the first place when he went away, "I will run down and tell Aaron. I do not know where his hut is; I think I can find it out on the Woolshed." Then in place of that I brought the horses home, and came to Beechworth; and on my way I met my son John. He was on horseback, coming home; and I told him to go back and tell Ward what Byrne had said. Then when I had sent the message into Beechworth I got frightened myself, and got my horse to come in, and told Detective Ward. A few days after that Mr. Nicolson sent down for me, and I came up and told him just what passed; and said that my son would lose his life if he was not removed from where he was.

13185. Then you did not know anything at all of their coming to the house that night?—No; only I heard they were going to do something. Oh, if I had only known it!

13186. Did you hear whether it was known the police were about the house?—I am sure I did not.

18187. Did you know the police were in your son's house?—I did, because my son knew he could tell me.

13188. Did any of the little ones know?—Not one of the little ones.

13189. Did Joseph Byrne lead you to believe that he knew there were police about?—No.

13190. Did you know where the outlaws were then?—They were round the district for months before they were taken.

13191. Did many people to your knowledge know whether they were about?—I do not know whether many knew, because I do not think they put confidence in many.

13192. It was generally known they were in the district?—I do not know that people knew, but Ward and my son and myself knew that they were in it.

18193. Did your son know it was Kelly that called at the beginning?—He called several times after that.

13194. Was it reported to the police that Kelly was there?—Yes, by myself.

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13195. Soon after?—Well, I forget now how soon, because the outlaws watched my place that time three days, that was what I was told. Mrs. Sherritt, senior,

13196. How long was that before your son was murdered?—It was the time of the warrant.

13197. Did you know anything about the party of police in the cave?—Yes, I knew it myself; but none of my small children knew anything about it. continued, 20th July 1881.

13198. Did you know whether there was anybody else about knew that they were there?—No, I am sure there was no one knew except the police themselves.

13199. Was it not there that Mrs. Byrne saw your son?—Not in the cave. It never was discovered except through the police themselves. It could not be discovered without my knowing it.

13200. Were their tracks discovered?—Never that I heard of.

13201. *By Mr. Nicolson.*—There was one of your daughters in the habit of going to Mrs. Byrne's?—Yes.

13202. That was with the knowledge of Detective Ward?—Yes.

13203. Going regularly, frequently, under your direction and the sanction of the police?—Yes, but as to any one knowing anything about the cave, the cave never was discovered until after the police left it.

13204. Have you had conversations with Mrs. Byrne since, about the cave?—Nothing concerning the cave; but I know perfectly well the cave was never discovered.

13205. Do you know from Mrs. Byrne that she never knew?—All I know is that the cave was never discovered except through the police. It was discovered some weeks after the police had left it, and it was through some empty tins that rolled down the side of the hill, and during the time that the police provisions were in my place, I never was discovered sending the provisions. I used to go myself and carry to a certain place and leave it for my son, for fear he would be discovered, and I baked the bread; and sometimes, if they ran short of anything, I would send to Beechworth for it.

13206. Did you hear of any writing being discovered in the cave after the police left it?—No; all I know after the cave, after the police left, my husband and myself went in the moonlight, went in and cleared everything away; took the dray and brought in everything—bags—and some of the constables left their oil coats. We removed all traces.

13207. Did any person request you to do so?—Detective Ward; and then also, before my son's murder, my daughter called at Mrs. Byrne's—one of my sons was working and I used to send him his provisions from home, and this girl used to go once a week, or sometimes oftener, on horseback, and on her way she would call at Byrne's, and this night she called on her way home, and who should come up but Joe Byrne, leading a horse, and Dan Kelly. Each of them was leading one and riding another. Mrs. Byrne then

came out—there was a whistle—it is a very thick scrubby place, and after a little bit Ned Kelly and Hart came on foot, from the back of the place like, and those two came up the front of the house like, so, and got their provisions. There was some bread and I think it was boiled bacon, and then Patsy Byrne went up the Woolshed and he brought down something in a bottle and gave it to them, and Patsy—Joe Byrne's brother—said, "Which way did you come?" and Joe says, "The way we always come. We came down the steepest part of Wall's Gully." I came into Beechworth and told you that, Mr. Nicolson.

13208. That was on a Saturday morning?—I do not remember the date.

13209. *By the Commission.*—How long was that before the murder of your son?—Not long; it might be a month or a little more.

13210. Did you know where they came from at that time?—No, but I had heard that they were supplied with provisions from a woman that lived near Chiltern that was an old sweetheart of Byrne's.

13211. They were supposed to be camped in the ranges?—That is what I heard.

13212. *By Mr. Nicolson.*—What you told me on the Saturday was your meeting with Joe Byrne at Murphy's hut?—I went to bring over the horses to plough.

13213. How long did that occur before you saw me?—I could not tell you how long.

13214. Was it the same day you saw me?—No. I do not know. It was not the same day. There came a mounted man down with a letter, and I came up, but I cannot remember the day.

*The witness withdrew.*

Mrs. Sherritt, junior, sworn and examined.

13215. *By the Commission.*—You are the widow of the late Aaron Sherritt?—Yes.

13216. How long were the police in your house before the murder; do you remember?—To the best of my knowledge, I think they were there over six months.

13217. Remaining there all the time?—Not all the time; some of the time they left and came to Beechworth.

13218. They were most of that time in the house?—In the daytime they were in the house.

13219. And out watching at night?—Yes.

13220. And they kept inside during the day?—Yes.

13221. Had you ever any information or any knowledge that led you to believe that either the Kellys or Joe Byrne knew that the police were there?—No, I do not think they did.

13222. Did Patsey Byrne ever stop watching the house as he passed you?—Not to my knowledge; I never saw him.

13223. Did you ever see Joe Byrne watching the house?—No, I never saw him there at all.

13224. Do you think it is likely that men could be kept in there for six months without it being known at all?—They could if they had kept quiet; by keeping in in the daytime and going out at night I do not think they could have been discovered.

13225. Were there young people coming by there?—They never came there while the police were there; none of the Byrnes.

13226. Were there any children going to school with the Byrne family who would have known anything of that?—There were children going from Sebastopol along with the Byrnes, but they never came to the house. They passed the house in the main road, but never came near it. It was about six yards from the main road.

13227. Did you get any information that would lead you to believe that the Kellys intended to shoot your husband; before that night did you ever hear of any threats being held out against him?—No,

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not any threats, but his brother William told me how Aaron got threatening letters, but I never saw them or was told about them by my husband.

13228. Did he seem to be afraid at all he would be shot?—Well, he did not seem to be afraid. He seemed to be afraid if he went out in the bush, but he never thought of their coming to shoot him at the house the way they did; he never once thought of that.

13229. We have it from Wicks that he came up to the door—did Joe Byrne shoot your husband immediately he went to the door?—Not immediately. He spoke a few words before he fired the shot.

13230. Did you hear the words that were said?—Not that Byrne said; it was Wicks that spoke; he mentioned something about losing his way, and asked my husband if he would come out and show him the road.

13231. Byrne did not speak to him?—Not to my knowledge.

13232. You had four police in the house that night?—Yes.

13233. Did you go out to speak with Joe Byrne or Ned Kelly after they had shot your husband?—It was Dan Kelly was there. I was speaking to Joe Byrne.

13234. What did he wish you to do?—He told me to go in and bring out the man that was in the room. I told him it was a man came there looking for work.

13235. Did he persist in saying he must come out?—He sent me in three times, and told me if he did not come out he would riddle the house, and he would shoot both me and my mother.

13236. What did you do?—I went in, when he sent me in the first time, and told the men to come out.

13237. Why did Byrne want this man to come out?—When I said there was a man looking for work, he said, “Tell him to come out till I see this man who is looking for work.”

13238. Had he any idea the police were there this time?—I do not think so.

13239. Did you go in and ask them to come out?—Yes; and they asked me who was there.

13240. And what did you reply?—I said that I thought it was Joe Byrne and Dan Kelly that were there.

13241. Did the police ask how many outlaws there were?—Yes. I said I could only see two, and Wicks.

13242. Did you know that Sherritt had been asked to keep away from his hut for a fortnight—some time before that—for fear he would be shot?—No.

13243. How long were you married before your husband was shot?—Six months.

13244. Did Joe Byrne say he did not want to shoot you, and would not shoot you?—He kept threatening us all the time, and saying he would shoot us if whoever was in the room did not come out. He said one time, when my mother was begging of him not to shoot us, he would not shoot her or her daughter, but he would have whoever was in the room out.

13245. Did you consider that they would have been in great danger if they had come out?—Well, I think if they had come out he would have shot them down the minute he saw them.

13246. They were out in the darkness, and could not have seen?—Not very well; but, at the commencement, he was standing inside the back door just about a step in; he could have been seen by them.

13247. Was the door open so that it would hide his body from the bedroom?—It was not opened wide; it was just pushed aside.

13248. Did the door open to the wall of the bedroom?—Not quite; it was about half open.

13249. What did the police do when you went in to tell them to come out?—They told me to keep out of the road, or I would be shot.

13250. They would not come out?—No.

13251. I think you have mentioned that they compelled you to stop in the bedroom afterwards?—I was sent in three times before they kept me in; it was the third time I went in they told me I had better stop in.

13252. And what time did the outlaws discover there were police in the bedroom—did they ever cry out that there were police, and that they wanted them out?—Not while I was outside.

13253. Did you hear them say that at any time?—No. Oh, I heard Joe Byrne sing out to some body at the back in the scrub to come out, that there were ——— dogs in the room, and they would not come out. I do not know whether he meant police or not.

13254. Could the police have had any opportunity of shooting any of them at all from the bedroom?—No.

13255. Would they have had if they had rushed out into the sitting-room?—Well, I think if they had rushed out into the sitting-room they would have been shot.

13256. Is there anything connected with the matter that you remember that you have not put in your letters. There is some report here from the Ovens and Murray Advertiser, I suppose that is as far as you know the true report of what happened?—Yes, I could not very well remember at the time what had happened, I was in such a state.

13257. Did they put you under the bed for safety?—They told me I had better remain there under the bed; that the outlaws would not burn the house down while there were women in.

13258. Who first told you to go under the bed?—Constable Armstrong.

13259. There was not much room in the bedroom with you all there?—Oh, there was not much room, but still they thought it was better for me to go under the bed, because I wanted to go out.

13260. Then there was the danger of your being shot if they fired at the house. I suppose they thought you would be in danger of being shot if the bullet passed through?—Yes.

13261. Were you greatly inconvenienced by being put under the bed?—While I was in the place, during half the time, I think I took a weakness while I was under the bed, and my mother was calling me to come out, and was trying to pull me out from under, and I could not very well hear what she was saying.

13262. From all you saw, you do not find fault with the constables for not going out of the bedroom?—No, I do not find fault with them for not rushing out, because if they had they would have been shot. There was a chance in the commencement, but I do not think they had their firearms ready at the time.

13263. You think they could have shot Joe Byrne where they were if they had been prepared just on the moment?—Yes..

13264. During the time they were out in the night, watching those places, where did they sleep in the day?—In the bedroom.

13265. Your husband was out with them in the night?—Yes. They used to lie on the floor, and sometimes on the bed in the middle of the day.

13266. Did Sherritt tell you that he thought the outlaws were about the district?—He always kept saying they were about somewhere.

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13267. Close to Mrs. Byrne's?—Not close, but he seemed to think they were about on the ranges.

13268. Had he any means that you are aware of of finding out where the outlaws were?—I do not think so.

13269. Is there anything that you wish to tell the Commission at all that you think of—you have an opportunity now?—Yes.

13270. Have you anything you desire, because we could make it in private here, so that the public would know nothing about it—you wish that?—Yes.

*The room was cleared.*

*The Witness.*—I hear a great many reports going about since my husband's death—some of his people, I believe it was, have been putting out reports.

13271. Of what nature?—I heard of how they sent a letter to Mr. Nicolson, stating that I made it known about the police being at my place.

13272. You wish to contradict that?—Yes.

13273. You never did make it known?—I always denied it. If anyone asked me if he was in the police force, I always said he had nothing to do with it, because I was afraid of his being in danger.

13274. Rave you formed any idea of why they shot him?—It was because he assisted the police.

13275. Did you hear any remarks at all amongst the people or learn from them that he was not faithful to the police at any time?—I have not heard any remarks except what I have seen in the papers about the police at Wangaratta and Beechworth, saying they had not faith in my husband; but I think he risked his life for them and lost it.

13276. You are quite satisfied he was quite faithful?—Yes, because he went in great danger. I never knew in how much danger till after he was shot. He would go out day and night, and would pretend he was after cattle, and instead of that he was looking for tracks of the outlaws. I suppose he got orders to do it.

13277. Did he ever make any remark to you that he was in great danger?—Well, once or twice he said if he met the Kellys that he thought they would shoot him before any of the police.

13278. He did not remark that they got to know about it and he would be sure to be shot?—He always seemed to hide it. He tried to persuade their friends he was not with the police.

13279. He went out as a guide with a party about a month before he was shot did he ever make any remark that he believed now that the Kellys or their sympathizers, any of them, knew he was with the police?—Not to me—never. I heard a great many reports about what Mrs. Byrne used to say that he was with them, but of course I never heard them myself—only reports that went about.

13280. There is a very delicate matter that we will refer to that we have some evidence about. Were you ever made aware whether he was on any terms of intimacy with Miss Byrne before?—Not to my knowledge; he knew her well, but I could not say any intimate terms.

13281. We heard he made her a present of a horse?—I heard something about that myself, but I did not believe it.

13282. We learned he had made a present of a horse to her, and that she exchanged it for another, and then he took her horse, and they got a warrant out for him, and he was acquitted. Of course the result of that trial proved that he had not done so. Did he ever say anything to you about that—that the Byrnes were annoyed with him?—He never said anything about that to me.

13283. Did you know Byrne's family?—I knew all of them. They used to go to the same school as I did—the sisters and brothers.

13284. Were they cold to you after your marriage?—They never used to speak to me scarcely after I was married—I saw them very seldom. Before that they were on intimate terms; but it was very seldom I saw them, because they did not live near to us.

13285. We did hear that there was a religious difference between them—were you and he Protestants?—I am a Catholic.

13286. He was a Protestant?—He said he was nothing. His people said they were vexed about the religion, but I did not think it; I think it was because he left off working for them. He was not friends with his people since he was married, and to my knowledge he never spoke to one of them.

13287. Was he not friendly with his mother?—I think not. He and she had some quarrel after the marriage.

13288. Did he let you know he was not on friendly terms with them?—Yes, he told me not to speak to them—not to go out to the place.

13289. That would not be on any religious point?—No.

13290. Because if he was speaking to Miss Byrne before, she was a Roman Catholic also?—Yes. He seemed to be well satisfied. He said he would turn a Catholic just the night before he was shot. It was on Friday night. He said he would get the horses next day and come up to the Catholic chapel at Beechworth, so he seemed well satisfied with the religion.

13291. You were born near that place?—Yes. I only knew my husband two months before we were married.

13292. You did not go to school together?—No.

13293. Your opinion is that he was shot on account of giving information to the police?—He was assisting them. I used to go out on parties, leading them to the ranges—this was before I and he were married—and he was out once or twice afterwards.

13294. It was not because he did not marry Miss Byrne he was shot?—Oh, no; it was not on that

account at all. I fancy, myself, that there was information given to sympathizers, and then it was taken to the outlaws, that he was joining the police, and assisting them to capture the outlaws. That was my belief, and I heard it from many a one.

13295. Have you any knowledge of anyone who was likely to give that information?—Well, there are plenty of sympathizers about the Woolshed, people who would sympathize with the Byrnes, and I think they would tell the outlaws.

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junior,  
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13296. Mrs. Sherritt, senior, has said that she knew that they suspected him?—I dare say they had suspected him when he would not join them to go to Jerilderie that time. They might suspect him, but I do not think they would know unless the friends conveyed it to them. I heard they asked him to go to Jerilderie.

13297. Did he tell you that himself?—Yes.

13298. Do you know Wallace the schoolmaster there?—Yes.

13299. Did he come to your place during the time the police were there?—No, he came to my mother's place.

13300. He did not come to your own place after you were married?—No.

13301. Did he ever make any remarks that led you to suppose he was favorable to the outlaws?—No, he seemed to have a hatred against them, and I do not think he knew where they were or anything about them. Some people seemed to think he was assisting the outlaws, but that was false. I heard something about his being a sympathizer, but I do not know how true it is.

13302. You never had any opportunity of judging of that after you were married?—No.

13303. Are you on friendly terms with Mrs. Sherritt, senior, now?—No, I have not spoken to her since I was married. There was one of his brothers used to slip down for two or three weeks. He used to stay at my place during the time the police were there.

13304. Did he stay in the hut at night?—He used to sleep at the place at night time while they were away. He was splitting in the bush with another young man.

13305. Would he know they were there?—He knew very well they were there—of course he saw them there when he was stopping there.

13306. Is there anything else you wish to say?—No.

13307. Are you living at Beechworth now?—No, I have been living with my mother. I have not had good health since my husband's death. My mother lives on the Woolshed.

13308. Does your own mother know any more about this than you do?—Well, she can remember a good many things I have forgotten since then. I was in such a state at the time that I could not remember half what happened.

The public were again admitted to the room.

13309. *By Detective Ward.*—You remember the night that Mr. Hare and I called at your hut?—Yes.

13310. Who was in the hut at the time?—Constables Duross and Alexander.

13311. Did you hear me say anything to the men?—I was there when you came in; you asked where they were.

13312. Who answered?—I think Duross said they were out cutting firewood.

13313. Then did you hear me say anything to them; if so, tell the gentlemen present what I said?—You had not time to say much when Mr. Hare came in after you.

13314. *By the Commission.*—Do you remember anything that Detective Ward said immediately, after that?—No, I do not.

13315. *By Detective Ward.*—Mr. Hare came in immediately after—whom did he speak to?—To Duross.

13316. What did Duross say?—He asked Duross where were the men, and he said they were out watching, I think.

13317. Did you hear me tell Duross to say that the men were watching Mrs. Byrne's house?—No.

13318. It I did say that, would you hear me?—I think I would have heard you, because I was standing just at one side when you came in.

13319. *By the Commission.*—Had Detective Ward any conversation with Duross, to your knowledge when you were not close to them?—Not to my knowledge, and could not have any conversation with him while I was there.

13320. You were in the room all the time?—Yes.

13321. Do you know whether Ward met Duross at the door outside before he came in?—I could not say.

13322. *By Detective Ward.*—Do you remember me asking where the men were?—Yes, and I told you they were out cutting firewood, and you told me to run up and tell them to come down as quick as they could and go to Byrne's.

13323. You came down with them after you found them?—Yes, I met them coming down—Constables Armstrong and Dowling.

13324. Mr. Hare, Constables Alexander and Duross, had left then?—They had left then with Mr. Hare.

13325. Will you tell what I said to Armstrong and Dowling when I met them?—Told them when you met them outside to go as quickly as they could to Byrne's, and he there before Mr. Hare and the others.

13326. Did you hear me say anything that Duross had told Mr. Hare anything?—No, I do not remember anything more.

13327. *By Constable Alexander.*—Had I any conversation with you the night Byrne and Dan Kelly were outside of the hut?—No.

13328. I did not refuse to go out?—No. I heard you say if Armstrong went out you would go out, and you said Armstrong would not go out, he thought it better to wait till morning.

13329. Whom did you ask to go out when you came in?—Armstrong.

13330. Whom did Byrne want outside?—Duross, and it was Armstrong I met first when I came in.

13331. *By the Commission.*—Did Byrne understand that Duross was the man looking for work?—He did not know.

13332. How do you know that it was Duross that Byrne wanted out?—Because I mentioned the man's name. I said his name was Duross, and I said he was a working man, and he came that evening looking for work.

13333. *By Constable Alexander.*—Did you hear Detective Ward whispering to Duross when he came in (on the 19th)?—No, I do not remember he whispered anything that I could hear.

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13334. You did not hear him say anything after he asked where the others were?—No, I do not remember him saying anything after that.

13335. Did he whisper anything either?—No.

*The witness withdrew.*

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junior,  
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William Henry Foster sworn and examined.

13336. *By the Commission.*—What are you?—Police magistrate and coroner.

13337. You have been for some time in this locality?—I have been here nearly three years and a half.

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13338. I think you heard those cases that were tried of the Kelly sympathizers?—I did.

13339. Did you form at that time any strong opinion as to what was the cause of the Kelly outbreak in this district from the evidence that came before you?—As far as the sympathizers were concerned, during the time they were there, there was scarcely any evidence taken at all. It was merely sufficient to justify a remand in the first case, and then that was repeated from time to time for three or four months, I think.

13340. In passing through the country as you have been, and learning a good deal of the feeling of the people, have you formed any opinion as to the cause of the outbreak?—I have heard it frequently attributed to the occurrences that took place at Ned Kelly's hut at the time of the shooting of Fitzpatrick.

13341. Do the public generally understand that the Kellys and Byrne belong to what may be termed the criminal class?—I think so.

13342. Had they been concerned in trials for cattle stealing?—I think so, and together, I think. It must have been for some time, for I had not been here long before I heard their names connected with the criminal classes, and the Sherritts also. Aaron and others were before me at the police court.

13343. We have it in evidence here that Aaron Sherritt was brought to the court on warrant for having stolen a horse from Byrne?—I think I heard the case myself.

13344. That case would hardly justify you in looking upon him as a horsestealer?—No, I think not that alone. It was by general rumour that I formed the opinion more than by any actual knowledge on my own part, that the family generally were considered loose characters.

13345. I suppose you do not know anything whatever of the state of the district before the Kelly outbreak?—No, I have not been in the district for twenty years except a very short time.

13346. We have it in evidence that one or two police stations were closed—Glenmore and Greta; do you think if those stations had been kept open it would have prevented an outbreak?—It certainly would have been well if they had been kept open, in my opinion.

13347. You think the police would have had a better command of the district?—Yes, I think so.

13348. We intend, when we enquire into the management of the police force generally, to go into the question of whether it would be better under general government or local government. Have you formed an opinion whether the police might be more efficient under local supervision than being under the general head in Melbourne?—I think decidedly the latter. I understand you to mean a constabulary under the control of the municipal bodies as compared with a constabulary under the Government control.

13349. Yes, that they should form boards of the several municipal bodies, to take police districts for instance?—I think the administration of police should be under Government, as opposed to municipal management.

13350. Of course the telegraph is through the whole colony, and information can be sent to head quarters very quickly. Have you formed any opinion whether there is at all likely to be another outbreak?—If I were to offer an opinion, it would be nothing but my own ideas to go on. I would say, if a gang were formed, that it would be probably with the object of swooping down on some bank; but I do not imagine

they would ever go to the length the Kelly gang did.

13351. Do you consider that the fact of the Kellys having obtained the plunder tended to keep them in the field so long?—They could not have remained so long without the money; to have secreted themselves and evaded the police for such a length of time must have cost a great deal of money.

13352. You have heard a good deal of the police movements after the Kellys: do you consider they were specially active and energetic after the Kellys?—I think the best was done that could be, as far as my observation went, which was not very great. I may add to that, that I have never seen any reason to suppose otherwise than that the police had every desire to effect their capture.

13353. I think that is the general feeling, only we have very important evidence here, given by the police themselves, that some of their officers could not be got out at all after the outlaws?—I merely speak of my own experiences.

13354. Do you think the system that was adopted was the best under the circumstances?—The circumstances of the case were so exceptional that it was very difficult for anyone to map out a direct line of conduct; but I am satisfied the efforts that were made were made with an earnest intention to effect the capture of the men. But the conditions of the case were very exceptional; it was difficult to say how best to go to work.

13355. Do you know if there were very strong feelings of hostility evoked towards the Government by the sympathizers being brought up in the way they were—that is, among that class?—There must have been some feeling of the sort, but to what extent it prevailed I do not know. I know the sympathizers themselves were very indignant at their detention; one of them threatened me in this court.

13356. Have you any suggestions that you think would be valuable that you could offer to the Commission, in case there should be another outbreak, as to the course that ought to be pursued?—My opinion is this—that, in order to prevent such an outbreak, parties—say four to six constables—should be stationed at places so that they could communicate from time to time with each other. They might patrol the districts where it was expected anything of that sort might break out, and not less than four men should go together.

13357. Have you seen the progress report of the Commission—we have already recommended that the police should regularly patrol the districts, and meet at certain points, and exchange intelligence?—That is my own idea.

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13358. And Mr. Montford, I understand, is now acting on that, so that they will become acquainted with the place and people?—Exactly; and be in frequent and easy communication with each other.

13359. Have you seen anything that leads you to suppose that there is a likelihood of another outbreak?—No, I have not.

13360. The people themselves are perfectly quiet, as far as you know?—Yes. It must be borne in mind that the Kelly country, so called, is not in Beechworth, and this place was not so frequently visited by them.

13361. They were a good deal about Sebastopol?—Yes.

13362. Is it your opinion that there are a sufficient number of police in the district just now?—I am not aware of the number.

13363. There is not anything else you wish to say?—I can, if you wish, give some information as to the Sebastopol affair. I was the first man there after the murder. It was on the Sunday, about a little before one o'clock, Mr. Cheshire, who was then in charge of the telegraph station here, came to me. He was very much excited, and said, "The Kelly gang have shot one of the watch party down at Sebastopol." He called me out first and said this privately, and I said, "One of the police?" And he said, "No, a man who is helping." I said, "Would you know his name if you heard it?" and he said "Yes." I said, "Aaron Sherritt," and he said, "Yes, Aaron; that is the name." I knew he was operating with the police, and it occurred to my mind he would be the man. I enquired where it was, and immediately ordered a vehicle, and took down the clerk with me and my papers, and got to the spot as quickly as possible. When I got there, I found a crowd of about 100 or 120 men, women, and children about, and the hut closed. I demanded admission. I announced that I came there as coroner, and was admitted by the police, and went into the hut, and found it in darkness or almost dark. I asked for a light—no, first the question I asked was, "Who is in charge?" and one of the constables said, "I am." At that time I could not make out one man from the other. I said, "I want a light." He said, "Well, we do not care much about a light here, sir." I said, "Well, you must get it." A light was then procured. While the light was being got I said, "Where is the body?" and one of them said "You are almost standing on it." I turned round, and by this time my eyes had become accustomed to the darkness, and I saw the corpse close to me. I distinguished the man's teeth, and one of his eyes, all the rest was blood. I then interrogated the men there, two or three of them, and I also spoke to Mrs. Barry, made such enquiry as I could. I cannot remember exactly what questions I put, but they were with the object of ascertaining how the thing occurred, and how it came that the police had not made any attack upon the Kellys. I should like to explain that—I drew this sketch of the building just now. I would like to explain the position of parties.—[*The witness handed in the same and explained it.*]—My opinion is, had the men made a rush and gone out they would have met a

certain death, because those men had only to step a yard or two back and they would be invisible on account of the darkness of the night. The police would naturally suppose there were four outlaws there. This room, according to the enquiry I made immediately after, had had a bright fire in it, and a lighted candle. One of the constables stooped down and pointed to the left eye of the corpse and said, "That is where he got his death wound." As a matter of fact I learned at the inquest that he received two shots; one entered just above the collar bone and passed backwards through his body, the other went in just above the navel and broke two ribs and went through the kidney. I took that to be the second shot, and he fell back then. As a matter of fact he had no wound in the head at all, but it looked just as if that was where he had been shot, as it was covered with blood.

13364. Were all the four constables in the room at that time?—I could hardly see when I entered. It would be about a quarter to two when I arrived.

13365. What made it dark?—There was only a small window, and, if I recollect rightly, it was covered with calico, not glass. Before I left the hut I made what enquiry I could, and asked the men if they wanted anything, that I was going back to Beechworth and could convey any message, and they said no; and I said also to one of the men, "I feel sorry for you men, you seem to have been caught in a trap"—I think those were the words I used—"without any show"; and the constable I spoke to said, "Thank you." I was struck with the position myself; they were placed at great disadvantage.

13366. Did it suggest itself to you that constables placed in that position ought to have a sentry in the dark outside?—I think it would have been better.

13367. We have it in evidence that they usually had a sentry, but they were forbidden in this case?—I was informed that the men had strict instructions to remain secreted, and not to let their presence be known; that would perhaps account for the sentry not being employed.

13368. Did you get any further information?—I was going to finish. Before I left, after asking whether they wanted anything, the crowd, somewhat over one hundred, were somewhat clamorous to get in; and I asked the police what they were going to do about these men, and they said it would be better to keep them out; and I said, "Yes." I said, "Keep them out, I am in charge of the body as coroner"; and I announced to the crowd, "There are four armed police inside; they have my orders not to let anyone enter, so you had better go home"; and fully half of them started before I left. I then started for Beechworth, and about a mile from the hut I met the police from Beechworth—Senior-Constable Mullane and Constable McColl, and others I forget. I do not know that I could give any further information about the proceedings that day. I came back to Beechworth, and about, I think, twenty minutes to six the following morning I was in bed, and I heard a very loud rap at my door, and, before I had time to think about anything, a second and then a third. I jumped to the conclusion that the house had taken fire, and ran down stairs just as I was, and there met, in my own room, Mullane and Ward, who told me of the Kellys being at Glenrowan. Their principal object in coming to me was to ask whether the four men down at Sherritt's hut, who might he wanted to attend the inquest near Beechworth that day, would have to remain, or whether they should go down to Glenrowan. I said, "Send them to Glenrowan; the inquest can be adjourned, and the fight cannot." I think those were the words I made use of. Had it been in my power to have gone, I certainly should have gone down also; but while we were talking I heard the whistle of the engine, so I concluded the police would ride down, and I had not the means of riding—afterwards, I learned they had gone by train.

13369. You could not form any opinion upon any point that could have been better carried out than what it was with reference to the hut?—If the approach of those men had been anticipated, of course they

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could have made better arrangements; but, as I take it, this was called a watch party, and I understood their proceedings were to keep under cover in the daytime, and proceed at night to watch Byrne's hut, and certainly that was a very wise measure.

13370. I suppose you did not hear anybody saying that their presence was discovered—that it was known there were police there?—I did not hear it; there were all sorts of rumours about in those days.

13371. *By Mr. Sadleir.*—How long have you known me?—Over twenty years.

13372. You have acted as police magistrate in the Gippsland district and this district for several years, where I was in charge of police?—That is the case—four or five years in one place, and about three in the other.

13373. Does your position enable you to form an opinion as to my ability and conduct as a police officer?—I have had during the periods I have been in those districts with Mr. Sadleir every opportunity of observing the mode in which he has discharged his duty. I look upon Mr. Sadleir as a man of high integrity, and a thoroughly conscientious officer, and I am satisfied his duties have been always discharged to the best of his ability. I have a very high opinion of Mr. Sadleir.

*The witness withdrew.*

Mrs. Ellen Barry sworn and examined.

13374. *By the Commission.* You are the mother of Mrs. Sherritt, junior?—Yes.

13375. Were you often at Aaron Sherritt's house during the time the police were there?—Yes, I used to be pretty often there.

W. H. Foster,  
*continued,*  
20th July 1881.

Mrs Ellen Barry,  
20th July 1881.

13376. You were aware the police were there?—Yes.
13377. Mrs. Sherritt had a difficulty in remembering several things that occurred, and said you would most likely have a better recollection of them than she had?—Yes.
13378. Do you remember provisions being brought to the house?—I do, on some occasions; but then I had never been there when provisions had been brought to the place.
13379. Did you know who brought them?—Yes; a man of Mr. Allen's, the storekeeper, used to.
13380. Did he bring the provisions at night or during the day?—In the daytime. I know he did sometimes, for I used to see the cart going down.
13381. Are you aware whether anybody about knew that the police were in the house?—Well, I do not know of anybody knowing that, unless Aaron's own people knew that they were there. There was a brother of his used to sleep in the house.
13382. Do you know of any outside, besides the two families, that knew that?—No, I do not. I do not think, from what I have heard about the Woolshed since Aaron was shot, that any of the Woolshed people knew it.
13383. Was it possible that Joe Byrne himself might know it?—Well, I could not say.
13384. You have not heard?—No, I have never heard.
13385. We have it in evidence that his brother used to sit on horseback at the back of the house and look at it?—I have often seen him pass and ride on horseback myself, and his youngest brother and sister used to go to school by the place mostly every day, but I never saw them to be watching the place myself.
13386. You remember the night of the murder—you were there?—Yes, I was just about a quarter of an hour inside when a knock came at the door, and Aaron asked who was there. His wife asked who was there first, and this German answered, and she said, "It is Anton Wicks, he has lost his way." Aaron went to the door, and Wicks said, "Come and show me the way, I have lost my way," and Aaron opened the door, and I went to the door with him, and he mentioned a sapling as he was going out, but that was out of a joke. I went with him just to the door behind him. I heard Aaron say, "Who is that?" and as he said the words he seemed as if inclined to come in again. He just had that word out of his mouth when the shot went. I just stood on one side of Aaron and stepped backwards into the middle of the room, and there was another shot then fired through the door, and my daughter was standing just behind the door, and the shot passed her face, and she went back into the bedroom. Aaron stood on the middle of the floor, and I was looking at him, and could see no mark on his face, and I heard no noise. I turned round, and there was a man standing with his back to the door, and he fired a second shot at Aaron, and he fell on the floor.
13387. Did Aaron make any remark?—No, he never spoke, not a word.
13388. Did you know at the time who fired the shot?—No, not at that time.
13389. Did you know the man who stood at your side?—Not at that time, but I would after Aaron falling on the floor. He stumbled some time before he fell, and then he fell backwards. I went and stooped down, and knelt down just by his head, and I could see he was dying. This man called me by my name, and he said he would put a ball through me and my daughter if we would not tell who was in the room. Duross was in the sitting-room when the knock came at the door, and he walked into the bedroom then, and I was thinking he might have heard the man's step going into the room, as he asked who was that man that went into the bedroom.
13390. Did you go out to see this man outside, once or twice, during the night?—Yes, I asked Byrne would he let me go outside. He gave me orders to open the front door directly after that, and as I did I saw another man in front of the door with a gun. Byrne was at the back door, and this other man at the front.
13391. Did he tell you with what object he wanted you to open the front door?—No. I could see a man with the gun just in front. I asked him to let me outside, and he said, "All right." So when I went outside I saw Wicks standing by the chimney outside.
13392. Was Wicks handcuffed?—Yes, he was, but I could not see at the time, it was too dark; but I could see Byrne taking them off.
13393. Did you carry any message from the men to the me in the bedroom?—Yes, Byrne said to me outside, "I am satisfied now I wanted that fellow"—that was Aaron. "Well, Joe," I said, "I never heard Aaron say anything against you." And he said, "He would do me harm if he could; he did his best."

Mrs Ellen Barry,  
*continued,*  
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13394. What message did he send you with to the men in the bedroom?—He told me to go in and bring the man out of the bedroom, for my daughter had told him it was a working man looking for work and said his name was Duross.

13395. What did the police do when you brought that message to them?—They were looking for their firearms. When I went in the room was dark; in fact it would be very hard to know what they were doing; they were stooping looking for firearms, and beckoned to me to go outside.

13396. They did not want to make a noise?—That was it. When I went out then, Byrne sent my daughter after, and he fired a shot in through the side of the room where the police were, and my daughter told him about this man looking for work; and after he sent her in this time he heard the men whispering in the bedroom and the clicking of their firearms. When he heard that he turned to me, and said, "How many is in that room?" and I was frightened to say there was only one, and I said there were two; and he asked were

there more, and I said no. He said, "What are their names?" and I said, "I do not know." He said, "How green you are; and if you be telling me lies I will murder both of you." So after her coming out he asked her again. Then he sent my daughter in, after a bit, and while she was in he heard them whispering and the clicking of the guns. So when she came out again, after my telling him there were two men—I was frightened to say one after he heard the clicking, because he would have murdered me. She came out, and he asked how many were in the room, and I nudged her, and she said nothing. And he said, "If you tell me lies, I will be murdering the both of you." He fired through the place again, and said he would riddle the —— house; and he sang out to them to come out or he would shoot them down like —— dogs.

13397. What was the house built of?—Weatherboards and shingles.

13398. And how was the inside finished?—A kind of plaster inside the weatherboards.

13399. Were there any sticks nailed on to the uprights to hold the plaster?—Yes, I think so; it was weatherboards all round.

13400. What happened then when the police would not come out?—He used to place me in front of him, and when he sent me in he used to put my daughter in front of him—that was Byrne, but Kelly did not do that; and he went round soon after that to look for bushes to set fire to the place.

13401. Could the police have fired at them at any time with certainty?—If they had their firearms ready at the time Byrne came in after Aaron, if they had come to the door and fired then; but they could not have had their firearms ready then, it all happened so quickly.

13402. What did the police do with you?—Byrne sent in my daughter after some time, and she was kept inside.

13403. Did you go in after that?—I did after some time.

13404. Did they keep you inside sometimes?—Well, they just got me by the clothes, and one of the men—Dowling—said, "Stop inside, and if they set fire to the place, they would let the both of us out." They said they did not think they would set fire to the place while women were inside, so I stopped in.

13405. Did they put you under the bed for security?—No, I was not under the bed, I was alongside. Duross put his hand to me and just shoved me slightly, but not under the bed. My daughter was under the bed.

13406. I suppose they thought that the securest place for you to be?—Yes, very likely.

13407. Do you remember what occurred after?—Before I came in the last time, Dan Kelly had the bushes outside the room where the men were; he took out a box of matches and struck a match, and the wind blew it out. When I saw him strike the match I said, "If you set fire to the house, and the girl gets shot or burned, you can just kill me along with them." Dan said nothing at the time, but some time after he sang out to Byrne to send me inside, and I said it was no use my going in—that I would be burned with the rest; and he said he would see about that. So I went in, and we all remained inside till daylight.

13408. Did you think they would be able to burn the house at the time?—Well, I could not say, I am sure. Byrne asked me if there was kerosene in the place, did we burn it; and I said, "No, we burn candles."

13409. Did the police have any consultation as to what was best to be done when you were in the room?—Well, I heard Constable Armstrong say, "Well, boys, I will go out, if you will come with me," and the other men said they could do no good, that if they went out they would be shot, the night was too dark, and that they had better wait till morning.

13410. Was he not in charge?—Yes.

13411. Are you quite sure he said that?—Yes, I am quite sure he said that, because I heard it. I was not far from him at the time.

13412. Did any of the constables offer to him to go out while you were there?—No, I did not hear any, but of course I was the last that was kept inside. I do not think the men would have had any chance of doing anything by rushing out; I think they would have been shot; the night was very dark.

13413. They would be long enough in the light for the others to take aim?—The only chance was in the commencement, when Byrne came and shot Aaron.

13414. Was the front of the house guarded at all while Kelly was gathering the bushes?—I only saw the two.

13415. Did you tell the constables about the fire?—They could hear it themselves, and could hear them talk; they did not ask me who was outside. I am sure they must have known it was the outlaws.

13416. Did they ask the number of people?—No, they did not, but I thought the four outlaws were there myself. During the night, some time after I had gone out, they were going to take the handcuffs off Wicks, and Byrne put his hand in his pocket and searched for the key, and said, "I have not got the key." Dan searched his pockets, and he had not got it, and he went round to the front of the place, and after some time came back and handed the key to Byrne, and he took the handcuffs off Wicks. Byrne said to me at the time, "Do not be frightened, I will not shoot you, I only want the men in the house. Here is a man (Wicks) who tried to lag me for taking his horse, but I am not going to shoot him."

13417. Did you ever hear any cause assigned why they wished to shoot Aaron Sherritt—any reason?—Well, no, unless they shot him for being with the police. They must have discovered it some way.

13418. You did not hear how they discovered it?—No.

13419. Did you ever hear of a quarrel between Mrs. Byrne and Aaron Sherritt, about a horse?— Yes, I heard something about it.

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*continued*,  
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13420. About their having him before the court?—I heard something about it.

13421. Do you think that would cause any ill-feeling towards him?—I do not know, I am sure.

13422. Did you ever hear anything outside that led you to believe that the police were in the hut?—No, I did not ever hear anything.

13423. You did not live with your daughter, you were only visiting that night?—Yes. I lived a mile further up the road, nearer to Beechworth.

13424. How far is it to where Aaron lived from here?—About seven miles.

13425. Have you heard any reports lately that the sympathizers, or any of them, are likely to break out again?—Well, no; unless what I see in the papers sometimes.

13426. Everything seems to be quiet in the district?—Yes.

13427. Is there anything that has occurred that you have seen misrepresented in the papers that you would like to speak of?—Yes. Constable Duross in his evidence said that Byrne was sending me inside to see if the bullet had gone through the room, and I said I was frightened they would shoot me. It was to the side of the room he was sending me, to see if the board was knocked off, and once after he fired two shots. I was frightened it might be off, and that the police might think it was one of the outlaws coming, and fire. At this time the outlaws knew there were men in the room.

13428. That was simply he did not exactly catch what the message was?—Yes. I came back and told him the board was not knocked off.

13429. What object did you think the police had in keeping you in?—I think it was done to prevent the outlaws setting fire to the place. After the police kept my daughter in, when I saw Dan gathering up the bushes, I said to Byrne for them not to burn the house. They wanted to, and I said, "My daughter will be burned," and he said, "Well, call her out." So I called out to her, and she answered me a couple of times, and after that she did not answer. She said she would not be let; and Byrne said they were cowardly dogs screening themselves with a woman, and Byrne loaded his gun and said he would riddle the — house. I said, "Do not fire through the room, or you will shoot my daughter," so he did not fire through the room after that. There might have been shots fired in the front of the place, but I did not know about it. He said when he came first, after I went out first, that I had not a good word for him, and that he was told my daughter used to go about blowing about what her husband would do when he would catch him. But that was all false, and I said, "I never said anything about you, Joe, except, when I heard you were with the Kellys, I said I was sorry you had not more sense." That was when I heard it through the children at the school that he had joined the outlaws.

13430. Did you ever see Wallace, the teacher, about?—He came to my place a couple of times to see Aaron. I do not know what business he had, and he called Aaron out. Aaron was living with me for a few months after he was married before he went to live in this house. Aaron never told me what passed between them.

13431. You never heard Wallace speak himself?—No, they never talked inside.

13432. *By Constable Alexander.*—Which of the police was the means of keeping you in the house?—Constables Duross and Dowling. It was between the both of them.

13433. Did I interfere in any way?—No, you did not, you were over the other side of the room.

13434. What did I say when Armstrong asked me to go out?—Well, I do not know exactly what you said, but I heard Dowling and Duross say they could do nothing by going out.

13435. You did not hear what I said?—No, I could not hear well what you said. I do not know whether you spoke or not. I was next to those two men.

13436. Are you sure Armstrong volunteered to go out?—Yes.

13437. Are you sure he did not ask us if we would go out?—He said, "Well, boys, if you will go out, I will follow you," and a couple of the men said they could do no good, the night was too dark.

13438. Did I say so?—I did not say you said so.

13439. *By the commission.*—Is there anything else you wish to say?—There are a couple of words I would like to say privately.

*The room was cleared.*

13440. What is it you wish to say?—I would just like to make it known that Aaron was not good friends with some of his own people after he got married, except one brother that used to stop at the place—he used to sleep there every night. He was especially bad friends with his brother John; and the father and himself had some difference too, one time at the Gap, for Aaron was telling me about it; and there was a side-saddle that he bought for my daughter, and it was taken from my place one night, when Aaron was on duty with the police; taken from outside at the back, and when Aaron came home in the morning he missed the saddle, and he blamed his brother for it.

13441. We have had to ask the question whether there was any religious difficulty—we thought it was possible that the fact of Miss Byrne being a Roman Catholic, and we were led to understand that he was a Protestant; we thought that might be the cause of difficulty, but it could not well be, as your (laughter is a Roman Catholic?—Yes, I was talking about that to Aaron myself, but he always said it was not the religion that was up with him. He used to say they did not seem to him so very religious—he said they got very religious all at once.

13442. Do you know whether his own family disagreed with him on account of marrying your daughter?—Yes; I know they were bad friends with him through that, but I do not think it was through religion. He used to say it was not that; it was just because he left them and got married.

13443. How old was he?—I think twenty-five years.

13444. Would they have been better satisfied if he had married Miss Byrne?—I do not think they eared for him to get married at all, that is about the size of it.

13445. Your daughter was just about six months married?—Yes.

13446. Is there any reason that you can assign other than that for their differences with him?—No; unless just that they were not good friends with him.

13447. You do not think his own friends would let the outlaws know he was harboring the police?—I do not know; but I know he seemed in dread of them, and he thought his brother John had a down on him. Of course I mentioned it to a sister of his since, and she used to say he said it out of a lark; but still Aaron always said it was he that took the saddle. John was down with the police with horses once,

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Mrs Ellen Barry, sent by Ward to my place, and he was talking to my daughter, and he said he thought it was young Byrne who  
*continued,* took the saddle. The police got the saddle at Byrne's place after, but young Byrne did not know where the  
20th July 1881. saddle was at my place.

13448. Mrs. Byrne was prosecuted for having that saddle?—Yes.

13449. Did Aaron appear to be in dread of his life, or afraid they would shoot him?—No, he did not; but for about a couple of weeks before he was shot he seemed to be looking downhearted; and I said, "You do not look well"; and I said, "Perhaps it does not agree with you to be out at nights"; and he said it did not matter; and I had a dream of bad before that—I dreamed that the Kellys came and stuck up his place, and I told him that, and he said, "That is how I believe it will be before long." That is all I ever heard from him.

13450. He never made remarks to lead you to believe he knew where Byrne and Dan Kelly were staying?—No. I said at one time that the Kellys had left the country—at the time there was not much about them in the papers—and he said, "They have not left the country, and you will soon hear of them turning up again," and that was about three weeks before he was shot.

13451. Do you think he gave all the information he could to the police?—I do, because he believed in the police, and I believe he did all he could for them.

13452. Did you ever hear anything about the Kellys having armour before they came out at Glenrowan?—No; the two outlaws at Aaron's had no armour on, for they looked too slight for it.

13453. You never heard who made the armour?—No, I never did.

13454. Is there anything else you wish to say?—No.

13455. Is your daughter living with you now?—Yes; she was not very strong, and I have a large family to look after at my place, so I could not stay with her at Beechworth. She has not had good health since the occurrence.

13456. Do they keep the selection on where he was shot?—No, he sold that before he was married.

*The witness withdrew.*

*The public were again admitted.*

Patrick Allen sworn and examined.

Patrick Allen, 20th July 1881. 13457. *By the Commission.* What are you?—A storekeeper in Beechworth.

13458. Do you remember the time when the police were in the cave?—Yes, very well.

13459. And in Sherritt's place?—Yes.

13460. Were you supplying them with provisions in both cases?—Yes.

13461. Take the cave first—how did you bring the provisions to them in the cave?—Well, I sent them on a good many occasions as far as Mrs. Sherritt's house, and then they were to be taken from there by Mrs. Sherritt's people.

13462. How far is the cave from Mrs. Sherritt's?—About two or three miles; somewhere about that.

13463. The provisions went out during the day?—Yes, and sometimes at night. I might state I generally sent out my cart often that way, and that at the time there were not many remarks passed on it going up.

13464. During the time they were in the cave, and you were supplying them with provisions, did you hear any remarks made that would lead you to suppose it was known they were there?—I never heard the slightest remarks. I do not believe it was known they were there.

13465. You knew they were there?—I did. I might say, before going any further, that I do not wish my name to appear at all in the papers over this affair, because I have lost a good deal over it already. What I did all along was because of my friend Detective Ward, whom I have known for nineteen years.

13466. I suppose you supplied provisions to the police just in the way of business?—I have supplied the police for ten years.

13467. This was nothing extraordinary?—No.

13468. How would it affect you through the sympathizers?—Yes, there are plenty of them about here now saying I was helping the police. I am not one of those that is very much frightened about that sort of thing, but you may put it in this way, that it does not look well for a business man.

13469. But I presume you would have supplied anybody in the same way?—Yes. I am quite prepared to tell you anything at all that I can.

13470. Were you supplying the police when they were in Aaron Sherritt's house?—Yes.

13471. You were aware the police were there all the time?—I was.

13472. Did you hear any rumour or any expression at all that would lead you to suppose that anybody else knew except those directly interested?—No, I never heard nor suspected that it was found out at all.

13473. At what times did you take the provisions to Aaron Sherritt's place?—Well, it was generally in the daytime, but, at that time and since, I was sending my cart down to that place, and was supplying nine or ten families down there, so there was no remark about my going there.

13474. Do you think it was possible people would notice your going to Aaron Sherritt's?—I do not believe it. I never heard anything to lead me to that conclusion. I had sent things for himself before, and I was supplying other families within a quarter of a mile of the place. In fact, if I had no goods for him I used to get the boy to call at other places, and always covered over what he had in the cart, in order that it would not be seen. I got orders from Mr. Ward to keep it as secret as possible, and it was my interest to do so.

13475. Do you know anything of the Chinese storekeeper on the Buckland who is said to have supplied provisions to the Kellys?—No.

13476. Had you at any time any information with reference to the outlaws, whether they were out in the country?—I have had information several times from Sherritt who was shot. He brought information to me for Detective Ward, simply because he was frightened to be seen speaking to Ward, and he often came to myself and left messages, which I conveyed to Ward, and never told to anybody else.

13477. Did they ever turn out any good?—Yes, I believe a great many things he told me were proved to be true after.

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13478. Did he tell them within a reasonable time, so that the police could act upon them?—I never knew him tell anything that there was not action taken on as soon after as possible. Patrick Allen, continued, 20th July 1881.

13479. Then it was pretty well known that they were not out of the country?—That was the general opinion—that they were in the country.

13480. I suppose you are about a good deal among the people now?—Yes.

13481. Meeting everybody and speaking generally over these matters. Is there any apparent fear at all of another outbreak?—I do not think so—not the slightest here.

13482. You think the place is just as quiet as ever it was?—I think so.

13483. And likely to remain so?—I think so.

13484. Do you think a reasonable terror would be in people's minds on account of the punishment those men got?—Oh, yes, I think that would have a good deal to do with it. Here about Beechworth we were never very much frightened; it was more down the other way, towards Greta.

13485. But you would hear if there was anything moving?—Yes.

13486. There seems to be another idea—that they have not a leader they would have confidence in to bring them through as Ned Kelly did?—Yes, that is the general opinion, unless his brother did it. I think they have had quite enough of it.

13487. Have you anything you wish to add?—I just might simply state as to what appeared in the public press. A constable, giving evidence before you in Melbourne, stated that Detective Ward, or that some one said that Detective Ward, kept the officers running about simply to give me custom. That was a very false statement to make, and I wish to say I have been living in Beechworth for eleven years, and could call in all the officers. Though Mr. Nicolson and Mr. Hare did not know me personally, they have placed a great deal of confidence in me, as I was getting information and giving it to Ward, and keeping it quiet all along, and I think it is very bad for a fellow like that to make such a statement. Of course, if the police did not come to me, whom would they come to to keep it quiet after I had served them for ten years, and no one could keep it quieter than I did? That statement is a thing that annoyed me there is no foundation for it in the world. This very man that made the remark was one of the men who were there at Sherritt's hut the night he was shot. I can prove beyond a doubt, if there is any doubt in your minds, that my transactions with the police force were legitimate from beginning to end.

13488. There is not the slightest doubt about that?—That is all right then.

13489. By Mr. Nicolson.—So far as you have had opportunities of knowing, are you aware of the time that the fact of the police being concealed in the cave became known to any of the public?—Not till it was all over, to the best of my knowledge. I never heard anything to show it was known they were there, and I do not believe it was known till after they had left.

*The witness withdrew.*

Enoch Downes sworn and examined.

*The Witness.*—Before giving evidence, I think it would be necessary not to publish it, because I am a truant officer travelling round the district, and it might injure me. Enoch Downes, 20th July 1881.

13490. By the commission.—It appears that you were at Byrne's house prior to the murder of Aaron Sherritt—will you tell what occurred?—I had to investigate a case of default for absence from school on the 12th November 1879. I went there on horseback, and Mrs. Byrne was in the garden, so we had a little

conversation. I asked about the reason of her boy's non-attendance at school, and cautioned her in case of any further default, and said there would be no prosecution that time, that I merely warned her against any further default. After that she asked me if I would go inside and have a cup of tea. Patrick Byrne put the horse in the garden, and I went inside and waited till she made a cup of tea, and stayed there about a couple of hours while the horse was feeding; so the conversation came up about the outlaws. I was a little cautious first to start the subject, but gradually it came up, and the Lancefield robbery was just on, and we were joking and talking away, and she got a little lively, and she said the Lancefield robbers must be a lot of fools to lose the money after they got it. Then it came to her own son and reference to him, and I said to her, "Well, your son had no reason to join the outlaws—the Kellys; there is some excuse for them." In fact, I spoke a little freely about the action of the judge in passing sentence on the Kellys' mother at that time I spoke feelingly on the action. I did not believe in the sentence, and I told her so very freely. I thought if policy had been used, or consideration for the mother shown, that two or three months would have been ample. So from that I spoke about her own son, that she was quite right in saving him if she could; well, she hesitated about that, and she did not know whether she would or not; and there was something I was satisfied about that caused her to make up her mind that she would let her son go. She said he had made his bed, and must lie in it—that was in reference to the horse-stealing case. She said it was a dodge of that — Ward; he was using all sorts of dodges to bring Joe back again to have revenge on Sherritt, but she said they would wait their own time, and I was satisfied from her words and actions that they intended to have Sherritt, and that Ward was not very safe. She said the horse-stealing case was a dodge to catch the outlaws; there was a horse-stealing case at the time against Sherritt by Mrs. Byrne. She said it was a dodge of that — Ward, but it would not take, and of course she was very revengeful. I was satisfied from what she said that they would come back for Sherritt, and Ward was not very safe. I communicated that information to Detective Ward. My reasons for doing so—I hesitated at first, for I knew that the gang intended to have revenge on Ward for the course he had taken in attempting their capture, and it was on that account I gave the information, and the other reason that they intended to have Sherritt's life. I was not aware I was coming here to-day, or I would have brought the record of my visit, which is down at the Education office.

13491. You might send the record in at any time to us?—Yes.

13492. Was there anything else occurred that came under your notice with reference to the movements of the Kellys?—No, there was nothing to show there about their movements—the only one thing that her son Patrick was there on one occasion when I visited her. On the first visit there was no evidence of their having any of the money. On the second occasion there was evidence; they had some of the stolen property. The other son had been engaged at Tumberumba. He told me when he was in the garden he had been working there—that is Tumberumba in New South Wales. That was shortly after the Jerilderie robbery.

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Enoch Downes,  
*continued,*  
20th July 1881.

13493. That son remained at home after?—Yes.

13494. What led you to believe they had the money?—There was a change about the place, and I had repeatedly seen them when I had been down the Woolshed. One occasion there was nobody there, and I met the young fellows coming from Beechworth with drapery goods, and on another occasion I saw the improvements about the house. Another thing, so far as regards Mrs. Byrne's action with Ward, I was satisfied that he was not very safe in going in that quarter. Since that, some time after, coming from the Woolshed, I saw Ward in the dusk of the evening going there. I thought to myself that he was rather foolish to go.

13495. They seemed to have a down on Ward?—Yes, what I have said was her words.

13496. You did not hear anything particular just before Aaron Sherritt's murder?—No. I was not aware that there was any dodge at all, but Mrs. Byrne was right in her surmises, but I told Ward on that evening that there would be no fear of them coming back yet awhile for Sherritt. She said the dodge would not take, it was a matter of time.

13497. There was nothing further occurred within your knowledge or that you heard of just prior to the murder of Aaron Sherritt?—No.

13498. This was the whole?—Yes.

13499. You are through the district a good deal as truant officer?—Yes, I travel over Benambra and the Ovens.

13500. You hear people's opinions pretty freely expressed?—Yes.

13501. Is there any idea that there is any probability of another outbreak?—I do not think so. There is a feeling of security. I do not think there is any idea of the sort I think the idea is the other way.

13502. That they would not be safe at all in breaking out?—Yes. I must say those police who travel round the district, so far as the heads of the police in charge of various stations, I am firmly convinced that a better class of men for the position could not be chosen. Perhaps I am wrong in giving any opinion of that sort.

13503. No, not at all. You have been round through the district a good deal, and would hear information about the Kellys—hear people speaking about them?—Yes.

13504. Have you ever heard yet, in your rambles, anything certain as to who made the armour for the Kellys?—No, I have not. It is out of my district; it is in Greta district.

13505. Are you sure?—Yes.

13506. Then you must have heard something?—Perhaps I am wrong in saying I never heard. A gentleman told me the name of the person that made it—a blacksmith at Greta. It was merely a rumour.

13507. You simply had the opinion that they had the intention to murder Aaron Sherritt?—I was certain of it.

13508. And you reported it as soon as possible?—I did of course; my district is not what is called the Kelly country.

*The witness withdrew.*

Patrick Mullane,  
20th July 1881.

Patrick Mullane sworn and examined.

13509. *By the Commission.* What are you?—Senior-constable of police, stationed at Beechworth.

13510. How long have you been in Beechworth?—I have been in the North-Eastern district since 1869, with the exception of about two years I was in the Geelong and Bourke districts.

13511. You were actively engaged during the whole Kelly outbreak?—I was.

13512. You remember the cave party?—I do.

13513. Were they under you?—I was at this station when they were sent out.

13514. We wish to confine ourselves principally to that matter, unless you have any important evidence on other points. Before dealing with that, is there anything you wish to speak of?—Nothing, except as to the different parties I was on.

13515. Were you out with search parties with Mr. Hare?—I was out with a search party when Mr. Hare was in the district. He sent me out on the Fern Hill.

13516. What number was in your search party?—I think eight and myself.

13517. Did you go out upon any information at all?—We did not, that I was aware of.

13518. You just scoured the country?—Yes.

13519. Did you think there was any probability of your getting up to the outlaws by that means?—There was a probability that we would get to them; but I think the principal object was to harass them, and keep them in the back country. There was a possibility of our dropping across them in many places, and we knew we were close to them at different times.

13520. Did you know anything of that at the time?—We did. I remember, with this party, going to Fern Hill, we came to a fire on the ranges, near a pool of water. Some of the wood had been thrown into the water to put out the fire. We put a tracker on the tracks, but he seemed not to our satisfaction to follow the tracks, as if he was not inclined to do so, and we had to drop the tracks, he did not follow them, though they were quite fresh at the time. I am confident the party that had been there were not twenty minutes gone, and they must have seen us or heard us coming.

13521. In what way did you go out through the country—did you follow the roads or spread out?—We went as quietly as we could, to prevent the press getting the information that we were going and we went back roads till we got beyond settlement, and then circled a defined portion of the country.

13522. How did you prosecute the search?—When we had got among the ranges we would spread out and cover as much ground as we could without losing each other, and search it along as we went.

13523. How wide would you spread over the country when you were out?—We would be at times thirty or forty yards apart and at other times not more than seven, and sometimes together where it was necessary for one to go on the track of the others to get through portions of the country.

13524. Were you out in any of these parties that Mr. Nicolson organized?—The first one I went out with was by Mr. Nicolson's directions, and he joined us himself afterwards. That was to the Murray Flats, on the 31st October 1878.

13525. How many were in that party?—I think seven or eight.

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13526. Practically, at first the same system was followed by both Mr. Hare and Mr. Nicolson?—Yes, the same system of searching was followed at first, and then it was dropped afterwards.

13527. What change was there in it when Mr. Nicolson came up the second time?—He did not send out search parties, and he employed agents to obtain private information. Those agents were at different parts of the district, and he kept the black trackers in Benalla with Mr. O'Connor.

13528. Did you know that Sherritt was an agent?—I did.

13529. Did you know anything of his previous character?—I did.

13530. What character did he bear?—His character was bad. In connection with Detective Ward, we had him convicted at this court and sentenced to six months imprisonment for having meat in his possession for which he could not account. I may mention that he cut the brand from the hide of the beast, and that prevented us from bringing the more serious charge of cattle-stealing against him, and also Byrne, who was charged with him.

13531. Then did it not astonish you that he should shoot Sherritt—as if he doubted him?—No, it did not. At another time I arrested him for a serious assault on a Chinaman, but they were discharged at the sittings of the Supreme Court because the evidence was considered insufficient. They were committed for trial and afterwards discharged, and previous to that again Byrne himself was charged by Weekes with illegally using a horse of his, and he got the option of a fine and paid it.

Patrick Mullane,  
*continued,*  
20th July 1881.

13532. Did you go out during the time Captain Standish was up?—I did. Captain Standish was in Benalla during the time that the search parties were out.

13533. He continued acting upon the system of Mr. Hare; in fact, they were together at Benalla at the time?—Yes.

13534. Were you one of Mr. Brook Smith's party?—The only party I was with that he had charge of was one that started from Wangaratta one afternoon and went to Peechelba. There were fourteen or sixteen men, and the party divided there. We started from Wangaratta about three or four o'clock in the afternoon of, I think, the 6th November 1878.

13535. Will you describe how you proceeded, as nearly as you can?—We left Wangaratta; we were prepared to leave early in the day, but did not leave till three o'clock.

13536. How did you come to remain till three?—I did not know the cause of the delay, but we were waiting for Mr. Smith to start; and I believe he was in consultation with some other officer in Wangaratta at the time, but of that I would not be certain.

13537. Did you find any tracks?—We divided at Peechelba, and our party went to Lake Rowan and Mr. Smith's party to Yarrawonga.

13538. So that you had nothing further to do with that party?—No. Some time after I was with another party that started from Wangaratta with Mr. Brook Smith, and on that occasion Mr. Nicolson was with it, and we went to Warby Ranges. We joined Mr. Sadleir with another party from Benalla, and some tracks were pointed out to the black trackers. The tracks were followed for a short distance by the trackers; they then left off and went into a spring that was there, and, like the other occasion, they did not seem inclined to follow the tracks, and the tracks were dropped.

13539. Were they new tracks?—Perhaps a day or two old, or perhaps older.

13540. Could you have followed the tracks without the trackers?—We could not.

13541. Then, unless you have anything of exceptional interest, we will come to the cave party?—The first party left Beechworth for the cave on the 3rd of December 1879.

13542. How many were there in the cave?—Four went down—Alexander, Barry, Cox, and Canny.

13543. What was to be their special duty?—They were to remain in the cave during the day, and when night came on they were to watch Mrs. Byrne's house.

13544. How far was the cave from Mrs. Byrne's house?—About a mile or a mile and a half.

13545. Under what instructions were they?—Constable Alexander was in charge of that party. We were under the impression that Byrne used to visit his mother's house, and Alexander was instructed that, if Byrne was found coming to the house, he was to secure him, if possible; if the other outlaws and himself were in company, they were to fire at and shoot them—Ned Kelly in particular, the tallest of the men. They were to be on their guard, not to allow themselves to be surprised on any account; also, to keep away from observation, so that neither Mrs. Byrne nor any person else would be aware of their presence there. They got arms, and they were to keep them and be always ready in case any attack should be made on them.

13546. *By Mr. Nicolson.*—Was there a sentry to be kept at the cave?—I never heard of any instructions to keep one.

13547. Was there one kept?—I did not know of it.

13548. Do you not recollect that?—No.

13549. *By the Commission.*—Those were the whole instructions?—Yes.

13550. Did they adhere to those pretty carefully?—For two hours the man in charge was instructed to act by Mr. Nicolson and Mr. O'Connor, myself and Detective Ward, I believe, and the other men were called afterwards, before they started out, and all received those instructions.

13551. Did they carry out those instructions?—I am not aware whether they did or not. I never visited them in the cave afterwards; Detective Ward did so.

13552. Did you ever hear it was just possible they might have been found out there?—It was possible that they could be found out, but I never heard that they were until afterwards.

13553. What was the first notice that you got?—Some person telling either Captain Standish or Mr. Hare at the depot that the party were there watching.

13554. Did you hear anything at all about it outside?—I heard it from no person outside of Mr. Allen, the storekeeper from whom we got the goods, the Sherritt family, Mrs. Barry, and a Mr. Willis who came up to me one night from Wangaratta.

13555. What was he?—Saddler, and at one time hotelkeeper, at Wangaratta.

13556. How did he come by the knowledge?—He said some person told him, but he would not tell me who. My belief at the time was that it came from some member of the police in the cave, because some of the Wangaratta police came up here on duty at the time. However, he said he was aware of it at the time, and he told me so. On the 1st of April 1880 that party was withdrawn from the cave.

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13558. Did they give you any information then?—The reports were asked for by a telegram from Ward from Benalla, calling on the men who had been in the cave for separate reports. In those reports Constables Barry, Falkiner, and Alexander stated that they were under the impression, that they believed that Mrs. Byrne was aware that they were watching her house.

13559. Did you ever hear of one of them having met Mrs. Byrne?—I heard that Mrs. Byrne went into the camp of the men who were some twelve months out before watching her house also, but I never heard that she was aware of the presence of the men in the camp except what I state now through those reports.

13560. Did you ever hear of her coming to where Aaron Sherritt was lying on the ground?—That was the time I refer to.

13561. Was it the same cave?—No, a different place altogether.

13562. Did those reports come in to you?—They did.

13563. There were more than four men—there were two detachments?—Yes, one to relieve the other.

13664. Alexander, Hagger, Armstrong, Barry, Cox, Falkiner, McHugh, and Dixon. Those were the whole of the police there?—Yes, some of those men belonged to the station. Men were scarce, and the station men used to be out there at times to do duty.

13565. Did those men send in reports to you?—Yes, I received, I think, four reports.

13566. Whom were they from?—One was from Barry, one from Falkiner, one from Armstrong, one from Alexander, and one from McHugh. Falkiner's report, I think, came a day or two afterwards.

13567. What did they report to you?—I received a telegram calling on me for a report as to the nature of their duties—"Call on the special duty men for separate reports as to the nature of their duty. Hagger knows what to say."

13568. Were the reports all satisfactory?—The reports were not satisfactory that I obtained at first, and I returned Barry's to give me what was called for—the nature of the duties they performed. At first I told Hagger to get those reports, as he was in the office at the time. I got the telegram, and I showed him the telegram, and told him to get the reports. He went to the barrack-room, and said the men did not wish to give them. He did not assign any reason, and I then went to the men and told them they would have to give them, that they were called on to give them.

13569. In what way were they not satisfactory?—Because they did not state the duty.

13570. That was all the reason?—That was the simple reason and no other.

13571. In what way were the reports returned—what was in them that was not correct?—The first report I obtained from Barry. I think it stated that he did not know what he was called on to report, but that he would speak to Mr. Nicolson and answer any questions he was called on. That was not satisfactory. This is one also that I noted and returned:—"I respectfully report to the Superintendent that I have this day been called on for a report by Senior-Constable Mullane relative to the special duty I have been engaged on since the 13th December 1879. I am at a loss to know what to report about, as I am under the impression the Superintendent is well aware of the duty I have been engaged on, and how it was carried on. As I am returning to Benalla this evening, I will be most willing to answer any questions put to me by either the Superintendent or the Assistant Commissioner of Police." This is from Constable Falkiner, dated 2nd April 1880. My minute on that is:—"What Constable Falkiner, 2784, is called on to report is whether it came to his knowledge that the friends of the outlaws were aware of the presence of the police at Sebastopol.—P. MULLANE, M.C., 2/4/80."

13572. What did Falkiner report?—I read his first report, and this is the second one:—"April 2nd 1880.—Report of Constable Falkiner (2784) relative to special duty, and Senior-Constable Mullane's memo. on the attached report. I beg to report to the Superintendent that the Sherritts have been continually backwards and forwards together at Byrne's, and as much as sleeping together, and, from their intimacy together, it has been impossible to say this duty has been unknown to the outlaws' friends."

13573. Was that report expected?—Yes. Detective Ward arrived then from Benalla, and I handed over the reports to him.

13574. Did Constable Barry report?—He did.

13575. What did he report?—His report was something similar to that; but he reported he was not certain what to report. I almost forget what it was.

13576. Is that Barry's—[*handing a paper to the witness*]?—The witness read the same]—Yes, that is it, and he then gave a second one [*both inserted above*].

13577. What did you do with that second one?—I also gave that to Detective Ward. I gave the whole of the reports I received to him.

13578. You do not know why that report was not amongst the papers that were in the police office?—I do not. Ward afterwards told me that the reports were required by Mr. Nicolson in order to make a good entry on the record-sheets of the constables, because their duties were of a severe nature.

13579. What the Commission have to deal with now is that those reports which you have in your hand now of Barry's were not amongst the reports; they were in Barry's possession, and he handed them in to us; they found their way back to Barry?—My opinion is that the report did not suit, or that it was not what Ward wanted, that he went to the barrack-room and got other reports, and gave those back to the constables.

13580. But then there is no report from Barry at all?—That is all the account I can give of their getting into Barry's possession.

13581. You do not know anything further about that?—No, I do not.

13582. Here is the report from Barry—[*reading the same, inserted previously*] see that that is a direct

contradiction of the other returned?—Yes.

13583. He has given evidence that he was compelled to give that report?—He could not be compelled.

13584. Well, that the others were returned to him, and he was told they would not be accepted, and he was also told what report to make, and that was the report he made. He reported before that he believed they were discovered?—Yes.

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13585. Now he reports under pressure this—you know nothing of this?—No.

13586. It is a fraud on the face of it?—Yes, it is, but he would not be compelled to do that if he did not like.

13587. It was to his advantage to send in a favorable report like that?—Yes, it would be to his advantage if the reports were required for that purpose. I was glad to hear that when I was told that by Ward, because the nature of the duties was very severe, and I was very glad to hear it was to be favorably mentioned. Of course if they were discovered there would be a certain amount of blame attachable to them, but it might be without any fault of their own.

13588. To your own certain knowledge, there were seven or eight people going through the country who knew they were there?—Yes.

13589. And whose families were going to school?—The Sherritt family went to a different school. The Barry family were going to school with the Byrnes, but I am not aware they knew all about the cave party.

13590. Did not Sherritt and Mrs. Sherritt?—Yes, of course.

13591. Then the Barry family were going with the Byrne family to school—I think the cave party was known to Mrs. Sherritt, junior.

13592. Mrs. Sherritt, senior, says she knew it well?—Yes, it was to there the provisions used to go. I was not aware that Mrs. Barry was aware of the cave party. I could not say whether Aaron Sherritt kept it a secret from his wife or not.

13593. That did not derogate in any way from the proper way the police did their duty, if those people did tell it outside?—Certainly not.

13594. That is why we want to know why a report was to be sent in that was not in accordance with this man's idea of truth; why was pressure put on him?—I cannot tell. I may say I would have sent those reports to Benalla that I minuted if Ward had not appealed.

13595. Now coming to the Sherritt party. You had the ordering of the party in Sherritt's house; they were sent out from here?—Yes.

13596. You were aware who were there and what their duty was?—Yes.

13597. Had they any instructions, written or verbal?—Verbal on both occasions. The same men were in charge at the house that were in charge at the cave, so the instructions for one party would answer for the other as well—they were alike.

13598. Were you aware at any time whether the Byrne family knew that they were in that house?—I was not.

13599. You heard no information at all that would lead you to suppose they knew of it?—I have not, and my conviction up to the present time is that the Byrne family did not know they were in the house.

13600. Had they any instructions to keep a sentry?—They had not. In my opinion, a sentry would defeat the object for which they were there.

13601. Suppose a man had been posted during the night in one of the back premises?—They were to leave the house after dark, as soon as it became dark, and go to Byrne's; and a sentry was not considered necessary in the day; and it was so convenient to the road, that even if a sentry went out after dusk, it was very likely he would be seen, and that would spoil the whole arrangement.

13602. Then those men were not supposed to be in the house after eight o'clock at night?—After dark.

13603. Of course we have evidence that Byrne came about half-past six or seven?—Yes, six.

13604. And that the men were besieged in the house during the whole of that night?—Yes.

13605. Do you consider, from your knowledge of the police and the duties of the police, that those men did their duty?—I do not consider that they did do their duty. I do not think that any person would blame the men much for not going out during the night, for I think if they were to attempt it while the outlaws were there they had no possibility of escape between the two doors; but I do blame them very much when it got light in the morning that they did not leave the house and bring in information to Beechworth.

13606. It was about seven miles away?—Yes. Armstrong arrived from the Gap at half-past one; perhaps a little after.

13607. Would it not suggest to you the possibility of men being posted close about, that they would pick off any man trying to come, even though they did not appear about the house. That when that desperate act was done the men might be posted in advantageous positions for shooting the men down?—Yes, most likely when they committed that act they would remain there some time.

13608. I refer to daylight?—In daylight I consider they were on equal terms with them, and that they

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*continued,*  
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ought to be able to take their own part, and not only that but to attack and capture the outlaws.

13609. In daylight, if they had gone out, they could have defended themselves and taken the others; they could have put themselves in skirmishing order?—Yes, sufficiently divided; at all events they would have done their duty.

13610. Did you ever hear that Aaron Sherritt was very likely to be shot?—I did; Mrs. Sherritt, senior, brought that information in, and she told us it was given to her from Joe Byrne.

13611. You approved of the idea of keeping those men watching Byrne's house, from information received?—I did.

13612. You expected them to come?—Yes, and not only that but I thought they would have got them long before; I never expected they would have had to wait so long, because from the information we received we were confident they were about the ranges.

13613. Had the Byrnes any dogs?—Yes.

13614. Did not they give alarm?—We poisoned the dogs at one time, but we considered it unwise because of the Act, and Mrs. Byrne being aware of the party being about would have done harm.

13615. Suppose you had gone over a wide area, and poisoned the dogs?—You might be doing an injustice to a man you ought not to injure. A man might be a friend of ours and have a good dog—I would not like to come and poison his dog. All that was considered, and it was considered advisable not to poison the dogs.

13616. As you were under the impression that Dan Kelly and Byrne were about that district, would it not have been better to pick six first-class men for that position, and not raw recruits from

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Patrick Mullane, continued,  
20th July 1881. Melbourne?—It is not because a man is a raw recruit that he is a bad man; you cannot tell what a man is till he is tried. There was Armstrong himself; I do not think any man had a better character of being a good man than he had.

13617. You were saying that you had information about the determination of Byrne to shoot Sherritt?—Yes.

13618. What steps did you take upon that information?—That information was sent to Mr. Nicolson by a telegram, and he came up to see her a few days afterwards.

13619. Was it considered advisable to keep Aaron Sherritt in that very dangerous position?—I believe he was told about that, but he had no fear himself of the consequences; in fact he was the most fearless man that any one could come across, so far as the outlaws were concerned; he had no fear of them.

13620. Did that arise from courage?—I think from courage.

13621. Might there not be an idea in his mind that they would not shoot him?—I fancy after he was arrested for horse-stealing, and Mrs. Byrne turned against him so bitterly, that that idea had entirely gone from his mind.

13622. Did they want him to go to Jerilderie?—They did, he told me himself.

13623. What excuse did he make?—I do not know.

13624. They must have looked upon him as a criminal like themselves?—He was entirely in their confidence up to that time, and after the Jerilderie affair.

13625. Did he often give information to you in good enough time for you to get the benefit of it?—I think not at all times, the information would be two or three days old when we got it, except that information about his being shot, brought by his mother—that was the quickest we received.

13626. What value would you place on information about such men as the Kellys, that they had been three days ago at a certain place?—It would all depend on the man that gave it.

13627. What use would it be?—Very little good, still we would know they were in the locality; it would be of great advantage.

13628. They might be far away into New South Wales by the time you got it?—They might, but it would be satisfactory to know that.

13629. It might be telegraphed to all the districts to be on the alert?—It would be sent to the officers in the district, and no one else. I am not aware that we ever sent to Mr. Nicolson and Mr. Hare when they were in charge.

13630. You see the nature of the work the outlaws did here. It was on the Saturday night, and they were supposed to be about until daylight on Sunday morning, and on Sunday morning at two o'clock it was that they stuck up Glenrowan?—They must have gone from here during the night to Glenrowan.

13631. Voices were supposed to be heard?—Those may have been the voices of other members of the Byrne family, in order to keep the men in, but it was certainly not the outlaws.

13632. You see how little value three days' information would be?—With information three days old it would then entirely depend upon the ability of the trackers.

13633. But the chances would be very slight indeed, in going through this thickly populated country, of picking up their tracks if they went on the road?—If they went on the road; still I have seen trackers track on the road. I saw the last trackers that came from Queensland—they tracked on the main road between here and Wodonga, and went three miles on it.

13634. How old was the track?—The day before.
13635. Then your impression is that those men should have made a move as soon as it became daylight?—Yes.
13636. And from what you know since, your belief is they would have met with no resistance at all?—Yes, because they were away at Glenrowan.
13637. How many miles is that?—By the road thirty-seven; they would make it a good deal shorter than that.
13638. Say thirty miles?—Yes.
13639. They were away thirty miles?—It would be less than that from the Woolshed; twenty-five.
13640. That would be, that from the time they shot Aaron Sherritt they were only six hours and a half until they were pulling up the rails at Glenrowan, because they had all those people in and had been up and down a length of time before information came to the police at half-past two. You see what little value with those men three days' old notice would be?—But such a concerted plan as that would be a different thing from information as to where they might be casually passing through districts. It was portion of the plan they had laid down before, and they travelled at a good pace, but in other cases it would be different if they were only going from one part to another.
13641. The plan you refer to was that they murdered Sherritt to draw attention to it?—To bring the police up there and wreck the train on their way up, and that was a portion of the plan that Mrs. Sherritt heard—that they were to do something that would astonish the world.
13642. Suppose Armstrong had escaped just after the murder and informed the police at Beechworth, would not that have been an advantage?—It was no advantage as it was, but it might have been.
13643. Is there anything that you would like to inform the Commission upon?—No, I do not know that I am aware of anything else.
13644. Has this district been strengthened at all since the capture?—Yes, since Mr. Montfort came here the stations in the Kelly district have been strengthened.
13645. By about how many?—I believe there are two or three stations in course of erection now, and three or four men are to be sent to those.
13646. Did it ever occur to you that during the time Captain Standish was here the force in the district was nearly doubled?—A number of men had been sent to the district all through, but I do not know it was during the time of Captain Standish. The men were increased from the commencement and they were coming daily.
13647. But they commenced to decrease again the moment he left?—Yes, I think there was a decrease of men afterwards, I think some of the men were sent away. I know when Mr. Hare came up the second time the men were scarce, and we were compelled to keep three men on that duty at Sebastopol, but  
Mr. Hare  
said he did not like the idea of having three men there, and that another should be sent

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13648. We have got it in evidence that the police were very materially increased when Captain Standish was up here, and reduced immediately after. What was the strength of Beechworth during the time?—When those cave parties were sent, two bodies of men came up, that was eight; but before that the station was weak, so much so that I had only one or two men for the town duty.
13649. There were then no men here for bush duty?—No, except a mounted man that was here and myself.
13650. Do you think this increase in the force will continue to be permanent if the district remains quiet for some time?—It will be necessary to keep them in the district for a lengthened time.
13651. There are a number of those idle men about, cattle stealers?—Yes, in the neighborhood of Greta, Upper King, Whorouly, Buffalo, Glenrowan, and Wangaratta; it will require men for a long time.
13652. Is there not more settlement going on?—The most of the country around there has been taken up, what was worth taking up, and the portion now open is very doubtful whether it ever will be taken up, because it is very hilly bad country.
13653. But as places get settled there will be all the more chance of any rogues moving about being seen?—Yes, if it is settled upon by honest men, but if it is settled upon by these people or their friends it will only make the case worse.
13654. You have not had any great settlement in the country since the Kelly business?—No.
13655. Have any left the country to go elsewhere?—I am not aware. Quinn has left Glenmore station, that is Jack Quinn, the uncle of the outlaws, but he has removed a little further on to Black Range, and he has a small selection there with a farmer named Davey, and I think he is there still; and I am not aware of any of their friends going, except some that went away for their own safety and have remained away. There are warrants against them, and they do not seem to care to come back.
13656. How long will those warrants hold good?—For years.
13657. It has been suggested that the police should be communicated with before parties are allowed to take up selections; do you think that would be a wise step to take?—I think it would; it would prevent people of doubtful character settling in remote localities, and it would be a check, because in those localities

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they are nothing less than simply depots for stolen cattle, and stolen property of every kind.

13658. Would it lead to oppression?—I do not know that, because the colony is wide for them, and if they are prevented taking up land in this district they can go to another district and take up land there, so there would be very little oppression in that; but if they are allowed to take up land and gather in the district, it would lead to another serious outbreak, I think.

13659. Would it be a wise method to refer those applications in the first instance—not to allow men to pay money and refuse their license, but to refer in the first instance to the police officer?—I would not certainly refuse after they had laid out any money, or made improvements, or put up fences, or gone to any expense; but if they were referred in the first instance, before they were put to any expense, I do not think there would be any oppression in it.

13660. Immediately on making application?—Yes.

13661. *By Mr. Nicolson.*—You know the gully at the mouth of which Mrs. Byrne's house is situated?—I do.

13662. Do you know the place called London, where it is very steep at the end of the gully?—Yes.

13663. That is the rooks; all the sides are very precipitous and steep—they are about what height?—They are very high.

13664. Are they nearly perpendicular?—There is only a little place that you can ride a horse, and then it takes a sure-footed mountain horse.

13665. Are you aware that Aaron Sherritt was able to ride down it, and the outlaws?—I would not say that they could.

13666. I saw Sherritt do it myself?—That is the gully getting down to Sebastopol?

13667. Down the steepest part—you say you doubt it very much?—Yes; all would depend on his horse.

13668. You know what sort of horses the Kellys had, and the class of men they were?—Yes.

13669. What chance would our men have in pursuing them through rocky, stony, rangy country?—There are some of our men who, if they had good horses, are better horsemen than they were, I have no doubt of it. I have hunted kangaroo with them, and I never saw them stop at anything.

13670. Are you aware, after the cave was abandoned, that some handwriting was discovered—did you hear of that?—I heard something about some letter being picked up on the flat beyond where the cave was; but who told me about it I could not tell. I did not hear whose letter it was, but a letter belonging to some one of the police.

13671. Did you hear what man?—No; I would not be certain if it was not Ward who told me, or some one of the Sherritts.

13672. When the cave party were in existence, and the relief party were in here, I was very often coming up to Beechworth?—Yes.

13673. Was I in the habit of conversing with those men?—Yes, you were, sometimes in my presence, and at other times wherever you met them, in the yard.

13674. Had they an opportunity of telling me anything they wished to report to me—anything particular?—Yes.

13675. They had every encouragement?—They had every advantage as far as I was concerned, because I would leave any man free to speak of any matter; if it was a private matter I would leave him free to do so.

13676. Did you ever hear anything from Sherritt to lead you to suppose that Mrs. Byrne had discovered the cave party?—No, I heard nothing to lead me to believe the police were discovered in the cave or in Sherritt's house, and from the conversations I have had with Mrs. Byrne since, I am still more convinced that the presence of the police at either place was not known to her.

13677. *By Mr. Hare.*—Do you remember my second visit to Benalla?—Yes.

18678. Do you know the day I relieved Mr. Nicolson?—Yes.

18679. Did you that afternoon receive a telegram?—I did.

18680. From whom?—From Mr. Nicolson.

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13681. Is that the one I sent to the Commission?—Yes.

13682. That was giving you directions to do what?—I would wish to see the telegram; it was to send back Armstrong to the station; that there was no more money available for "Tommy or his friends." We used to call Sherritt Moses and Tommy and all names:—"Send Constable Armstrong back to his station; withdraw the watch party and send them to duty." Armstrong was one of the men in charge.

13683. What station was he to be sent to?—Wahgunyah.

13684. You received an order to send him from Beechworth to Wahgunyah?—Yes.

13685. Then what else?—To withdraw the watch party that was in the house. I may state that the watch party had been withdrawn from the house the morning, or the morning before, I got this telegram. It was withdrawn by order, I was informed, of Mr. Nicolson; that he told Sherritt to go back to the hut and tell the men to come back.

*Mr. Nicolson.*—I am glad that has come out, as I had forgotten it.

*The Witness.*—When Mr. Nicolson came up with the party of black trackers, he came to Sebastopol from Everton, and after the tracks were looked into, Sherritt was with him, he sent Sherritt back to the hotel to tell the men to return to Beechworth.

13686. What else?—That there was no more money for “Tommy” and his friends.

13687. What did you take that to mean?—I consulted with Ward. I would have sent Armstrong back to his station, and kept the party at the cave on duty; and “Tommy”—I would not guarantee any money for him—any money or payment until I should receive other instructions.

*Mr. Nicolson.*—There is no discharge in that.

*Mr. Hare.*—He could pay them off.

*The Witness.*—“Send Constable Armstrong back to his station, withdraw the watch party, send them back to duty—no more money for ‘Tommy’ and his friends.”

13688. *By Mr. Hare.*—Upon that you take it that you would have told him he was to be discharged?—Yes.

13689. Had you seen “Tommy” that night you would have told him?—Yes.

13690. And the next morning had not word come down to me?—Yes.

13691. *By the Commission.*—Would you have told him he was discharged?—I would not; I would have told him there was no more money for him.

13692. You would simply put him in possession of the words of the telegram?—Yes.

13693. *By Mr. Hare.*—Is it your impression he would have worked without money?—No; not without some other promise being held out to him.

13694. You mention that Willis said this party was known; are you aware that one of Mrs. Sherritt’s daughters was in Willis’s employment, at Wangaratta?—Previous to that she was, but not at that time.

13695. Do you know whether that girl was in the habit of coming up to Mrs. Byrne’s house to work for them?—I am not aware of it; I do not think she was.

*Mr. Nicolson.*—I trust the Commission see I had no occasion even to send that telegram.

*The Chairman.*—That does not affect the point at all that the men did their duty.

*Mr. Nicolson.*—It takes away the imputation that I was trying to thwart my successor.

13696. *By Mr. Sadleir (to the witness).*—You left Melbourne about the 30th of October?—Yes; I arrived at Benalla on the 30th.

13697. Do you remember receiving from Captain Standish information from the person named ———?—Yes; I remember the circumstance. We received that information from Captain Standish, at Spencer street railway station, when I was with Flood, on the 30th October 1878.

13698. Was there a reference to a log where provisions might be laid?—Yes, and other matters.

13699. Do you know whether that was acted upon?—I know that it was. I was not present when the log was searched for; but from the conversation I had with Flood afterwards, I knew that Flood was directed by you to come and see the log, and he found it.

13700. What did he give as the result?—I asked him if it had the appearance of any provisions being left there, and he said it had not. It might have been used at one time, but not at all recently.

13701. How long after the information came was the search made?—I think the day after; but it was immediately after—it was within a week.

13702. When were you first employed on the Kelly search, as the man in charge of the Kelly parties?—The first time I was placed in charge was by my going up to Fernhill station, I spoke of before where we found those tracks; that was the first time I was in charge.

13703. You were not in charge of the Murray party before that?—No, Sub-Inspector Kennedy was; he was detective then.

13704. When did you arrive at Glenrowan?—I think at a few minutes to nine o’clock on the Monday morning.

13705. Were Dowling and Duross and Armstrong and Alexander in your party?—They were.

13706. Did I meet you on your landing at Glenrowan?—You did.

13707. Do you remember jumping out of your train?—I do; I was next the door.

13708. Did you jump out; I do not mean an ordinary step, I mean a spring?—Yes, I jumped out.

13709. What directions, if any, did I give you immediately on your arrival?—As soon as I arrived on the platform I went into where Ned Kelly was and Sergeant Steele was, and you came in immediately. You asked how many men I had got. I said, “Ten and myself.” You then said, “Take them out and relieve the Wangaratta men; they have had no breakfast yet. There are a number of innocent people in the house. If you fire at all, fire breast high. Firing is not really necessary at present, except the outlaws come to the doors or windows, and then the men can fire at them.” I gave those instructions to the men and went and relieved the Wangaratta men, who were at that side, and placed the Beechworth men in their place.

13710. Were Dowling and Duross amongst the men you instructed?—Yes, they were; and, apart from my instructions, the men were about at the time when you gave me instructions, and most of the men could have heard it if they wanted to.

13711. Was not one of those men detained for a little to attend to Ned Kelly?—I think there was one remained inside, or was sent in from the field; I think he was sent in again.

13712. Do you remember my instructing any of those men to fire low in the early part of the day?—Those instructions were given after the people in the house came out. You directed to fire at the chimney to see if the bullets would break the bricks and undermine it so that it would fall.

13713. At about what distance from the ground?—I think a few feet from the ground. It was where the chimney seemed to narrow from the foundation.

13714. Do you not remember me standing beside you at the time I gave those instructions and fired at the chimney myself?—Yes.

13715. So any instructions I gave your men to fire two feet from the ground, or anything like that, must have been after the innocent people came out?—Yes.

13716. You never heard of any instructions of that sort before they came out?—No; they we to fire high before they came out.

13717. Do you remember the top rail was in our way—will you describe exactly?—I know it was, but whether it was in the way as you describe I cannot say; I think the fire was underneath it.

13718. That would bring it between two or three feet between the two upper rails of the fence?—Yes.

13719. Can you say how I was employed at the time of your arrival—at the different times?—The first time I saw you was when the conversation I say took place, and soon after that I saw you near where I was standing. You were in company with Mr. O'Connor and Mr. Rawlins, and different times during the day. You were out during the time the people came out of the house and examined them, and I was with you. You called me to be there to see the people to know who they were—the men who came out and lay down, and we called them one by one.

13720. Did you miss me from the sight of the men all day there for any considerable time?—Not for any considerable time, the side I was at. You would go to the railway station and then come up again. You were not at the other side of the house until a little before the house was fired; we went to the upper end where Constable Barry and others were, that was half round.

13721. And came back again?—Yes.

13722. Did I not go quite round preparing for the firing of the house?—Yes.

13723. Then it would not be true if I were said to be smoking all day long in the room where Ned Kelly was?—Well, I saw you smoking at different times.

13724. I know I smoked nearly all day, but was I most of that day on the platform or on the field?—In the field.

13725. Was there any man at a loss, to your knowledge, for instructions how to act through my absence?—I could not say as to the constables at the Benalla side of the house, but there were no men at a loss what to do with regard to instructions at the side I was. It was the Wangaratta and Beechworth men at that side, and they were at no loss for instructions.

13726. Was it not the general belief amongst us all that day that the outlaws were inside alive and ready to fight and defend themselves to the very last?—It was to the very last moment the belief. When one of the men came out of the house, I think he told us they were either on the rafters or in the chimneys.

13727. There were all sorts of rumours?—Yes. The roof was fired at then after that.

13728. Did you form any judgment at the time as to the desirability of rushing, apart from your opinions formed since?—I did not think it desirable to rush the house at the time, because I did not see the benefit; because we had them there, and I did not see the benefit of sacrificing honest men for the sake of getting those men alive. I knew they could not get away with the number of police there.

13729. Was it desirable or not to get them before nightfall?—Yes.

13730. Did I express myself about that?—I heard some constables express the desire to rush the house, I think, once or twice, and your answer was that you would not give permission to rush the house yet.

13731. Did you hear what my reasons were?—I do not think you gave any reasons in my presence.

13732. Can you say whether the outlaws were called upon to surrender?—I can. They were called on to surrender repeatedly, even after the people came out of the house.

13733. In what terms?—To surrender—to come outside; and if they did they would not be shot. I think it was Constables Montiford and Armstrong. Armstrong repeatedly called out to them to come outside. He was between the house and the railway station.

13734. More in the front of the house than we were?—He was further towards the front.

13735. Did you mention the terms of the surrender at all?—I would not be certain with regard to the words used, but at all events they were called upon to surrender.

13736. You cannot say whether we offered their lives?—That of course was understood by every man in the place. I think it would be regular butchery if they were fired into after being asked to give themselves up.

13737. How long was the priest in the place?—He might be a minute, or five or six. He went in at one door, and went out at the other, through the house; and when he went out at the back, he said, "They are dead."

13738. Would that take him more than twenty or thirty seconds?—I could not say exactly. It would take him more than a minute, at all events; in fact, from the state of the house, I think he went out for his own safety.

13739. You were standing beside me at the time he approached the house?—Yes. When the suggestion was made to fire the house, it was arranged to take the riflemen in front, to protect the man firing. Then those were to fire as fast as they could, when Johnson was advancing; and Superintendent Sadleir and

myself, and somebody else, stood directly at the Benalla end, to protect Johnson, in case he was fired at by the outlaws. While that was taking place, the priest advanced from the road, with the intention of going in, and you called him back and you said something to him, but what it was I have forgotten now but I think it was to prevent him from going in. Mrs. Skillian came at the same time, and she was ordered back at once, and was not allowed to advance. The priest then, after you told him, advanced again the second time, and went in through the door, and through the house, and came out through the back. When he advanced all the men advanced also close to the house, and, when he came out at the back, all rushed up. The body of Byrne was brought up.

13740. Were you and I amongst the men?—Yes; and Constable Glenny was one that helped to carry him out. A revolver fell as he was carried out. I think there was an objection made to firing the

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Patrick Mullane, house at all, because Cherry was in the back, and it was a bark roof; and it was considered it would take fire, and the man might have been burned before he could have been removed.  
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13741. Who made that suggestion?—I was present when we were in conference, and then it was decided that the house being a zinc roof the fire would not extend so quickly, so that the man in the back could be saved.

13742. Returning to the few moments before the priest entered the house—as he first came into sight—were we quite sure the fire had taken then?—Quite certain; the smoke had gone through the roof and we could see it.

13743. Was not there a little doubt before that?—Yes. You said to me it had not taken, and then the next intimation was the smoke getting through the roof, and then we knew it had taken.

13744. Can you understand any member of the police on duty for all that day, from the early morning, being ignorant of the presence of innocent persons in that house?—I could not understand it, and I would not believe it. We knew they were in the house before we left Beechworth. I think Mr. Hare's telegram stated so, or some telegram we received before we left Beechworth.

13745. *By Detective Ward.*—You remember the day that the cave party was broken up?—Yes.

13746. Did you see the men on that night—were you speaking to them then or the following morning?—Do you mean the cave party?

13747. Yes?—They came in that night, but whether I spoke to them then I cannot say. I saw them the following day undoubtedly.

13748. I went to Benalla in the morning?—I would not be certain—I could not say.

13749. You remember receiving a telegram from me?—I do; that is the telegram I refer to.

13750. Do you remember what time I came home to Beechworth?—The mid-day train, 2.20.

13751. Do you remember what you said to me just as I entered the office?—I gave you the reports and I told you, I think, that it was strange that those men would not give this information before, or something to that effect.

13752. Did you not tell me it is strange those men have not given this information to us before, if they knew anything about it?—Yes; I thought it very strange I did not receive any information about it.

13753. Did you not say, "Those are the men you have always been quarrelling with me about"?—Yes. You wanted more kindness than I could give; you wanted me to be kinder to them than I could possibly be in the treatment of them when they came to the station. I was against their going out rambling about the street, and I made them observe more discipline than you thought fair to the men.

13754. Did I not ask you on several occasions to allow them more liberty at night, on account of the duty they were doing?—Yes, and at all other times as well—more than I would give them.

13755. On that account was there any of those men on bad terms with you, and if so who were they?—I was not on good terms with Falkiner at the time.

13756. Any other?—No.

13757. What was the cause of your bad terms?—From many transactions about the station. He was more inclined to lead the men away, and not so well inclined to observe the discipline I wanted observed on the station. For all that, I may say the man is a good one.

13758. What is your opinion, whether, when you called for the reports, was it through a little quarrel that was between them that they gave those reports to you or through an honest legitimate knowledge of anything being known?—I could not say that.

13759. Tell me the exact words that Mr. Nicolson said as to what he wanted the reports for?—When I showed the reports you said those were not the reports required, and those required were for the purpose of making a good entry in the men's record sheets.

13760. Do you remember when Falkiner was leaving, Falkiner and Barry coming to the office door, you and I in the office sitting?—I cannot say that I do.

13761. Do you remember Falkiner saying he would send me a report?—Yes. Falkiner did not send his report until next day.

13762. Do you remember my telling him to send it next day, that if he did not it would be too late, that I should send in my reports to-morrow?—I cannot remember that; it is a long time ago; but I know for a fact he did promise to send a report from Benalla, and that he did so.

13763. *By Mr. Nicolson.*—Had you occasion to bring any of those men, Falkiner or Barry, before me at any time—did I ever admonish or reprove them?—No; I am confident that neither of those men was brought up.

13764. Had you any reason to shield or hide from me anything whatever that was going on wrong in connection with this cave party or anything else?—I had no reason and nothing to shield.

13765. Were you not in the habit of speaking freely?—I was.

13766. The men too?—They had an opportunity.

13767. Was I not on as good terms as an officer could be with those men when I visited the station?—Nothing would lead me to infer anything else.

*The witness withdrew.*

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Mrs. Sherritt, senior, further examined.

13768. *By the Commission.*—The Commission have been led to understand that you have something else you desire to say?—Yes. It is to mention a few remarks that my son made to me about what I told Mr. Nicolson when Byrne said he would take my son's life. He said, "What did Mr. Nicolson say, mother?" And I said, "He said nothing, Aaron." Then he said, "I will surely lose my life now." So then, after Mr. Hare came into the district, I was speaking to him—I think on a Sunday—and on the following Monday I told Aaron, and he seemed to be very well pleased. He said, "We will have them now, mother, because we have Mr. Hare in the district." That is all I have to say.

13769. One of the men who was in the cave party reported to Detective Ward and to Senior Constable Mullane that, from some words you spoke to him, he was under the impression that the existence of the cave party was known to Mrs. Byrne?—Never. It never was known.

13770. You have no recollection of ever saying anything that would lead to that statement?—No; because I am positive it was not known.

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13771. Had you a daughter living with Mr. Willis at the time of the cave party?—Not at that time.

13772. Are you sure of that?—She lived with him for eighteen months. She might have been there at the time; I think that she was.

13773. Was it possible that your daughter might have heard from you about the cave party?—Well, it was an impossibility ever to think that the cave party were known, or even the existence of the cave, to any of the Byrne family.

13774. We have had evidence to-day that the fact of the existence of the cave was told to the police by Mr. Willis?—Well, I do not know how that could be.

13775. Your daughter was at his house; might it not come out quite accidentally, without a purpose—did not your daughter know of the police being there?—I could not tell you. I never heard of it before.

13776. It is most likely, as you were working and baking for them?—I worked for them and assisted them all I could.

13777. Then it is just possible, as you were working for them and bringing provisions, that your daughter at Mr. Willis's might know it?—I will try and remember. I do not think now that she lived at Willis's at that time. I think she had come home, and then she was for a short time with Mr. Foster.

13778. Is it not just possible that she might have known of it at the time, and it might have come to Mr. Willis's ears?—I do not know how he found it out. I know it was not known to the Byrne family till weeks after the party left, but by asking Mr. Willis I suppose you can find out.

13779. We will have to ask him, because he would not tell where he got it from when he told the police. It is most likely we will see him?—He will be able to tell you.

13780. *By Mr. Nicolson.*—In any conversation you have had with Mrs. Byrne since Aaron was shot, has she shown she had a knowledge of the cave party?—No; she never even mentioned the cave to me.

13781. *By the Commission.*—Here is what Barry reports:—"But as to whether the friends of the outlaws were aware of our presence there, I am not in a position to state positively, as I never had an opportunity of going among them to enquire, but Mrs. Sherritt (senior) has made statements to me, which I afterwards reported to Detective Ward, which would lead me to believe that the Byrne family were aware of our presence?"—I have never, I think, spoken a word to that man on the subject.

13782. This is his statement at any rate?—There is no truth in it. I do not think I ever spoke half-a-dozen words to that man in my life. I just know the man by sight, and that is all. That is a man that I declare I never had a conversation with in my life.

*The witness withdrew.*

*Adjourned to to-morrow at Three o'clock.*

*(Taken at Beechworth.)*

THURSDAY, 21<sup>ST</sup> JULY 1881.

Mrs. Sherritt,  
senior,  
*continued,*  
20th July 1881.

*Members present:*

The Hon. F. LONGMORE, in the Chair;

W. Anderson, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.

*The room was cleared.*

Mrs. Barry further examined.

Mrs. Barry.  
21st July 1881.

*The Witness.*—As to what has been said about Aaron taking a towel as a signal to the outlaws, I wish to say that the police themselves used to take it on some occasions. Sometimes they did not take the same road as Aaron did, and they used to carry the towel to dry their feet. I have known them do that. Of course they might have given the towel to Aaron to carry for all I know afterwards, and, what is more, the police have never gone out with Aaron on duty except in the night-time, so I do not see how he could make any token with the towel in the night—that is an untruth safe enough.

13783. The next point is about how they were in the bedroom?—I thought yesterday I would have been asked the position of the men in the room when I used to be sent in after Aaron was shot. Byrne sent me in three times, and sent my daughter in three or four times, I am not sure which.

13784. Was there anything particular occurred?—The first time I went into the room the men appeared as if they were bustling about looking for their firearms, and the second time I went into the room Alexander and another man were sitting on the box in front of the door and their possum rugs round them, and I could not see the other men; I did not notice them in the room. I could not say where they were at that time. The third time I went into the bedroom (they had my daughter kept in this time, this was the last time Byrne sent me in) Alexander was at one side of the room, and the other constables were under the bed. Constable Alexander was at one side of the room where the bed was not, Constable Duross and Constable Dowling were under the bed, and their head and shoulders out at the side of the bed. I went to the two men, and they caught me by the clothes and pulled me to the ground.

13785. And you remained lying on the floor?—Yes; they did not put me underneath the bed. Duross just tried to shove me in slightly, but I remained where I was; in fact, I do not think I could get under the bed. Armstrong was at the foot of the bed, and my daughter was telling me afterwards that they had her between their feet and the wall, that they had her inside, and their feet were against her.

13786. Did they make enquiries when you went in how many men were out?—No, but I believe they asked my daughter, and she said Dan Kelly and Joe Byrne were outside; they did not ask me, but they just motioned me to go out. They could hear Byrne; he was talking at the top of his voice; and when Byrne came in after he fired the shot outside at Aaron—I did not see him fire it—and then there was

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Mrs. Barry,  
*continued.*  
21st July 1881.

another shot fired through the door, and then the man came and put his back against the door, and after he fired at Aaron, on the floor, he put his hands to his side and took something out of his bag or pocket and put it into his gun.

13787. What sort of gun was it?—It was a large gun I think it must be double-barrelled, because I noticed he always fired two shots and then reloaded it again; and then, at this time, after he reloaded his gun, I stepped over to the other side of Aaron. I was just behind Aaron's head—he was lying at the time on the floor.

13788. Aaron never spoke?—No, not a word; but my daughter, after the bullet went through the door, came out of the bedroom and saw Aaron lying on the floor, and heard me calling Joe Byrne, when he said he would put a bullet through me and my daughter. I know the poor fellow is wronged in many ways, and would, if alive, contradict them in many ways; and I wanted to speak about the towel. To my knowledge, I have heard them talk about him carrying the police on his back at night through the creek, so that they would not wet their feet. At the time that Byrne was standing at the door, when he told me he would put a hail through me and my daughter if we did not bring them out, my daughter said, "Joe, what made you shoot Aaron?" and he said, "If I did not shoot Aaron, he would shoot me if he got the chance," and, at the time, I thought every word he was saying would be the last; and after that he gave me orders to open the door, and no doubt if the police had come to the side of the door they could have fired at him right enough. Of course, I know we cannot do without police in the country, for any honest person could not live, but still they ought to speak the truth. My opinion of some of them is they are not particular what they say. On one occasion I was going from my place, and they were wheeling down wood with a barrow in the evening between four and five o'clock, and some of them that were not wheeling were "whoa-ing," "woa-ing," "wa-ing," and "gee-ing up," and I thought it was some man with a dray. I wondered what noise it was, and when I went down I saw it was the police. I see, in many places, they talk about the little children going to school, but my opinion is that, if the outlaws did discover them at all, it was their own foolishness that made it known. You see in that place the Byrnes could be in those bushes all day watching men coming in and out, and many a time, to my knowledge, the men used to walk in and out during the day. I have often seen them out myself. My daughter has gone through a lot of sickness since her husband's death—she had a very narrow escape of her life, here in Beechworth, with two doctors.

13789. You are quite satisfied the police were under the bed?—I am quite certain about the two men

Duross and Dowling, and their heads out, and the guns facing them by the door, and that was when they pulled me down, and Dowling said if I did not keep quiet they would have to shoot me. He said, "You had better stop in, Mrs. Barry, and if you stop in the outlaws will not set fire to the place, while there are women in the place." That might be about nine o'clock. I heard a dog barking through the night.

13790. What was the latest time you heard persons talking outside?—The first one I heard talking after I went into the bedroom was a German woman out at her wood-heap. I heard no one speaking besides.

13791. After you went in did you hear the outlaws—after Byrne sent you into the room?—No, I never did.

13792. Did you hear them go away?—No, I did not. We thought they were there, and through the night Dowling and Armstrong went out; the fire had burned down; the place was dark, and they closed both doors.

13793. Did they try to set fire to the place when you were outside?—Yes.

13794. We have heard of voices being heard during the night?—Yes, of course, that has been said; but I did not hear any, and I can hear as well as anyone. I heard the dog bark a few times during the night. The dog was crying after I was going in, but that, I think, was the dog knew something was up. I think it was after Aaron he was crying.

13795. And they never moved out till morning?—They went out and closed both doors about eleven or twelve, I think. So in the morning they went out into the front room and shifted Aaron in by the wall, and put some blankets over him. He fell just between the fireplace and the window.

13796. It was the back door the man came to him?—Yes, and if the police did fire at Byrne at this time the front door was shut. It was some time after he shot Aaron. He ordered me to open the front door, and I saw the other man with a gun in his hand. Afterwards I heard Byrne call him Kelly. My daughter says that Dan Kelly was inside the front door and leaned his elbow on the kitchen table, and he was looking at Aaron and smiling, and nodded to her and said, "Good evening, ma'am," and she just passed into the bedroom, and when she came out he was gone. One of the police in the morning asked for some drink, and there was some cold tea, and my daughter said not to drink it, for Dan Kelly was in there, and there might be poison in it.

*The witness withdrew.*

Mrs. Sherritt, junior, further examined.

Mrs. Sherritt,  
junior,  
21st July 1881.

13797. *By the Commission.*—Do you remember seeing Dan Kelly the night Aaron was shot?—Yes, standing inside the front door, by the table; he had his elbow leaning on the table.

13798. How long was that afterwards?—I could not say; it was the second time I was sent into the bedroom to bring out the men; it might be a quarter of an hour.

13799. Could the men inside have shot him there if they had tried?—Yes; if the police had been looking out of the door or keeping an eye to the division—the partition that was between the two rooms—they could have had Dan Kelly very easily; but I do not think they were prepared at the time.

13800. It would not take them all that time to look for their arms?—Not at that time; there were two of them under the bed.

13801. Are you sure of that?—Yes, I am quite certain there were two under the bed and two lying on top; so that it was impossible to have either of the outlaws in the position the men were in.

13802. Were they in that position when Kelly was in the room?—Yes.

13803. When they put you under the bed, how did they get you under?—Constable Dowling pulled me down, and he could not put me under, and then Armstrong caught hold of me, and the two of them shoved me under, and they had their feet against me.

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13804. Did they remain long in that position?—For two or three hours.

13805. Did you hear voices outside after you went inside?—No, only the dog howling; I do not remember hearing any voices.

13806. How long after your husband was shot was it you heard voices?—When my mother came in and remained—not after that—I did not hear anything. The second time I came in, Dan Kelly was by the table, and then, when I went out again, he was gone to gather bushes to set fire to the house. I wish to contradict a statement made yesterday by Constable Alexander, to the effect that my husband, when he was going to Byrne's at night, used to wave a towel as a signal to show the outlaws that they were about. It was the police themselves that used to take the towel down to dry their feet when they went across the creek. They used to have to walk through it, and they had to dry their feet on the opposite side, and I do not know whether they gave my husband the towel to carry, but they used to take it. I have often seen them taking the towel to dry their feet, and he used sometimes to carry them across to keep their feet dry. He did not mind the water; he would remain all night with wet feet.

13807. Were the police out any time during the day?—Yes, mostly every day; they were out every day. They were at the Sugarloaf some days, and stopped there till the evening.

13808. Were they seen much about the place during the day?—I could not say they were seen; but if there was anyone about, they could have seen them.

13809. There was nothing to prevent anybody seeing them?—No; the boys used to be about the bush looking for cattle, and they might have seen them.

Mrs. Sherritt,  
junior,  
*continued,*  
21st July 1881.

13810. Would they know who they were?—No, not by the way they were dressed; they had those long blue shirts.

13811. Is there anything else you wish to mention?—Constable Alexander said he believed my husband was in communication with the outlaws; that is an untruth; he never knew where the outlaws were. He suspected them being about on the ranges, but he never saw them; and otherwise, to my belief, he has put himself in more danger than any of the police or anyone else; and I think it very unjust, after all he has done, going through danger and one thing and another, to turn round on him and swear falsely, and say he was true to the outlaws and the police did not believe in him.

13812. Some say the other way?—Some say that.

13813. I think the officers believed in him?—They ought to, because he went in great danger, more danger than I could have imagined. In fact, I was in danger myself, cooking bread for the police, and staying in the house by myself at night till they came home in the morning. They generally came home about five o'clock in the morning.

*The witness withdrew.*

The public were re-admitted.

Henry Baber sworn and examined.

13814. *By the Commission.*—What are you?—Sub-Inspector of Police in the North-Eastern District, stationed at Benalla.

Henry Baber,  
21st July 1881.

13815. *By Mr. Sadleir.*—How long in the service?—Since 1853.

13816. You have been for several months since the capture of the Kellys performing duty with me at Benalla?—Yes.

13817. You have been also several years in the district previous to that?—Yes, I lived several years in the district previous to that.

13818. Was I in the habit of conferring with you about police matters the last twelve months while you were with me?—Yes, I was, when at home, constantly in the office carrying on the duties under your direction.

13819. You were satisfied you had my confidence?—No doubt of it, in what was transpiring at that time.

13820. Was not the strength of the station at the time I was transferred greatly reduced?—Yes, the strength was being reduced at that time in compliance with the instructions from the Chief Commissioner's office.

13821. And since I left it has been considerably increased?—Yes, about the middle of May it was considerably increased again.

13822. You had an opportunity when I was in service with you of judging of the treatment of the men under my charge?—Yes, certainly.

13823. Was my treatment of them perfectly just and considerate, in your opinion?—Yes, it was just, fair, and impartial.

13824. You have never known an instance to the contrary?—No; in fact, you always exhibited considerable kindness towards the members of the force.

13825. Were you able to judge whether the police throughout the district relied entirely on my judgment and experience in matters of difficulty?—I think they had every confidence in you.

13826. Do you think they relied on my confidence and judgment—was it apparent?—No doubt of it, that they did rely on your confidence and judgment, and I have always done so myself.

13827. Will you look at that list of persons whom I consider to be criminals?—[*The witness did so.*]

13828. Are there about sixteen persons mentioned there?—Yes.

13829. Do they still belong to the district?—I see one or two who may have gone to the shearing to New South Wales, but they are still connected with the district; it is their home.

13830. Do they form a very dangerous community?—Certainly; but the position of affairs has been very much improved since the middle of May; the accommodation of the force and stations have been increased in strength, and are therefore placed on a more efficient footing.

13831. Is it in consequence of that increase that they are more safe than when I reported on the security of the district?—The reduction was against your wishes.

13832. The enlargement I wanted was the extension of the boundaries of the district; do you consider the district, as it stands at present, of an unmanageable extent?—I do, certainly. I have a very fair knowledge of the district, and I think the district would be better worked if divided into two districts.

13833. Do you think it is practicable, with one district only, to maintain the efficiency of the police?—It could be better maintained if the district were divided, and it could be worked better from two centres than from one centre.

13834. Is not one effect of the enlargement of the district an immense amount of correspondence coming into the head office?—Yes, and therefore too great a strain on the head office; and you cannot keep the outlying stations so well under way.

13835. Is one of the effects of that great strain on the superintendent's office to hinder him in visiting his out-stations?—Yes, and especially so with the additional anxiety of the Kelly affairs.

13836. Is the correspondence so great as to hinder the superintendent visiting when he ought to do?—It does. Things are cropping up continually that require his presence at head-quarters.

13837. *By Detective Ward.*—How long have you known me?—Since about the year 1869.

13838. Did I then come up after Power, the bushranger?—I really forget. You came in the ordinary course of things, and were stationed at Beechworth.

13839. During the time I was stationed under you, and since then, did you ever know me to mislead you or any other officer?—You were under my direction for several years, and performed your duty well. You were a little bit lax in discipline sometimes, but I had reason to be very much pleased with your conduct.

13840. What character did I bear when a mounted constable?—You were prompt in the execution of your duty, and you were very efficient in the detection of crime.

*The witness withdrew.*

Michael Edward Ward further examined.

M. E. Ward,  
21st July 1881.

*The Witness.*—In my previous evidence I had got as far as the 5th November 1878, when I returned to Wangaratta from Wodonga. I there made enquiries, and found that four horsemen had crossed the bridge of the Owens, going in the direction of the Warby Ranges, under the One-mile Bridge. I informed Mr. Smith, who was in Wangaratta, and proceeded on my journey to Oxley and the Upper King, where I met a man who had promised to give me information and work for us. I made an appointment with him to meet Mr. Nicolson in a few days' time. Then, on the 10th, I accompanied Mr. Nicolson and Senior-Constable Strachan to meet another informant in Greta. On the 15th, a report came in from Mr. Turnbull's, of the Springs, that on the 12th and 13th November four horsemen were seen, believed to be the Kellys. I proceeded there and made enquiries, and found it to be false, and reported the matter to my officer. On the 24th I went to Oxley, and there met an informant from the Black Range, Upper King.

13841. Have you got the names of those informants?—I can give the names.

13842. You can do so privately?—Yes.

13843. Had you full authority to arrange for the payment of those men?—Full authority to submit and arrange for paying any person that would, as I thought, be able to supply us with information. On the 28th I received information and recovered two of the horses of the police that were shot in the Stringy Bark Creek. I found them in the Warby Ranges, about eight miles from Wangaratta, and took them to Wangaratta. Then I continued my enquiries from day to day without much result until the 10th of December 1878. I left Beechworth in the morning by train for Wangaratta, from there to Benalla, and at ten o'clock on that night I received information that the Euroa bank was stuck up.

13844. Where did you receive that?—I was at a private house in Benalla at the time when the constable came for me to say I was wanted.

13845. What is the good of that information to us—it is not worth a penny to us—you did nothing at all to receive that information; nothing in any way; you simply heard what another man had to say?—Well, that is all—that is the first notification I had of it.

13846. Give us evidence of some value?—I proceeded at once and took charge of a party of police at Euroa. There is reference made to me in this portion of the evidence. Between twelve and one o'clock, in company with nine constables and the Police Magistrate, Mr. Wyatt, I proceeded to Younghusband's station. We there got a statement from Mr. McCauley. We got as far as Euroa and took out horses, made arrangements with Mr. Wyatt, Police Magistrate, to return to Benalla to inform Mr. Nicolson. I proceeded to Younghusband's station with the police and black trackers, and there made search until Mr. Nicolson arrived. He took charge of the police then, and directed me to go to Benalla to circulate reports to the stations, to telegraph to the surrounding stations. Then there is nothing very particular for some time until December and the latter end of January 1879. I called on Aaron Sherritt, and I asked him to work for me, having known him before. I called several times before he would, and he afterwards consented.

13847. He had not been employed previous to this?—Never employed before. For some time I was dubious of his acting straight for me, as I had previously given himself and Joe Byrne a sentence; but in January or February I was in the hospital, suffering from an injury I received at the telegraph office. He came to me and told me that he was speaking to two of the outlaws, and that they wanted him to go to New South Wales with them. He said if I came with him that we would be able to get them before they crossed the river. I said I was ill, my ribs were fractured and my knee bad, and could not ride, but I would send two good men with him—Detectives Brown and Eason. He said he would go with no other person than myself. I asked him if he would take a telegram down to the telegraph office for Captain Standish, and he did so. He told me he did; and I sent him down the following morning to Benalla, and I believe that the officer in charge then took steps to communicate with the New South Wales police.

13848. Then you take credit for employing Sherritt altogether?—Yes; no other person had any thing to do with employing Sherritt at the first commencement. Then the next information I received was from a Chinaman named Au Man. He told me that he saw the four outlaws at Gundowring. I asked him how he knew they were the outlaws. He said he knew, Joe Byrne very well, as he often had rice with him, which I knew to be true. I immediately communicated by telegram to Benalla, and two parties of police were sent up to Gundowring, and I received instructions to send a constable in charge of Ah Man to point out the place where he saw the outlaws.

13849. Had they black trackers at this time?—I do not know whether they had. They had trackers, but not the Queensland trackers. Then the next occurrence would be after I came out of the hospital. About the 12th February I received information from a storekeeper in Beechworth that one of the outlaws had been seen in Bowman's Forest by a man named David Rae. This man came into town and stayed about all day in several public-houses, and told them all he had met Dan Kelly, and distinctly stated that he knew Dan Kelly. That night I started with two constables, and got to Rae's, and saw him. He still said it was Dan Kelly, that he met him about a mile and a half from the Gap, and that he was riding a well-bred brown mare, that he had a valise before him, and that he could not be mistaken. From enquiries I made, I found that a constable left Beechworth on that morning riding a horse similar—a dark-complexioned man named Dungey—and I came to the conclusion that Rae was mistaken, that that information was false. There were several times then that I received information in which I would have to refer to my reports at the time, relating to duty I had to perform at that time and different people I had to meet. I never kept any books or records, only when I received information I would go down to the telegraph office and write reports, and if it was urgent send a telegram to the officer in Benalla. Then I received reports on several occasions of the appearance of the outlaws in and about Sebastopol and the Woolshed, reports which are all filed and I believe in the possession of the Commission at the present time. I always consulted with the officers I was stationed under, and whatever they thought best I always complied with their instructions and did as I was told. There were threatening letters sent to me.

M. E. Ward,  
*continued,*  
21st July 1881.

13850. Did you keep any of them?—I sent them to the office, and I think they are all in the hands of the Commission. About that time there was a letter—that would be on July 2nd 1879—received by Aaron Sherritt, who was asked by letter by Joe Byrne to meet him. Aaron went, but reported that he failed to meet him. On July 10th, at Mrs. Jones's, near Beechworth, it was reported that two children coming home from school met two of the outlaws on the road, half way between Mrs. Sherritt's and the Reed's Creek school; that they took some bread from them and ate it; but it being so close to Sherritt's house, and for fear of any danger, we did not consider it advisable then to make any move more than to prosecute enquiries. On September 1st 1879 a threatening letter was received from Joe Byrne to "Moses," and I received these instructions from Mr. Nicolson.—[*The witness handed in the same.*]

13851. That is to one of the secret agents?—Yes.

13852. This is as to one of the secret agents?—Yes. I got instructions and I followed them, and that was carried out; and everything appeared in the as requested.

13853. Did that letter come from Byrne?—That letter came from Byrne, offering a reward of £8,000 for the apprehension and delivery in Strathbogie Ranges of Captain Standish, Senior-Constable Mullane, and myself.

13854. That was a sort of counterblast to the Government reward?—Yes, that was it. Then we continued our enquiry and did everything we possibly could, up to about the 10th or 11th of November 1879, when Jack received another letter, stating that Joe Byrne wanted to meet him about twenty miles from Wangaratta or Lake Rowan. The letter was handed to me by the Sherritts, and I forwarded the letter to Mr. Nicolson, and here are the instructions I received from Mr. Nicolson how to act, and I acted upon it—[*handing in the same*]. Jack returned, and stated to us that he saw Byrne: he did not meet him on the night that he promised to meet him; but on the following morning, when he was returning back to Wangaratta, Joe Byrne suddenly came out of the bush, just at the turn of the hill, or in a gully like. He stated then that he was evidently after riding, as blood was on his spurs and trousers. They had a conversation, which will be found in my report to Mr. Nicolson. At that time, after we found what the motive was, that Joe Byrne wanted to know about the banks, we then took every precaution to guard the banks, and I myself, in Beechworth, saw all the managers, and had a consultation with the postmaster, Mr. Deverell, who was then stationed here, and he devised a scheme by which we could erect telegraphic communication between all the banks and the police station, by wires being placed, and the uniting of these wires would cause an alarm at the bank and station, at any hour of the day or night that the Kellys were likely to come. If they came to one of the banks, the station bell would ring, and we would be all then on the alert. I wrote that report, and forwarded it to Mr. Nicolson for his approval, and it was approved, and the banks paid the expenses. Telegraphic communication was immediately placed between the banks, and has been there since then. It was put up secretly at night, and was not to be known to any person but the bank managers, the police, and the Telegraph Department.

13855. That was in Beechworth only?—That was in Beechworth only. All other banks were warned and guarded against the danger. We received information that they were going to take Oxley bank, but we afterwards heard that, on account of their seeing three policemen there in the morning when the bank opened, they thought it would not be worth while for the amount of money they would get there. Byrne also wanted to know how much money they would likely get in Eldorado bank, and "John Jones" was directed to inform them that there would never be more than ten, twenty, or thirty pounds found in that bank. When we heard of them coming to Beechworth, and that they would have two men to join them, I reported the matter to Mr. Nicolson, and in reply here is the confidential note of what I should inform the secret-service men to tell them—[*handing in the same*]. While this correspondence was going

on, our secret-service man became very frightened that he would at that time be carried away by the outlaws, and on the 15th November, from information we then had from this secret-service man, I reported the matter to Mr. Nicolson, and in reply here is the confidential memo., with instructions. In the latter part of it it states, "I cannot promise that Detective Ward will form one of the pursuing party, especially as Inspector Smith has to leave Beechworth on Monday. I feel it is but fair to mention this. At the same time his interest in the capture need not suffer by such an alternative; and as the decisive moment seems approaching, I hope he will take every precaution to maintain secrecy and to secure decided action now if practicable." On 4th October here is another confidential document that I received before the other that I received from Mr. Nicolson, with instructions to the secret-service man—[*handing in the same*]. Then there is very little more during that year, with the exception of routine business and my reports, and in those all the particulars will be found until the establishing of the cave party by Mr. Nicolson on the 27th December 1879. That was in consequence of these reports that we formed the cave party, in consequence of several reports that came in, and we not being able to take action, the reports coming three days too old, and the danger that might result if we made a mistake, that is to the Sherritt family. The cave party was carried on by four men going out and remaining a week, and being relieved, by four others, and coming in and

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M. E. Ward,  
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remaining in Beechworth, and then returning to duty. Before the men were sent out Mr. Nicolson, O'Connor, myself, and Senior-Constable Mullane were all in the office at Beechworth. Mr. Nicolson first spoke to Alexander, and told him the object of this cave party, what the object was, and gave the men instructions in writing. He called them each in separately. These are the instructions he gave to me to give to the men on going. These were given to them—[*handing in the same*]. That duty was carried on with the assistance of Aaron Sherritt, he going with those men at night—he would go down at night-fall himself, watch there until about eight or nine, when the men would all come down, and they would watch there. Their instructions were to remain there till four or five in the morning, and they were to attend to those instructions given. They were to leave before daylight, in order that they would not be observed coming away. The difficulty then arose as to how we could convey provisions to them; and, in consequence of not being able to light a fire, we had to supply them with porter, ale, and whisky, preserved meats and fish. We got a couple of spirit lamps for them, in order that they would be able to make a cup of tea in the morning when they came in, without any light being seen. On the first occasion when it was established we sent out the provisions on pack-horses for a few nights, but it was found that we could not do that long without being noticed by a person named —, who was a friend to Byrne. He lived alongside the bridge that we had to cross. The storekeeper who had been supplying the police ten years, Mr. Allen, I made arrangements with him, as he had been serving Mrs. Sherritt for years, to forward the things down to her, and made arrangements with Mrs. Sherritt and one of her daughters and one son for those things to be laid at a certain place, wherever they would appoint, and her son Aaron to come and take them; and that was done with the greatest secrecy, that is as far as it ever came to my knowledge. The cave party was called in on the 1st of April. There came in one evening Falkiner, Hagger, Dixon, and McHugh. I saw Hagger on that night, and I said to him, "Hagger, I am sorry that you have had no luck. It is a strange thing, after the good information, that there has no luck come of it. "You had better leave a memo, stating the time that you were employed on this, and the nature of the duty, and I have no doubt Mr. Nicolson will make a favorable entry on your sheets. I am going to Benalla first thing by train, and I will see him." I left at six o'clock for Benalla on the morning of the 2nd.

13856. Did you know at this time why they had been removed?—Under instructions from Mr Nicolson they were removed. I do not know what the reason was.

13857. Mr. Nicolson requested you to have the party removed?—Yes; he gave instructions to call in the cave party.

*The Witness.*—On my arrival there I saw Mr. Nicolson. He told me that the men would be all called away for the present, and for me, on my return, to read this memo, to the men that were engaged on the cave party:—"Benalla.—Memo.—Warn all concerned to keep secret the duty they have specially been employed upon in the watching party, Beechworth Sub-District.—(Sd.) C. H. NICOLSON, A.C.P., 2 April 1880,—To Detective Ward." I then said to Mr. Nicolson, "The men that have been engaged on that cave party have had very severe duty to perform. When you were up the other day you said that when it would be over you would make a favorable entry I wish you would do that." Mr. Nicolson said, "You can write a report of the men that were employed on that duty, and the time they were employed, and how they carried out the instructions, and forward it to me." I was then returning by the mid-day train, and on my way to the railway station I called in at the telegraph office, and wrote a telegram, of which a copy was produced by Senior-Constable Mullane yesterday. The wording I do not remember, and I would like to see it.—[*The same was handed to the witness for inspection.*] "Call on the special-duty men for separate reports as to the nature of their duty. Hagger knows what to say." That is signed by myself. My reason for sending that was simply that I had no record of the men who were engaged, or no opportunity of getting their names, as I had arrived by the twenty minutes past two train, and Mr. Nicolson told me the men would be leaving that day by the mid-day train. I would like to see the memo. that Senior-Constable Mullane put on Constable Barry's report. I presume, on the arrival of my telegram, that Mullane did call for the report, which he did receive, and this memo, was put on:—"I have called on Const. Barry (2710) for a report relative to how the special duty at

Sebastopol was performed, and whether it came to his knowledge that the Byrnes, or any of the friends of the outlaws, were aware of the presence of the police at Sebastopol.” How Senior-Constable Mullane arrived at that decision I cannot say. I sent the telegram before, and I do not know what time those reports were received. I did not instruct him to call for it. On my arrival in Beechworth, at twenty minutes past two o’clock, I went into the office, and on my arrival there saw Senior-Constable Mullane. He said to me, “I received your telegram, and called for reports. See what your friends have done, whom you have always been standing up for,” handing me the reports of Barry, Falkiner, and his own file, which is there, with the recommendation about Canny, the special man. I read the reports, and Senior-Constable Mullane’s remarks on the reports also. I said, “That is not required. All I wanted is the names, the time they were employed, and if they did their duty in accordance with directions given, as I want to furnish a report to the Assistant-Commissioner, as he has promised to place a favorable entry on their record sheets.”

13858. Before you go any further, I would ask you the meaning of this in your telegram: “Hagger knows what to say”?—Yes, on their arrival from the cave at night, when Hagger came in, I said to him, “You have had very severe duty. I am sorry you have not had better luck, and I cannot see the reason you did not do some good. I am going to Benalla in the morning.” I said, “I will speak to Mr. Nicolson to have a favorable entry placed upon your sheets; you can send in a short statement of the time you were, employed and the nature of the duty you performed”—that is what it refers to. I then walked up to the barrack-room and showed that order of Mr. Nicolson’s—read it to them. As to the caution about being careful as to secrecy, and not to let anybody know what duty they were on, some of the men were in the barrack-room—Falkiner, Barry, and Alexander senior, and I do not know who else—when I came in; they were sitting at the table. I had one of the reports with me. Barry said to me, “There has been a lot of trouble over these reports.” “What trouble?” I said. He said, “We were called upon to give report and we did not know what the meaning of it was.” “The meaning,” I said, “was that Mr. Nicolson directed me to submit all your names, the time you were employed on this duty, and the nature of the duty, and he would place a favorable entry on your record sheets.” “Well,” he said, “if Mullane had told us that, there would have been no trouble about it.” “Give me my reports,” he said, “and I will do that.” I handed him back his reports; I walked back to the office. A few minutes before the train started Falkiner came to the office door; he called me to the door. “Ward,” he said, “I have not time to write a

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report; I will send you one from Benalla.” “All right,” I said, “if you do that, I will keep back my report until to-morrow at the second train.” This was on the evening of the 2nd. I said to him, “Here are your reports.” He says, “No, keep them”; and on Saturday the 3rd I waited until the very last minute that the mail would close, and finding that Falkiner’s report did not come, I forwarded the other reports to Benalla. On Monday the 5th I received this report from the post office:—“I beg to report for the information of the Assistant Commissioner of Police that I have been on secret duty since the 13th of December 1879. I have at all times carried out the instructions received from the Assistant Commissioner of Police relative to that duty. Though not successful, this duty has been carried out with the greatest of secrecy with the members of the force whilst engaged on that duty.” I received that on the 5th, and my report had gone in on the 3rd, and, through some neglect or pressure of business, I never thought of those reports until the day that Falkiner was examined, when I went back and found them amongst my papers; through neglect of mine or the pressure of business, I could not tell which, but until that day I never saw or thought of them till Falkiner was examined, when I went back and looked among old copies of reports, and I found them. It never gave me a thought until then. That was on the 2nd April. From that there is nothing particular to mention until about the 17th of May, when I received a report from Mrs. —, stating that Mrs. Byrne had written to —, a girl of about seventeen, a daughter of Mrs. —, who has been my agent right through the time of the cave party in communicating with Mrs. —, going to her house and bringing the news back to me. The letter from Mrs. Byrne said she wanted to see, the business was to know if the boys (meaning Dan or Joe) would call, to be careful not to let them stay long, as she believed that Aaron was working for the police; that they called about a week previous, near Chiltern, at “Lord Byron’s”; that they were miserable and ragged, and in want of food, and they took a lot of food from “Byron’s” with them; that they gave a letter to Mr. — to deliver to Mrs. Byrne; that Mrs. —, not being good friends with Mrs. Byrne, she took the letter to —, and the letter was delivered through — to Mrs. Byrne. The next information was that on the 26th or 27th — came into Beechworth and told me she saw Joe Byrne; that she went out to look for the horses; that he was at — hut; that he said he came to shoot her son, and that she craved of him not to shoot him, and more to that effect. I telegraphed to Benalla to Mr. Nicolson, and I immediately went to Sebastopol, saw Aaron, and told him to go at once to — hut, try and pick up the tracks, and see what direction they were going, and to report that night to me; that I would meet him below the Lazzarino. He did so, and he reported to me that he traced the footmarks of the horse in the direction of Mrs. Byrne’s. Mr. Nicolson came up the following day, and I sent for —, and had an interview for a few minutes; and after that Mr. Nicolson said to me, “Ward, that woman is telling the truth, everything is right.” He requested me to go and see if there was a letter for him at the police station. I took the letter down to him; he opened it. He then said, “Ward, I am leaving. I have to go.” I said, “It is a pity, just now, after having such good information.” That would be on Saturday, I think, or Sunday.

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13859. Where was he going?—Leaving the district altogether. On Saturday he forwarded a man from Benalla to me—“Renwick,” giving me instructions what I was to do with him. I accompanied “Renwick” to very near Sebastopol on Sunday morning.

13860. Was “Renwick” one of the agents?—Yes. He returned in the evening; ne informed me that he saw one of the outlaws on the side of the range, on the right-hand side of Mrs. Byrne’s, going up the gully; that he saw a greyhound with him, and he was certain it was one of the outlaws. From the description he gave me, and the description of the dog, I disagreed with him at the time, and I said, “Renwick, I do not think you can be correct; it will be Patsey Byrne, for he has a dog of that description.” “Renwick” replied, “I know it is one of the outlaws; you are frightened to follow them to catch them; I will never work another ‘rap’ if you do not take this opportunity.” I reported the whole matter to Mr. Nicolson by telegram, and he made arrangements. I used to just go in to the telegraph office for quickness and send these. Mr. Nicolson telegraphed back to me asking me could “Moses” meet him at Everton, and Senior-Constable Mullane, on the following morning; I forget the time now. I replied “Yes,” that I would go and see “Moses” on that night. I did so, and made arrangements, and on the following morning, in accordance with instructions, “Moses” and somebody else met Mr. Nicolson, and they made search, I believe, without any success; they found that it was Paddy Byrne; I believe it was Paddy Byrne. On that evening—that would be the 1st June 1880—I received a telegram from Mr. Nicolson, “Urgent.—On Sunday, as one of the men was passing up the head of Byrne’s Gully, to the table land, he heard a dog bark about sixty yards off; on turning round he saw a man hide behind a rock; the description answered that of the outlaw Byrne. The trackers and six constables went up with Mr. O’Connor and myself next morning, and upon examination and enquiry ascertained that it was not the outlaw nor any of the gang.—C. H. NICOLSON.” On the evening of the 2nd of June, after coming in off duty—I think I came from Oxley that day—I called in to Mullane’s private house. He said, “Ward, I received a telegram from Mr. Nicolson.” “Yes,” I said. He said, “He directed me to send Constable Armstrong to his station, to place the other men on duty; there is no more money for Tommy or his agents, so they will be no more paid.” “Well,” I said, “I will pay Tommy. I will keep Tommy on at all events.” I must tell you that my duty, when in Beechworth, was to attend at the telegraph station at ten o’clock every night to speak to Mr. Nicolson, Mr. Hare, or whatever officer it might be, and communicate any intelligence, and all surrounding stations, to know if there was anything fresh. On the night of the 2nd I received instructions from Mr. Hare to proceed the following morning to Benalla to see him. I did so, and on my arrival, when I got near the police station, I think, Mr. Hare met me, and we walked out on the Sydney road. I said, “It is a pity that the reward is off, we have splendid information.” “Oh,” he said, “it is not off; I can tell you privately that the reward is all right.” I said, “Mullane told me last night that Mr. Nicolson sent a telegram ordering Armstrong to his station, and sending the special men to duty.” “No more money for Tommy or his friends, Ward already instructed.” I must tell you that at the time that Mullane told me about this I said, “I have not been instructed.” That is the only telegram I ever received; and on the 1st Mr. Hare said, “What have you done?” “Oh,” I said, “I have done nothing; I stick to Tommy by all means.” “Well,” he said, “did you see the telegram?” I had not seen the telegram. I said, “Mullane told me the contents; I have not seen it.” He said, “I will make enquiry when I go back.” He said, “When was it sent, and where from?” I said, “I do not know any more about it than what Mullane told me.” He then told me—he said, “It will take me two or three days to read over the papers—you get back; keep the agents on.” I told him then what

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had told Mr. Nicolson and me with reference to Joe Byrne. he said, “You go back, keep the agents on, I will be up in a day or so. I intend to call the heads of all the different parties in, Senior-Constable Mullane, Sergeant Steele, and yourself, and let us have a consultation. I intend keeping three standing parties of police, and two black trackers at each station, that at any time you receive information, all you will have to do is to telegraph to me the direction you are going, so that I will know, and you start in pursuit.” “All right,” I said. I returned to Beechworth, and on that afternoon three men were sent down to Aaron Sherritt’s hut to watch. Mr. Hare asked me where could they stay. I said, “In Aaron’s hut,” where we could get a place to put them in the day-time. I said they could stay in Aaron’s place in the day-time, that I would see it secure, and leave at night, go down to Mrs. Byrne’s and watch all night. He said, “That is all right for the present, but I will be up myself.”

13861. Just say what was done?—The three men were sent down, and, in a few days after, Mr. Hare came up, on the 4th or 5th, and, by appointment, met Aaron Sherritt at the powder magazine. The watch was kept on. Mr. Hare telegraphed to say to send another man: “Three men are not enough. I will send you more men as soon as I can arrange.” That was done. Constable Armstrong reported to us that Patsey Byrne was seen going away at night, riding the grey horse—I cannot remember the date—and I, on receipt of the report, immediately went down and saw Aaron, and told him to go to where they saw Patsey Byrne last, and to try and trace the tracks of that horse as far as he could, and also to watch the horse coming home. Aaron returned to me on the night of the day I saw him, and told me they could find no tracks of the horse, and that there were two trackers sent up to Beechworth from Benalla; but on the arrival of the trackers I received a report to say the grey horse was home, and then I knew it was no use to send the trackers down; consequently, there was nothing done, and the trackers returned to Benalla. On the 19th Mr. Hare came to Beechworth, and about

seven o'clock (I saw him about four) we started to visit the men at Aaron Sherritt's hut. We arrived about eight, and Mr. Hare said, "Go in and see the men—tell them I am here." I rode my horse up to the house, hung the horse on the fence, and went to the door, and was met by Duross. I said, "Duross, Mr. Hare is here; where are the other men?" He said "They are out." "Where?" I said. "Watching." "What are they watching for?" I said. "Who is in?" He said, "Alexander; he is in the room. What will we do?" he said, "what will we do?" I said, "Why do you separate; what is the reason for that?" Mr. Hare came up; he said "Ward, what is this; what is wrong?" and he spoke to Duross. He said, "Duross, where are the other men?" "They are watching." "Where?" "Mrs. Byrne's." "Why do they go down by themselves?" Duross said, "I do not know." Mr. Hare said, "Can you take me down?" "Yes," Duross said. Alexander walked out side. Mr. Hare said, "Ward, you remain here, and I will go down." "All right, sir," I said. They immediately started, and I said to Mrs. Sherritt, "What time did the men go down?" She says, "They are not down at all; they are cutting wood in the bush." "Go and tell them to come in to me at once," I said. "Tell them that Mr. Hare and I are here." Armstrong and Dowling came down, and I said to Armstrong, "How is it that you men separate?" He said, "We had to get some firewood." I said, "Duross told Mr. Hare that you were gone down to watch, you know." I said, "The instructions that I gave you—eight o'clock on a week night, and nine o'clock on a Saturday night—as you said that the children coming up to the township might see you." "Yes," he said, "and it is eight at night we went every night, but the Chinaman saw us going across the creek last night, and that is the reason we are going to be later to-night"; and I said, "Go down at once, and be careful, as the other two men are there, that they do not take you for the outlaws." Mr. Hare, after about a couple of hours, returned and said, "They were there before me." I said, "I sent them down—they were out cutting wood." He said, "Those two men that took me down lost their way, and I have been for hours trying to find the place—how is it they did not know the way?" "I do not know," I said. He said, "Why did Duross tell me a lie?" I said, "I do not know why—their instructions are eight o'clock or nine at night, as Armstrong complained of the Byrne family coming up to the township at night." "Well," he said, "I will give a blowing up to Duross." I said, "Do not do anything of the kind at present, for it is very difficult to find men that will work together on this duty." Nothing else occurred until Sunday the 27th of June Armstrong came into Beechworth at about 1.30 p.m. I was at dinner, and I was sent for and informed that Aaron Sherritt was shot. The postmaster here tried to telegraph the Benalla telegraph station, but he could not do so. I then requested him to get Melbourne, and report the matter to Captain Standish. He did so, and he told me that at about three or four o'clock Melbourne was able to get Benalla. I remained telegraphing and answering queries from Mr. Hare and all the other officers until about two o'clock in the morning. I despatched a party of police, Senior-Constable Mullane and party immediately proceeded to the scene of the murder. Mr. Sadleir, at about two o'clock in the morning, I think, directed me to remain in Beechworth, in the office, to send Mullane home, to have the rest in order, to be able to go out with a party in the morning, and I returned. That is the whole.

13862. You were not at Glenrowan?—I was not. Then, when Mr. Sadleir gave me that order that Mullane was to go out at about four in the morning, of course I was the whole night in the office and until one the next day, and Mr. Hare sent a telegram; he said, "Ward, all is right—we have them safe; muster all hands and take them to Glenrowan." I then despatched a messenger to Aaron Sherritt's hut—John Sherritt I sent down—and he recalled the men, and we arranged for a special train. The men I sent down from here arrived in Glenrowan about nine, Senior-Constable Mullane in charge.

13863. When Mr. Hare came back from Byrne's house, was he under the impression that the other two constables had been there all the time?—No, I told him not.

*Mr. Hare.*—I stated, in my evidence, that Armstrong stated about it to me.

13864. *By the Commission (to the witness).*—Do you positively swear that you did not suggest to them, in any shape or form, to say that they were down watching?—I do; I never did to my knowledge, because I had no reason to do so—I had nothing to gain in any way; my instructions to them were eight at night; and Armstrong, some time previous to this, said, when he came in to tell me about the grey mare, that nine o'clock would be early enough on the Saturday night, as Denny Byrne and others were passing up and down the road.

13865. When Duross swears that you told him to say that they were watching he swears a false hood?—He must, because I could not tell him that; I had no motive in telling him that.

13866. Duross swears, at question No. 3772, "Detective Ward, as soon as he burst in the door, said, 'Where are the men?' I said, 'Chopping wood at the back'; and he said, 'Say they are watching

Byrne's house—here is Mr. Hare.' He put the words into our mouths, and we went and told it." You swear that those were not the very words?—I have given the words I said; I did not enter the house. I am only speaking from memory of all those things. On the 20th—that was Sunday—after having a consultation with Mr. Hare, Senior-Constable Mullane and I spent the whole Sunday in the ranges, trying to get a secure place where we could take the men away from there.

13867. You swear that you did not suggest to Duross to say the men were away?—No, I did not.

13868. That is a point-blank denial of what Duross has sworn. What message did you send to them by Mrs. Sherritt?—Told them to come down to me at once—that Mr. Hare and I were there; that was as soon

as I found out where they were.

13869. Had you any conversation with Dowling when he came down?—No, I did not speak to Dowling at all; I spoke to Armstrong, and told him that Duross told Mr. Hare that they were down watching, and I told them to go down at once and be careful, as Mr. Hare was gone down, and see that they would not be taken for outlaws.

13870. Then if Dowling swears he was standing by when you gave that order he swears falsely too?—Yes.

13871. The statement is this—”Did he suggest to you then that having told that to Mr. Hare it was absolutely necessary for you to go on?—Yes, he told us to clear out. I told him there was no necessity to tell Mr. Hare a lie, and to tell the truth. He then said to me, ‘—— it! go on, and do as I tell you.’ I and Armstrong then left, and had taken up our posts some three or four minutes previous to Mr. Hare coming along.—You obeyed that command?—Yes; when I saw Mr. Hare I was going to stand up, but he made a sign to me to remain where I was, and passed on to Constable Armstrong. I do not know what took place between Mr. Hare and Armstrong.” Then that narrative, so far as you are concerned, is false?—I never spoke to Dowling. I spoke to Constable Armstrong, who was in charge.

13872. Why did you hurry them down when Mr. Hare had gone?—Simply to be careful that Mr. Hare would not shoot them if Mr. Hare got there first.

13873. Had you any idea that they were to be on the ground before Mr. Hare?—No, not the slightest. I told them to hurry down.

13874. Was Duross supposed to know the way as well as those other men?—They were supposed to be there every night.

13875. As a matter of fact, they should have been down before Armstrong and Dowling were down if they had not missed the way?—Yes, they would. Alexander ought to know his way, because he was there the longest. I think Duross was the shortest. They were asked the question by Mr. Hare if they could take him.

13876. Did Duross distinctly tell you when you went in that the men were watching?—Yes.

13877. How did you find out they were not watching?—After Mr. Hare left Mrs. Sherritt told me.

13878. Dowling says that Mrs. Sherritt came up with instructions from you to them to hurry on and get across?—That would be inconsistent. After Mrs. Sherritt told me this, I said, “Where are their arms?” and the arms were in the room. I saw them there. If they told the truth, there was no blame whatever to the men, because they were acting according to instructions, and I had nothing to gain in the world by those men, whether they were in or out; it did not matter to me as long as I obeyed instructions from Mr. Hare.

13879. Were those men thoroughly acquainted with the road; are you under the impression that they led Mr. Hare purposely astray, so as to let the other men get down before them?—No; I do not think those men would do that.

13880. They would do anything if they would tell a lie in the barefaced way they did, and charge you with suggesting the falsehood to them?—Well, I should have had some motive in order to tell this lie, and you plainly see, and Mr. Hare will tell you, that I had no motive in it, and it is my opinion that it was only when those men were caught in the hole, and finding I was always willing to be kind to them, that they bring this in as something to screen themselves. Duross was the man I spoke to; Alexander was in the room at the time; Mrs. Sherritt was in the kitchen. I had nothing to gain by it.

13881. Did you ever go round there in the daytime?—No.

13882. Not along that road?—I might ride past. I did ride past in the daytime sometimes. I went down and inspected a couple of times in the daytime. I bought three or four yards of calico, and nailed it up to make a screen, so that if any person came they would not be seen, and gave strict instructions for them to remain in the room.

13883. Did you ever hear whether they were out during the day at any time?—No, not at that time.

13884. Did they remain secret in the house all day?—They remained there—I never found them out when I was down—they did as far as I know; I could not know. I was frightened to go near the cave party for fear, because everybody had an eye out, and saw if Ward was going down there must be something up. In fact, I had to take three or four greyhounds with me anywhere I went, as if for sport, because everywhere Ward was going there was something up they said. I specially asked for two secret- service men to come from Benalla to the Woolshed, Sebastopol, Reed’s Creek, and the Woolshed, to remain there for a few days to try and ascertain if there was any knowledge of the police being in the locality, and not to allow those men to know what duty they were on, but to go to the residents about there, so that if there was any danger of the police being discovered I would withdraw them.

13885. Does that refer to the hut?—No, to the cave.

13886. We had information given to us to-day, sworn, that those men were out cutting wood during the day, and hallooing out as if they were horses or bullocks, and wheeling it in with a barrow; did you know of this?—No; their instructions were simply to keep in during the day.

13887. What time was it during the night you found them out wood-cutting?—Eight o’clock at night.

13888. Just about the proper time to be leaving?—Yes. They had to cross the creek, and they had to take a towel in their hands to dry their feet; that night Mr. Hare came in wet up to his knees.

13889. You state upon your oath that all that those men state about your suggesting a falsehood to them is all wrong?—Yes, it is.

The witness withdrew.

Francis A. Hare, 21st July 1881.	<p style="text-align: center;">Francis A. Hare further examined.</p> <p>13890. <i>By the Commission.</i>—Did this man tell you that any of the party were over watching at the time?—Most decidedly he did.</p> <p>13891. And did you find them watching when you went there?—I did.</p> <p>13892. Did Alexander say anything to you about the matter?—Armstrong did; he told me. I said, “Why did you leave the two men behind?” He said, “Mr. Hare, they have misled you, or told an untruth. I was chopping wood when you were at the hut.” I said, “Do you mean to say that those fellows deliberately told me a lie?” And he said he was at the back of the house, and Ward sent him on as quickly as possible, and he was not going to tell a lie for anybody.</p> <p>13893. Did he say why he was sent so quickly?—No; he said Ward sent him on to meet me there.</p> <p>13894. Did you mention it when you came back to the hut?—Yes, to Ward. I said, “What in the name of goodness could induce those men to tell a lie to me?” “I don’t know,” he said. “I found them, and sent them on to the place.”</p> <p>13895. Did you question the men afterwards?—No. When I got to the hut I heard Ward say, “Where is Tommy?” and I did not see him come forward. I then heard him say something to another man; and there was an answer—a whisper. I was standing in the road on my horse. I do not think he could have been up there thirty seconds, nor was he out of my sight. When I heard the whisper, I pushed my horse up as quickly as I could, and said, “What is all this whispering about?” And I called one of the men—Alexander or Duross—and said, “Where is Tommy?” “He is away watching.” “What are you doing here by yourselves?” I said. He said, “Tommy said it was too light for us to go altogether, and told us to come on by-and-bye.” I said, “Can you take me to where they are watching?” One of them answered, “Yes”; and I said, “Then come along.” He said, “You will have to cross a very deep creek; and we cannot go across the bridge to-night, it is too light.” And I said, “Never mind—go as you usually go, and I will follow”; and Alexander took the lead, and Duross followed behind.</p> <p>13896. Did you start to go by the bridge?—No; they suggested it was too light—the Chinamen would see us. I said, “Never mind the creek, or anything else I will follow.”</p> <p>13897. How was it you got astray?—Going over that creek we got in among a lot of holes. He lost his way several times, all the time leading me to believe that Sherritt and the other men were there; and it was not till I got to the spot that I saw Armstrong. I went straight up to him, and I said, “What do you mean by leaving your men behind you, and coming here yourself?” And he answered, “Oh, I did not. I was chopping wood; and I am not going to tell a lie for anybody.”</p> <p>13898. Did he lead you to infer who that “anybody” was?—He led me to infer it was those two men. He did not lead me to infer it was Ward.</p> <p>13899. By what did he lead you to infer the two men?—Because it was the two men that told me this.</p> <p>13900. Did you tell him the other men told you so?—Yes; and he must have heard it from Ward also. I never had the slightest suspicion that Ward had suggested it till I heard it in the evidence here, and then I thought, “Could Ward have concocted the thing so quickly?” because I was not the distance of this room away from him, and I do not think he was thirty seconds away.</p> <p>13901. Then your opinion is that those men did it?—I am giving facts; but I cannot say anything about that.</p>
R. Alexander, 21st July 1881.	<p style="text-align: center;"><i>The witness withdrew.</i></p> <p style="text-align: center;">Robert Alexander further examined.</p> <p>13902. <i>By the Commission.</i>—Will you say, in a few words, what happened as to those points just referred to?—Detective Ward came to the door, pushed the door in—I did not see him, but I think so. I heard the door burst in; he spoke to Duross; I could not hear what he said to Duross; he came into the sitting-room and he put his head into the bedroom door and shook his hands and said, “Say they are gone down to watch Byrne’s.” Duross said to me afterwards to say they are gone down to watch Byrne’s. I said I would not. Mr. Hare then came in, and he and Duross had some conversation. I do not know what it was.</p> <p>13903. Did you tell Mr. Hare any time during the night that the others were down there watching?—I did not. He spoke to me and asked me could I take him down. I said I could, two ways, one by a bridge near Julian’s, and another a foot-bridge behind Byrne’s. Mr. Hare said, “We will go by the foot-bridge.” We started, and when we had gone along a piece, some distance from the hotel, he asked me my opinion of Sherritt. I said I thought he was true to us, otherwise I thought not by his conversation. We went a piece further on, and Mr. Hare said it was too light to go by the bridge, “We will have to go another way.” I said, “The creek is close by.” He said, “We will go across the creek.” We got across, and on the other side it was very scrubby and full of diggers’ holes, and in the dark I had very great difficulty in finding the way; in fact I thought I would not get there at all; I only undertook to get there the other two ways—by the bridges.</p> <p>13904. There is no charge of your misleading or delaying. It is supposed to be want of ability to find the place?—Yes, I could not find the place.</p> <p>13905. Did you at any time, as you were going, lead Mr. Hare to suppose that those two men were watching?—The thing was never mentioned. He never asked me, and I never told him. He asked me why I</p>

	<p>had not gone down to watch, and I said I was going down with the others.</p> <p>13906. Do you swear positively now that Ward told you that you must go—the others were gone?—I swear he said to say they had gone to watch Byrne's. I lay my life on that. I took it for granted that he meant to say to Mr. Hare that they had gone to watch Byrne's, and he said it five or six times in the hearing of us all—to Duross particularly. I was present at the time.</p> <p>13907. <i>By Detective Ward.</i>—How is it that you say that, and you did not hear what I said at first—what did I say first to Duross?—I heard the door burst open, and then I came out into the sitting-room to see who it was.</p> <p>13908. Are you certain the door was closed?—The upper hinge was broken, or the door caught in the floor, and I heard it scrape open.</p> <p>13909. What did I say to Duross?—I could not hear what you said to Duross; I only heard the door open.</p>
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13910. What did he say to me?—I could not hear it; he said it in a whisper.
13911. It is a strange thing you could hear one thing and not another;—how long did this talking take altogether?—I dare say inside a minute—a very short time.
13912. When Mr. Hare distinctly states he never lost sight of me, how could I go inside and have this conversation with you and Duross?—Mr. Hare was close behind you. He might see at a distance, but you said this before he was in after you.
13913. Where were you when I went in?—In the bedroom.
13914. Did I speak to you at all?—No, you did not; you spoke in my presence.
13915. Who was present as well; was not Mrs. Sherritt in the sitting-room as well?—Yes.
13916. Would not Mrs. Sherritt hear it if I said that?—You said it in a whispering manner.
13917. How is it that you heard it then?—Because we were pretty close together; I saw the position of your hands.
13918. And you say you came to the conclusion that it was Mr. Hare they were to tell; you did not hear me say Mr. Hare?—No, you said, "Say they are gone down to watch Byrne's," and I took it for granted you meant Mr. Hare; and Duross wanted me to say so, and I said I would not say it.
13919. When did he say that?—After that; the time we were getting the guns before we started.
13920. You heard nothing then during this minute only my waving my hand and saying, "Say they are gone to watch Byrne's"?—Yes, I lay my life I heard that.
13921. What motive would I have for saying that?—I could not tell.
13922. *The Chairman.*—You must not ask that. You must deal with matters of fact. (*to Mr. Hare*)—Did any of those men tell you that those men were watching?—Certainly.
13923. Did Alexander tell you?—I walked with Alexander all the way from the house.
13924. Be positive if you can?—I cannot say that positively after hearing his evidence, but without hearing his evidence I would have, because it was in my mind; but hearing him swearing that, I would not like to swear it. I thought he led me to believe, up to the time I got to the ground, that they were there.
13925. Do you remember putting the question to him why he was behind when the other men were gone?—Yes.
13926. Do you remember his reply?—No. I said it to the two of them. I do not know that he made any reply, but certainly they both led me to believe what I have said. My impression was that he, more than Duross, did so.
13927. *By Detective Ward (to Mr. Hare).*—Do you think, hearing the evidence you have heard, that I had time to talk all that I said just now?—I do not think I lost sight of you.
13928. *By the Commission (to Mr. Hare).*—Could he have said that in that whispering tone while you were on the road and have made that arrangement?—Yes, he could have done it.
13929. *By Detective Ward (to Mr. Hare).*—Now, admitting that all this was said, was there any blame due to me whether they were in or out?—No.
13930. Do you know of any motive that I could have in telling those men this; in putting that false oath in their mouths?—No, I expected from what Ward had told me to find them all there alone, those four men; I never thought I would have to go down to Byrne's place. When I found this division, as I thought, of the party, then I made up my mind to see what they were doing.
13931. During the time I was employed under you at any time did you ever find me to tell an untruth, or in any way mislead you, or to in any way keep anything back?—As far as I know, not in the slightest degree. I never knew you deceive or tell me a lie or to hide anything from me, as far as I know.
13932. *By the Commission (to Alexander).*—Were you or any of the party out at any time during the day cutting wood or wheeling a barrowload of wood?—We were.
13933. Did you consider at the time that it would possibly be the means of disclosing the fact that you were there?—No; when we saw any person coming, we always hid. It was I and Duross and Armstrong and Dowling that used to get wood. The reason why we were so late that day Mr. Hare came was that we could not get a chance during the day.
13934. It would be quite true that you were out during the day?—Yes, Armstrong was quite

R. Alexander,  
continued,  
21st July 1881.

agreeable we should go out.

13935. *By Constable Alexander (to Mr. Hare).*—What did I say to lead you to believe that the men were watching?—I do not remember the words, but you were walking beside me that night and Duross behind, and you led me to believe, by implication at any rate, that we were to find the men there.

13936. What did I say?—I cannot tell you. It is thirteen months ago, and I cannot tell what you said.

*The Chairman.*—Mr. Hare was led to believe at the hut that the men were there, and he was not informed to the contrary on the way down.

*Mr. Hare.*—That is it.

13937. *By the Commission (to Alexander).*—In your evidence you did not say you informed him to the contrary?—No.

*The witness withdrew.*

Patrick Mullane further examined.

13938. *By Detective Ward.*—With reference to the reports referred to by Falkiner and Barry, had I any power or control over those men that, by bringing pressure to bear, it would make them give an untrue report?—You had no official pressure to bear on them. They were altogether beyond your control, they leaving the station next day, I believe.

Patrick Mullane,  
21st July 1881.

13939. At any time those men came in from the cave party, were they not entirely under your control?—They were.

13940. Might I ask one question with reference to one of the party who was there—that is Armstrong. Do you remember May, this year, Armstrong guarding the jury window in this court?—He was here on duty, and so were you at the time.

13941. Do you remember the three of us standing and having a conversation with reference to what Duross swore?—I do; there was a conversation.

13942. If so, will you state to the Commission what Armstrong said on that occasion?

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Patrick  
Mullane,  
*continued,*  
21st July 1881.

*The Chairman.*—You will have to be careful.

*The Witness.*—I know, and it is difficult for me to tell it. I fear I can hardly tell it without my memory being refreshed in some way.

13943. *By the Commission (to Detective Ward).*—Do you mean to put the question did Armstrong acknowledge anything?

13944. *By Detective Ward (to the witness).*—Did he acknowledge or contradict anything?—I think Armstrong said that Ward never told him to tell a lie to Mr. Hare.

13945. *By the Commission.*—Have you a clear recollection on that?—I know that was the subject they were speaking of at the time.

13946. Are you certain of that, because it is very particular?—Armstrong said he never told him to tell a lie to Mr. Hare.

13947. Did Armstrong say at that time who induced him to tell a lie?—I know Armstrong was condemning the evidence of Duross about this very lie; and he seemed then to agree with Ward's view of the conversation on what took place, and he was condemning Duross's action in the matter.

13948. *By Detective Ward.*—Did he say Duross had no right to tell this lie to Mr. Hare, because they were not to be down till eight or nine o'clock?—He did say that when Mr. Hare went to the hut they were not supposed to be down. I do not know the exact conversation; but I know that Armstrong differed at the time from the evidence that was given at the time. I would like Armstrong to be present. They were speaking over the matter, and Ward felt aggrieved at this evidence given by Duross; and Armstrong agreed with Ward's view of the matter.

13949. Did I not ask Armstrong in your presence, "Did I tell you that I told Mr. Hare that you were gone down"?—I could not tell that; but, as I said before, it was a conversation, and the recollection I have of it is what I have said.

13950. Did he say Duross told a lie?—He did not say Duross told a lie; but he agreed with you that Duross was wrong. I could not give the exact conversation.

13951. *By Mr. Nicolson (to Senior-Constable Mullane).*—With reference to the allusion of the man Wallace knowing the cave, will you inform the Commission whether you alluded to the cave, or what?—That Wallace knew of the hut party.

13952. You did not refer to the cave?—I could not say that; I meant the hut party.

13953. Not to the cave?—No.

*The witness withdrew.*

*Adjourned to to-morrow, at Wangaratta, at Ten o'clock.*

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(Taken at Wangaratta.)

FRIDAY, 22ND JULY 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;  
J. Gibb, Esq., M.L.A., | W. Anderson, Esq., M.L.A.

Henry Laing sworn and examined.

- Henry Laing,  
22nd July  
1881.
13954. *By the Commission.*—What are you?—Station master at Wangaratta.  
13955. We want to know from you the exact hour at which the special train started for Benalla on Monday morning the 28th June 1880?—At 5.20 the train started for Glenrowan.  
13956. How long would it take the train to go?—About twenty-five minutes.  
13957. Do you remember how many passengers were in it?—I remember three, but I am not very sure about the fourth. There were two constables; Walsh was one. I know the appearance of the man very well, but I did not know the other. I think Mr. Marsden, the clerk of courts here, was one. There were three passengers and twelve constables and Mr. Marsden.  
13958. Do you know whether the mounted troopers had gone away with their horses, any of them?—None had gone. I did not know until those constables came to go with the engine. I expected more, but in asking for the sergeant and the others, they answered me that they had gone by road, on horseback.  
13959. Did they say how long before?—They may have done so, but my attention was taken up with the engine and train, and I cannot say.  
13960. It has been stated that you gave notice that you saw the outlaws at one time?—No, that is a mistake. Information was given me by one of our employ that they had been seen by two young men named Delaney, living close by the station. The story given by the platelayer was that that morning, at four o'clock, the outlaws, instead of going through the railway gate, had swam the One-mile Creek, and crossed by the back of the hospital, behind Delaney's house; and that these young men, who knew them and Steve Hart, looked at and recognized the outlaws, and that they were armed. I asked if this information had been conveyed to the police, and the answer was no, and he did not think it was likely to be, from the source it had come. I came down and gave the information to Constable Walsh myself. Then, on returning to the station, I thought I would have a conversation with the station master at Benalla, and I switched on the instrument for that purpose. To my great surprise, he was calling me, and proceeded to send me a message to the effect that a special train of constables was to leave that night for Beechworth, and to be on the look-out. Before he came to the word "Beechworth," I made sure that the police had conveyed the information I had given them to Benalla, and that they were already acting upon it; but of course when the message said "to Beechworth," I saw then it had nothing to do with my information.  
13961. You know nothing personally about them?—No. When he was done with his message, I then asked him to listen to what I was going to tell him, and I gave the story to him, and his answer was that Mr. Sadleir and Sergeant Steele were beside him then, and would he give them the information, and

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I said, "Certainly," and to add that by the time they reached Wangaratta I would have obtained further information. So I went out in the middle of the night with a constable, and we saw a ganger and the young man who got it from the Delaneys. After the constable heard these two persons make their statement, I asked him if he would go to Delaney's with me, and he said he did not think it necessary; indeed he thought it better to leave them alone, as they had been so quiet in the matter. When the special train arrived, I told the story and all about it to Sergeant Steele, and he seemed to attach considerable importance to it, but thought he had better carry out his instructions. I remember that he was very pointed in telling the constable to be there on his return into the camp, to have the thing acted on, and it seemed to him that it called for immediate attention. I remember that very well, but away went the special at all events, and the Kellys were down the other way.

13962. Were you aware of the strength of the station here at that time?—No, I could not say.  
13963. This was after the murders of the constables?—It was the second Sunday, I think, after the murders—Sunday the 3rd November 1878.  
13964. Then Sergeant Steele did not take any measure himself?—No.  
13965. Did he give any reasonable excuse to your mind for not doing so?—Nothing, except that he had received his instructions to go on to Beechworth.  
13966. Was there any special necessity for the train to have gone on—could it have been delayed an hour?—It could have been delayed one, or two, or three hours, as long as they liked.  
13967. How long would the special train remain that morning before they started?—I should say they took fifteen minutes quite.  
13968. Is there anything particular that you know about the affair that you desire to speak of?—Nothing. I had a little to do with the police all through, but nothing of very great importance. When the Glenrowan affair commenced, it was I, in fact, that set the wires in motion when the information was sent down from Beechworth of the murder of Sherritt, as to telegraphing about it to the police authorities.

*The witness withdrew.*

Frederic John Marsden sworn and examined.

13969. *By the Commission.*—What are you?—Clerk of courts and receiver and paymaster here.

Henry Laing,  
*continued,*  
22nd July 1881.

F. J. Marsden,  
22nd July 1881.

13970. Were you in the train that took some constables down to Glenrowan?—Yes, I was on the engine.

13971. Do you know what time you left—did you keep a record?—No; I should say I left here to go to the station between four and five.

13972. Was it daylight when you arrived?—No.

13973. You were present, I think, at the encounter with Ned Kelly?—Yes, I was.

13974. There are some disputed points in the evidence with reference to the revolver that Ned Kelly had—did you get a revolver on that occasion?—I did.

13975. How did you become possessed of it?—I got it from Sergeant Steele; he handed it to me. I ran up when Ned Kelly was knocked over, and Sergeant Steele was kneeling on Ned Kelly, and he handed me the revolver. I was in company with Dr. Nicholson.

13976. What did you do with it?—I parted with it; I do not know to whom I gave it.

13977. Upon that occasion?—Yes; it was being shown round, I remember distinctly.

13978. And you lost it altogether?—Yes.

13979. Had you any idea whether Ned Kelly had more than one revolver?—No; I only saw the one.

13980. Were you a witness of the attack on Mrs. Jones's house?—Yes.

13981. Did you see anything that struck you as extraordinary about it?—Nothing except the shooting at the house, that struck me as being very extraordinary.

13982. So much of it?—Yes.

13983. Had you formed any idea at the time as to the position of parties?—When I got off the engine, and Mr. Rawlins met us with a lantern, I was under the impression the house was full of sympathizers, who were prepared to resist—that was the first impression I had.

13984. You found out afterwards that it was not so?—I found afterwards that it was not.

13985. Did you think there was a considerable amount of shooting kept up at the house during the day?—It seemed rather extraordinary so much firing.

13986. How soon did you become aware that Joe Byrne was killed?—We heard it in the morning soon after Kelly was captured.

13987. Did you hear it from the prisoners when they came out?—No, I do not think I did. I cannot say from whom I heard it, but it was reported at that time that he had been shot.

13988. And was lying dead upon the floor?—Yes.

13989. Were you in a position during the day to ascertain whether a shot was fired from the house or from the police—could you tell when the last shot was fired from the house?—No, I could not say for certain.

13990. Were you up at the beginning of the capture of Ned Kelly close enough to observe before he fell?—Oh, yes.

13991. Will you describe what occurred then, as near as you possibly can?—Yes. Ned Kelly came down the hill, like towards the house, and there was one of the men from Wangaratta I knew, Constable Healey, he seemed to come in contact with him.

13992. Would he be the first?—There were a number of them firing at him. I saw Montifort also firing. He was very close to where I was.

13993. Did you see Constables Phillips and Arthur there to know them?—I know Phillips. I do not think I know Arthur.

13994. Did you see Phillips about?—I do not remember him particularly. At this time I remember seeing Healey, Dowsett, and Montifort.

13995. Where was Dowsett?—Between the line of the railway fence and Kelly.

13996. When Kelly fell, how far was Dowsett from him?—Very close; perhaps between 20 and 30 yards.

13997. How did it appear to you that Ned Kelly fell—would it be a trip or apparently falling from a gunshot wound?—Shot, I should say, decidedly.

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F. J. Marsden,  
*continued,*  
22nd July 1881.

13998. Did it not strike you he tripped coming down?—No, he sat down behind a log and after a while came on again.

13999. Did he fall with his head downhill or up?—Downhill, I think.

14000. Towards the railway?—Yes.

14001. Were you near enough to see whether his helmet fell off or was taken off?—No.

14002. You do not know whether Dowsett seized the revolver out of his hand or not?—I should certainly say he did not.

14003. Were you close enough to say that with certainty?—I cannot say who took it; I only know who gave it to me. Sergeant Steele fired, and then rushed to him when he fell.

14004. Did you see anything at all of Reardon and his son or their movements when the men came out of the house?—No, I do not remember it.

14005. Did you see Mrs. Reardon?—I saw her on the station.

14006. You did not see anything that occurred when she was coming out?—No, I saw her run out.

14007. Did you remain on the platform?—The greater part of the time, and I was just at the fence at one time.

14008. Did you see Mrs. Jones at all?—Only on the station. She came across and commenced to abuse Sergeant Steele.

14009. What did she say?—Called him a dog for shooting at them.

14010. For what?—She seemed to blame him for having the men there shooting.

14011. It was simply a general accusation?—She personally accused him, and abused him because he was about the first one she saw that she knew, and thinking he was very active. I handed Sergeant Steele my knife to cut Kelly's armour off.

14012. Did you see Steele excited about the place?—No, he seemed to be rather the reverse—very cool.

14013. *By Sergeant Steele.*—When you got to the Sydney crossing, about a mile from the hut, Mrs. Jones's, did you enquire whether the police had passed through there?—No.

14014. Did you hear anyone make enquiries there?—No. I understood the police had passed through ahead of us.

14015. Do you recollect when I handed you the revolver making any remark about the revolver?—Yes; I remarked about it having "Sydney" on it, as if it belonged to New South Wales or something.

14016. *By the Commission.*—Where was Sergeant Steele when he said that?—He was over the body of Kelly.

14017. *By Sergeant Steele.*—Did you see me previous to my firing at Kelly?—I saw you coming towards him from the house when he was coming down the hill.

14018. At that time, did you see any constable in the act of rushing him?—No, certainly not, I saw Dowsett and Senior-Constable Kelly firing at him.

14019. But had they started to come from under their cover at the time I fired the last shot at Kelly and he dropped?—No, I should say not.

14020. Did you see Senior-Constable Kelly coming to my assistance after Ned Kelly had fallen?—Yes, he was up before me a long time.

14021. Had he his rifle in his hand?—I could not say, there were so many guns and rifles. I could not say who had a rifle and who not.

14022. Could you say from Ned Kelly's demeanour that he had been wounded previous to my shooting—did he appear like a man who had been disabled?—I knew he had been shot.

14023. But from his demeanour at the time would you say he was a wounded man then?—No, you could not tell. He tapped his armour on the breastplate, and said, "Come on, you dogs." You could not tell. I was some distance off.

14024. You were in company with the newspaper reporters, who gave very full evidence in this case?—They were along with us, and had not an opportunity of knowing as much about it as I had, because they did not know the men, though they could see as well as I could.

14025. It was daylight?—Yes, just dawn.

14026. *By the Commission.*—Did you see Senior-Constable Kelly at all?—Yes, he was firing. He and Dowsett were rather conspicuous.

14027. And Healey?—Yes.

14028. *By Sergeant Steele.*—I want you to do is to describe the direction from which Senior-Constable Kelly ran when Ned Kelly fell?—He was between the railway station and the hill down which Ned Kelly was coming, and you were between the house and the hill. Ned Kelly was coming down at an angle.

14029. Do you remember making any remark when you first ran up to me in reference to the capture of Ned Kelly?—No.

14030. Did you notice when you came up I was knocked down, and the other men rushed up—did you see me run down?—Yes, I saw you stumble.

14031. Did you hear me complain of being hurt?—Yes, you complained of having hurt yourself—your knee, I think, you said.

14032. Did you see the revolver by my side when I got up off the ground?—No.

14033. Did you hear me make any remark to you and Dr. Nicholson, and show you my hand where the mark of powder was on it?—Yes, you said the pistol had gone off in your hand.

14034. I said, "See where the wretch fired at my hand"?—Yes, you said it went off just as you got hold.

14035. Have you any recollection of a person putting his hand out to take the revolver, and I said, "Do not touch that, that is my property"?—No.

14036. Do you recollect my handing you the revolver to take care of it?—Yes. I have already said that.

14037. You remarked it was a New South Wales revolver?—Yes.

14038. Why did you say that?—Because I looked at the plate on the side; "New South Wales" was written on it, I think.

14039. What sort of revolver was it—a Webley or a Colt?—I would not be able to say. It was plated at the side.

*The witness withdrew.*

William Willis sworn and examined.

14040. *By the Commission.*—What are you?—A saddler at present.

14041. There has been evidence given in Beechworth that you told a certain party that you knew of the police being in Aaron Sherritt's hut?—Yes, I knew it well.

14042. Have you any objection to tell the Commission where you got the information?—I have. I was told as a friend, and the information was given to me in order to benefit me, because I had an order made by the bench.

14043. Would you have any objection to give it privately?—I would not like to, because I was requested not to, and it was on those grounds I received that information. Perhaps the police authorities are of opinion that it was a constable that gave me the information. Now, it was no constable.

14044. What did the party tell you?—An order was made by the bench that Sherritt was to get a month in Beechworth gaol if he did not pay me what he owed me. The order was forwarded by Mr. Langtree, my solicitor, to a man of the name of Phelan, to serve. He was dog officer at Beechworth.

14045. What did the person tell you then?—Phelan kept the order for about a fortnight or three weeks, and he said he had his son watching this Sherritt. When I was telling a friend of mine, who was asking if Sherritt had paid the amount, or if the order was served, I said, "No, Phelan has got the order"; and he said, "He will never serve the order, he is frightened. If you go up yourself, you need not be frightened to go to Sherritt's house, because he is well protected, and he will not do anything to you, inasmuch as he would be too frightened." He said there were four constables in the house, and that Sherritt did not go out only at night, and that I need not be frightened.

14046. Did he tell you from what source he got that information—whether he knew it of himself?—He knew it of himself. The party was a man who would not injure Sherritt, neither would he injure the police; and this was strictly private. It was known to no other person but himself and another, and they were all the members of his family. They were friends of the police and friends of Sherritt. I will go as far as to tell that.

14047. He said it was only known to another?—He did not tell me that; but I know it was to a member of his family.

14048. Did he lead you to understand that it was known outside at all?—No, he did not; but I went to Beechworth to serve this warrant on the Friday, and on the Saturday night Sherritt was shot. I would have been down on the Friday night, only Phelan had the order, and he was out of Beechworth.

14049. You did not see Sherritt at all till he was shot?—I did not; but I was speaking to a friend of mine in Beechworth, and telling him what I intended to do, and I said, "You had better keep this quiet." "Oh!" he said, "you need not be particular about it, it is well known to everyone in Beechworth the police have been there for weeks and weeks."

14050. Did you hear from any other source that it was known?—No. I thought it was strictly private, inasmuch as no one knew it from me except Constable Walsh, and I did not tell him who told me. I told him and Mr. Langtree, and my wife, and no other.

14051. From what your friend in Beechworth said you inferred it was generally known?—Yes, it was well known throughout Beechworth.

14052. Then you did not go down to serve the order at all?—Well, I went to see Senior-Constable Mullane, whom I have known for years, on Friday night, and I told him my errand, and he said he would have served it; and I said the police were protecting Sherritt, and would not do that part of the work.

14053. Did you tell him you knew?—I did not tell him I knew police were there, only some parties. He said he would attend to the order next week.

14054. Did he lead you to understand that he was surprised at your information?—No; but since he said he was surprised how I knew it. Do not go away with a false impression. The information was received by me from this party, who was a very near friend to the man who was shot, and also a friend to some members of the force, so far as the officers were concerned, and also a great enemy to some of the officers—one, I believe, who would do anything to injure some of the officers of the force. I got it from a reliable source; just the same as from Sherritt himself.

14055. Have you any objection to give the name of the gentleman on Beechworth who said it was generally known?—Well, I know he is a man who would not care to have his name brought forward. He is a man holding a very prominent position in Beechworth at the present time.

14056. *By Mr. Nicolson.*—Do you recollect writing me a letter in December last?—I do.

14057. And another in March?—Yes.

14058. Have you any objection to my handing those two letters to the Chairman?—No; if those letters are kept apart from some gentlemen in the room.—[*The same were handed to the Chairman, and perused by the Commission only.*]

14059. *By the Commission.*—Had you a daughter of Mrs. Sherritt's living with you at one time?—Yes, for eighteen months; and it was through her I allowed this brother of her's to get into my books.

14060. Was she living with you at the time Sherritt was shot?—No, she had left some time before; but a better girl never entered the house. She was different altogether from the brother. The brother used to

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come down sometimes to Benalla, and used to stop a day or two in the house, and put up his horse, and stick up everything in the house, and pay for nothing.

*The witness withdrew.*

*Sergeant Steele* produced the Occurrence Book of the station, showing the names of the constables and officers at the Wangaratta station on the dates referred to in the evidence.

Arthur Loftus Maud Steele further examined.

14061. *By the Commission.*—You desire to make some statement, we believe, with reference to the statement of Constables Phillips and Arthur. Did you make any exclamation at any time about having shot Mrs. Jones?—I never mentioned to Arthur, either directly or indirectly, or in his hearing, to my knowledge, of having fired at Mrs. Jones.

14062. Did you mention it to anybody?—Not that I am aware of. I merely made a remark it was a wonder that Mrs. Reardon was not shot in escaping from the house, because they were firing all round; but it was some time after that I said that.

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A.L.M. Steele,  
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14063. We refer to certain alleged words at the very time. You positively deny that you made those remarks?—I never made such a remark, and Constables Arthur and Phillips were some yards from me, and Constable Healy was lying beside Arthur, about sixty or seventy yards below me, on much lower ground, when Mrs. Reardon came out. I might state it is a well-known fact that Mrs. Jones had escaped from the hotel an hour or more before I went on the ground at all.

14064. You knew that?—Yes.

14065. What time did you get on the ground?—When I looked at my watch, when I got up to the tree, it was three minutes past five in the morning.

14066. Was your watch correct?—I think so. I have no reason to think otherwise.

14067. Did you take any note of the time you left Wangaratta?—I came up here, and it was a quarter to four when I ran in here from the telegraph office, and went out, jumped on my horse, and galloped as hard as I could to the place.

14068. How far, say?—I believe it is between nine or ten miles, going by the road.

14069. You have seen that book with reference to the number of police, and the horses, &c., at Wangaratta. You remember the 4th November 1878?—Yes.

14070. When you were passing through?—Yes.

14071. Do you remember being told then about the Kellys having gone under the railway bridge?—Yes. I made enquiries when I came up, and I asked if there was a constable, and Constable Twoomey told me there were five or six men here.

14072. Do you state now from the book the number of men that were on this station?—[*The witness examined the Occurrence Book of the station.*]—Six men, with Inspector Brook Smith, were here at that time.

14073. When the special train was passing through with you?—Yes.

14074. Were any of those men gone with the special train?—They remained on this station. The only one that left the station was Twoomey, whom I sent up to Mr. Smith from the police station.

14075. Were you aware, at this time, that Mr. Sadleir had this information?—I told him about it at Benalla. It was I heard of it first at Benalla, and I mentioned it to Mr. Sadleir, and he said, “If you like, the line is at your disposal. You can stop for an hour or an hour and a half; and if you think there is anything in that, send word to Brook Smith, and you go on and search the country up there.” And I carried out those instructions. Two of the men at the station were foot constables; but, at the same time, I might mention that the foot constables during that time were mounted. There was Armstrong and also Constable Twoomey. Another thing I wanted to point out, with reference to taking upon myself to part from Mr. Nicolson and Mr. Sadleir, when we were out in the Warby Ranges. We were on some tracks, down about on the flat country, near a splitter’s hut, and where there were some farms close by, and the blacks had been hunting up those tracks same time, but appeared to make nothing of it. It was then proposed by Inspector Smith and directed that good search should be made of a place called Hell Hole, a range between the Kangaroo Gap and Glenrowan. I, being acquainted with the country and knowing the spurs about there, led the way. My horse was faster, and I got a good way ahead of the others up this very steep spur; some of the men followed me. I heard the tramp of the horses coming, and I fully anticipated the whole of the party were coming up with me, following me up. We halted in a set-off on the spur, where there was some water, and had a drink, and I camped for half an hour, finding a good number of the others of the party, with Mr. Sadleir and Mr. Nicolson, were not coming. “coo-eed” and called for some time, and I did not know what had become of them. We came to the conclusion that they had taken the spur that branched off from this place into the gully, and that we would meet them on the table land above. I went round towards the head of this spur and “coo-eed,” and remained there for three-quarters of an hour, but evidently had lost them. I then took the men that were with me—I had thirteen or fourteen good men with me—and I searched the range, this place termed Hell Hole—it is better known as “Morgan’s Look-out”—and the falls at either side, up to Brien’s place, until sundown in the evening. I then started, and arrived at Wangaratta at eight at night. We were out from four in the morning until four or five, when we left here. That is the occasion on which it has been represented by Senior-

Constable Johnson that I took upon myself to abandon the others and go away myself. It was nothing of the sort.

14076. It was a case of missing each other?—Yes. I never took upon myself to go away; I would not think of going away without instructions from my superior officer.

14077. *By Mr. Sadleir.*—There was no design?—No, certainly not. Constable Johnson demurred at it.

14078. *By the Commission.*—Did Constable Johnson assign any reason for his having said this?—Yes; he said, “Steele, you beggar, you thought you would drop on them, and have all the credit yourself.”

14079. Did you expect to drop on them at any time?—I had no faith in it when the blacks seemed to make nothing of it. My impression was the outlaws had gone from there before.

*Mr. Sadleir.*—I had a conversation with Senior-Constable Johnson, about eighteen months ago, on this very subject. He seemed to be under the impression that Mr. Nicolson and myself had favored Sergeant Steele by sending him away with this party. I assured him that Sergeant Steele went away by mistake, just as he has described this moment, and there was no favor intended and no motive in his going, and it was a pure accident; and we sat on this gully, as Johnson knew, for I suppose an hour and a half, with luncheon saved for Sergeant Steele and his party, thinking they would come up at any moment, and then, finding there was no hope of rejoining him, and as we did not know the ranges ourselves, we found it was no use in going, and we returned.

*The Witness.*—I had men enough to take half-a-dozen gangs—the picked men of the whole party.

*Mr. Sadleir.*—It was one of those accidents that will happen in bush like that.

14080. *By Mr. Nicolson.*—You remember us coming to the end of the search?—Yes. The black trackers knocked about for some time, and could not make anything of it. There were footmarks in the grass—long grass.

14081. In whose hands was this search—who was in charge of the trackers and party of men—what officer or acting sub-officer?—There was a man there, I forget his name—a man named Cameron was in charge of the blacks. He understood their language, and he worked with them up the tracks, but they found nothing—they could not make anything of them after an hour or two hours’ search, and then we thought to go and search this place on the hills.

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14082. Was not Constable Johnson in charge of those men who were tracking in this party?—Yes, it was Johnson’s party. A.L.M. Steele,  
*continued,*

14083. And we went out with that party to enable them to satisfy themselves about the track?—Yes. 22nd July 1881.

14084. Were they allowed to complete their work?—No person interfered with them in any way.

14085. Was there any scrub there?—No scrub at all—some of that tufty grass—little bushes of that here and there through the place.

14086. Was there any indication or any expressed feeling to convey the idea that the offenders were thereabout?—Not a bit. Of course a great many of the men were sick and tired of waiting about that, thinking it ridiculous to look in such a low flat place, with farms about, for the men.

14087. Do you remember just before going through the bush they were leading us jumping a bush fence?—I do.

14088. Do you remember our running along a fence of sawn timber just close under the hill?—Yes.

14089. And there the fence ended?—Yes, and there was a gate.

14090. Was it near there they concluded their work—how far off from that?—I should think some distance. There was the mark of a horse going some distance outside the fences, but there was a lot of traffic there between the range and the farm.

14091. Two or three days previous to that a horse had been taken in?—Yes.

14092. How long had that horse been out?—He must have been out a good time. He was very poor, with raised scabs, as if after being driven hard and allowed to remain out in a shower of rain. The horse looked wretched when he was brought in.

14093. What was your opinion as to how long the horse had been cast off?—Three or four days, perhaps more.

14094. This search was subsequent?—Yes.

*Mr. Nicolson.*—I wish to state that this occurred on the 12th. I was at Barnawartha on the 23rd November, on the Murray, and I was on the return back from there and had been at Benalla. I came up from Benalla to Wangaratta. I have already stated in my evidence I found this search party had come in and been humbugged, as already described. I had information at this time, I believe, and I had it in my book, that the outlaws had abandoned the horses days previous to this.

14095. *By the Commission (to Mr. Nicolson).*—Is this the horse that Johnson referred to?

*Mr. Nicolson.*—Yes.

14096. When was this search made—was it after Johnson reported that Mr. Brook Smith would not follow on?—He had not reported that to me then. The men were in a state of considerable excitement about the matter, and to satisfy them and give them every chance possible, although I knew myself there was no chance of the Kellys being there, because I knew three days before the horses had been abandoned, still I

took them out, and we went in a large party, and took Sergeant Steele with a large party, to cover as much country as possible and to satisfy the men, and I allowed them to do whatever they liked, and they made nothing of it, as I expected. I never drew them away—there was nothing to draw them away. It was too late to do any good, the Kellys had passed there several days before. I can produce the informant that gave the information that the horses had been abandoned on the 9th.

14097. Was this before the black trackers came?—Yes.

14098. The trackers proved of no service to you on that occasion?—No.

*Mr. Nicolson.*—I do not believe they were acting under funk at all. I formed the opinion since then—nothing of the kind struck me.

*Mr. Saddleir.*—I saw the beaten tracks as plain as this carpet. They would not take them. They had us in the swamp before they could explain themselves.

*Sergeant Steele.*—I understand Mr. Brook Smith found those tracks the day before, and we went the following day, and he showed them to us. I wish to examine Mr. Saddleir now to corroborate my statement about shooting at the Glenrowan hotel. I mentioned to him at the time that I thought I had shot Byrne. It is a very serious charge for a man to say that I made use of language that I never heard or thought of. It is something preposterous. I was as cool as possible the whole of the time, and I never drew a revolver and caught hold of one of the men's revolvers who was going to shoot at Ned Kelly.

14099. *By the Commission.*—You fired at a man who you say was crawling on the ground?—Yes.

14100. We had about five or six witnesses who have all sworn that that young man was coming along with his hands up, and he turned round and ran back when he was threatened?—It was an utter impossibility—no one on the ground could say that except myself. If you knew the situation —

14101. We know the situation. The question is did that young man fall when you fired?—He did not.

14102. We have it in evidence from several that that young man was following his mother, leading the child, and that he had the other hand up, and when you cried out and threatened them he ran back, and then you shot him through the shoulder, and he fell at the door?—That is not true. I fired—I believe that is the man, but no person knew till I told Dr. Hutchison, and he elicited from him when he was shot. There is another man named Brady who was at the hospital who can corroborate this statement.

*The witness withdrew.*

*Adjourned to Thursday the 28th July, at Eleven o'clock, in Melbourne.*

POLICE.

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M. E. Ward, 28th July 1881.	<p style="text-align: center;">THURSDAY, 28<sup>TH</sup> JULY 1881.</p> <p style="text-align: center;"><i>Present:</i></p> <p style="text-align: center;">The Hon. F. LONGMORE, M.L.A., in the Chair; G. W. Hall, Esq., M.L.A.,   W. Anderson, Esq., M.L.A.</p> <p><i>The Chairman</i> read the evidence of Mrs. Barry and Mrs. Sherritt, junior, taken privately at Beechworth.</p> <p><i>The Chairman</i> also read the following declaration made by Constable Alexander at the request of the Commission:—"I, Robert Alexander, of Glenrowan, in the colony of Victoria, make oath and say: 1st. That about ten minutes after the second shot was fired by the outlaws at Sherritt's hut I saw Constables Armstrong and Dowling partly under the bed, lying on their chests. Constable Duross was sitting at the end of the bedroom near the bed. I do not know who put the women under the bed. 2nd. Dan Kelly did not come into the sitting-room; had he done so, I must have seen him or heard his footsteps.</p> <p style="text-align: center;">—ROBERT ALEXANDER, M.C., 2755."</p> <p style="text-align: center;">Michael Edward Ward further examined.</p> <p>14103. <i>By the Commission.</i>—You remember asking for a report from the constables who were in the cave, known as Mr. Nicolson's cave party?—I sent a telegram for that.</p> <p>14104. That was from the whole eight that were there?—From the whole.</p> <p>14105. What induced you to adopt that unusual practice?—On account of the time I had arrived and the time the train would start.</p> <p>14106. No, I mean what induced you to adopt that unusual practice of asking constables on duty to send in a report?—They were not on that duty then; it was after the duty was over.</p> <p>14107. I will put it another way. Is it usual when constables have been on duty to ask them to send in a report that is to be filed in the office?—No; if I had been at home, I would not have asked them for a report; I could take their names then and submit them myself.</p> <p>14108. Then it was because they were there in your absence, performing a duty, that you asked them for a report?—Yes, knowing they were about to return to their stations on that day, and that I would not have an opportunity of seeing each of them, nor time to speak to them.</p>

	<p>14109. I think we have it in evidence that you said it was for the purpose of getting a good entry on their record sheet?—Yes; all that was some time before the affair at Aaron Sherritt’s hut.</p> <p>14110. Were you led to understand by anything that occurred that it might possibly be known that the men were in the cave?—I was not. Had I been led to believe, or informed of anything of that, I should have immediately communicated with the officer, and had them withdrawn. I might state that I tested it in every way I could. Having asked Mr. Nicolson, I got a man from Benalla to come up, who was directed to proceed to Eldorado, Woolshed, Sebastopol, and Reed’s Creek, and try and find out if any of the outlaws or their friends knew what the opinion of the people was. The man did not know that the police were out.</p> <p>14111. He went out to find out if they understood that there was any plan laid for their capture?—Yes.</p> <p>14112. Without his knowing of the cave party at all?—Yes, without his knowing of the cave party at all; and after staying a few days at Mrs. Chappell’s, who lives opposite Joe Byrne’s mother’s place, he ascertained from Mrs. Chappell that the Kellys were still in the country, that they were going to do something good, that Mrs. Byrne’s people were in great joy—they were not one bit frightened of being caught—that the outlaws would astonish the world the next thing they would do.</p> <p>14113. When you called upon Constable Barry for his report he gave you a certain report?—Which report would that refer to?</p> <p>14114. April 2nd—there are three reports?—I was not at home when the two first reports or the memorandum that is on that was put on. I was in Benalla then.</p> <p>14115. Did you tell Barry that report would do?—I went up to the room and I said, “This is not the report that I require; I simply want the names of the men and the time they were employed on the secret duty, and how they performed it, as Mr. Nicolson will put a favorable entry on your sheet.”</p> <p>14116. Did Mr. Nicolson desire that report?—He did not ask for the report; he told me to submit the men’s names, and I was not able to do so without calling upon them or seeing them, and I was frightened they would have left before I got back.</p> <p>14117. Did you see Constable Barry’s second report?—Yes; I saw the first and second.</p> <p>14118. And told him those were not the reports required?—Yes; and also Barry said, “Why did not Mullane tell us that, instead of putting this memo. on? Had he told us what he wanted at first, we would have given him it.”</p> <p>14119. Did you ever tell a superior officer that Barry reported that he believed it was known the were in the cave?—No.</p> <p>14120. How do you reconcile that with your report that you sent in here?—“I am pleased to be able to state that the conduct of the constables has been everything that could be desired for care and secrecy; they performed their duty to the satisfaction of the men placed in charge of them from time time. * * * They willingly obeyed all orders given by me by the instructions of the Assistant Commissioner; and although the duty has been very severe, their disposition was good, as they were in great hopes of being successful, although it has been a failure”?—They always were careful.</p> <p>14121. But then it came to your knowledge that one of those men said that he believed that their presence was known?—Yes, in that report.</p> <p>14122. He stated in his report, “But Mrs. Sherritt, senior, has made statements to me, which I afterwards reported to Detective Ward, which would lead me to believe that the Byrne family were aware of our presence”?—But he never did make any statements to me; he never told me that; had he done so, I would have reported it at the time.</p> <p>14123. You swear he never told you that?—He never told me anything about Mrs. Byrne; he only told me that Aaron Sherritt was absent on two nights. I then wrote him a letter, which letter he afterwards produced. Barry was never supposed to see Mrs. Sherritt.</p>
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14124. Have you any idea what could have induced Senior-Constable Mullane to have written this—”I have called on Constable Barry, 2710, for a report relative to how the special duty at Sebastopol was performed, and whether it came to his knowledge that the Byrnes, or any of the friends of the outlaws, were aware of the presence of the police at Sebastopol”?—I have not; for I told Mullane in the office, when I came home, had he attended to my telegram and spoken to Constable Hagger, he would have told him what was required.

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*continued,*  
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14125. We want this cleared up, because I may tell you it has a very ugly face upon it?—Well, I am willing to do anything I possibly can in the world; I am telling you the truth, and am not frightened of any man for the truth.

14126. The simple thing is, on this 2nd of April 1880, you had a report in your possession which states it was the belief of the man who made the report that their presence was known, and you say nothing whatever of that to your superior officer; how do you account for that?—Well, I did not see my superior officer again, as Mr. Nicolson was away, I think, on the 3rd.

14127. But how could you refuse his report when he said that?—I did not refuse it; he took it back.

14128. Of course, at your instance?—The moment I told him what was wanting, he said, “Give me that back, and I will make another report.”

14129. He made a report that did not suit the view you had at the time?—It did not suit Mullane.

14130. It did not suit your own view; did you see both reports?—I saw both reports.

14131. And you told him those were not what were wanted at all?—Yes.

14132. Having had that information before you, and having seen that Mullane asked him for a certain thing, which he did not give, in his third report it must have come fully to your knowledge that that man i it was known they were there?—Well, my reason

14133. It must have been then in your knowledge that the man believed it was known he was in the cave with the party??—If the six said that it was known they were in the cave, I would not believe it, with the strict enquiry I had made myself.

14134. Barry, in his evidence, said, “I handed that to Detective Ward on receiving the others back. 7537. Did he wait while you wrote that?—He asked me to write it. 7538. Did he wait while you wrote it?—I wrote it in the barrack-room, and met him that evening and gave it to him, or the next morning, in the street. 7539. Did he dictate something like the wording of the report that would be acceptable to him?—He gave an idea of what should he said, but did not dictate it?”—I said, as I say now, what was required was the names of the men, the time they were engaged, and how they performed their duty, as Mr. Nicolson would put a favorable entry on their sheet. I then walked out of the barrack-room to the office. I did not say I would not accept it; I said that was what was required.

14135. But you refused the other because certain matter was in it?—I took it back to Mullane and showed him the mistake.

14136. You handed back the report?—I handed back the report, because he asked for it.

14137. You told him what you wanted, and he prepared another report?—Yes.

14138. How do you account for the fact that you gave him back the report, the first report that he wrote, saying that would not do, and the second you returned saying that would not do, and you told him how to write the third report—according to your own statement;—how do you account for having all that knowledge before you in writing, and not allowing your superior officer to know it?—From the time I received this from Mullane I walked to the barrack-room and told Barry what I wanted, and he then said, “Why did not Mullane tell us that?”

14139. But here is the point—you forgot to give in that report?—He asked that back from me.

14140. What right had you to give it to him—that was his report?—I do not know what right I had, but I did not call for the report; it was Mullane.

14141. You have reported favorably upon the whole of that arrangement. A constable who was in the cave doing duty there says he believes it was well known they were there, and you did not send it in?—Why did not he report it to me—the cave party was over?

14142. Why did you not report it to your superior officer when he gave it?—Because I thought it was in consequence of a row between Barry, Mullane, and Falkiner, and having the reports of five other men, men who were in charge, whom I placed implicit confidence in, it was their duty to always report the moment it became known.

14143. You sent in this report after you had this No. 2 report of Barry’s in your hand?—Yes.

14144. Which says he believed it was known he was there. You asked him to provide another report, which he did, and then you sent in a report in which you say, “Constables Hagger, Alexander, Armstrong, and Barry performed their duty to the satisfaction of the men placed in charge of them, and willingly obeyed all orders given by me by instructions of the Assistant Commissioner,” and so on. Those reports were not attached?—Those were not; they were in Barry’s pocket.

14145. Barry gave those, and you said they would not do?—He gave them to Mullane, and he gave them to me, and I returned them to him when he asked me.

14146. After having seen that, and decided that that report could not go in, you furnish this report, leading the Assistant Commissioner of Police to understand that everything had gone right?—That report is correctly true, as far as they were concerned; they did everything I asked them to do they told me they carried out the orders given; if they did not do it, they should report to me.

14147. Then we come to the one simple question, and the answer must be simple, that you were aware those men believed that it was known they were in the cave, and you did not report?—No, I did not report that.

14148. Were you aware it was reported at the depot, or known at the depot, that the presence of those men was known in that district?—I heard so.

14149. When?—I could not say what time, but I heard it.

14150. Do you remember how you heard it?—I could not tell how, but I remember I heard it.

14151. You cannot remember whether it was during the currency of the cave party, or after it was broken up?—I could not tell which. I know it was spoken of to me at Wangaratta before that, and I sent in a report and had it investigated. Steele said to me, “The men are having a severe time in the cave.”

that everything has been done to your satisfaction, and you have the information before you, in your own hands, that it is believed the party were known to be there?—It was broken up then. They never said this until the party was broken up. What was the use of my having men there if they knew this, and did not come and tell me until the row commences between the non-commissioned officer and two men? Those constables themselves will tell you that it was Mullane that did all, and not me.

14154. What do you mean by doing all?—The way he asked for the reports, and the crossness, and the animus he always displayed towards them.

14155. We have no writing to show what Mullane was to ask for?—Where is my telegram? My telegram does not in any way direct Mullane to put any memo, like that on.

14156. On the first report Mullane puts this memo: “I have called on Constable Barry, 2710, for a report relative to how the special duty at Sebastopol was performed, and whether it came to his knowledge that the Byrnes, or any of the friends of the outlaws, were aware of the presence of the police at Sebastopol.” That brings out a second report from Barry. Barry’s first report says he does not know what to report. The second report is “But as to whether the friends of the outlaws were aware of our presence there, I am not in a position to state positively, as I never had an opportunity of going among them to enquire; but Mrs. Sherritt, senior, has made statements to me, which I afterwards reported to Detective Ward, which would lead me to believe that the Byrne family were aware of our presence?”—He did not do that to me.

14157. The simple point is this, that that report was given to you, and you would not accept it, and you failed to let your superior officer know that such a report had been given to you, and let him remain in ignorance that one of the party there, at all events, considered that their presence was known?—But I knew that he did not speak to me. If you will please look at my telegram, you will see that my telegram in no way authorizes Mullan in any way to call for this.

14158. Your telegram runs:—“Call on the special-duty men for separate reports as to the nature of their duty. Hagger knows what to say.” Armstrong, in his evidence, said that you instructed him not to appoint a sentry at Sherritt’s hut?—They could not have a sentry; they were supposed to be inside all day.

14159. It was you who gave the instructions to them?—Yes.

14160. What were they?—My instructions to Armstrong were to go to this hut, to secrete themselves there in the room during the day, and between eight and nine o’clock at night to go down to Mrs. Byrne’s house, and there watch till a little before daylight in the morning; to be back in the hut before daylight, and to keep themselves quiet during the day. I bought calico for the door and blinds for the window, in order to have them not seen.

14161. They were by no means to leave the house during the day?—By no means to leave the house during the day. There were only three sent first, and Mr. Hare sent a telegram to me to say, “I am frightened three men is not enough; it is not safe; send one immediately; I will send you a man as soon as I can,” and I did so.

14162. You were not aware that the men left the hut at any time during the day?—No.

14163. You have heard it since?—Yes. I would not have had them do it for anything, the place was so open; and if I went down there, everybody knew Ward. I might tell you that on one occasion I was going down there Mr. Hare put me in the boot of the buggy while I was going there. I was so well known that I had to be always doing my work by night. I might tell you also that Comyn and Ryan, two constables I had sent out to watch Aaron Sherritt’s hut some time before, when I went to see them one night, told me their presence was known. I directed them to return at once on the next evening and inform Mr. Hare. That would show I would not keep the men if I knew there was anything known. This was on a former occasion, some eighteen months previously.

14164. By Mr. Nicolson.—Aaron Sherritt was absent about two nights you say—was that on the occasion of his marriage?—Yes.

14165. And you said you replied to Barry by letter?—Yes.

14166. Will you shortly relate to the Commission about the trouble the police had—you and Mullane—with reference to Aaron about the time of his marriage?—At that time we had a great difficulty to contend with, on account of Aaron Sherritt getting married to a Roman Catholic girl against the will of the parents.

14167. Did that interfere very much with other arrangements?—It did.

14168. Is that the matter that is referred to in Barry’s letter?—Yes.

14169. *By the Commission.*—Is that what Barry refers to when he says, “From the conversation of Mrs. Sherritt”?—No, that refers to one occasion. I took a copy of Barry’s letter.

14170. *By Mr. Nicolson.*—Do you remember Aaron Sherritt being brought in by you to see me?—I do.

14171. From what was said to him, did he settle down to his work shortly afterwards?—Yes.

14172. And lived with his wife—he had been apart from her for a few days?—Yes.

14173. Following on that was there any jealousy between his father and mother and brother and himself?—There was a great jealousy.

14174. What was the cause of that jealousy?—The marriage of the son to a Roman Catholic.

14175. The immediate cause—was there anything about the earning of the reward?—Jack Sherritt said that we thought too much of Aaron, and that Aaron would get all the reward, and he would not get any.

14176. Were you aware that Mrs. Sherritt, senior, ever told Barry anything?—No.

14177. Did Mrs. Sherritt, senior, ever deny that?—Yes, she said she never spoke to Barry; she said that in her evidence.

14178. Now are you aware that occasionally, from almost the first week that the men were stationed at the cave, there were little grumbings?—Many grumbings amongst themselves.

14179. I mean about the work, and so on?—Yes.

14180. That was a part of the work you and Mullane had to perform, to keep them at the work, and keep them from becoming discontented?—Yes; I must say the work was very severe on the men.

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14181. Have you reason to believe that the cave party were discovered before the police were withdrawn?—In my opinion, from what I heard since, I believe it was never discovered by the friends of the outlaws until after the police were withdrawn. M. E. Ward,  
*continued,*  
28th July 1881.

14182. *By the Commission.*—Upon what do you found that opinion?—Upon what happened after—what came to my knowledge after the cave party was withdrawn, from enquiries made. I made several enquiries; in fact, the schoolmaster on the Woolshed said to me, “Ward, if you place confidence in me, I could do some good for you.” I said, “What do you mean?” He said, “In having those police watching.” I said, “You would be the wrong man for me to place confidence in.”

14183. *By the Commission.*—This man was a sympathizer with the Kellys?—Yes.

14184. His answer would lead you to believe that he knew nothing about the police being there watching?—Yes.

14185. *By Mr. Nicolson.*—According to your knowledge, did the Chappells know nothing about it?—I could not say. I never went there after I found him out in betraying me in something else.

14186. You had enquiries made all round the area?—I had careful enquiries made.

14187. One of the constables, I forget whether it was Barry or Falkiner, alluded to a child passing backwards and forwards between the Sherritt’s and Byrne’s; what girl was that?—Ann Jane Sherritt, by my instructions, going to Mrs. Byrne’s.

14188. What is the character of this girl with reference to secrecy and cunning?—She is a secret, cunning, good girl, and I have proved her to be that.

14189. Did you on more than one occasion ask me to have an interview with her to see what extraordinary secrecy and acuteness she possessed?—I did repeatedly; I proved her to be true to me.

14190. Did not the safety and lives of the Sherritts depend upon the secrecy observed?—Most undoubtedly so. On one occasion Ann Jane Sherritt said she received a letter from Mrs. Byrne to go and see her, and Mrs. Byrne told her then that Joe Byrne and Dan Kelly called at the Black Dog Creek. Joe Byrne gave a letter to Mrs. Byron to deliver it to Mrs. Byrne. Mrs. Byron, not being on good terms with Mrs. Byrne, she sent the letter by her husband to Batchelor, who lives next door to Byrne, which he delivered to Mrs. Byrne. We had enquiries made, and found that Byron was at Batchelor’s just about the time, and that is how I proved her to be true to me.

14191. You have other proof besides that?—Many others, but that is one fact. The day after I was examined in Beechworth I saw Mrs. Barry. She told me that she was in the hut on the night that Mr. Hare and I visited there, that the constables accused me of telling them to tell a falsehood. I do not remember seeing her there.

14192. The Chairman.—She said she heard whispering, but did not know what it was.

*The witness withdrew.*

*Adjourned to Tuesday next at Eleven o’clock.*

TUESDAY, 2ND AUGUST 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

E. J. Dixon, Esq., J.P.,

G. W. Hall, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.,

W. Anderson, Esq., M.L.A.,

Hon. J. H. Graves, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.

Frederick Alfred Winch sworn and examined.

*[The room was cleared.]*

14193. *By the Commission.*—What position do you occupy in the police?—Superintendent of police. I am the senior superintendent in the force. F.A. Winch,  
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14194. In charge of the Melbourne and Bourke district?—Yes.

14195. We have had certain statements made by Captain Standish and by other officers of the police speaking slightly of certain officers, showing there was a disagreement in the force between the officers?—Yes.

14196. And we would like to know if you have any information to give the Commission on that point?—As to the want of harmony or otherwise between the officers?

14197. Yes—are you aware that it existed?—I am quite well aware that it has existed for some time past.

14198. Are you aware when it commenced?—I think it has existed now for some years past.

14199. Can you give about the time?—I cannot say exactly how long, but it has been quite patent to me and other officers that there has been a want of harmony existing for a considerable time.

14200. Cannot you say how long—was it two, three, four, five, six, or ten years?—I should say for the last four or five years at least.

14201. Have you any idea of what first led to that want of harmony?—Well, my impression is that it was brought about owing to Captain Standish's action in extending so much favor and consideration towards one officer in particular.

14202. You had better name the officer—in fact it will be necessary for you to name him?—I have no hesitation in naming him. I mean Mr. Hare.

14203. Have you any idea how it exhibited itself in the first instance?—It seemed to me that whenever there was any particular duty to be performed which would bring an officer to the front, Mr. Hare was invariably selected over the heads of others, his seniors, who ought to have been called upon to do that which he was detailed for.

14204. Could you specify any of these?—I can. One case was in the matter of Power the bushranger to begin with, and subsequently in the matter of the Kellys.

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14205. In the matter of Power I think Mr. Nicolson has given evidence that as senior officer he went up to the hut?—Yes.

14206. And he asserted his right when he was on the ground?—So I have always heard.

14207. Had Captain Standish taken that right from him by any overt act before they went up?— I cannot say; I was not in Melbourne at the time; I was at Castlemaine. What I mean to say is, that the selection of a particular officer for a duty of that sort, which, if carried out successfully, must give that particular officer kudos, was not fair to his superior officer, who ought to have been selected for it.

14208. We must have something more than mere feeling. How do you arrive at that opinion that Captain Standish specially favored Mr. Hare in this particular business?—As a matter of fact he was selected for it; that is all I know.

14209. And as a matter of practice do you say that Mr. Nicolson should have been chosen for the duty?—I think so. Certainly he was a senior officer, and should take precedence over a junior in a matter of that sort; and he is a man of great experience in such matters, and a man of indomitable pluck, as I know.

14210. We have plenty of evidence, and this feeling exists very strongly?—Very strongly.

14211. Can you give us any evidence of Mr. Hare's conduct as to whether he, on his own behalf, did anything unfair in the matter to get himself selected?—Certainly not to my knowledge.

14212. Are you aware whether Mr. Hare ever prompted, or used any influence with Captain Standish that would be to the detriment of other officers?—I cannot say that.

14213. Or on any occasion interfered with the discipline of the force?—I cannot say that either. Mr. Hare is not recognised as the head of the department, but it was pretty well known that very little was done in respect to the department without consulting Mr. Hare, and the officers generally looked upon it that he really had more to do with the whole conduct of the force than Captain Standish. That was the general feeling of the officers through the force.

14214. In point of fact the feeling through the force was that Mr. Hare was really the moving Acting Commissioner of Police?—Yes.

14215. And in consequence of that was there a feeling against Mr. Hare?—There was no doubt a feeling of jealousy amongst other officers, senior and junior to him, that he had too much voice in the general control of police affairs.

14216. Then this feeling has gone further than as between Mr. Nicolson and Mr. Hare. It has been participated in by other officers?—I think so. That has been the feeling generally.

14217. Did that feeling go downwards in the force, are you aware—that is, were there men in the police force who seemed to take sides—that is, the constables?—I do not know; I never heard an expression of opinion from any constable or subordinate on that point. That would not be likely to come to me.

14218. Do you think that, in the position that Mr. Hare then occupied, being, as you suppose, the favorite of the Chief Commissioner, he did more or less than you would have done had you been similarly circumstanced?—I cannot say. That is a hypothetical case. I do not see how I could answer that.

14219. Did he do more than you would have done if you had been brought into a similar position with Captain Standish?—I cannot say that. If Captain Standish had taken me into his confidence in the same way as he did Mr. Hare, no doubt I should have given the best advice I possibly could, and done the best I could for the service generally.

14220. Are you aware of any instance where Mr. Hare had shown any superiority in his judgment that would lead him to be looked up to as being worthy of more confidence than the others?—Certainly not. There are officers in the force who have done a great deal more than Mr. Hare ever did—much more duty, and more important duty, in respect to the capture of bushrangers and others.

14221. Then the feeling in the force is that the chance of promotion was interfered with by this apparent favoritism to one officer?—Yes, and my opinion has been much strengthened by the evidence given before this Commission, by which it appears that Captain Standish had proposed Mr. Hare to be the

Commissioner in his place, if anything happened to him; so that, in fact, Mr. Hare carried in his pocket the Chief Commissionership.

14222. That led to the disaffection that has existed since that period?—Yes. I felt it, as the senior officer of the force next to the Commissioner, that he was chosen in this matter of the Kelly business to be sent up there over my head, because, I unhesitatingly say, when Mr. Nicolson was recalled I anticipated that I should be the officer sent, instead of which Mr. Hare was sent up; and I believe positively that Captain Standish intended all along that, if possible, Mr. Hare should be at the capture of those men. I think, in that aspect of the thing, I was treated very unfairly in the matter, because I have been twenty nine years in the police force now, and have captured bushrangers personally over and over again, and have had great experience in the early days of the goldfields in such matters, and I could not make out how I was passed over in that way. I felt it a great grievance.

14223. Was that a general feeling?—Well, I know all the other officers expressed their great astonishment at the way I was treated in the matter.

14224. Would the fact of that jealousy existing, and Mr. Hare being placed in the position you have described, have a tendency to prevent him from obtaining information he might otherwise have obtained from officers subordinate to himself?—I do not think that. I can say this, that, although I was senior to Mr. Hare by many years, although I felt aggrieved that he was sent there instead of my being sent, still I obtained valuable information in Melbourne here, every part of which I at once furnished him with.

14225. Then what you say is meant to be a reflection only upon the Chief Commissioner, and not in any way upon the fitness of Mr. Hare?—Not at all.

14226. You do not wish to reflect upon him?—Not in the least; but I think I may say, without egotism, that I am not only just as good as he, but also, I have had greater experience in such matters.

14227. But it is the case that it had a bad effect upon the three generally?—Yes, it simply amounts to this—if anybody was captured this officer would naturally get great credit for it, and possibly advancement; therefore, if the officer senior to him is debarred from distinguishing himself in that way, it is unfair, and I consider they dealt with me in that way unfairly.

14228. You are aware that there was a superintendent in the North-Eastern district—Mr. Sadleir?—Yes, I know Mr. Sadleir; he was a subaltern of mine for a long time.

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14229. Has any reason come under your notice why he was not entrusted with the capture of the outlaws in that district?—No, I have heard no reason; all I know is he was superseded.

14230. He was not exactly superseded, for he was acting with that officer?—But he was acting under the control of the officer sent up.

14231. He was not consulted officially?—No.

14232. Are you aware that Mr. Nicolson was visiting superintendent of the different districts?—Yes, and he was the Assistant Commissioner of Police. His old title was the Inspecting Superintendent, and that was altered afterwards to the Assistant Commissioner. He was supposed to visit the districts throughout the whole colony, and report on everything.

14233. Was he ever interfered with in that duty by any police officer?—Not that I am aware of.

14234. Was he at any time, to your knowledge, recalled from any district that he had gone to inspect, and without any reason assigned?—I am not aware of that. He was recalled from Benalla over the Kelly business, but as to the other times I do not know.

14235. Do you know if there was any dispute at all at the time of the capture of Power as to who should be entitled to the precedence on account of that—the credit of that?—Yes, I heard so. I do not know for a fact, but I always heard there was a difference of opinion between Mr. Hare and Mr. Nicolson on that point.

14236. Mr. Hare claimed it?—Yes, he has claimed it; but, to my mind, there is very little praise due to either in the matter, for Power was betrayed into their hands. Those gentlemen were led to the spot where he was lying, and they had merely to rush on him. There was no particular acumen displayed, and no special danger at all.

14237. No skill whatever?—Not the slightest. I do not think there was the slightest praise due to either for it.

14238. The statement about the favoritism was in consequence of favoritism in the Power and Kelly business?—In the Kelly business. Mr. Nicolson was first sent up; he was recalled, having failed to do anything apparently. After that Captain Standish went up himself, taking with him Mr. Hare. After wards, when Captain Standish and Mr. Hare came back, Mr. Nicolson was again sent up; Mr. Nicolson was then, after a time, recalled, and then to my astonishment Mr. Hare was again selected and sent up.

14239. Which you considered unfair?—I considered that it was a slight upon me as a senior officer, and entitled to anything of that sort. I was never consulted in any way. I should have thought, as in the army and other services, there would have been a sort of council of war held, and the old officers with great experience consulted as to what should be done. That was not done. I was never consulted in the slightest degree. I was ignored and passed over throughout the whole proceedings.

14240. Have you anything to do with the detectives?—No. I am the senior officer in the department

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next to the chief. I am next to Mr. Nicolson. I joined the force on the 6th September 1852, nearly twenty-nine years ago.

14241. Are you senior to Mr. Nicolson?—No, he is senior to me.

14242. Then your feeling in the Kelly business was this, that without expressing any opinion as to whether it was wise to withdraw Mr. Nicolson, you say that, instead of Mr. Hare being sent at that time, if any other officer was sent you should have been?—I think I should have been sent to begin with, and if not I, Mr. Chomley, who is next to me, ought to have been sent. I do not see why Mr. Hare, having failed the first time, should again have been selected for this duty.

14243. Did you join as a cadet?—I did. I was a cadet from September the 6th until the beginning of November, when I was appointed as a lieutenant of the mounted police.

14244. Did Mr. Hare join as a cadet?—I think not.

14245. One return shows Mr. Nicolson having joined on the 1st December 1852 as a cadet, is that senior to you?—That is junior to me.

14246. If Mr. Nicolson joined as a cadet on the 1st December 1852, would he be junior or senior to you?—Junior of course in service.

14247. According to the last estimates of Acting Chief Commissioner Nicolson you were the second then?—Yes.

14248. And you are the senior officer now in the service doing duty?—I am the senior officer of the whole department.

14249. Was Mr. Nicolson promoted before you?—He had charge of the detective department, and it was a separate branch altogether, and he got pushed on in that department, and was promoted to the rank of superintendent, I apprehend, before I was.

14250. You were senior to him in joining the service?—Yes, by some three months. I am senior to Mr. Chomley by some two years in our present rank, and yet he is placed over my head. He is Acting Chief Commissioner and I am still superintendent. He got his present rank—that of superintendent—two years after I did.

14251. Are you aware whether this system of favoritism on the part of Captain Standish has obtained towards others besides towards Mr. Hare?—I am not.

14252. In the question of the minor appointments and promotions?—I could not say that. I do not know anything about that.

14253. Your attention has been drawn to this more particularly in consequence of his being your junior?—Yes.

14254. Has Mr. Hare performed any actions in the shape of encounters with bushrangers?—None that I am aware of. The only thing I am aware of is what he said himself, that he captured some intended burglar or another at Benalla, and he intended to throw somebody overboard if he had come there, but he did not come. I do not know what he has done to be chosen over the heads of men who have done that sort of duty over and over again.

14255. You do not know anything in which he has specially signalized himself?—No. It is not a graceful thing to blow one's own trumpet, but I could point out where I have done those things over and over again.

14256. Has it come to your knowledge that Mr. Hare has used his influence with Captain Standish in any way for his own benefit or the benefit of his friends?—No.

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14257. Not to the detriment of any others?—No. As far as I am concerned I am friendly with them all, excepting Captain Standish. When he was up the country we were very good friends, and he returned. He then thought fit to slight me in the most marked manner, and I wanted to know what was the meaning of it, and he said he had been told something that I had been saying about him, and that in consequence our friendly feeling must cease; and I asked him who was his informant, and he would not say; so I said, "Very well; if you will not give the authority for this statement I cannot help it." But he subsequently said to me that he believed he had been misinformed, and he hoped we would shake hands and be the same as before, and I said, "All right." I was glad he had come to his right mind again.

14258. Do you think this points to the desirability of not allowing so much power to be exercised by one man as commissioner of police?—Yes. If I had my way in the matter I should have a chief commissioner and two assistant commissioners.

14259. To consult over matters generally?—Yes; there would be a check then upon any desire on the part of any one individual to do a wrong to any other person.

14260. To consult as a board?—Yes; I would have a chief commissioner and one assistant commissioner in charge of the metropolitan force—as I am at present—and the other assistant commissioner should travel. They might take it in turns to travel. The great fault now in the police force is there is no one to supervise the districts. I would recommend one to supervise the metropolitan district and the other to travel. They might take this six months about.

14261. But that all appointments should be made by the united three?—Yes, exactly. They should meet and determine any important matter of policy dealt with by the department; not one person to do it

alone.

14262. You mean promotions?—Yes, promotions; and formations of new stations, and generally anything that might crop up.

14263. And appeals against punishments?—Exactly.

14264. And consultations about such matters as this last Kelly outbreak?—Yes; I think there was a great want of caution and judgment shown there in not consulting with officers who had long and large experience in matters of that description.

14265. You are under the impression that if, during the Kelly business, the Chief Commissioner and the two next junior to him had been consulted, a better state of things would have been brought about?—I am sure of it. I do not think that Captain Standish has the slightest knowledge of police affairs at all. He is a capital fellow in his office, but as to actual police work he knows nothing about it at all.

14266. Might not that want of police knowledge and the favoritism you have spoken of have been the cause of a great deal of the trouble in the force at the present time?—I think so, certainly.

14267. Are you on good terms with all your brother officers?—I am on the most cordial terms; I never had a quarrel with any of them, from the highest to the lowest.

14268. Do you consider such a state as that—mutual good feeling between the officers—indispensable for the public service?—Most indispensable. I think without harmony and brotherly feeling between each other the public service must suffer.

14269. Do you think the want of that during the Kelly outbreak prevented the ends of justice being met earlier?—I think it very materially affected it, but it seemed to me to begin about the Kellys; there was a great deal too much fuss about them. Had there been the go and dash about the police that there was in the early days, the thing would not have lasted any time. I know in my day they would just have sent us out and told us to bring them back, and we would have done it.

14270. Told you to make those men amenable to justice, and held you responsible?—Yes; we turned out at once, day or night, and in nine times out of ten we used to bring the offenders back. I could not understand this shifting the head-quarters and taking troops up and all that sort of thing; it astonished me. I understand that this evidence of mine is not going to be published, because it would place me in a very unpleasant position, having to speak of my late commanding officer.

*[Commission directed that the evidence should be printed in the usual course.]*

14271. Have you any instances in which you consider Captain Standish set you aside when you thought you should have been employed?—Yes, there is Weiberg's case.

14272. Did you give Captain Standish information about Weiberg?—Yes, most reliable information

14273. How did you come to be in the Gippsland district at the time?—I was on leave of absence at that time with Mr. Kabat.

14274. Who was the superintendent in that district?—Mr. Kabat.

14275. Were you acting in concert with Mr. Kabat?—I was.

14276. How did Captain Standish treat your information?—He treated it by telling me to come to town to see him. I telegraphed to him the information. I said that I had accurate information, and preposed getting a warrant for the arrest of the man Weiberg.

14277. Did Captain Standish assign any reason for not giving you the opportunity of arresting Weiberg in company with Mr. Kabat?—I first of all telegraphed that I had this information, and then received the reply that if I did go and arrest this man it would interfere with steps that he was taking in respect to Weiberg, and he directed me then to go down to town and see him.

14278. Did he consult you before he took any steps?—I went to town and saw him the first of all, and, having written to him on the subject, and then he got from me all the information I possessed, and a portrait of the criminal and other information, and having done that I returned to Gippsland to my leave, but I was directed positively not to take any further action in the matter, and subsequently Mr. Secretan was sent a day or two afterwards, I think, with some others, and they met Weiberg on the road and arrested him.

14279. They did not get the money?—No.

14280. You consider that, in justice to you, you should have been allowed, as the senior officer, to go?—I do. I think, in the first instance, from the information which I had, and from my request, I ought to have been allowed to go there and then from Sale, where I was, without coming to Melbourne at all.

14281. Supposing that the Chief Commissioner, on receiving that letter from you, felt that the officer in charge of the district was responsible for the detection of crime and arrest of criminals, he would have left it to Mr. Kabat?—Yes.

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14282. But he was passed over also?—Yes, but in my action I was in consultation with Mr. Kabat all the time, as we were to go together.

14283. You agreed that you and Mr. Kabat should take equal action?—I did nothing without consulting him. I was in his district.

14284. If the officer is in charge of the district and responsible for the detection of crime and apprehension of criminals, if another officer is sent to discharge those duties, does it not really override his authority and supersede him?—It does. It is a cruel thing done to any officer. Either he is fit or unfit—I think

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it is most unfair. Mr. Kabat is capable of performing any duty that might devolve on any officer.

14285. In the Benalla district Mr. Sadleir was the superintendent and Mr. Hare was a superintendent, and, if any officer was sent into that district over Mr. Sadleir's head, it superseded him in the performance of duties devolving on him by law?—Yes.

14286. Do you know the duties of inspecting superintendent?—Yes.

14287. What are they?—To visit and inspect the different districts throughout the colony, to carefully supervise everything, and report upon it.

14288. And to furnish a return?—Yes.

14289. To forward a report to the Chief Commissioner as to the districts?—Yes.

14290. If you had been allowed to take action at the time for the arrest of Weiberg, do you think you would have got the money as well?—My firm belief is if I had been left alone in that matter I should have got Weiberg and all the money except that which he spent in rations and all that sort of thing.

14291. In giving evidence one of the officers stated that his district had been very seldom visited by this inspecting superintendent. Has your district been visited constantly by the visiting superintendent—the Melbourne district?—Only once since I have been in charge of it.

14292. How long is that?—Since 1873. I think that is one of the greatest blots in our department—the want of supervision.

14293. Just read that Regulation 38?—"When inspecting a district or station, it will be more particularly his duty to see that the officers and men are properly dressed, and that their general appearance and demeanor are such as they should be; that their arms and accoutrements are kept in good and serviceable order, and that the men are supplied with a suitable supply of ammunition; that the strength of the police is equal to the requirements of the locality; that the duties of the station are properly distributed among the men, the system of beat duty followed in Melbourne and the other large cities, towns, or boroughs, being adopted wherever practicable."

14294. That is the duty, by law, of the inspecting superintendent?—Yes.

14295. Can that be discharged by a man visiting but once in the time you have mentioned?—Certainly not. There should be a constant and active supervision through all the districts. That is one of the blots. If a competent officer were to travel now, and go to the different districts, I believe he would find things in a shameful state. The postal department have three or four inspectors always on the move, and why should not the same course be pursued in the Police Department.

14296. Do you consider that at any hour that the inspections should take place, that it should not be at fixed times?—No, at uncertain times. The inspecting officer should leave town quietly, and without anybody knowing where he is off to, and then judge for himself without people being forewarned that he is coming. Allow me to hand in a document here, which I think the Commission should have. It is in connection with the Kelly business. It was an affidavit which I took from a man of the name of William Williams, in respect to the shooting of that Constable Fitzpatrick.—[*The affidavit was read. Vide Appendix.*]—There was a great deal of talk that this business was owing to the misconduct of Fitzpatrick. You will see by that document that that was mere nonsense.

14297. Superintendent Sadleir was to some extent set aside in this Kelly business. Have you had any experience of him as a police officer?—Yes; he was a subaltern of mine for some time.

14298. What was his general character as an officer?—You see this is a question that I would not like to be taken down, giving an opinion of a gentleman, my equal in rank almost now, because my opinion may be of no moment one way or the other. I have no objection to give my private opinion in the matter, but I would not like to have an opinion of that sort go forth.

The Chairman directed that the witness's further replies to the question should be taken down by the shorthand writer for the use of the Commission only.

14299. Do you know a police officer of the name of Nicholas?—Yes.

14300. Do you know he was in charge of that district at the time of Power's capture?—No; but I should think Mr. Nicholas would be quite unfit for work of that sort.

14301. Are you aware that he, at the time of Power's capture, was in charge of the district, and he complained of being superseded by Mr. Hare?—No, I am not aware of that.

14302. That is the gentleman—[*handing a letter to the witness*]?—Yes, that is his signature.

14303. Do you see he complains of another officer being sent to discharge the duties in his district?—Yes, I see that.

14304. Do you think that superseding him is justifiable conduct?—I certainly do not.

14305. Is it not most unfair to Mr. Nicholas?—He ought to have had an opportunity of getting Power, he being in that district.

14306. Suppose an officer in charge of a district, like Mr. Sadleir, had private information sent to the Chief Commissioner or the department that a criminal is in his district, and he is not made amenable to justice, is it not the duty of the head of the department to communicate at once to the officer in charge to make him amenable?—Certainly to the officer in charge.

14307. There is a record kept of all police?—Yes.

14308. It has been made a complaint that men are prejudiced by records placed on that without the slightest knowledge of the men, so that after years of service, a record might be there that they might not have on opportunity of answering—are you in the habit of making records on the sheets of men?—Yes; that is my duty.

14309. Do you inform the men what is the character of the records?—I think the correct and only

fair practice is, if you have anything to say against a man, you should make him aware of it. That is my practice, and I think there should be an order to that effect, and a man should have a copy of the record.

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F. A. Winch,  
*continued*,  
2nd August 1881

14310. What is the severest record known to the service to prevent a man's promotion—would cowardice be?—Certainly; that ought to result in the man's immediate dismissal.

14311. Should that be considered any bar to his promotion?—Yes, certainly, cowardice.

*The public were re-admitted.*

14312. You have expressed your opinion that the police force ought to be governed by a chief commissioner and two assistant commissioners?—Yes.

14313. And that they ought in all matters of policy to consult together before anything was settled?—Yes.

14314. Have you any idea in your own mind as to what ought to be done now to make the police more efficient. You say they ought to consult, and you think the superintendent in each district ought to have charge of that district, and carry out all matters connected with it?—Yes.

14315. Can you inform the Commission of anything that you think would assist in bringing the police into a better state of organization?—I think the organization as it is would be perfectly effective if it were properly carried out, but there seems to have been an interference with officers having charge of districts, from time, which of course is detrimental, and rather against the officer having charge. I think in the event of any particular crime being committed in any district, information having been received in Melbourne which would lead to the detection of the criminals, that that information should be supplied to the officer in charge of that particular district, for him to work out the problem if the information would assist him to arrest the criminals, without the assistance of other officers sent up for the purpose. An officer in the district, knowing the country and everything, having received information which might have been got in Melbourne, should be better able to work it out than a stranger being sent up there.

14316. Then if an officer seemed to fail in his duty, your position would necessitate his removal from that district?—Yes, precisely, if he failed after getting the information; if he then failed in doing what was requisite it would be time to see what should next be done, either supersede him or do something else.

14317. You think the present organization of the police is sufficient for all practical purposes?—I think so; if properly carried out it could scarcely be improved upon.

14318. Some people in speaking upon the question have said otherwise?—I qualified this as to the organization, because I may have something to say afterwards about the detective department as a part of the police force.

*The witness withdrew.*

Thomas McIntyre sworn and examined.

T. McIntyre,  
2nd August 1881.

14319. *By the Commission.*—What are you?—Mounted trooper.

14320. Were you at the Wombat Ranges at the time that Kennedy, Scanlan, and Lonigan were shot?—I was.

14321. You were one of the four?—Yes, I was.

14322. I see that you have retired from the force, on account of ill health?—Yes.

14323. The papers have been sent down to us, asking us to look over the matter and to report as to the special circumstances of your case?—Yes.—[*The papers were read.*]

*The Chairman* stated that, after due deliberation, the Commission had decided that it did not come within the scope of their enquiry to deal specially with this one case as requested.

14324. Before you went out that time to search for the Kellys in the Wombat Ranges, had you any knowledge of any circumstances that led to that outbreak in the district, or did you just go out without any previous knowledge of the Kellys?—I had no previous knowledge of the Kellys except through the medium of the *Police Gazette* and the newspapers.

14325. Then you are not in a position to give the Commission any information as to what led to the outbreak?—No.

14326. Had you been stationed in the district long?—I was there twelve months, but the criminals came from a different district, and the crime was not committed in the police district in which I was.

14327. Then you have nothing to tender as to whether the withdrawal of the police protection from some parts, or the interference of the police unnecessarily, had anything to do with it?—No, that is altogether

beyond my knowledge.

14328. You were present at the time when your comrades were shot?—I was.

14329. What time of the day was it?—About five o'clock in the afternoon.

14330. If the reports are to be relied upon, it is stated the police were scattered all round about; some of you were away?—Yes, that is true.

14331. And some of you were shooting at parrots?—Yes.

14332. You were the only one in the camp?—I and Lonigan were in the camp; the other two were out on patrol.

14333. Were there any regulations bearing you out?—No.

14334. What were your instructions when you were sent out?—The instructions I learned from Sergeant Kennedy were that we were to meet a party of police at Hedi, and after a consultation we were to search the bush.

14335. In the meantime you did not anticipate any danger when you were out?—No.

14336. You were just travelling through the country in the usual way?—Yes.

14337. In fact the attack upon you was a complete surprise?—A complete surprise.

14338. You never knew of your own knowledge that any policeman was charged with any wrong towards the Kellys?—No, I did not.

14339. You and Lonigan were left at the camp?—Yes.

14340. Whilst Kennedy and Constable Scanlan went away?—Yes.

14341. Can you inform the Commission what led to the separation of the party, or what object Kennedy and Scanlan had in separating from the party on this occasion?—Well, Sergeant Kennedy told me he would patrol that day, and he told me to do the cooking during his absence, and Lonigan to mind the horses, and he and Scanlan would patrol the neighboring country about.

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14342. Did he specifically describe to you or your comrade the object of their leaving you on that occasion in the patrol they were about to make?—No, I think not; but we understood he was going out on patrol to make himself acquainted with the surrounding country, for the purpose of pushing further into the country.

T. McIntyre,  
*continued,*  
2nd August 1881.

14343. Not to catch the Kellys?—No.

14344. What was the special object of camping on this ground?—That I cannot say. I expected to go to Hedi station. I was surprised at our camping. I asked Kennedy, in a jocular manner, why he came there, and he said, "If we meet the other party of police, we will find they are out of tucker and they will eat us out."

14345. Then, within your knowledge, are you aware what was the object of Sergeant Kennedy and Constable Scanlan in leaving you in charge of the camp and proceeding where they went to?—Well, I think it would be no unusual circumstance, if four men went out, for two to go and look at the neighboring country, because we had a pack-horse and tent, and it was necessary to leave some men behind to watch the place.

14346. I mean what object did you suppose the Sergeant and Scanlan had in leaving you at the camp there and in going in the direction they did?—Well, at that time I thought they were merely patrolling.

14347. For what object?—For the object of searching for the outlaws, or to make themselves

acquainted with the unknown country, so that we could push forward the following day and know how to get back.

14348. Was there any previous information received, as far as you know, of the Kellys being in the neighborhood in which you were camped?—None, to my knowledge.

14349. Did Sergeant Kennedy give you in starting any specific instructions as to the course you were to adopt in his absence?—No.

14350. Did he give you any intimation whatever as to the object he had in view in going in the direction he did?—I recollect the only words he said he was going on patrol with Constable Scanlan.

14351. Did he say how long he would be absent?—He said possibly all night, because if they got lost they could not get home till morning.

14352. Did he take provisions?—Some lunch for himself and Scanlan; sufficient for that day.

14353. He gave you no information whatever as to the object they had in view?—None but what I have said.

14354. Did he caution you as to the necessity of being prepared for any sudden attack you would be liable to from the outlaws being in the neighborhood?—No; I do not think he could have apprehended any attack himself.

14355. Is it your opinion that he had no knowledge or suspicion the outlaws were in the neighborhood at that particular time?—Well, from what has come to my knowledge since, I do not know what to believe; I do not know what to think.

14356. You were left at the camp, and there were no instructions as to the course you were to take in case of a sudden alarm?—No.

14357. Do you mean to say you had no information given you as to the object your two comrades had in leaving you then?—None, except what I have said, on patrol to get acquainted with the country; that is my supposition. I imagined at the time, and do so still, that that was their object.

14358. Had there been any conversation between the officer in command of the party and the men of which the party was composed, as to the course that was to be pursued, the spots that were to be visited, and the objects in visiting?—No, there was no conversation with regard to that. We were all experienced men, and I suppose Sergeant Kennedy knew that.

14359. Was there no order or discipline of any kind in a party sent out for such a dangerous project as to capture dangerous men?—There were no orders that I can remember.

14360. Were they known at the time to be men of murderous propensities?—After the attack on Fitzpatrick certainly, but we never expected an attack. We thought they might defend themselves if we attacked them.

14361. You went out, as far as you are concerned, under the impression that you were engaged on a dangerous project?—Yes.

14362. Were you armed?—Yes.

14363. With what?—Revolvers.

14364. What were the others armed with?—They each had a revolver, and we had a Spencer repeating rifle and a double-barrelled fowling piece; but they were carried on the pack-horse.

14365. Each man when he joined this expedition was fully under the impression that the men he was in pursuit of were of so dangerous a type that they might require firearms in self-defence, to protect themselves?—Yes, that was the impression. The impression was that it would be difficult to take them—that they would defend themselves; but not that they would attack us.

14366. That having been guilty of an attempted murder, they might be guilty of another murder?—Yes.

14367. Under those circumstances did you not feel the importance individually, apart from any official instructions you might have received, of being constantly watchful against a sudden attack from men of that character?—I did not anticipate that we were close to them, because they never, to our knowledge, came to Mansfield. We thought we would have to go twenty miles into the bush before we got to their haunts.

14368. When the party were selected, were they told the nature of the work, and the object?—Yes, I was told it was in search of the Kellys.

14369. Had Sergeant Kennedy any knowledge that there were any camps of the Kellys in the immediate neighborhood?—I do not know; I think not. Of course I cannot say what knowledge he had.

14370. Have you any recollection of having heard that the late camp of the Kellys was shown there previously to your starting?—No; I know he was shown out to that place by a squatter.

14371. From what you know now, and from your memory of the whole proceedings, are you under the impression, in the slightest degree, that those two men, Sergeant Kennedy and Scanlan, were decoyed from the camp, with the view of subsequently attacking the whole party, and overcoming and murdering

opinion on that subject, because there are some things that would lead me to believe so, and some not.

14372. Of your own knowledge, either before or subsequent to the event—the murder of the police—are you now under the impression that those men were purposely decoyed for the purpose of the party being subsequently attacked and murdered?—It is a matter I have no definite opinion upon. I will tell you my reasons.

14373. Have you ever heard from anyone that such was the intention?—I have heard it publicly spoken of amongst the constables that Sergeant Kennedy and Constable Scanlan knew they were in the neighbourhood and did not impart the information to me or Lonigan—to me they certainly did not impart it.

14374. Did you ever hear that those men were decoyed into the position—that they went for the especial object of leaving the two who were to camp to become an easy prey to the attack of those men?—Yes, I have heard so.

14375. How does that coincide with the evidence that Kennedy and Scanlan went away of their own free will and told you nothing about it?—Decoy would not be the proper word. He might have been decoyed with previous knowledge, obtained before he came to the ground. I would say he was induced, not decoyed.

14376. Might it be possible, as you say Kennedy and Scanlan took provisions with them, that their desire might be to catch the Kellys themselves without your being present?—Yes, that is possible.

14377. Did that strike your mind?—No, not at the time.

14378. You had confidence in one another when you were out?—Yes, I had.

14379. You have no belief now that Kennedy went away for the purpose of getting any special advantage for himself to lead you to that belief?—I think it is very strange they went to that neighbourhood instead of continuing the direct road to Hedi.

14380. You think it is possible, then, he acted from knowledge?—I do; but against that, on the evening that we arrived there he asked me to fire a shot at some kangaroo near the camp, and I think, if he knew the Kellys were in the immediate vicinity, he would not have asked me to fire a shot.

14381. Do you think the Kellys premeditated the murder of the whole party?—I do not think they did.

14382. Would it be an impulse on their part?—I think they intended to take our horses and firearms, as Kelly himself said that was his intention, but I think he did not care much whether he shed blood or not—just allowed himself to be led by circumstances whether he would or not.

14383. He placed himself in a position to shoot you all from good cover?—Yes.

14384. And he did not apparently attempt to take the horses?—They took the horses afterwards.

14385. I mean they were not acting like men who came to steal horses alone?—No, they could not have stolen the horses without our knowledge.

14386. Had you seen Kelly before?—No.

14387. You did not know who they were?—I knew them from description and from family likenesses. The very first intimation we had from them was to “bail up,” and we looked round, and they had their arms presented.

14388. Can you give any fresh information that has not been given to the public. I suppose you have read the evidence with reference to that?—No, I cannot think of any that would be useful.

14389. I suppose what we have got is nearly all that can be got?—Yes.

14390. *By Mr. Sadleir.*—Did you know that Sergeant Kennedy had some instructions from me?—Yes.

14391. Did he read them to you?—Yes.

14392. Can you say when you first read them—“It seems to be certain that ‘Ned Kelly’ is in the neighborhood of Greta, or from thence to Connolly’s and the bogs near the Wombat. I am very anxious to make some special efforts to have the matter set at rest, and his apprehension effected, if possible. I have consulted with the senior-constable in charge at Greta, and it appears that there is not much likelihood of him and the constable with him there doing much towards arresting Kelly, or even disturbing him from the neighborhood. It has been proposed to collect, for the purposes of a thorough search, what constables are in the district who know Kelly personally, sending say two of them to Mansfield to act with Sergeant Kennedy from that end, and the others to act with the Greta police, and to search simultaneously up and down the King River and neighboring places. I shall be glad to receive any suggestions that Sergeant Kennedy may have to offer on the subject, and whether he is of opinion that anything might be gained by his coming here for a day or so to consult with the sub-officer taking charge of the party starting from the Greta end—that is, supposing this expedition should be determined on.” Did you hear of that?—I did not.

14393. Did Sergeant Kennedy convey to you any caution as to the matter being dealt with by every one concerned as confidential?—Yes, he said it was confidential; that our departure was not to be made known; to go as quietly as possible.

14394. Did you exercise any precautions?—Yes; started before daylight.

14395. Did you communicate your purpose to anyone?—No, I did not.

14396. Are you aware whether it was communicated to anyone?—I have not heard. I think it was not, to the best of my knowledge.

14397. Do you remember any conversations with Sergeant Kennedy on the subject. Did he ask your opinion anyhow, one way or the other, in view of this journey?—He often spoke about the Kellys, even before that.

14398. In view of the instructions he had received to go out at some future time, did he consult and

take your opinion?—We spoke about the matter very freely; but I do not remember being asked for any opinion.

14399. This is his report—[*reading the same, vide Question 1741 above*]. Did Sergeant Kennedy ever speak to you in that strain?—No; I certainly cannot remember that he did. He said he supposed them to be in that immediate neighborhood. He said he received instructions from you to go to Hedi and meet the other party of police, and hold a consultation as to the best way to scour the bush.

14400. You are not aware that Sergeant Kennedy, shortly before he went out, came to Benalla to meet the man in charge of the Greta party?—Yes.

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14401. Did he tell you any of the proceedings determined on by those men?—Only what I have said that our two parties were to join at Hedi and have a consultation.

14402. You do not mean that the object was to meet there and go back?—No.

14403. What was the object?—It was thought, as far as I could understand, that there would be a consultation held and some plan adopted for a thorough search.

14404. When the two parties met?—Yes.

14405. *By the Commission.*—Did you think his conduct strange in leaving you where you were and going out into the ranges with Constable Scanlan without letting you know anything at all of what he was going to do?—No, I did not think at the time it was strange. He told me he was going to patrol the country.

14406. You should give the exact meaning of the word patrolling—is it looking over the country and so on?—Yes, and searching for the Kellys.

14407. You understand then he was going to search for them?—Yes, to search for them and make himself acquainted with the country. I did not know they were in that neighborhood, and I thought he did not at the time.

14408. Did you ever hear that a man named Tolmey showed where the Kelly camp was?—No, he showed the place where we were to camp ourselves.

14409. *By Mr. Sadleir.*—The country lying towards Greta from where you were, was that almost unknown to you?—Yes; Kennedy and I had been over it before, but we followed a blazed line to Glenmore. The country to Greta we did not know.

14410. *By the Commission.*—Is it the mountainous country?—Yes, rangey.

14411. Difficult to ride through?—Yes.

14412. With regard to that watch of Sergeant Kennedy's—did you ever see that?—Yes.

14413. Was there any inscription on it?—That I could not say—it was not a presentation watch.

14414. You are sure of that?—He told me so himself.

*The witness withdrew.*

James Wallace sworn and examined.

14415. *By the Commission.*—What are you?—State school teacher at Yea, formerly at the Hurdle Creek, Oxley, near the King River.

14416. You are aware that the pursuit of the Kellys was carried on very actively some time ago in the North-Eastern district?—Yes.

14417. The Commission understand that you were in communication with the police upon some occasions?—I was in communication with the police, but was never in their pay. I never asked for any pay nor received any. I declined the offer. I did receive some money, but only for actual expenses.

14418. How much did you get?—I could not say.

14419. Would you be surprised if you heard?—From £70 to £80, I daresay, altogether.

14420. You say you were not specially employed by the police?—I was not employed; not receiving any remuneration whatever, and I was paid my actual expenses.

14421. What agreement did you make when you agreed to give them information?—I will read an extract from my diary at the time I made the arrangement with Mr. Nicolson.

14422. Had you any arrangement with any one before Mr. Nicolson?—No, none whatever.

14423. No other officer?—No, none that I remember.

14424. What led to any communication that took place between you and the police?—In December 1878, after the commission of the Mansfield murders by the Kelly gang, and seeing the difficulty the police had in capturing them;—hearing also that they would commit further outrages, and knowing I might be able to assist in the suppression of crime, I wrote a letter to Captain Standish offering my assistance to him. Of course I understood the offer to him that it was free, gratis, not with any intention of participating in the reward or receiving any remuneration for my services.

14425. What motive had you?—Simply in the interests of society, to suppress crime.

14426. What special qualification had you?—I knew Byrne; he was an old schoolmate of mine, and I knew the country. I had my suspicions that Byrne was one of the gang, and I knew the places they would be likely to go to, and the ranges they would be likely to frequent, and the friends who would be most likely to assist them.

14427. Have you a copy of that letter to Captain Standish?—No.

T. McIntyre,  
*continued,*  
2nd August 1881.

James Wallace,  
2nd August 1881.

14428. The first letter you wrote to Captain Standish was of what nature?—Offering my services.  
 14429. To do what?—To assist them in capturing the outlaws.  
 14430. Were you acquainted with either of the Kellys?—No; not at all.  
 14431. Having made the offer to Captain Standish in writing, what answer did you receive?—I received a very courteous reply from Captain Standish declining my offered services. He would be very glad to hear anything, but he at present did not require anything further.  
 14432. Have you preserved that letter?—No, I did not think it desirable to preserve any.  
 14433. Having declined that, what led you subsequently to offer any assistance to the police?—On the 23rd July 1879, I was honored by a visit from the Assistant Commissioner of Police, Mr. Nicolson. He said he called to have a few minutes' conversation with me in reference to the outlaws. He remembered seeing a letter from me in December last.  
 14434. That is the letter you have already alluded to?—Yes. He referred to the fact of my having been a schoolmate of Byrne's, to my knowledge of the district generally, and asked me when I had seen Byrne last, and several other particulars. He wanted to know my impression as to the present whereabouts of the gang. I gave it as my opinion that they had gone into winter quarters; that is, that they were not travelling about, but were settled for the winter. I told the impressions and facts I had as regards their previous movements, life pursued, tactics observed, and mode of living, as far as I could learn from hints let drop by their friends.  
 14435. You say you told him the facts?—No, I did not mean the facts exactly, but the impressions I formed—that would be a better word.

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James Wallace,  
*continued,*  
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14436. Was there anything, beyond hearsay, that led you to give this information to the police?—Nothing beyond hearsay; no personal knowledge.  
 14437. You had never seen Byrne?—Not since the commission of the murders.  
 14438. Had you ever heard from him directly or indirectly?—Indirectly through others I had heard of him.  
 14439. Indirectly, from Byrne did you ever receive any direct message?—Yes, latterly; not then.  
 14440. Up to that time you have been speaking of, had you ever, through a second party, received a message direct from Byrne?—I did.  
 14441. What was its character?—It was with reference to a saddle that Ned Kelly had stolen from me some time previously, for one thing, offering to replace it, stating they were sorry that I had been victimized, having been a schoolmate of Byrne's.  
 14442. Anything else?—On another occasion I forwarded a message from Captain Standish to Byrne through the same medium.  
 14443. On this occasion, when you received the direct intimation from Byrne and the others, regretting you had been a victim about the saddle, was there any allusion whatever made to any other subject in which they were interested?—No more whatever at that time. As I was just about to observe, I forwarded a message from Captain Standish to Byrne some time afterwards.  
 14444. You received a direct intimation from them through a third party?—Yes.  
 14445. What action did you take?—I took no action whatever.  
 14446. Did you get the saddle?—I did not.  
 14447. Did you make any response in any shape or form?—None whatever.  
 14448. Who was the bearer of this news?—Aaron Sherritt.  
 14449. He brought this information direct from Byrne?—So he said.  
 14450. About what time was it; can you fix the date?—No.  
 14451. Approximately?—I think it was after the Euroa robbery.  
 14452. Did you know at that time that Sherritt was helping the police?—I knew, as most other people did in the district, that he was helping the police.  
 14453. You received this information from them; how did you do so?—By a call from him. He frequently called at my place during the time he was employed by the police.  
 14454. What was the nature of the conversation that took place then?—We had so many conversations.  
 14455. You say this information given you by Sherritt was after the Euroa robbery?—Yes, between that and the Jerilderie robbery.  
 14456. How many weeks after?—I cannot say exactly. I should say it would be some time in January.  
 14457. Did Sherritt on that occasion give you any information at all which led you to form an opinion as to where these men were located?—He did.  
 14458. Can you tell us where that was?—That they did not remain long in one place, but were frequently about Sebastopol ranges, Greta ranges, and up the King River, and sometimes down to Yarrawonga and the Warby ranges.  
 14459. Did Sherritt describe to you the positions these men were then occupying specially?—I believe he did.  
 14460. Will you be kind enough to give them to us in the order he gave them to you?—The ranges in

the immediate vicinity of Sherritt's, down towards the Yellow Creek, and frequently were in the ranges between Sebastopol and Chiltern.

14461. That was all within one neighborhood, a radius of how many miles?—Fifteen miles.

14462. Did Sherritt give you any other information as to what the outlaws were doing or likely to do at this particular time?—Perhaps not at that particular time; I did not make a note of it, but I know he frequently spoke of them.

14463. At this time?—Yes, he did. He said they did not remain long in one place; they beat backwards and forwards, sometimes in Sebastopol and sometimes in Greta, but still within this radius of fifteen miles round there.

14464. Did he give you any other information of an interesting character at this time?—Yes, he spoke of the murders at Mansfield, and stated that he (Sherritt) had Kennedy's watch in his possession.

14465. Did he show it you?—No, he did not; he promised frequently to do so, but did not.

14466. Did you ever see that watch?—No, I did not. I should have secured it if I had.

14467. Did you ever hear of the history of the watch?—What do you mean by the history?

14468. Do you know whether the watch was a presentation watch?—Aaron said there was an inscription on the watch—stains on the watch—and wished to know from me what would remove those stains.

14469. Did he tell you what the inscription was?—No.

14470. Did you ever hear of what it was?—No.

14471. Did you hear what the inscription was that would lead you to remember if it was a presentation watch?—Subsequently I did. I think, in speaking to Mr. Nicolson, he said it was a presentation watch with an inscription on it.

14472. Sherritt asked you if you knew anything that would take off the inscription?—He used the word "stains." I understood him to mean inscription by that. Sherritt was guarded and cunning.

14473. Did you give him any information about that?—None. I advised him to hand over the watch to the police for the sake of the widow.

14474. Did he give any other information then?—Since he frequently stayed for hours and talked for hours, he must have done so.

14475. I want you to confine yourself to that one interview?—I cannot do that.

14476. That must have been the most interesting you ever had?—Not by any means.

14477. I cannot help thinking during the public excitement you would attach greater interest to that one than any other. Does your memory lead you to narrate to the Commission any other subject-matter of interest which Sherritt talked of at that time?—He told me he was then in the employ of the police. I might simplify matters considerably by saying that when I was young I used to dabble in

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mesmerism. Aaron Sherritt, being, of course, a schoolfellow, was often with me in those experiments, and he was a "subject" of mine. Naturally he had a great deal of confidence in me, and I had an influence over him, and he would frequently come there, and if I wanted to get any information out of him I could do so.

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14478. Did you mesmerize him then?—No; I did on former occasions. His confidence in me was the result of that in former years.

14479. He did not narrate anything of importance about the outlaws on that occasion beyond what you have said?—Only just that they proposed sticking up other banks; but really I had so many interviews I could not fix upon that particular interview.

14480. You are not mistaken when you say on that occasion he said the outlaws intended sticking up other banks?—Yes, that information was conveyed in my confidential letters to Mr. Nicolson.

14481. Having got that information, what action did you take?—At that time I believe I was in communication with Mr. Nicolson.

14482. You cannot fix the date of this interview?—I cannot possibly; it is two years ago.

14483. How many days after this interview did you interview the police and give the information that was of so interesting a character?—That would appear from my letters, which you have in your possession.

14484. The information you conveyed was in writing?—Most probably.

14485. Was it, or was it not?—I cannot say. I frequently had interviews with Mr. Nicolson, and frequently wrote letters to him.

14486. Did you, after this interview, have any personal communication with any officer of the police or any agent of police before you committed yourself to writing and gave the information which is contained in your letters?—The only officer I had any direct or indirect communication with was Mr. Nicolson.

14487. Was it before you committed yourself to paper about this interview of Sherritt's?—I believe I had an interview with him then. I had so many, I could not possibly specify without referring to the letters.

14488. You used to write under an *alias*?—Half-a-dozen; that was the arrangement with Mr. Nicolson, and he wrote to me under the alias.

14489. When you got information you generally wrote to Mr. Nicolson?—Yes.

14490. These letters before us will explain everything?—Yes; and as to asking me about certain

interviews with Aaron Sherritt, it is impossible for me to fix anything with distinctness.

14491. I want to know what action you immediately took on obtaining this valuable information?—It was communicated, no doubt, by letter, but I cannot say possibly because there was so much of a similar kind sent. I cannot fix the date; it is a tax on my memory it cannot stand.

14492. From the knowledge you had of Sherritt and your influence over him, you received the information and believed it to be thoroughly reliable?—Yes, but you are narrowing this all down to one day. It would be better to let me start from the beginning. Aaron was a schoolmate of mine, and he passed my place so frequently, and almost every time he called and had a conversation with me.

14493. How many interviews had you either with Captain Standish, Mr. Sadleir, or Mr. Nicolson before you wrote your letter dated 5th January 1879—[*handing the letter to the witness*].—Is that your handwriting?—Yes.

14494. Is that the first letter you wrote to any one connected with the police about the Kelly gang?—I do not think so; I did not keep a record.

14495. To whom did you write any letter prior to that?—Captain Standish; that I have already referred to.

14496. Did you write any to Mr. Nicolson before that?—I do not think so. I think I had several communications before that; but, inasmuch as I did not keep a record of dates, I cannot be precise without referring to my notes.

14497. Did you, in the first instance, before writing to Captain Standish, have a personal interview with him at Benalla?—Certainly not.

14498. Did you, after writing the first letter to Captain Standish, have a personal interview with him at Benalla?—I did.

14499. Will you tell us the nature of the conversation?—It was a general conversation with regard to the outlaws.

14500. What was your proposal to him?—I cannot recollect what proposals I made.

14501. You must have gone with a definite idea of doing something?—I had some information for him, I believe, with reference to a proposed crossing of the Murray by the outlaws which I thought would be interesting to him, but which he had already obtained from some other sources.

14502. Did you tell Captain Standish that Byrne was a schoolmate of yours?—Most probably did.

14503. Did you tell him of your own friendly terms with the Byrne family?—I cannot say I told him; he might have inferred that.

14504. At that time you were on personal friendship and the best of terms with the Byrne family?—I had been some time away from the particular vicinity of the Byrne family, and Joe Byrne was the only one I had seen at the time.

14505. You had the means then of being on visiting terms with the Byrne family at that time?—Yes, I had.

14506. Is it probable that you did not inform Captain Standish?—It is probable that I did inform him I was on friendly terms with the Byrnes.

14507. Did you tell him what means you had of obtaining information as to the whereabouts of the outlaws at that interview?—Probably I did.

14508. Did Captain Standish make any arrangement with you from that time to supply him with any information you might obtain?—I think not. Another matter at that interview with Captain Standish was with reference to a friend of mine—a pupil of mine at the time—named Slater, whom I recommended him to employ—to put him on the police force—stating I thought he would be able to give help from his knowledge of the country, and being an intimate friend of Byrne's.

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14509. Did you make that one of the conditions for your supplying information?—No; I did not by any means. I did not make any conditions.

14510. After Captain Standish declined to have anything to do with that, how did you have to do with Mr. Nicolson?—He came to me once, one Friday.

14511. Before the 5th January?—Yes, it must have been, because I had had no communication with him.

14512. Had you previously sent to him verbally?—No.

14513. Do you remember what Mr. Nicolson asked you when he called?—Yes; he told me that the country looked to me, as a teacher and as a respectable member of society, that I should render all the assistance I could to suppress murder and robbery, and I understood him to wish me to take service with him; that it could be arranged that I could have leave of absence, but I declined to do so. He then asked me if I would give them any other aid I could by collecting information, and beating up the house in the neighborhood which the outlaws were most likely to frequent, and I agreed to consider his proposal.

14514. After considering, what did you do?—I decided to assist him in the interests of society.

14515. Did you state at that interview with Mr. Nicolson what special means you had of affording him information?—I think so.

*The witness withdrew.*

Adjourned to to-morrow at half-past Eleven o'clock.

WEDNESDAY, 3RD AUGUST 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;	
G. R. Fincham, Esq., M.L.A.,	W. Anderson, Esq., M.L.A.,
E. J. Dixon, Esq., J.P.,	J. Gibb, Esq., M.L.A.

James Wallace further examined.

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*Mr. Nicolson* stated that he hoped the witness's evidence would not be published, as he was under obligation to him for secrecy, and the consequences might be serious to the witness.

*The Chairman* stated that he thought it would be as well for the press not to publish it.

14516. *By the Commission.*—There is a letter dated 5th January 1879?—That ought to be 1880; and, in speaking of the interview I had with Sherritt, with reference to the stolen saddle, it should have been subsequent to the Jerilderie robbery, towards the beginning of March I should say now; I cannot be precise as to dates.

14517. In that letter I have marked the place off, about receiving the bank note that you cashed—[*handing a letter to the witness dated 27/8/79*]—Yes; I remember the circumstances.

14518. There is one party you, have mentioned there; I suppose it was some one who had been employed by Mr. Hare—"Interviewed Mr. Hare's protégé." I suppose that was Sherritt?—Yes; I said "Mr. Hare's protégé" because he showed such an affection for Mr. Hare, and spoke of him in such high terms.

14519. What were the overtures made by you in your first communication to Captain Standish; what was the nature of your offer?—My offer was to offer my assistance to him to assist him in the capture of the Mansfield murderers; stating I knew them by sight, and knew Byrne intimately, and knew the country.

*Mr. Sadleir.*—I understood it in a less definite way, that he meant it that he had a few weeks' holiday.

*The Witness.*—Yes; that is true.

*Mr. Sadleir.*—And he would be glad to put his leisure at the service of Captain Standish.

*The Witness.*—Yes, just prior to the Christmas holidays, in 1878.

14520. *The Commission (to Mr. Sadleir).*—In that letter did Mr. Wallace state that he would expect to be compensated in any way?

*Mr. Sadleir.*—I am pretty sure there was no reference to that.

*Mr. Hare.*—No, I know there was no reference to that.

14521. *By the Commission (to the witness).*—Was there any correspondence from the time you wrote to Captain Standish, between Captain Standish and yourself, or Mr. Nicolson, before you wrote this letter of the 18th August 1879?—I cannot recollect the date. I had a visit from Captain Standish at my place on one occasion, but I could not exactly give the date.

14522. You can say there was no regular correspondence kept up?—No; there was only one letter to Captain Standish.

14523. Was it dated 18/8/79. Here is one statement:—"I think it more advisable to communicate details to you personally, as there is a screw loose in your department somewhere." Will you tell the Commission what you meant to infer by that?—I wanted to convey to Mr. Nicolson that the police information got abroad, that the outlaws' friends and sympathizers were aware of the police movements, and that I was myself in communication with the police, was openly asserted in a public-house at Oxley.

14524. Were you under the impression at the time that the information you supplied to Mr. Nicolson was made use of by some members of the police force not in the interests of the public?—Yes, not in the interests of the public.

14525. Were you aware at the time who the officer of police was who did that?—I could not state precisely, only I knew the information I had supplied was floating about—I know the list of places I gave to Mr. Nicolson of the probable retreats of the outlaws was shown me by Aaron Sherritt afterwards.

14526. But was he not at that time in the confidence of the police as well as yourself?—He was—it was generally understood so.

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14527. Then would it not be probable that the information you supplied would be given him to assist him?—Yes; but the form might have been altered so that he could not have detected whence it came.

14528. You say further on—"There is a beautiful game of cross purposes being played on both sides that is worth the trouble of watching, if there were no other motive"—what do you allude to there?—I meant with reference to the game that was played on both sides, the resources they had to deceive each other, both the police and the outlaws. I had in my mind's eye then the trial of Aaron Sherritt at Beechworth for stealing a horse of Mrs. Byrne's, which he admitted to me was a "got-up" case on the part of some members of the police on one side, and worked by the outlaws as well on the other.

14529. What reason had you to know that the outlaws were acquainted with all these movements at

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that time?—From sympathizers—from hints dropped by them.

14530. By whom?—I cannot say.

14531. It is for you to say—we are supposed to be in private now—who were the sympathizers and from whom did they obtain the hints?—From the outlaws.

14532. Give us one?—Aaron Sherritt and Edward Burke.

14533. Aaron Sherritt was in the confidence of the police?—Just so.

14534. Then you could not treat him at that time as a sympathizer?—I did.

14535. Did you know him to be a sympathizer?—I knew him to be a sympathizer, that was my belief, that he was playing double.

14536. Did you communicate that to Mr. Nicolson?—“That he was in communication with the outlaws?”—I did frequently—*vivâ voce*.

14537. By letter?—I think so, also.

14538. The next paragraph in the letter is—“I think I can persuade some one to return the chronometer to the widow?”—That was Sergeant Kennedy’s watch.

14539. Who is this “some one”?—Aaron Sherritt.

14540. What influence had he with the outlaws?—He had the watch in his possession, according to his statement, and according to other information I got.

14541. Did you ever see it?—No.

14542. What led you to that belief?—His assertions to that effect, and his description of it.

14543. He was a man you would believe when he said that?—Yes.

14544. Why did not you convey to Mr. Nicolson that you believed Aaron Sherritt had the watch?—I did do so.

14545. You say here—“I can persuade some one”—these are riddles?—Those letters were written for Mr. Nicolson, and as long as he understood them, that satisfied me.

14546. Did you tell Mr. Nicolson about this time that Aaron Sherritt had the watch?—I did.

14547. He would understand that?—He did. He would have asked me if he did not understand it. No doubt you will find reference to it in other parts of the correspondence.

14548. Then the only one you had information from was Sherritt?—Oh! no.

14549. Who?—There were many others. Some I would decline to mention under any circumstances.

14550. What were the names?—Edward Burke, of Black Range.

14551. Was he in communication with the outlaws?—He was, according to his own statement.

14552. What is he?—A selector.

14553. Is he still in that district?—He is, I believe. I have not been there for twelve months.

14554. What is the name of any other sympathizer you had an opportunity of seeing?—John Sherritt.

14555. He was in communication with the outlaws?—I believed him to be so.

14556. All through?—Well, yes, all through. At least, according to his statement, he could communicate at any time, perhaps not directly, but indirectly through their relatives; but I do not think that he was willingly a sympathizer. It was more through his friendship for Byrne, not through countenancing crime.

14557. Did you, after the murders at the Wombat, visit Mrs. Byrne’s place?—Yes.

14558. Do you remember the last time you visited the Byrnes?—I was not inside; I passed the house very early one morning.

14559. Do you remember the last time you visited there?—Yes, I think so I would not be certain.

14560. When was that?—I could not give the date; you may find it in my letters.

14561. You frequently visited there?—No; I was not on intimate terms.

14562. Never took tea?—No.

14563. Did you ever dine at the place?—No.

14564. Were you on friendly terms outside?—Yes, outside. I had not seen Mrs. Byrne for a long time. I met the other members of the family.

14565. Did you consider you were on terms of confidence with them?—Yes, to a certain extent. Of course, they were guarded in their communications.

14566. Did you ever see either of the outlaws after the time of the Wombat murders?—I met one one evening. I met Byrne one moonlight night on the Oxley road, going in the direction of Sebastopol from Greta. My school was right in a line from the two places, and of course they would follow the track. He was by himself.

14567. Did you have an interview with him?—I had no interview with him. I was in company with others, and of course I did not state it was Byrne—simply said “Good night,” and he passed on. I recognized his form and voice.

14568. Did you inform the police?—I did.

14569. Immediately after?—Not exactly immediately after, but within a few days, I think.

14570. If you were working in the interests of the police, why did not you take immediate steps to inform them about that?—Doubtless because I would think that no good could come from informing them. I had no confidence in the detective in charge at Beechworth. I would think that he might burke that evidence, so to speak, in order to frustrate the capture of the outlaws through any other means than his own.

14571. Would it be to the detective you would give the information?—Certainly not.

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14572. Then why had you fear in giving the information to the officer of the police you were previously in communication with?—I cannot say, except it was I thought no good would come of it. I was expecting to see the others, and no good would accrue from taking Byrne alone. It would have been the worst thing that could have happened.

14573. How far from the telegraph office were you then?—Sixteen miles.

14574. What office?—Wangaratta.

14575. That was at night?—Yes.

14576. You saw the direction Byrne was riding in?—Yes, to Sebastopol.

14577. And you waited some days?—I cannot say the exact time. I know I mentioned the circumstance to Mr. Nicolson.

14578. Did you see either of the gang any other time except that?—I believe, I am not positive, I met Ned Kelly one morning some time after I had dropped communication with Mr. Nicolson.

14579. That would be the latter end of 1879?—About that time, I think.

14580. Did you see Byrne on any other occasion than the one you have already described?—No.

14581. Do you remember Captain Standish being at your place?—I do, on two different occasions.

14582. Do you remember he was there not long before the bank robbery at Jerilderie?—I do, he was in my house.

14583. Are you sure you did not see Byrne about that time?—I am positive, as far as I can recollect.

14584. Will you swear that Byrne was not in your house that day?—Certainly.

14585. You swear now positively you never saw Byrne but on one occasion?—Yes, positively.

14586. Did you have no direct communication with any of the outlaws?—What do you mean—by letter, or word of mouth?

14587. By letter or word of mouth—was there no confidence between you and the outlaws by which you could have communication?—No direct communication.

14588. Are you prepared to swear positively that after the murders you had no direct communication?—No direct; I had indirect through others.

14589. Is there any one you can think of, except those you have named, that you had communication through?—Yes, I believe there is one.

14590. Who is it?—John Sherritt; I do not recollect any more.

14591. You are quite sure you had no personal conversation with either of the outlaws any time after the day of the murders at the Wombat?—None beyond what I have said about Byrne and Kelly, and I was not certain about Kelly. I met a man with a muffler on the road, and I heard afterwards Kelly had seen me.

14592. You were familiar with him?—Yes.

14593. Could you make a mistake about him?—Oh, certainly.

14594. How far off was he?—About fifty yards.

14595. Do you think you could make a mistake at that distance as to any gentleman in this room?—Yes, if they were in disguises. If I dressed you up in the garb of a woman, I would not know you.

14596. He was not dressed as a woman?—No, a grey coat, and a muffler round his face and nearly round his eyes; very little of his face was visible.

14597. That would attract your attention and cause you to be more observant of who he was?—Yes, I noted him as he passed.

14598. If he was so disguised, did not that attract your attention?—It did. I thought it looked like Kelly, but I could not swear that.

14599. Have you any doubt in your mind but that it was?—My impression that it was he was strengthened afterwards by hearing he had met me on that road.

14600. Did you keep a horse?—Three or four of them.

14601. From whom did you hear that information that Kelly saw you at this time?—From Ned Burke, at Hedi.

14602. How long after your impression of having seen him?—Two or three months after, I dare say.

14603. Did you communicate that to the police?—No, I did not; I did not see the necessity of it.

14604. Although you were fully persuaded he was the man the police were looking for?—No.

14605. Did you feel fully impressed it was the leader of the outlaws?—I felt slightly impressed.

14606. Did you send the police word of that?—I did not.

14607. Even if you had a slight impression, as an officer in the public service and occupying a respectable position as a teacher of young people, did not you conceive it your duty to give the fullest and most expeditious information you could?—Not in that case.

14608. In every case?—I have done so.

14609. About Byrne—you did not communicate intelligence till two or three days after?—Yes. Knowing the place so well, and also the means being used to capture them, I did not judge it necessary at the time to tell that about Kelly.

14610. About the other man you were certain?—I would not swear about that. I thought I recognized his voice and figure, still I would not swear it was he.

14611. You keep a horse?—I do.  
 14612. And were within sixteen miles of the telegraph?—Yes.  
 14613. And you did not think it necessary to mount a horse and go and tell about it?—The horse I was riding had just come a long distance. If I had wished to do so I should have had to borrow a horse, and if I had given information it would have been no use.  
 14614. You did not feel in bodily fear of those men?—No, never.  
 14615. Then you were in a different position from many of the inhabitants in that respect?—I recognized the possibility of my being shot if I gave information. I would have chanced that; but it was not through fear, but just through not seeing the desirability.  
 14616. Are you quite sure you did not see any of those men on any other occasion?—Quite sure.  
 14617. Were you aware, from any confidential communications from a number of sympathizers, of the locality where the outlaws were residing?—Yes, several times, and I always communicated that to the police.

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14618. At all times, immediately?—I think so, as far as I can recollect.  
 14619. We have here all the reported appearances of the Kellys—[*handing a printed paper to the 3rd witness*].—Can you identify your information about Joe Byrne with any of those?—[*The witness examined the printed paper*].—It was not sent in by letter.  
 14620. *By the Commission (to Mr. Nicolson).*—Can you help us as to the time about the information about Wallace seeing Joe Byrne?—It was some time, I should say, about the month of October 1879, and I had heard that Mr. Wallace had seen Byrne, or had reason to believe he had seen him; and I asked him if it was the case, and he told me he had not. I asked him first if he had been at his house, and he said not, and he had not seen him, except one night when he was driving; and as he passed during the night by his own house he saw a man pass he believed to be Joe Byrne, and he bade him “Good night.”  
 14621. Did he mention how long it had occurred?—This was a matter that had occurred some considerable time before.  
 14622. All this time he had been writing to you and giving you information?—He was writing from time to time.  
 14623. Can you give an idea how long a time had elapsed between the time and the information?—My impression now is that it was a considerable period, three or four weeks.  
 14624. Altogether beyond the possibility of its being of any service?—It was of no service then.  
 14625. *By the Commission (to the witness).*—You are quite certain you never went to Byrne’s house to take any meals. There is a paragraph here in this letter (27th August 1879)—“I went down to the old people’s next morning (Sunday) and stayed to dinner”?—That is Sherritt’s, not Byrne’s.  
 14626. Then you appear to have relied entirely on Sherritt?—No, not entirely.  
 14627. Principally?—Yes, principally.  
 14628. You state—“The old lady was not at all communicative, but appeared nervous and frightened. Had a walk out with Jack for his father’s horse (K. K.’s lost chesnut). He was rather reticent and distrustful at first.” That was John Sherritt. “I asked him how the outlaws were so foolish as to go into the house while the children were there”?—I think that refers to the night after the trial of Aaron Sherritt for the theft of Mrs. Byrne’s horse.  
 14629. There is another passage with reference to Aaron Sherritt changing a National Bank note. Was it the National Bank stuck up at Euroa or Jerilderie?—It was the National Bank at Jerilderie.  
 14630. “He said they were ‘square,’ and that he had obtained them in payment of service rendered to the police. I changed one of them for him, and cashed it purposely in Ward’s presence at Wertheim’s, Beechworth. I jocularly drew that gentleman’s attention to it as being a ‘National,’ and asked him what he would give to be told where that came from.” Was that done with the view of putting Mr. Ward on his “mettle” to find out where the note came from?—I think so, and as a sort of collateral evidence that Sherritt had those notes in his possession. No doubt if Ward did his duty he would report that at once to Mr. Nicolson, being the officer in charge, and that would corroborate my statement that I had seen the notes in Aaron Sherritt’s possession.  
 14631. It was with that view?—Yes.  
 14632. What was your own impression about that note at the time?—That he had received it from the outlaws. He made no secret of it.  
 14633. It formed a portion of the notes taken from the Euroa bank?—Yes.  
 14634. Again, you go on to speak about the watch:—“As to the watch, in the early part of the evening, he, of his own accord, proposed that I should go home with him that night and he would show it to me, to get my opinion as to the feasibility of getting it altered so as to defy identification.” You say you never saw the watch?—Never saw it.  
 14635. You do not know anything more about it?—Nothing more than that Aaron had it in his possession; and Jack Sherritt also said he had seen it. They both said at different times they wanted to get it altered.  
 14636. Did Jack say so?—Yes, he did.

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14637. There was no doubt he had seen it then, and there was an inscription on it?—No doubt whatever.

14638. “He said that there was a dark stain on the case and a sovereign pendent to the chain.” There is a very important clause here:—“He had an interview with Ward after this, and I fancy he was put on his guard by that gentleman.” What is the meaning of that?—That refers to Aaron Sherritt.

14639. What was your meaning?—Aaron Sherritt told me that Ward had told him (I know he told others—several) that I was assisting the police and endeavoring to capture the outlaws, that I was giving them information; and I had an idea that from his character if he knew I was making enquiries about the outlaws he would put them on their guard, so as to prevent them giving me any information.

14640. Did others inform you as well as Aaron Sherritt that Ward had said so?—Yes. I was informed that he had stated so publicly in Gardner’s hotel, at Milawa, on the evening of the ploughing match.

14641. We come to a later letter dated 19th September 1879:—“Since writing the rest I met Doig.” Who was he?—James Doig, a farmer.

14642. “He says that Ward publicly stated that I was a detective in Gardner’s hotel, Milawa, in the presence of Colin Gardner, J.P.; James Kelly, teacher; John Barry, farmer; A. McCormick, farmer and others.” That is what you refer to?—Yes.

14643. Did you consider that Ward was attempting to destroy your usefulness to the police for the purpose?—I did certainly. What other effect could it have?

14644. And you informed Mr. Nicolson that?—I did.

14645. For that purpose?—For that purpose.

14646. In this letter of the 19th September you say:—“Since coming home I have met a large number of people who were at the ploughing match on the 16th. If there had been such a rumor current as you told me of, I would be sure to have heard it by this time. Rumors of that kind soon travel. I do not believe that Ward heard anything of the kind?”—That refers to a conversation I had with Mr. Nicolson. Mr. Nicolson stated that he had heard through Ward that I had gone down on a mission to Melbourne to endeavor to obtain Byrne’s pardon. I think it was some tale of that sort.

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14647. “If he did, he alone is responsible for it. It has turned out as I feared. I knew well that if he found out what relations existed between you and me, he would do his best to spoil my chance of being useful to you.” That refers to Mr. Ward?—Yes.

14648. How did you come to know all those things. “I have it on the very best authority from two different sources that he stated at the ploughing match that I ‘was a detective,’ that he ‘was certain of it,’ that he ‘had seen my name on the list,’” and so on—that was your letter?—Yes.

14649. What led you to suppose Ward had that feeling towards you?—Well, just from my personal impression of the man and conversations that have been reported to me—expressions he had uttered in Beechworth and elsewhere conveyed to me by others.

14650. That he was attempting by all means in his power to destroy your usefulness in the attempt to catch the Kellys?—I will not say all means in his power, but he was trying to do it in various ways.

14651. The object, according to your view, is that he was trying to let it be known that you were so in order that you could not carry out your wishes to find out the outlaws?—That was my impression.

14652. What object would he have?—Jealousy of his position, I suppose; that he, being the detective in charge, should effect the capture himself—*esprit de corps* I suppose you would call it.

14653. You would not attribute it to any desire on his part to capture the Kellys through your means or any other?—No.

14654. But the opposite?—I believe he was earnest in his desire to capture them, but he wanted to do it himself.

14655. We have your letters here continually speaking against Ward. What object could he have in giving this information to others other than to prevent you getting information?—That was the only object he could have had.

14656. To turn all those who could possibly give you information against you?—Yes.

14657. To make them suspicious of you if you spoke?—Yes, exactly.

14658. We will pass on to the 12th November 1879. There are a lot of letters between, but there is really nothing that I can see of importance in them. On 12th November 1879 there is this:—“On last Sunday week I met Aaron Sherritt on the Woolshed, and had a long conversation with him. He said the police were going to have another mustering match, and run in all the sympathizers again, he taxed me with having let out something about Kennedy’s watch, and said that you had been persecuting him about it.” What was the nature of the information that he gave you then about Kennedy’s watch?—The information already referred to—he stated that he had it, and in reference to the inscription.

14659. Did he say Mr. Nicolson had been enquiring about it?—Yes; he said he had been enquiring about it frequently and persistently.

14660. “He remarked that Ward and he were on bad terms, and that you negotiated with him personally now?”—Yes, he made that remark to me.

14661. And that he had no intercourse at that time at all with Ward?—That is what I understood him

to say. The negotiation was carried on through Mr. Nicolson personally.

14662. Then from that we would understand that he and Ward had quarrelled?—Yes.

14663. Did he ever make any statement to you that he would drop you a few hundred notes?—No; he made some offer with regard to money, which I declined; I think it was £50—a loan of some money, that was it. He knew I was in financial difficulties; that was the reason he made the offer, I suppose.

14664. Would you tell the circumstances under which such an offer as that was made?—No, I could not; I have only a hazy recollection of it; he said he had plenty of money, and if I were short he could lend me some.

14665. This is a long letter you wrote about Tom Burke and his application for land?—Yes.

14666. Have you still the same opinion of Tom Burke that you expressed there?—I have still.

14667. And of the other members of the family?—Ned Burke I considered certainly find tendencies in the way of sympathizing, but not the others.

14668. “He wished me to write to Graves, Gaunson, and Cooper, Ms.L.A., and to Reid, Wallace, and Wilson, Ms.L.C., and also to draw out a petition to Parliament”?—That is perfectly correct.

14669. You mention in this letter, “Barry said that if he was Byrne—I interviewed Jack Barry, of Hedi, last night. Had a conversation *in re* the outlaws; he was rather more reticent than he usually is, and would let out nothing tangible. I am sure he knows something about them, but I think it is indirectly through Ned Burke. Barry said that if he was Byrne, he would ride into Beechworth and shoot Ward at the first opportunity. I asked him why? What reason had Byrne to dislike Ward more than another? He replied that Ward had seduced Byrne’s sister Kate. I asked him how he (Barry) knew. He said he knew all about it, that the information had come through Byrne himself, and that he got to know it indirectly.” Was there anything of that going about with reference to the police or detectives in the district?—Only that solitary instance which I mention.

14670. And he actually made that statement to you?—Yes.

14671. You appear to have carefully reported to Mr. Nicolson all that you heard about Ward?—Yes.

14672. Was there a special kindly feeling existing between you?—No, I think not.

14673. On the 26th of November 1879 you say, “Rode down through the Woolshed,” past Aaron Sherritt’s house. “Met John Sherritt, junior, and Pat Byrne (Joe’s brother). I had a long and interesting conversation with these worthies, who manifested much pleasure in meeting me. I wondered at the marked change in Jack’s manner towards me, as, on two or three previous occasions, he had carefully avoided me. I soon ascertained the reason. It appears, by their account, that the virtuous detective who is standing the season at Beechworth had stated, a day or two previously, that my ‘name had been added to the black list at the office; that he believed that bloody Wallace was in constant communication with the outlaws.’” What do you mean by that about the detective?—That was simply a report of what actually occurred; a conversation between Byrne, Sherritt, and myself that Ward had spread that report in Beechworth, that I was on the black list at the office. That was meant to put Mr. Nicolson on his guard not to let Ward know that he had a bad feeling against me. These things were being frequently told me.

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14674. You simply meant by that that you and they were talking about Ward as being a man of very bad character; did you mean by that insinuation that Ward was engaged in immoral practices?—There is no insinuation; there is simply a statement of conversation.

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14675. What did you mean by that?—Will you read it?

14676. “The virtuous detective who is standing the season at Beechworth”?—That is exactly what I meant. He had the reputation of acting immorally, putting it in a mild form.

14677. Have you any knowledge within your own experience of his having done so that would justify you in saying that?—No; not directly.

14678. While you were pretending to give information to the police force, you were attempting to damn the character of a public officer without positive proof of facts?—The expressions were strong, I admit.

14679. What justification had you?—The repeated attempts of Ward to report me, and reports of Ward’s immorality.

14680. Was it not your personal animus?—No; I had no animus whatever.

14681. Was there anything to justify you?—I think it was too strong.

14682. Was it untrue?—No; I have still the opinion that he was not a man of moral character.

14683. Was there anything to justify you making such a statement in writing?—Only the current reports.

14684. You were occupying the position of a teacher of the youth of this colony?—Yes.

14685. Without having any proof positive, you did not hesitate to pen a sentence which involved the slander of a man’s character, sufficient, probably, to cause him the loss of his situation in the public service, and without any positive proof?—Without any positive proof any more than current reports.

14686. And yet you thought yourself justified in slandering a man’s character without having any proof?—I did.

14687. Were you not actuated by mere animus and nothing else?—I do not think so.

14688. I think it would be difficult to make us believe so—did you think at that time that Jack Sherritt was a sympathizer with the outlaws?—I did.

14689. Is all the rest of your valuable information supplied to Mr. Nicolson of equal importance to that paragraph in your letter, in your opinion, after due consideration?—Well, I admit that was unjustifiable and wrong.

14690. Do you think that all the rest of all your writing is of equal importance, in the interests of the public, to that statement contained in your letter obtained from Jack Sherritt?—I say the whole of that information was important to the public.

14691. You think the whole of your information was of equal value?—I am not talking about the equality—I say that may have been too strong, but the information I supplied was of use.

14692. Were you aware, at the time you wrote this paragraph against Ward, that Ward knew you were in communication with Mr. Nicolson?—He stated that I was publicly.

14693. Did you know from Mr. Nicolson whether Ward knew?—I did not.

14694. Did you ask Mr. Nicolson?—I reported the circumstance of Ward speaking about me in that way, and asked him to prevent Ward doing so.

14695. Did you ask Mr. Nicolson whether he had informed Ward that you were in correspondence with him?—I cannot recollect that point for certain.

14696. *To Mr. Nicolson.*—Had you made Ward acquainted with the fact?—No, Detective Ward was not aware of it till the Commission sat, to my knowledge.

14697. *To the Witness.*—Did Sherritt know you were in correspondence with Mr. Nicolson?—He did not, that I was aware of.

14698. Did you know that Sherritt was engaged in the confidence of the police?—Yes, I believe I did.

14699. You knew all through at this time that you were speaking of Aaron Sherritt?—That he was in communication with the police.

14700. Did you know it officially?—Yes, from Mr. Nicolson.

14701. Were you desirous of placing Aaron Sherritt upon the best possible terms of confidence with the police authorities?—No, rather the reverse, if I understand your question. My impression all through was that Aaron was playing the double game, all through up to the time I left.

14702. It may be the impression that you were playing a double game. We do not want impressions. Were not you actuated with a desire to represent to Mr. Nicolson that Aaron was playing double?—I did so because I honestly thought so.

14703. Will you now speak positively that Aaron ever admitted he had that watch?—I will—he did several times.

14704. Will you, if Jack Sherritt comes in and swears he did not, contradict him on oath?—I will if he says so.

14705. What were you at the time you were the correspondent of the police?—I was following my usual occupation of State school teacher.

14706. What salary had you at that time?—I could not say; about £200 a year.

14707. What are you doing now?—The same.

14708. At what salary?—About the same.

14709. You know what you are getting; what are you getting?—About £15 17s. 6d., including maintenance allowance.

14710. Do you mean to tell me you are still in the service of the State as a school teacher?—Yes.

14711. Were you aware that Sherritt was a paid agent of the police?—From his own statements.

14712. Not from Mr. Nicolson?—I cannot say. I knew that Mr. Nicolson had seen him. I knew that he was frequently in Benalla, but that was all.

14713. You knew he was recognized as a paid agent of the police at this time?—I believed so.

14714. And he was one of the men you swore this thorning you relied on for obtaining information?—Yes, one of them.

14715. And you were at the same time endeavoring to damage the man's character?—For the simple reason that I believed he was playing double. While I could use very often information I obtained from the man, I had no confidence in him.

14716. And you were obtaining money for doing that?—I received no money except for my actual expenses.

14717. Was the position you assumed with the police known to the Education Department?—I believe it was, through Captain Standish.

14718. Did you of your own free will, before entering into any engagement with the police, communicate with the department of which you were an officer, and get their permission?—No, I do not think so. It did not interfere with my duties as teacher.

14719. You never had any written permission to act in the capacity you then assumed?—Never; because it was intended to be kept as private as possible.

14720. That would not have interfered with the effectiveness of the service you were going to render?—I think Captain Standish applied to the office; I never did directly.

14721. Were any of the Kelly gang at your school at any time?—Not that I know of.

14722. You were a schoolmate of Joe Byrne?—For years, and playmate.

14723. Did you make any arrangement with Aaron Sherritt for Joe Byrne to betray the other three?—I did, at the request of Captain Standish. I used him as one of the means of communication.

14724. Did you ever have any communication with Joe Byrne on the subject?—Never.

14725. At no time?—At no time.

14726. You only saw him on the road as you speak of?—Only that.

14727. Were you writing a book about this time?—I was doing something in that line, but I abandoned that idea.

14728. What was the nature of the book?—That has nothing to do with the Commission. I decline to say.

14729. Was it any reference to the Kellys?—It was simply a romance based on the country there, and it was in the interests of law and order.

14730. In connection with outrages of a similar character to the Kellys'?—The same.

14731. We have it in evidence that you were often at Sherritt's house?—Yes, I was.

14732. Asking for information, because you were writing a book?—I had to give some reason for wishing to know, and I conveyed that impression. I do not know that I actually told them.

14733. Were those outlaws and their associates the heroes of the tale?—They were not.

14734. You are quite sure of that?—I am sure of that. How could I possibly make them the heroes of a tale? I might make them the villains of a tale.

14735. How far did you get with the book?—Nothing more than notes. I did not stick to that idea long.

14736. You wrote some?—I did nothing of the kind.

14737. You obtained information that would guide you?—It was necessary to make some excuse, apart from the right one, for showing interest in the affair.

14738. Have you destroyed those notes?—Yes. Would you like to read them?

14739. I think I can read you pretty well?—Yes.

14740. Did you write a series of articles in the Wangaratta paper against the police?—No, I cannot say that I did.

14741. There was a series of articles came out in the Wangaratta paper—you were not the author?—I was in the habit of writing for the Wangaratta Despatch. I do not know what articles you refer to.

14742. Were you in the habit of supplying this journal with information bearing on the pursuit of the Kellys and the conduct of the police?—Certainly not. I have written various articles for the paper.

14743. You never wrote on this particular question, the pursuit of the Kellys?—Yes, certainly I have done so. There have been so many articles in the Wangaratta Despatch bearing on the Kellys, I cannot say which you refer to.

14744. How many did you write bearing on this subject?—I remember writing one leading article for them and a series of romance entitled "Christmas in Kelly Land." That was all I had to do with it.

14745. Those were in no way reflections on the conduct of the police?—I do not think it could be construed in any way into reflections on the police—certainly one article reflected on the backwardness of the rank and file in not carrying the pursuit to a successful termination sooner.

14746. Did you write that article after you had seen Joe Byrne on the road, or before?—I think before.

14747. You carried that out by giving information so long after?—I was not a policeman.

14748. You were in the pay of the police?—I was not; I was only paid expenses.

14749. You received a consideration for your services?—No; I only got my expenses.

14750. Did you render an account of every particular?—No; it was not asked for.

14751. How did you render the account?—I was put to considerable expense travelling about.

14752. Will your books show that?—I have no books.

14753. Could you give us any idea how you incurred this expense?—Horse-flesh and horse-feed.

14754. You had your own horse there?—But still it would require horse-feed, and horse-feed was expensive, and travelling about from one place to another, and meeting sympathizers and drinking with them, would soon melt the money. Of course, you all being teetotallers, cannot see that.

14755. What time were you engaged in those services?—Seven or eight months, or perhaps before.

14756. What time were you engaged in this work?—Evenings and nights, Saturdays and Sundays.

14757. Never during school hours?—No, that would not have done.

14758. How much did you receive altogether?—£80.

14759. Did not you receive nearly £180?—I cannot say.

14760. Would you be surprised if it was £180?—I would, indeed, be surprised if it was over £100.

14761. Your first letter is August 1879, and your last letter is dated in March 1880; it must be a pretty good drinking outlay to spend all this £180. You commenced in August 1879, your first letter to Mr. Nicolson, and your last letter is 18th March 1880; that is about seven months; that is about £20 a month?—I did not receive £100 altogether, I am sure.

14762. Did Mr. Nicolson always express himself satisfied with your efforts?—He did not.

14763. When did he first begin to show dissatisfaction?—I could not tell you exactly.

14764. I have a letter here before me, January 26th 1880, from you?—It would be about that time.

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14765. In which evidently, from the tone of it, Mr. Nicolson has been declining to pay the sums you demanded; was that so?—He did not decline, but he said he would have to consult his superiors; he thought I had gone to too much expense.

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*continued.*  
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14766. As a matter of fact, did he pay you at that time the amount you asked?—I do not exactly remember.

14767. “The information I referred to I gave you at Benalla on the 12th. My expenses, which I positively understated at £25, you said you were not in a position to pay in full until you had consulted with your chief. You stated that you would write to him on the next day (13th), that you would probably receive his reply by return post, and that you would communicate with me at once. You did not do so. Beyond remitting the £6, you said nothing as to the balance of my expenses, nor do you in the letter I have just received.” That would be the 12th of January that he objected to pay any more apparently?—Yes, about that time.

14768. And you stopped supplying any intelligence from that period?—No, I met him after at Wangaratta, and he paid me the balance; and on another occasion I met him in Benalla.

14769. You say—“As to your hints *re* my intelligence being ‘manufactured to raise money upon,’ I do not believe that you think so. For this reason, that you know that I do not receive a penny for my information, and therefore have no inducement to stoop to such an infamous imposture.” Did Mr. Nicolson hint to you that he was not satisfied with the way your information was coming?—He did on that occasion. He said it raised unpleasant suspicions when I was so slow in coming down, after returning from the bush after my Christmas holidays.

14770. There is one question I think you ought to answer candidly—have you supplied to the police one particle of information that you think upon mature consideration helped to catch the outlaws?—I think so.

14771. At what date did you supply it after receiving it?—All through.

14772. I have read your correspondence over, and I confess I cannot find any information. I have read until I am weary. It is a perfect deluge of writing, with not a particle of information in it. I may tell you that the members of the Commission are strongly of opinion that the information in no way contributed to the success of the capture, and was from the first unreliable?—(*No answer.*)

14773. Here is a report from Detective Ward of 26th August 1879:—“North-Eastern District, Beechworth Police Station, August 26th 1879.—Memo.—I have the honor to report, for the information of the Assistant Commissioner, James Wallace, schoolmaster, Hurdle Creek, came into Beechworth on Saturday, 23rd instant. He had a horse and buggy with him. He purchased a bag of bread and a case of brandy, half a dozen of pocket-handkerchiefs, one bottle of scent, and a package of arsenical soap. Tommy met him by appointment from the Saturday previous. When he was in Beechworth also he told Tommy he came to see him to go to Melbourne with him, to try and get Graham Berry and the Marquis of Normanby to sign a reprieve for Joe Byrne by giving information to the police where the other three could be caught. He said he would arrange everything if Tommy would go with the police, but he should get £2,000 out of the reward, and cautioned Aaron if it could be arranged that he should take good care not to go as a target to the front. He said Constable Slater was the best friend the Kellys had; he told his friends the movements of the police, and the Kellys heard it shortly after. He also said that Sergeant Harkins, of Wodonga, heard something about a shanty four miles from Wodonga; that the Kellys heard it and changed their quarters. He said Byrne is treasurer and confidential for the gang; that their money is running short; they have only £500 and the gold. He wanted Aaron to go to Chiltern or Wodonga to sell the gold for him, and he would be well paid for it. Aaron refused, and said he was too well known to Sergeant Lynch, of Chiltern. He said he had 50 or 80 ozs.; that it would be melted down into 20-oz. pieces. He suggested to get a man with Aaron to go digging in the Stony Creek, near Beechworth, for a week or so, and then they could sell the gold. He made arrangements for Aaron to go to Hurdle Creek to his place on Friday evening (but not to cross the river before dark), when some arrangement would be made for the sale of the gold and the trip to Melbourne. He said Joe Byrne came to his place on Thursday night the 21st instant; that he wanted him to see Aaron and find out if he (Aaron) was after them yet; if so, to tell him he would know the consequences. He said Joe is frightened that Ned will sell himself and Hart through some of his friends. He said unless Byrne could be got free they would shortly stick up a bank, and the first thing they would stick up is Oxley, as there is whip of money there. He said he wanted to have a conversation with Detective Ward, to try and find out what was the opinion of the police as to whether the Kellys were in the country or not, he wanted Aaron to shoot Ward, and it would be left on the Byrnes. Tommy states that he had about nineteen or twenty National Bank notes on him; that he spent about seven or eight pounds on Saturday night. On Saturday the 16th instant I met Mr. Wallace on the Beechworth road, near the Golden Ball. He was going to Beechworth. He said he would see me in Beechworth on that night, but failed to do so. I found on Sunday the 17th he spent a good part of the day at Sherritt’s. On Saturday the 23rd I met him in Beechworth. We went into a public-house, and had several drinks. In course of conversation he asked me if I thought the Kellys were in the country. I said I thought they were. He said, ‘Why do you not catch them?’ In conversation it came down to this—the

pardon of one to catch the other three. He said 'That is worked out; it can't be done.' In payment for a round of drinks he pulled out a National Bank note, and passed it to me and remarked, 'It is a pity you have not got the numbers now,' and 'You could do good.' I replied and said, 'Not at all, you are a friend of mine, I would take no action.' He left me and spent money very freely during the night. Tommy slept with him at the Imperial hotel, High street that night. They left at about seven am, for Mrs. Sherritt's, where he remained until about twelve o'clock noon, when he left for home. Tommy accompanied him as far as the Golden Ball. There is no doubt of him being a warm supporter of the gang. Strict watch will be kept on him in Beechworth when he comes in.—M. E. WARD, Dect. 2358. I have been to Sheepstation Creek on yesterday. After coming back, saw Mrs. Sherritt, who is of the opinion that they will shortly give a call at her place. If they do, she will immediately let me know.—M. E. WARD Det. 2358." Had you any conversation of that sort with Aaron Sherritt?—None whatever. It is a concocted report all through. It is a fact I bought things, though not all the things mentioned there. I got bread.

14774. Is it the fact that you stopped there for the night?—Yes.

14775. Were you in company with Sherritt?—Yes.

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14776. Can you tell us in what respects you say this report is concocted?—In respect to the conversation at least. It is stated Sherritt made this report to Ward. I state that is altogether untrue; I never had any such conversation with him.

14777. Sherritt might make those statements to Ward?—Well, it is untrue that that conversation occurred between Ward and me.

14778. Might not that occur between Sherritt and Ward?—That might occur, because on that evening Sherritt was sent for by Ward. It is a fact that I was with Sherritt there, and I drove home and called at the Sherritts'.

14779. Had you any conversation with him then?—I did, but not like that.

14780. In what are the circumstances incorrect?—That part which states that I wanted him to do certain things for the outlaws, and that I was a friend of the outlaws, and other things. Of course I had to assume the role of sympathizer, and was advised to do so by Mr. Nicolson, in order to carry it out.

14781. Did you ever say that Byrne was in your place?—I never did.

14782. Was he, as a matter of fact, ever there?—Not since they were outlaws; previously he was.

14783. Can you inform the Commission on or about the date of the last conversation you had with Byrne?—I cannot, it is so very long ago. It was shortly after his release from Beechworth prison, where he had been for some sentence or other.

14784. Do you swear that you never saw Byrne or never spoke to him after the date of the committal of the murders?—Only on that one occasion I have mentioned I never had any conversation with him.

14785. *By Mr. Nicolson (to the Commission).*—You asked did he ever say to anyone that Byrne had been in his house, and he said no. (*To the witness.*)—Did you ever say that to the Sherritts?—I may have done. I was instructed by Mr. Nicolson to lead them to believe I was a friend of the outlaws, and in communication with them. I may have made that statement to Sherritt.

14786. *By the Commission.*—The fact is, you wish us to understand that you, as a schoolmaster occupied in the Government service at this time, were willing to engage in a position of this kind, regardless of truth or anything else, to assist in capturing those men?—To a certain extent truth had to be sacrificed.

14787. It was merely a question of degree then?—Merely a question of degree.

14788. Do you mean to say you were prepared to lie?—I do not.

14789. If you made this statement to Sherritt, would that not be untrue after the statement you have now made?—It would be untrue, but I do not think I would have made that statement. I may have led him to believe it to a certain degree; but I am almost sure I never made that statement.

14790. Did you not make the same statement to Captain Standish?—Not that I remember; no, I am positive I did not. He was not misled by me in any way.

*Mr. Nicolson.*—When I went to see this witness first in July, he denied that they had ever been at his house.

*The Witness.*—I deny it still.

14791. *By the Commission.*—This is a report of Detective Ward's, a month later, dated September 4th 1879.—[*The same was read, as follows:*—"North-Eastern District, Beechworth Police Station, September 4th 1879.—Memo.—Confidential.—I have the honor to report, for the information of the Assistant Commissioner of Police, I have seen Tommy this morning, and he has very little news. He gives his reasons for stopping so long at Wallace's is to try if Joe would call there, as he was expected but he did not call; but he states that he is certain Wallace knows their whereabouts, and can find them when he likes, but he will not sell Joe Byrne. Wallace and Tommy have made an appointment to go to Chiltern on Friday evening to try to meet a person who knows where Joe can be seen. I asked him if he would have any objection for me to be in Chiltern to see if Wallace would be there. He said, 'No you can come, and you might then get the gold when we are in the act of selling it.' Tommy states that the gang told Wallace they would not try the Oxley bank now, as there is too many police there—two troopers every morning when the bank opens; and another drawback, the ground is too soft. They are not going to do anything until the ground gets harder; they

are frightened of the black boys. The gang were at Richardson's shanty, on the Chiltern and Wodonga road, about three weeks ago. Joe Byrne told Wallace that Grace Quinn had Sergeant Kennedy's watch and chain, as Byrne wanted to get the watch to return it to Mrs. Kennedy. They are very sorry for the shooting of Kennedy. Tommy says by the description of the person who gave him the threatening letter it must be a man named Jack Fox, a particular friend of the Byrnes. He received a sentence of nine months, some six years ago, for stealing a horse from Mr. Kennedy, of the Woolshed. I am not at all satisfied with Tommy's tale. I am of opinion that he has seen Joe Byrne himself; and most likely he is the identical person who gave the letter to Jack to post, and kept out of the way until yesterday himself. However, he assures me that we will get them, and that before long. I am giving him money to go to Chiltern to keep the appointment with Wallace. If you would advise, I would like to go and be somewhere concealed, and watch the movements of those two, as, if they are there, there is some move on the board.—M. E. WARD, Det. 2358."—You have heard that report read?—I say it is totally untrue so far as I am connected with it.

14792. Did you never make any appointment with Sherritt?—Yes, but not of that nature. On one occasion I was out in the Chiltern direction, when my horses got away, and I made an appointment to go out the following Saturday if they did not come home. The rest has all been built up on that. Sherritt was to look for the horses on the Woolshed Ranges, and of course all these circumstances were reported to Mr. Nicolson.

14793. *To Detective Ward.*—Do you desire to ask any questions of Mr. Wallace?

14794. *By Detective Ward.*—The only question I would ask, with your kindness, is—have you and I been on friendly terms all this time you were writing?—The reverse, I should say.

14795. Did you always speak and shake hands with me?—We have always done that certainly, but I have been told by every one that you ran me down behind my back, and so on; and said I was in the pay of the police, and a sympathizer at another time.

14796. You referred in your letters a deal as to my immoral habits—can you point out one instance of your own knowledge during the time that you knew me. On your oath, is there a man in the North Eastern District more highly respected amongst the respectable citizens of Oxley and Beechworth than I am?—

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*The Commission.*—It is no use asking that question.

14797. *By Detective Ward.*—Do you know anything personally about it?—I know no one in the North-Eastern District who bore a more unenviable character for immorality than you yourself.

14798. Can you give any instances?—Tampering with the pupil-teachers—the girls—in the Beechworth State school.

14799. Give the name?—I cannot.

14800. *By the Commission.*—Was there any stir made about that at the time?—I believe so—only from report and through others. I believe Captain Standish made an enquiry into the matter, and it was hushed up.

14801. Did you hear anything of the result of that enquiry?—I did not.

14802. *By Detective Ward.*—Any other person?—I have heard you are the father of several illegitimate children.

14803. Will you just give one if you can. To a man like you, with such a knowledge of the world, one is nothing—give half a dozen?—It was currently reported in the North-Eastern District that you were the father of the illegitimate child of Miss Mason of Tarrowingee.

14804. Who told you that; I want an oath on that; what year was it?—I cannot give the year.

14805. Was it seven years or ten years ago?—Within two or three years ago.

14806. Are you aware where I was the last three years?—Knocking about the North-Eastern District.

14807. When did I go there?—I cannot say.

14808. Did Miss Mason tell you?—No, it was currently reported—that was all.

14809. Can you give me the name of someone?—I cannot.

*Detective Ward.*—I have no more questions. I defy Mr. Wallace or any other person, as far as I am concerned: and another thing I must distinctly say, that I had no knowledge of this man being employed in any way till the Commission sat.

14810. *By the Commission (to Detective Ward).*—Did you say in the presence of anyone that he was employed?—No, I could not.

14811. *By Mr. Wallace (to Detective Ward).*—You did not say so in the presence of James Doig and this witness?—No.

14812. *By Mr. Nicolson (to the witness).*—There is one question I would ask—was it not currently reported that Joe Byrne was the scribe of the gang?—Yes.

14813. When you offered your services, was it one of your designs to volunteer to reduce this collection of writing of Byrne's into shape for him—was that not the arrangement with myself?—That I should endeavor to get hold of this diary.

14814. And get the confidence of the gang through that?—Yes, that was the point I went into the bush for, to receive this diary, and I missed them some way or other.

14815. *By the Commission.*—Did you ever get the diary?—No; I left the district, and I would not know whom to apply to. There is one point I should like to mention—I was asked if I received payment from

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any member of the police but Mr. Nicolson. On one occasion, in visiting Mr. Nicolson, I received a sum of money from Captain Standish. Of course I regard that as coming from Mr. Nicolson, as it was with him I had all the communications; and along with the money I received a message to the telegraph operator, in case I wished to communicate any hour of the night.

14816. *By Mr. Nicolson.*—Was there any person present in the room?—Captain Standish and yourself; that is all I think.

14817. Do you remember the amount?—£25; and it was Captain Standish fixed that amount himself. I asked for an advance of money for expenses to do certain work, and I required a horse, and that contained sufficient money to procure a horse.

14818. Do you remember the note he gave you to the telegraph office?—Yes.

14819. To convey the information to whom?—To Captain Standish himself. I think it was, if I remember rightly, to the telegraph operator—"Please forward telegram to me at once to Beechworth. Most important. The office at Beechworth is open all night.—F. C. STANDISH, Chief Commissioner of Police."

14820. Was not the description of the late Sergeant Kennedy's watch publicly known?—I did not know it.

14821. Were you not aware it was known publicly?—No more than speaking to you in conversation about the stains; you remarked you believed it was a presentation to him.

14822. You remember on that concluding correspondence with me. You say you have got the balance of your money—the £19?—Yes.

14823. That concluded the matter?—No, that did not conclude our relations.

14824. As regards money?—No, there were some expenses after, £5 13s. I claimed, and it was decided to let the horse stand for that.

14825. Do you remember meeting me afterwards?—Yes, on the Benalla platform.

14826. Do you remember the 17th April, a Saturday?—I do not remember the date.

14827. When you reached that platform at Benalla, do you remember speaking to anyone besides a few words to myself?—Mr. Graves, I think, was on the platform. I went down in the train with him the greater part of the way to Melbourne to Seymour.

14828. You saw me on that day?—Yes.

14829. And you saw me at Wangaratta as well?—I did.

*Mr. Nicolson* asked for a letter to be read.—[*The following letter was read, not signed:—*]

"Melbourne, April 19, 1880.—J. H. Graves, Esq.—Dear Sir,—In laying before you the following statement relative to the police force and the Kelly gang, I trust you will excuse the liberty I have taken, but I hope to justify my action by the following facts. As you are aware, the outlaws have now been at large over eighteen months, and the question arises in one's mind—Are they ever to be captured? Well, I will endeavor to the best of my ability to explain; the cause of their being still at large, from the time of the police murders at Mansfield up to the present, has been but a complete failure of the Police Department. I will begin my narrative at the Euroa bank robbery. How the outlaws eluded the police there can only be accounted for in one way, and that was negligence of duty by Mr. Nicolson, who was then in charge of the search party there. There should be an enquiry instituted about this particular case. Why the members of

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the force were delayed at Euroa for hours after the outlaws were gone is a serious matter, and ought in justice to every member of the force to be cleared up. That a serious blunder was committed there can be no doubt, and it is the only reason the Chief Commissioner had for ordering him to Melbourne on a pretext of having bad eyes. Another case similar happened shortly afterwards at Beechworth, when valuable information reached the constable in charge that the outlaws were in the vicinity. The constables, five or six in number, decided to proceed at once, and when everything was complete and ready to start, an officer dropped in, and ordered them to remain in barracks, and went for orders, which they were obliged to obey. The consequence of this delay was, that when all the usual red tape routine was gone through, they surrounded the hut, in three days after the information reached Beechworth. The Kelly gang had decamped the day previous. There is something very singular in this case. When this particular hut was surrounded there was almost as many officers present as constables. The question arises—Were these constables delayed for the purpose of collecting all the officers in the district to be present at the great charge of Sebastopol, as it is now termed? Had these six constables been allowed to proceed at once with the informer, the Kelly gang would now be a thing of the past, as it has been proved beyond a doubt since that the outlaws were there twenty-four hours after the information reached Beechworth. This is two instances in which if proper and prompt steps had been taken the gallows would have had its victims. Mr. Nicolson has resumed his old position in charge, and what he has done towards capturing the outlaws I am not in a position to say. There has been a secret party of police in charge of Detective Ward at Beechworth for the last four months, watching Mrs. Byrne's house. This party of police were going to succeed at once. The gang, who were always supposed to be visiting Mrs. Byrne, were to be sold by Aaron Sherritt, who is engaged at a very high salary by the Police Department. And it is well known that Sherritt did assist these outlaws when they first turned out, and will assist them again,

and I would not be the least surprised but what he carries all the information about the police movements to the Kellys; yet this is the man that A.C. Police places his confidence in. The party is now withdrawn, on account of the outlaws' friends knowing what the police were up to. And it seems to me that the party was nothing more nor less than a complete farce, as the Byrne and Sherritt families are great friends, and both know as much as the police about the secret party. In fact Detective Ward has expressed himself on several occasions to some of his friends in Beechworth, previous to the party going out, that he knew there was nothing in it, but he must do something to curry favor with Nicolson. And at the proper time evidence will be brought forward to prove my statement true. At the present time there are men in the district who had been picked out for their smartness and activity, and they are not allowed outside barracks, for fear of them hearing anything about the murderers. There are also stationed in the district six black trackers from Queensland. The Government finds them in good clothing, and also a constable and sub-inspector to look after them. To me it seems monstrous that a sub-inspector is required to look after six black trackers at £50 per month, also horses to sport his figure on. At the lowest estimate, the trackers cost the country about £130 a month without horses, and in their first attempt at tracking two men escaped from Lancefield to Sandhurst on foot. That does not speak much for their abilities as black trackers, and I may state that those members of the force who have had an opportunity of judging of their capabilities are of opinion that they will be the cause of the outlaws escaping on the next attempt at sticking-up a bank, as no one was allowed to go in pursuit of the robbers at Lancefield for fear of obliterating the track. The same thing will occur again. The members of the Victorian police force, who are all desirous of meeting their comrades' murderers, are to wait behind, these trackers crawling along at the rate of three or four miles an hour after men who are travelling at the rate of fifteen or twenty miles an hour until they are safe in their old haunts again with their plunder; there to remain and laugh at the futile efforts of the police to capture them. Unless some alterations are made very shortly, I am afraid that very little security to life or property we need expect from the police. If the police require strengthening in the North-Eastern District, it is not for the purpose of confining the members from where the crime is committed; and in place of the Kelly gang being allowed to rest and mature their plans for the future, the police should be allowed to exert themselves to their utmost to capture them, and not wait for the Kellys to walk into some police station and give themselves up as prisoners. I will now finish my remarks with a few suggestions, and I beg that you will be good enough to use your influence on behalf of the many who are of the same opinion as myself on this subject, and I trust you will bring under the notice of the Chief Secretary the present helplessness of the police force to capture the Kellys. In my opinion, those men that are hired at a high salary should be dispensed with. If Aaron Sherritt or any of his class ever intended to sell the Kellys, they would have done so long ago for the £8,000, and the department would not be the laughing-stock of the outlaws and their sympathizers. Fancy a man in his proper senses engaging Aaron Sherritt to sell the outlaws. Why he would rather cut his arm off. The fact of it is Ned Kelly's best friends are engaged by the department, and why are they engaged is the question. If there are not men in the force capable of doing any duty that is required of them, the whole force should be disbanded. Are the trackers required? If they are not, they ought to be sent to Coranderk, and it would save the country £130 a month at the very least, and the sub-inspector could return to Queensland, as he is never troubled with the trackers. Is Detective Ward and the Assistant-Commissioner capable of outwitting the outlaws? My answer is they are not. What they have done up to the present time is nothing, and I believe they will continue doing nothing, and the Kellys will reign until they die a natural death. I will now conclude, hoping that you will bring this subject before Parliament, or under the notice of the Chief Secretary, and save the country from further needless expense, as I am certain that, with a change of officers, and a very little skill, the Kellys will soon be brought to justice. I am, in meantime, yours obediently, —."

14830. *Mr. Nicolson.*—Do you recognize any portion of that as your own composition?—None whatever.

14831. If anyone stated that they saw the original of that in your handwriting, would that be untrue?—No, because the original of that was in my hand, after it had been sent to Mr. Graves.

14832. Where was that?—Graves was in correspondence with me about something and enclosed that, and asked my opinion about that.

14833. Was that before I saw you that day in the train?—I cannot say; I think it must have been afterwards. The letter was not anonymous; the signature had been evidently cut out in the copy that was sent to me by Mr. Graves, and I think that is the whole of the letter that was sent to me by Mr. Graves asking my opinion about it. I said I thought it had been concocted by someone on the Woolshed.

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14834. Was that before or after you went down to Melbourne?—I cannot say.

14835. You remember seeing me on the train as far as Benalla, and then you went on to Melbourne?—Yes.

14836. Did this come into your possession before or after?—I could not say; it must have been after.

14837. *By the Commission.*—Did you see the letter before it was sent to Mr. Graves?—Never.

14838. Did you know the writing?—I did not.

14839. You did not know the party who wrote it?—I am positive I did not know. I had an impression, from the style, that it was written by a man named Murphy, on the Woolshed, from hearing

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Sherritt say that Murphy had written some articles that appeared in the *Age* on the same subject.

14840. When Mr. Graves asked your opinion on that, what answer did you give?—Generally, I think I said there was not much in it; there was some truth, but it was not altogether true. I do not recollect exactly, it is so long ago.

14841. *By Mr. Nicolson.*—You state on your oath that you did not see that document before it reached Mr. Graves?—I do. I did not see it or any part of it. The first time I saw it was when it was sent to me by Mr. Graves with some correspondence apart altogether from the Kelly affair.

*The witness withdrew.*

John Sherritt sworn and examined.

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14842. *By the Commission.*—What is your occupation?—Before I was sworn in as a member of the police force I used to take contracts for fencing.

14843. Small contracts in the bush?—Yes.

14844. We have had it given in evidence that you had possession of Sergeant Kennedy's watch at one time. Do you remember having that watch?—No, I never had it.

14845. Did you know anybody that had it in his possession?—No, I did not.

14846. Have you seen it at any time since the death of Sergeant Kennedy?—No.

14847. Have you told anybody that you had it in your possession?—No, I never told anyone so.

14848. Then you do not know anything at all about the watch, or what sort of watch it was?—No, but I can tell a little about it. I heard a party asking my brother about it, asking my brother if he could get this watch from Mrs. Byrne.

14849. Who was that?—James Wallace, the schoolmaster.

14850. Do you remember in what way he asked?—He said, "If you get that watch, I will give you so much money." I could not mention now the amount of money, but he said, "I know you will be able to get it from her, because you and Byrne's sister are on pretty good terms with one another."

14851. You are still living in the neighbourhood?—Yes. There is a good portion of my evidence I wish you would not have published, because I have got a good lot to say, if I am allowed to.

*The Press were requested to withdraw.*

14852. With reference to this watch, do you believe that your brother ever had it in his possession?—No, I am sure he never had it.

14853. From what you knew of your brother, do you think he would tell anybody he had the watch?—No, I do not think he would; but I am sure he never had the watch.

14854. If you have anything you wish to say, if you will just commence in your own way, we will not interfere with you?—About the watch first: my brother said he could not get the watch from Mrs. Byrne, and Wallace insisted that he could; and then he wanted to make Aaron believe that he heard Aaron say—in Kelly, the outlaw's, house—that he heard him telling Kate Kelly (Wallace said he was outside) that he had the watch. I wish to tell you my brother was in the employ of the police at this time.

14855. Did you often speak with Wallace yourself?—Well, I did pretty often; I used to go to school along with Wallace.

14856. How far was his school from the Woolshed Creek where you lived?—About twenty miles, I think.

14857. Were you often in Wallace's house during t time that the Kellys were outlawed?—I think I was there once or twice; I was there once with cattle I know.

14858. Did you ever hear whether any of the outlaws were in that neighborhood or in his house?—No, I never heard there were any in his house.

14859. Did you know that Wallace was in the confidence of the police?—No, I did not. I was warned of Wallace though.

14860. By whom?—Mr. Nicolson, I think, warned me to be careful of Wallace.

14861. In what respect?—To be very careful of Wallace and what I said with regard to the outlaws. I could not exactly tell you what Mr. Nicolson told me.

14862. Did you at any time tell Wallace anything about Detective Ward?—No, I never told him anything about Ward.

14863. At any time?—No; I knew what kind of a character he was myself, if I never had been warned of him.

14864. What do you mean by that?—I have known him myself to come to our place; and once Aaron was inside; Aaron was lying on the floor, and he went down to Byrne's and told Mrs. Byrne. He said, "Mrs. Byrne, I see that Sherritt—he is doing nothing; and also," he said, "Ward was there, and he had tea at Sherritt's and," he said, "I believe Jack was working"—that referred to me.

14865. Have you any proof that he said that to Mrs. Byrne?—She told my sister; she could not know it without Wallace telling her. He was there, and stopped there for the night and had tea.

14866. The impression you formed of Wallace was in consequence of statements that he made in reference to yourself and others that you knew to be untrue?—Yes.

14867. Could you mention any of those?—It has not got anything to do with the evidence I am giving now, but his previous character before. We had some dealings in cattle in his paddock, and I never gave him permission to kill any of the cows belonging to me, and he stole one and killed it.

14868. Are you sure of that?—Yes, he acknowledged it himself afterwards. I can bring witnesses to

prove it.

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14869. Did he acknowledge that he himself killed the beast?—Yes.
14870. Did he offer to pay for it?—He let me put the cattle in his paddock, and that I was to give him what I liked when I would take the cattle out. He said he had nothing to eat the grass.
14871. What then?—First he said the cow died, and then he acknowledged to killing her himself. He said, “You need not tell your father anything about it.”
14872. That is a very serious allegation to bring against him?—I would not say it unless I could bring witnesses to prove he said he killed the cow himself.
14873. More than one?—Yes.
14874. Respectable people?—Yes.
14875. That could be relied upon?—Yes.
14876. What did he do with it?—Kept a quarter himself, and sent a quarter to his father-in-law, and some more to his own people.
14877. Divided it amongst his own family?—Yes.
14878. You never gave him permission to take the cattle for the use of the grass?—No, never at all.
14879. Was there anything else?—He used to come to me, and he would try to “pump” me, to see if I was working for the police; and on one occasion I had my own suspicion of him. He said, “Do you see any police about during the last week, Jack?” and I said, “Yes, I have I saw three or four along the Eldorado road.” At the same time I had seen none; but it was not above two hours but Mrs. Byrne heard what I told him. That was how I knew that.
14880. How did you come to know that?—From my sister. I used to have correspondence. My sister used to go there for the police business.
14881. And Mrs. Byrne was able to say what you said to Wallace to your sister?—Yes.
14882. You were on friendly terms with the Byrnes—your sister?—She never used to go there. We would speak when we met; my sister never visited like.
14883. About your late brother Aaron—do you know that he was engaged for a long time by and had the confidence of the police, and supplied them with information?—Yes.
14884. Do you believe he acted honestly by the police in that position?—Yes, I am sure he did.
14885. Do you think, during the time he was giving information to the police, he was not also in correspondence with the outlaws?—No, he was not.
14886. Not by any agents or friends he had?—No. I was in correspondence with the outlaws myself.
14887. Directly with them?—Yes.
14888. Did you meet them at times?—Yes, I did.
14889. Where?—How I used to correspond with them I will tell first.
14890. You remember the murders of the police at the Wombat?—Yes; but at that time I had nothing at all to do with the police.
14891. When did you first, after that, have any interview with any of the outlaws—after the murders at the end of 1878?—I think the first interview I had with Byrne was on the Sandy Creek, at the Killewarra run. I never kept any date.
14892. That was about a twelvemonth afterwards by this printed list. That was the first time you first saw them?—Yes.
14893. Were you then in the confidence of Byrne?—Yes. I was writing letters to him, and he to me. The letters I used to write to him used to go by my sister to Byrne, and one from Patsey Byrne to the outlaws.
14894. How long did you keep that up?—For a great length of time.
14895. For how long before their capture did you break off that means of correspondence?—I did not know it was broken off at all.
14896. *By Mr. Nicolson.*—You remember the Wangaratta agricultural show in 1879?—Yes.
14897. Do you remember coming to me with Wallace?—Yes; Wallace told me who you were.
14898. That is 12th September 1879. You were engaged then?—Yes.
14899. *By the Commission.*—Then from that time, right through, you were continuing your correspondence?—Not the last few weeks they committed the murder, but within the last month.
14900. At the time you were corresponding, did you know where they were located?—No.
14901. You had no means of knowing?—No; they never told me.
14902. Had you any personal interview with any after that one at Sandy Creek?—No, I never met them anywhere—they had been at the house—only Byrne.
14903. You saw them at your house?—Yes.
14904. How often did they come?—Well, I could not tell you. On several occasions when I was not there, and on one occasion Byrne came after that. I will tell you about a letter I got. I received several letters before the time I was appointed to meet Byrne at Sandy Creek. I forwarded all those to the police, and this letter was only short written, quick, and this my sister brought me from Mrs. Byrne’s, and I was to see him at Sandy Creek; and I forwarded the letter to Mr. Ward, and he said he forwarded it to Mr. Nicolson, and that Mr. Nicolson instructed him to tell me to keep the appointment; and I got a horse of my own, and went to the

place, and the man at whose house they were to meet had left.

14905. You did not meet Byrne?—Not at that time or the day appointed, but on the next morning, coming back, about ten or eleven o'clock, I met him on the road.

14906. What was the nature of your conversation with him?—It was about sticking up the Yackandandah bank and some other bank he mentioned. I forget the name.

14907. Was he wanting you to help him stick up the bank?—Yes; and he said a lot about Mr. Hare and Mr. Nicolson.

14908. Against them?—Yes. He said that. He asked me if I knew Mr. Hare, and I said "No"; and he said, "That is the old buck that caught Power." I said, "I do not know." He said he believed he was a smart old "cove"; and he asked me if I knew Mr. Nicolson, and I told him I knew no one; and I was to go to Yackandandah and see how many police were stationed there, and to let him know, was to go to Yackandandah and see how many police were there, and see if I could detect any police in private clothes, and loaf round there and see where the police went in to have tea, and all particulars about their movements.

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14909. What did you do with him then—did you arrange to go?—Yes, and bring him the information. He had no horse, but he had a pair of long boots, and his trousers were all over blood. He had long spurs. I asked where his mates were, and he said, "Not very far off."

14910. He did not tell where they were?—No.

14911. Did he make any arrangement for you to come back?—Yes. I was to meet him at Evans's Gap a short time afterwards.

14912. Did you carry it out?—Before the day appointed, when I was to see him at Evans's Gap, he came himself to my mother's place.

14913. What did he do then?—He came inside, and stopped there for a considerable time, and said they had abandoned the idea of sticking up the Yackandandah bank—that it was not safe; that they intended to stick up the Beechworth bank.

14914. Who came to your mother's place?—I remember now it was Dan Kelly came first, and I was not in, but I was not far away. I was over in the paddock. He came to see me, and he asked if I was in, and my mother said, "No," and he looked in the rooms to see if I was inside, and he said he would be back at eight o'clock.

14915. What time was it?—Just about dusk.

14916. What time of year was it?—I cannot say, but I could find that out.

14917. Was it light?—Just between day and dark.

14918. Was it after the sticking up the bank at Jerilderie?—Yes, after that.

14919. And then Joe Byrne came?—No, I went to Beechworth to inform Detective Ward. My sister came over to the paddock, and told me Dan Kelly wanted to see me. I had a horse in the paddock, and a saddle, and I went through the bush to Beechworth. I saw Ward. I do not know whether I saw him with Mr. Nicolson together in the office, but I gave this information.

14920. What did they do upon that?—Mr. Nicolson looked up at the clock. I think it was about half-past seven. I went up pretty quick, and Mr. Nicolson wanted me to go back again to make my appearance to Dan Kelly, and I would not go. I was frightened. I had been seen by some of his friends—very likely seeing me talking to some of the police in Beechworth; and, when he insisted on looking through the rooms with my mother for me, I was doubtful of him, and I would not go back. Ward gave me IOs., and said I could make my appearance on the Woolshed, and show I was about, and not in any way in league with the police.

14921. So nothing further came of that?—They did come back, but I was not at home. The whole lot was outside, but they did not come in the same night. I did not know it till a couple of days afterwards, when the police were informed of it.

14922. Do you know what action the police took on getting your information?—There was no action taken on my information at all.

14923. Did they not start in pursuit immediately?—No, no pursuit at all.

14924. What answer did they give?—I did not get any answer at all. I wanted to go back myself. They told me to return. Mr. Nicolson wanted me to, but I was frightened and would not go.

14925. As far as you know, they took no action then in pursuit?—No.

14926. If they had done so, they would have met the Kellys when they came back?—Yes, but the Kellys did not come in. If I was in at eight o'clock, there was to be a light burning, and there was none. That was arranged with my mother.

14927. Did you inform the police that arrangements of that sort had been made?—No, not about the candle, because I did not stop in. He was to get full particulars from my sister. I did not know it at that time.

14928. Did you inform the police that some of the outlaws were to return to your place to ascertain your report about the banks. Did you inform the police that you expected the outlaws to visit the house again?—Yes, I did. I said Dan Kelly had come to see me about six o'clock, and he would be back again about eight. It seems there was no light burning, and the whole lot came back.

14929. Did you state Dan Kelly had been there and would return to the house again at eight o'clock?—Yes.

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*continued,*  
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14930. Was it possible for you to be back by eight o'clock?—Yes. I could have easily.

14931. If you could, it was equally possible for the police to be back by eight o'clock?—Yes. If the police were ready, they could.

14932. There would have been no difficulty in getting the horses and getting back to this spot in a couple of hours?—Yes, they had good horses.

14933. As far as you can judge, is it your opinion, if they had started probably then, they would have succeeded in capturing the outlaws?—Yes, they would, because if the police had gone down I would have gone with them.

14934. You have no doubt, as far as your opinion goes, that if they had started with you they would have got them then?—Yes, as far as my opinion goes, they would.

14935. How far was it from your place to the police quarters?—I do not know—they call it about three miles.

14936. You could ride three miles?—I rode on the police horses once twelve miles in about thirty-three minutes, or less, over rough country.

14937. There was no difficulty for them?—No, I could ride that bit myself in ten minutes.

14938. Did they give you any reason why they did not return with you?—No, they gave no reason.

14939. Simply gave the ten shillings and told you to go away?—Yes.

14940. How long before the capture of the Kellys did this circumstance you have now related take place?—I could not tell you.

14941. Just as near as you can—six or seven months?—About that. I never kept any date of anything. If I had known as much as I do now I would have.

14942. Was it dark before you started to give this information to the police?—Yes, it was dark; it was just between day and dark when he came, and about a quarter of an hour afterwards I got the information myself, and it was not then more than a quarter of an hour till the police got it.

14943. It was not too dark to traverse the road?—No, quite easily; there is a good main road.

14944. What object had Dan Kelly to return at eight o'clock?—To see me.

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continued,  
3rd August 1881.

14945. Because he had not seen you earlier in the day?—Yes. He had not seen me that day at all. Byrne came afterwards, and told me that Dan Kelly's object to see me was that they did not want to stick up the Yackandandah bank—that it was too dangerous. Anyhow, I told them myself it was dangerous. Mr. Nicolson told me to express my timidity about the outlaws, and tell them it was dangerous to stick up the Yackandandah bank.

14946. On this particular day you are now speaking about, as soon as you had ascertained that Dan Kelly had called, you immediately rode into Beechworth, and told that they had been there and were likely to return that night?—Yes.

14947. You did not know it was the whole party at the time?—No, only one of them.

14948. Which officer of police did you see?—Mr. Nicolson.

14949. Anyone else?—Yes, Ward was there too.

14950. Did the outlaws in any way indicate to you that they thought you were working for the police?—No, they never did. If they did, I would have cleared out of the country altogether, because they would have shot me straight away.

14951. Did Mr. Nicolson say he would do anything, or did you offer to take them back?—No, I did not offer, but Mr. Nicolson wanted me to go back myself.

14952. Did Mr. Nicolson know where you were living?—I am sure he was well aware of that.

14953. Did Ward know it?—I should rather think so. He had been at the house.

14954. When did you see any of the gang after that?—Byrne came himself—I do not know how near it was afterwards—came inside and stopped for a considerable time. I was talking to him myself.

14955. What was the nature of the conversation?—About the sticking up the Beechworth bank, and abandoning the idea of sticking up the Yackandandah bank.

14956. Did he let you know where his mates were stopping?—No, he never went to that.

14957. Did he ask you to do anything on that occasion?—Yes, to help them to stick up any bank they would get the chance at.

14958. Did he make any arrangements to make enquiries as to any other bank?—Yes; I forget which bank. I was to ascertain when I met about another bank, but I forget now which bank it was.

14959. Did you go to make enquiries about this bank you now speak about?—They had abandoned any idea of sticking up those two.

14960. The one that you forget the name of—did you take steps to ascertain the position of the bank, and how it was protected?—No. He only spoke about this bank the same day as I met him at Sandy Creek, and I was not to bother any more about it.

14961. You stated that after you had given information to the police that Dan Kelly had been, you had a conversation with Byrne at your place, and he then talked about sticking up some other bank?—The Beechworth bank.

14962. You then say he asked about some other bank you cannot remember—did you take any steps

to ascertain whether that bank was protected or not?—No.

14963. You state after the night the Kelly gang were at your place that Byrne saw you at your own place?—Yes, some time after—very shortly.

14964. What was the nature of the conversation between you and Byrne then?—I asked him what did Dan Kelly want. I said I was not in. I cannot remember whether he asked where I was. He said that Dan Kelly wanted to see me for me not to be bothering about going to the Yackandandah bank, and he then talked about sticking up the Beechworth bank.

14965. Did he ask you to assist him in that?—To help him to fight the police; in fact, I said I would join them.

14966. Did you make arrangements to join them?—No, I did not make arrangements to join them to stick up the Beechworth bank, but I told him I would go with them.

14967. Did you make an appointment for you to go out to any particular place?—He was to come to our place when they were going to fight, and he said if Aaron was there he would make us go and fight the — police.

14968. Did he come back?—No, he did not.

14969. Did you see them after that date?—No. I had seen him so many times that I cannot tell in what order they came.

14970. Was that the only time you informed the police they were to be at a certain place—the one you speak of just now?—I informed the police several times; I saw three of the outlaws come from Mrs. Byrne's, over by the Chinese camp, where I believe they purchased some things. I informed the police the next morning.

14971. Whom did you inform?—Ward, I think.

14972. Do you know whether they took any steps to trace them?—There could have been no steps taken.

14973. Was it not possible for the police to have taken steps to endeavor to follow them without your knowledge?—They could not go without my knowledge. I am not aware of any steps being taken. On another occasion I saw the Chinaman at the Chinese store, E Fang; I as in there one day. I was fetching a lot of bark down to Sebastopol. He can talk very good English; I can understand every word he says. He called Joe Byrne Ah Joe, and my brother was known as Ah Jim; they could not say Aaron. He said, "Last night me see Ah Joe come along with Ah Jim to the store." He said, "Him welly bad man before he shot policeman; him shoot policeman and kill him Chinaman." They got a bottle of gin and some tobacco, and something else, and went away. You might think that my brother was with them, but the police knew where he was with them this night; but this man it appeared to me was Ned Kelly who was with them; Joe Byrne was, no doubt, because the Chinamen knew him well, because he used to pelt them and hammer them with stones.

14974. Did you report that?—Yes, I did; I told Mr. Nicolson about it, and he said he would adopt some plan to catch them.

14975. How soon after did you report that?—Immediately afterwards.

14976. On every occasion you came across them and became possessed of information you lost no time in communicating with the police?—I lost no time, and never hid anything from the police,

14977. Did you remain in that district till the capture?—Yes.

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14978. And giving the police the same character of information all the time?—Yes.

14979. After the capture of the Kellys, what did you do then?—I was at the capture myself.

14980. How did you come to be on the ground?—Well, the same night my brother was shot, so many of the police went down to his house and stopped there; that was on the Sunday night. Some time through the night a telegram came that the outlaws had surrounded Glenrowan and Mr. Hare was wounded, so I went. Mullane or Ward told me to go and fetch the men up, and I lost no time. I was only thirty minutes going the twelve miles.

14981. Were you serving with the police at that time?—Yes, but I was getting very little for it.

14982. Were you enlisted at that time?—No, only what they call an agent.

14983. It was not known that you were in the pay of the police to outsiders?—No, it was known to nobody.

14984. About the shooting of your brother, can you assign any reason why the Kelly gang should have shot your brother?—The only reason I can assign is, I believe (this is my own opinion), that if they had him out of the road they could go anywhere they liked, and could visit Mrs. Byrne's.

14985. Did they know that he was acting with the police?—Well, I believe they had a suspicion he was acting with the police, but they did not know where or how.

14986. It was in consequence of their belief that they were desirous of making away with him?—Yes.

14987. It did not arise, in your opinion, from the fact that your brother had been previously paying his addresses to one of the Byrne girls, and had married another girl?—No, I do not think so.

14988. Do you know whether he broke off the acquaintance or she broke it off?—He broke it off himself.

John Sherritt,  
*continued,*  
3rd August 1881.

14989. After you had remained in Beechworth for some time, when did you leave—how long after the capture?—I think about a week afterwards.

14990. What reason did you leave Beechworth for?—After my being at Glenrowan, I was seen on that morning going up with the police carrying breech-loaders, and was seen by all the Woolshed people, and I was known at Glenrowan, and I was afraid I would be shot. I would be shot now—Mrs. Byrne would shoot me herself, she has such a down on me—she placed such confidence in me about those letters.

14991. You thought it unsafe to remain at Beechworth?—Yes.

14992. After you left Beechworth what did you do?—I joined the force here, and I and my brother got so much allowed us each in Melbourne.

14993. Were you sworn in as a constable?—A few weeks after that we were. He gave us a letter down to Mr. Hare at the depot.

14994. How long did you remain a member of the Victorian police?—I think six or seven weeks.

14995. How did you come to leave it?—I do not know “how”—I know I got the sack.

14996. Who dismissed you?—Mr. Nicolson.

14997. Did he assign any reason?—No.

14998. Had you misconducted yourself in any way?—No, not that I aware of. I was long enough there to know the regulations. If a man did anything, he was brought up and it was enquired into, and I was not brought up.

14999. After you were dismissed what have you done?—I have been only home once, I think.

15000. After leaving the Victorian police what did you do?—I went to South Australia, and worked there for a considerable time. I was not very well—I got a fall from a horse—the work went against me. I have been engaged in ploughing and butchering since.

15001. Where?—Up near Gisborne.

15002. Your friends are still living in the North-Eastern District?—Yes.

15003. Would you be under any danger if you were going back there to-day?—I would not go back—I might just as well go and commit suicide myself at once. I am out of work just now.

15004. You have been doing anything you can?—Yes. I have been ploughing and butchering.

15005. Do you think the sympathizers with the Kellys and Byrnes keep up that feeling about the people still?—Yes; Mrs. Byrne would shoot me herself. It is not that. I would not care if a man came straight in front of me and let me see him shoot me, but when at my work out in the bush, they would shoot me quietly, and let no one know anything about it.

15006. The Byrne family?—Yes.

15007. Do you know where your other brother is now?—No.

15008. Was he in the police with you?—Yes, and dismissed at the same time.

15009. Was there any charge against him?—No, I am certain there was not. I heard there was a statement in the press, and in these buildings here, that some one saw in the paper that he was dead.

15010. From what you know of the people in the North-Eastern District, and the steps taken by your brother, is he likely to return to the North-Eastern District?—No, he would not go back.

15011. The same fear and dread would be in his mind as in yours?—Yes. On the night that Aaron was shot they asked if Bill or Jack was inside.

15012. Is there a strong feeling of that sort in the district—are there many that would take that part, or is it only the family?—There are a good many sympathizers.

15013. Are they scattered about much through the district?—Yes, they are.

15014. You have no fear of them committing any act except against you, from information?—That is all. Oh, I do not know whom they may shoot, but I would not trust Mrs. Byrne for a moment.

15015. Would you be still anxious to join the Victorian police?—Well, I do not know. If I had an opportunity, I would; but I do not think it would be any use joining the Victorian police. I would if I got the opportunity.

15016. Why would it be no use?—After I got discharged from the police force, I made a declaration to Mr. Graves that I was known by all the detectives, and five or six dogged me about at the Exhibition, and Mr. Graves said, “You had better look out for them.” I told Mr. Graves about it. I was frightened they would get me into trouble, because when Mr. Nicolson discharged me he said, “I would advise you to go out of Melbourne, because if you stay in Melbourne you will be in trouble before three months.”

15017. Did he assign any reason?—No.

15018. Did he say, “You have been doing so-and-so, and you had better go”?—No.

<p>John Sherritt, <i>continued</i>, 3rd August 1881.</p>	<p>15019. You had done nothing?—I had done nothing I should leave the country for, except assist the police in catching the Kellys.</p> <p>15020. You mean you do not now think you would be allowed to join?—No, I think if I did, it would not be long before I got the sack, because I was not well liked by the officers.</p> <p>15021. But you would do your duties properly?—Yes.</p> <p>15022. You have no other wish than to live an honest, straightforward life?—That is all.</p> <p>15023. Did Aaron know that you were working for the police?—Yes; we used to work into one</p>
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<p>Thomas Bolam, 4th August 1881.</p>	<p>another's hands.</p> <p>15024. Were you on bad terms with your brother after he got married?—No, I was not. I will tell you everything I know. We were on bad terms for a few days. It was about his getting married. He said he was going to be married, and I said, "What is the good? you will have to mix up with your wife's sisters or brothers, and very likely they will be going to the cave and the house, and Byrne's sister and brothers go to school, and it is hard to say what they will do."</p> <p>15025. You thought it a bad time to be getting married?—Yes.</p> <p>15026. You had no objection to his marrying Miss Barry?—No, not a bit. I was not acquainted with her at all.</p> <p>15027. You had no objection to her personally?—No.</p> <p>15028. Is there anything you wish to inform the Commission about, anything you would like to say yourself, any information you have to give, or any complaint to make?—I have got a good deal of complaints to make about information I gave, that it was not acted upon. I will tell you another instance. On one occasion I gave good information about Byrne. I got along with Patsy Byrne this night, and we got drinking together; he was drinking brandy and I was drinking what they call "soft stuff," so as to watch him. I stopped with him a considerable time, and he went home to his mother's place, and he came back again, and he told me, "Joe has been home and got some clothes, and cleared out; is not he a — smart fellow?" It was close on morning then, so as soon as I got Patsy Byrne away, I took an axe with me, and gammoned to go to my work. On the way to work I met two of the cave party—Alexander and Armstrong—and I told them about Byrne being home last night, and they seemed like as if they were horror struck at Byrne being home and they watching. It was Alexander senior.</p> <p>15029. Those men were horror struck at the idea of their not seeing the man when he came there?—Yes.</p> <p>15030. What happened then?—As soon as I told those two men I went to Beechworth and told Ward.</p> <p>15031. Where did you see those two men?—I was going to the cave, on the track to the cave, and I met those two men going to the cave; they had been away for water somewhere.</p> <p>15032. What did Ward do?—I believe he saw my brother about it, and that they informed him it was an impossibility for Byrne to be there and them watching; but it was no impossibility at all. I could go to the house, and five or six men with me, and the men not see me—creeping along the deep rise there was in front of Mrs. Byrne's house. The men used only to watch the front of the place, but a man could get up without their seeing it.</p> <p>15033. Could they not see a man walking in at the front door?—No. The men when I was watching were only lying at the back of the place. They never put anybody at the front at all to watch.</p> <p>15034. There is a space between the garden gate and the house—you could see a man walking distinctly?—Yes.</p> <p>15035. How could a man get in there without being seen?—I could get in without being seen.</p> <p>15036. How?—They could come along between the house and the garden fence in the rise that is there. Patsy Byrne did not say he was in the house; he might stop and the things be conveyed to him.</p> <p>15037. Did you ever learn whether they had any "call" that they understood—any signal that they understood in the house?—I did not know that they had any signals in the house.</p> <p>15038. What did Ward do when you gave him the information next morning?—I believe he rode out to some of the men, or saw my brother or some of the men, and the men said it was impossible the man could have been there and the police not see him, so I expect that five men's word to my one was no good. So the next morning I went to the cave. Whatever consultation the men had between themselves, he said to me, "Did you see Byrne last night?" in a kind of sneering way—in a very insulting way too—as much as to say from what he could understand that I did not get that information at all.</p> <p>15039. They did not believe he was home?—They did not.</p> <p style="text-align: center;"><i>The witness withdrew.</i></p> <p style="text-align: center;"><i>Adjourned to to-morrow, at Eleven o'clock.</i></p> <p style="text-align: center;">—————</p> <p style="text-align: center;">THURSDAY, 4TH AUGUST 1881.</p> <p style="text-align: center;"><i>Present:</i></p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td colspan="2">The Hon. F. LONGMORE, M.L.A., in the Chair;</td></tr> <tr> <td>W. Anderson, Esq., M.L.A.,</td><td>J. Gibb, Esq., M.L.A.,</td></tr> <tr> <td>E. J. Dixon, Esq., J.P.,</td><td>G. R. Fincham, Esq., M.L.A.</td></tr> </table> <p style="text-align: center;">Thomas Bolam sworn and examined.</p> <p>15040. <i>By the Commission.</i>—What are you?—Inspector-General and Acting Secretary of the Education Department.</p> <p>15041. Do you know James Wallace, teacher, who was at Hurdle Creek?—Not personally—officially I know of him.</p> <p>15042. What was his position as a teacher at the time that the outlaws were out?—He was acting as head teacher in two half-time schools, the one being at Hurdle Creek, and the other at Bobinawarrah.</p> <p>15043. What direction was Bobinawarrah from Hurdle Creek?—About due east.</p>	The Hon. F. LONGMORE, M.L.A., in the Chair;		W. Anderson, Esq., M.L.A.,	J. Gibb, Esq., M.L.A.,	E. J. Dixon, Esq., J.P.,	G. R. Fincham, Esq., M.L.A.
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15044. More towards the Woolshed—towards Beechworth?—I am not able to speak very definitely with respect to the geographical positions. I could point it out on the map.—[*The witness did so.*]

15045. He was promoted after that?—It was not exactly promotion.

15046. What salary was he getting?—The special salary of £3 10s. a week, as the teacher of the two half-time schools.

15047. Did you consider his movement to the other school in the Yea district an advance?—It was an improvement in position, but not very much in regard to salary. The school he is at present in is what is called a full-time school, where the duties are not so easy as in the half-time schools. Although the salary is very little more than the other, the position must be held to be preferable.

15048. When he was at the half-time school had he any perquisites at all?—No, not that I am aware of.

15049. Nothing for results?—The £3 10s. a week included salary and results—it was a special salary.

15050. He would be open to teach special subjects?—In those small schools, special subjects were not dealt with.

15051. That was all he received from your department?—Yes.

15052. From any other department?—He was acting as postmaster, for which he received a small salary—a very small salary.

15053. What does he get now as teacher?—At the time of his appointment to the Yea school the income was £170 a year.

15054. And he is entitled to results?—That includes salary and results, but the income varies from year to year in accordance with the result examination.

15055. Can you tell us what was the cause of his removal?—If I may be allowed to express myself pretty fully—

15056. We wish you to do so?—Rumors reached me that he was showing very friendly relations to the outlaws. I also heard that he was a schoolfellow of one of them. I at once examined old reports in the Education Department, and from those learned that he had attended the same school with Joseph Byrne, and that he had been in the same class with him for some considerable time. I saw that he had very great facilities for assisting the outlaws—that his position as teacher of half-time schools enabled him to be constantly moving about, and in that way that he had opportunities of seeing them. I also saw that his position as postmaster gave him very great facilities for rendering them assistance; and taking all this together I called upon Captain Standish, and pointed out to him that I was under the impression that the facilities which Wallace had for assisting the outlaws were so great as to induce him to render them some assistance, and the fact of his being a schoolmate, and evidently an old friend of one of the outlaws, would be likely to lead him to help them if it was in his power; and I learned from Captain Standish in a private conversation —

15057. We wish you to give that?—That he had every reason to believe that my opinion was well founded—that from information he had received there was every reason to believe that Wallace was sympathizing with the outlaws. On learning this from Captain Standish, I reported the matter to my chief, Mr. Ramsay, and suggested that we should at once take steps to remove Wallace from the district. I am expressing myself very freely—may I refer to my conversation with Mr. Ramsay?

15058. I think so, because we have got a good many of those things in evidence already. Can you fix the date of the interview with Captain Standish?—I took no note of the time. It was a very few days before the removal of Wallace, and Wallace was removed a week before the outlaws were captured.

15059. Was it the Education Department that moved in the matter first, or the police?—I know of no steps being taken until I had this interview with Captain Standish, and I called upon him more in a casual way, to inform him what my opinion was, and to ascertain from him whether he considered there was any ground for my forming the opinion. On my pointing out to Mr. Ramsay that I had very strong suspicions that Wallace was in some way or other assisting the outlaws, and that similar suspicions were also held by Captain Standish, Mr. Ramsay wished me to say whether I was not in a position to make a definite charge against Wallace, and have him removed from the service. He said if those suspicions could be proved to be well founded he was not a deserving man to be kept in the service. I pointed out to him that at present I was not in a position to make any charge against Wallace, and the only way in which I saw we could deal with the case was to remove him to a position which was a little more desirable, and get him away from the Kelly country. He had already applied for promotion, and the reports of the inspector on his work for some time previous to this had been favorable. We then, having obtained the requisite authority from Mr. Ramsay, offered Mr Wallace the position of this school at Yea. He demurred at first, and intimated his intention to accept the appointment conditionally on our appointing his brother at Hurdle Creek and Bobinawarra. That I thought to be very undesirable, and I intimated to Wallace that we could only allow him to accept this position unconditionally, and if he were transferred we should consider his brother's application for the Hurdle Creek school. On the receipt of this letter or telegram from me, Wallace informed me by telegram that he accepted the position, and I took steps at once to relieve him.

15060. His brother was not appointed?—No.

Thomas Bolam,  
*continued,*  
4th August 1881.

15061. Did Captain Standish inform you of the relations that existed between the police and Wallace at this time when you conversed with him?—I learned nothing definitely from Captain Standish, but I left him under the impression that the police were very suspicious of Wallace, that Wallace had offered to give information, and the police were distrustful of him.

15062. He did not lead you to understand that he was in reality in the pay of the police at this time?—I cannot say that.

15063. Was the department applied to at any time by Wallace or any of his friends for permission to act as an agent in the search for the Kellys—was the department at any time a party consenting to his acting in that capacity?—We knew nothing at all about it officially.

15064. Until when?—I have heard within the last few months, privately, that Wallace had received money from the Police Department, but that was since that time.

15065. You have not even now had official intimation?—I have had no intimation whatever.

15066. Your reply to that is that you have only heard of it since?—I did not know of it at the time, and what I have heard since has been of such a character that I could not take any official notice of it.

POLICE.

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<p>Thomas Bolam, <i>continued,</i> 4th August 1881.</p>	<p>15067. The department did not at any time think it expedient to give instructions to officers in that district to aid the police by any means they could?—We had no applications before us.</p> <p>15068. I want to know that to show he had no authority from the department?—He had no authority whatever.</p> <p>15069. Does the Education Department recognize the ability of any officer in its employment to occupy another position under the Government, receiving pay?—We allow our teachers to hold the position of postmaster, but they are not supposed to accept any position that would in any way interfere with their positions as school teachers.</p> <p>15070. If application had been made to the department, would they have agreed to Wallace's taking this position of an agent or informer?—We should have demurred certainly, because we should have considered that it would have interfered with his duties.</p> <p>15071. Had it been made plain to you that this man could have assisted the police without interfering with his school duties, would the department then have sanctioned it?—We should not have interfered with his giving legitimate assistance to the police so long as it did not interfere with his ordinary school duties.</p> <p>15072. As far as the reports of the inspectors are concerned, was there any falling off in the results of his school during the year 1879?—I cannot say there was any change in the results. I cannot speak without referring to the reports, but the last report submitted on Mr. Wallace's school at Hurdle Creek was very favorable. The inspector reported to the effect that Wallace appeared to be deserving of promotion, so there was no apparent want of zeal.</p> <p>15073. Then if during this time he wrote to the police that, through his having been away from his school so much, he would lose at least £10 in results, that would not be true, according to your statement, in those half-time schools. He wrote to the police that, through his having assisted them, he would lose about £10 in results, from the children being backward in their education through his having spent so much time?—It is difficult for me to say what his results might have been.</p> <p>15074. But in the half-time schools he had no results?—He was paid a special salary, not in accordance with results at all, so any statement to that effect would not be correct, because he was in receipt of a special salary, which was not interfered with by results.</p> <p>15075. Could you inform us who conveyed the information to you that Wallace was a schoolfellow of Byrne's that led you to form your suspicions?—I could mention the name, but I think it is undesirable it should be mentioned; I should not like it to appear. It was in the course of private information in the office.</p> <p>15076. Not through any of the police authorities?—Not through the police at all. I learned it quite casually from a member of Parliament, and then I followed it up.</p> <p>15077. How long before this interview with Captain Standish did you receive the first intimation of Wallace's sympathy with the outlaws?—Only a very few days, because I at once set myself to work to look up reports, which I have referred to, and I looked up correspondence which is at present before the Commission, which confirmed me in my suspicions, and when I saw there was some ground for my suspicions, I at once thought it my duty to state to Captain Standish what I knew.</p> <p>15078. Officially, the department, until the time you speak of, had received no information in writing of the suspicions about Wallace?—We have never received any information; the first was in the Argus report of the evidence given yesterday.</p> <p>15079. As far as the opinion of the department towards this man was concerned, did they look upon him as a man with a good character?—He had always stood well with us.</p> <p>15080. A man of good character?—A man of good character, and a zealous teacher.</p> <p>15081. Here is a letter of his, February 17th 1880—"The school inspector is to examine my pupils on Thursday. It will take all my time to prepare for it. As it is I shall lose from £5 to £10 in results through being so much engrossed in your affairs." He was nominally working for nothing, for expenses only, but in reality almost every letter he has sent here made a demand for money, and he got about £80 from the police for his</p>
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	<p>services. Do you know anything of his brother's relations with the outlaws?—I know nothing about the brother. I suppose you mean William Wallace. There are two brothers, one a pupil-teacher in the Eldorado school, and another holding the position of head teacher in the neighborhood. It was for one of those brothers he wished the position at Hurdle Creek to be kept.</p> <p>15082. He was capable of being placed in that position?—I cannot say he had a claim for so good an income, being a young teacher.</p> <p>15083. Did it strike you the connection of the post office and the half-time school with his brother might serve almost as well as if he were there himself?—I saw that at once when he applied for the school, the Benalla East school. We were about to establish a school there, and I mention this as the ground of my suspicions. Mr. James Wallace strained every nerve to secure that appointment for himself, but in his correspondence he showed a very great anxiety for us to put his brother into his place at Hurdle Creek. I thought that was unusual, and that there must be some grounds for his showing this great anxiety, and my mind seemed to be satisfied that he was anxious to be in a position like Benalla, where he could get constant information and assist the outlaws still further, and at the same time he was able to communicate with them through Hurdle Creek and Bobinawara schools. His letters applying for the Benalla East school were of such a character as to lead me to be very suspicious that he had some ulterior object in view.</p> <p>15084. Had you been made acquainted at that time that he was and had been for a long time in communication with Mr. Nicolson, then acting in the North-Eastern District, and supposed to be assisting him in capturing the outlaws, would you not have rather acceded to his request than otherwise?—If I was certain he was assisting the police, I should have taken no steps to prevent him, but my private opinion was he was acting in a friendly relation with the outlaws.</p> <p>15085. You were not made acquainted with the fact that for months previous he had been in constant communication with the officer in charge?—I was not aware of that.</p> <p>15086. From what has since come under your observation, would you have acceded to his request if you had the same information then that you now have?—If I had I should certainly have taken the steps I did.</p> <p>15087. You have arrived at the conclusion that Wallace, although ostensibly assisting the police, was not acting fairly by them?—I do not know whether I am justified in saying I have arrived at that</p>
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conclusion; that is my private impression. I have heard all sorts of rumors, and I am quite satisfied in my own mind that he has been at heart ready at all times to assist the outlaws.

Thomas Bolam,  
continued,  
4th August 1881.

15088. After arriving at that conclusion, do you think he is a desirable man to be retained in the department?—I do not think that it is desirable that we should retain in the service a man who would render assistance to those outlaws, but I feel there is a difficulty in our way in dealing with a case like this without proof.

15089. There is one thing that I would like to ask you about; did you hear of any man being stuck up in the Beechworth district about Christmas 1878?—Yes, I read accounts in the newspapers of the sticking up of the hawkers by the Kelly gang, and I was under the impression, from the accounts which I read (I have not kept them to refer to), that the stranger who was with the outlaws at the time very possibly was Wallace. This, I believe, was during the Christmas holidays, and I thought it was quite possible that Wallace would be with the outlaws at that time; but this is only a supposition of mine.

15090. That is, from the description of the man?—I gathered that from the rumors that were floating about, and the accounts in the various papers.

15091. Did the description of that sticking-up case appear in the papers about the end of 1878 or the beginning of 1879?—I cannot say whether the account appeared after the Beechworth trial of Kelly or at the time of the trial.

15092. Did you hear the names of the pedlers?—I do not recollect them.

15093. How did the impression come to be on your mind that there was a fifth one there?—It was stated in one of the accounts that I saw, that there were five in the gang, and this account was to the effect that the hawker saw the Kelly party and this other man, who was armed like them. I am giving you only my suspicion.

15094. You say that the impression formed itself on your mind from the description of the person said to be with the gang tallied with that of Wallace—at what time did this impression force itself on your mind?—At the time I read the account in the newspaper.

15095. My object in asking that is, that if you formed that impression a long time prior to the time alluded to, did you take any action then to see if your suspicions had any foundation?—I could not follow that up. It was at the time, as I have already said, a few days or weeks before Wallace was removed from Hurdle Creek that I had my suspicions about it. I saw this account then—whether in an old paper or whether the account was put under my notice, I cannot say.

15096. You do not think you read this account immediately after the occurrence took place?—I do not know when I saw it.

15097. That is important if the impression formed on your mind occurred immediately after the meeting with the bushrangers and this fifth party?—It would not be at that time certainly, because I had no

knowledge of Wallace being a friend of the outlaws.

15098. In all probability your attention to that would not have been called to that till after the action taken in reference to Mr. Wallace?—Yes. It could not have been before that.

15099. Then we understand the thing gradually settled into your mind by a sort of chain of evidence?—First his being a schoolmate, and then the nature of his duties—the facilities he had for rendering assistance, and then the correspondence in reference to the appointment of his brother and his own transfer to Benalla. I took all those together, and they were really the groundwork of the suspicion, and then after that I called upon Captain Standish, and after an interview with him was satisfied that the best course for the department to follow was to remove Wallace from the district.

15100. As a prudential move?—That was it; as I intimated to Mr. Ramsay at the time, if he was guilty of rendering active assistance to the outlaws, the police would be certain to follow it up.

15101. Have you seen the letters that Wallace wrote to Mr. Nicolson?—I have not. I know his writing very well.

15102. Will you look at that letter—one will give you an idea of the style of the whole?—[*The witness did so.*]—There is no mistaking the handwriting.

*The witness withdrew.*

John Sherritt further examined.

15103. *By the Commission.*—You said there were several things you had omitted to mention at the time you had the interview with Joe Byrne at Sandy Creek?—Yes, I have got them put down here, and there may be other things I told Mr. Nicolson.

John Sherritt,  
4th August 1881.

15104. If you can give dates it will be well?—I never kept any dates. Byrne said that Mr. Hare and search parties very nearly had them once, and that they were — well starved out. He told me he would give me money to pay my expenses to spy for him—that is, go to Yackandandah bank—but that he was short of cash at present, but when he got the bank he would give me a hundred or two. That is all about that. I do not know whether I told you yesterday I did get £2 from Byrne for posting up some caricatures that came to me in a letter. I did not get it from himself; he left it with his brother for me.

15105. What were those caricatures?—There were themselves represented on paper shooting police, and all that sort of thing. Ward could describe it better than I can, for it was handed to him.

15106. What else?—I told the police I had got the money and what for.

15107. Did you put up the caricatures?—No, I did not put them up myself, but the outlaws thought I put them up; in fact, they were sure it was I did it.

*Mr Nicolson.*—Perhaps he will explain all that.

15108. *By the Commission.*—How did they come to think you had put them up?—My getting letters before and answering those letters in reply, they placed that much confidence in me.

15109. They thought you had done it?—Yes, and also there was something in the paper about what was done in Beechworth about posting those papers.

15110. Do you know, as a matter of fact, who did put them up?—I do not know; I could not say whether it was Detective Ward or not, but I believe it was. The outlaws requested me to put them up.

15111. How did they come into Ward's hands?—They came by my sister to me, and then I gave them to Detective Ward.

15112. You handed them yourself to him?—Yes.

15113. You are quite sure of that?—Yes.

15114. Is there anything else you have made a note of?—No, I have not. There is nothing only about myself and my brother's discharge. I did not tell full particulars of that.

15115. You did not hear of any reason at all being assigned?—No, I did not hear any reason assigned for me and my brother being discharged, and we got no reason. On the 19th of October 1880 Sergeant Porter ordered myself and my brother into the head office. Mr. Nicolson was there, and he told us. He said, "You two men's services are dispensed with from this day." I do not know whether he said—I could not be sure whether he said—he recommended our discharge to the Chief Secretary or the Chief Secretary recommended it to him; but after we were discharged to make up our minds immediately to clear out of the colony somewhere—that he would give us a free pass to wherever we would like to go to, and a few pounds in our pocket. The next day Mr. Nicolson had us call to the Police Department in the Treasury buildings, and asked us if we had our minds made up as to where we were going to. I said I was going to remain in Melbourne. My brother said, if Mr. Nicolson would give him a recommendation to join the Queensland force, he would go there; and I believe he did give him a recommendation, but I do not know what kind of one it was; I did not see it—it was in an envelope. He told me he would not give me one on any consideration. I did not ask him for one though; but before this I told him I did not intend going away anywhere, but to stop about Melbourne. He said, if I stopped about Melbourne, I would get myself into trouble in a very short time. I told him, if I got into trouble, it was my own fault—that I was old enough now to know better. I asked Mr. Nicolson what would the people say in the North-Eastern District when they heard we were discharged, especially the Kelly sympathizers. He said the people would just simply say that Mr. Nicolson was in office and that he was

making changes. I told Mr. Nicolson that the people would not believe that—that if we went back home again they would think we were sent up there to watch the movements of some of the Byrnes or the Kelly sympathizers rather; they would think we were still in the force, and very likely shoot us. He asked me, after I said that, what did I ever do for him or the police, and asked me also what did ever Aaron do for the police; we did nothing that he was aware of. That is all about that. There is another matter. On or about the latter end of May 1880, I think—I will not say it was for certain, but I believe it was—Mr. Nicolson or Ward received information from some person unknown to me that Byrne, the outlaw, was seen some place in the vicinity of Sebastopol. Mr. Nicolson and the black trackers came as far as Everton; Aaron met them there according to appointment. On proceeding to the place where Byrne was seen they came in contact with a man named Batchelor, who lives at Sebastopol, close to Mrs. Byrne's. This man recognized Aaron as one of the men—I believe he had his face blackened too. He informed Byrne of what he had seen. However, he recognized him as one of the men coming up the Bullock Camp Gully. This was not spoken of till after Aaron was murdered.

15116. What do you want to convey to the Commission by that?—To let you see that Aaron was recognized with the police, and that Mrs. Byrne knew this, and that he was known to be watching Mrs. Byrne's closely.

15117. Can you say what was done by the trackers?—They proceeded on to the place, but they got to the tracks of someone driving a cow—that is what it wound up with.

15118. What particular object have you now in alluding to this circumstance to show Aaron was recognized. Had it not been known up to that period that he was in the police service?—Yes, but it was not known there were police so close about.

15119. This was not the first time when your brother had been detected as co-operating with the police?—I think not.

15120. Had not Mrs. Byrne prior to this seen your brother in the camp?—Yes, but he used to go about as if the police were not about at all.

15121. To the best of your belief and knowledge, did Mrs. Byrne, on the occasion that has often been alluded to—the camp—really recognize your brother at the cave party?—I never knew of only one cave.

15122. What cave was that?—The last cave party—Mr. Nicolson's cave party on the top of the hill.

15123. Your brother was engaged with that party?—Yes.

15124. This was near Mrs. Byrne's residence?—Yes.

15125. Do you know any occasion before in which your brother had been seen in any party?—No. The one I have mentioned is the only one I know of when he was seen—that is, seen with the police; but he was suspected of aiding and abetting the police.

15126. Long before?—Yes.

15127. Did you ever hear that Mrs. Byrne recognized him at the cave party?—No, I never heard of his being recognized.

15128. Did you ever know that Mr. Hare had the party?—Yes; he had the party unknown to me for a long time. I was working near.

15129. *By Mr. Nicolson.*—Did it ever come to your knowledge that your brother was seen in the cave party by Mrs. Byrne?—No.

15130. Did your brother ever tell you so?—No.

15131. *By the Commission.*—Is there anything else you want to say?—That is all, I think.

15132. You say that Aaron was seen assisting the police, and that it was known from that time that he was with the police—do you consider that was the cause of his being murdered?—Yes. I knew for a good while before, from the threats that Byrne made to my mother. On one occasion he saw my mother very early, and he told my mother that the first opportunity he got of Aaron he would shoot him.

15133. Was that before this circumstance you have been referring to or after?—I cannot say whether it was before or after.

15134. Just think a minute and see if you can remember?—I would not be sure, but I believe it was after.

15135. How long before Aaron was shot was it he told your mother this?—I believe it was about a month. I would not be sure, but it was not long before he was shot she went into Beechworth and told Mr. Nicolson about it.

15136. You were on the best of terms with your brother with the exception of the short period you alluded to just prior to his marriage?—Yes.

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15137. Constantly meeting and having conversations about the police proceedings?—Yes.

15138. Did he, to your knowledge, at any time meet any of the outlaws under any circumstances whatever and have conversation with them when he was employed by the police—did he ever tell you so?—No, I do not recollect him telling me that he had a conversation with Byrne in the house. At one time, some time after, Dan Kelly was there when Byrne came.

15139. Was that when you went across to Beechworth and told Mr. Nicolson and Ward?—No; at the time I now speak of my brother was present.

15140. Was he in the house?—Yes.

John Sherritt,  
*continued,*  
4th August 1881.

15141. Do you remember his telling you of any conversation that took place on that occasion?—I was listening to it myself.

15142. What occurred when Joe Byrne came, when your brother was in the house and you?—He came to see about the sticking up of the bank. This time he came he had two separate things to tell—one about the Yackandandah bank, that he was not going to attack it; and that he and Ned Kelly had two separate plans to stick up the Beechworth bank.

15143. Did he on this occasion also express a desire to enlist the assistance of your brother as well?—Yes, he did.

15144. Were you both present?—Yes.

15145. And at the same time he made the proposition to you he made that to your brother also?—Yes.

15146. What reply did your brother make?—He said he would. I expect if we said we would not he might perhaps have shot us.

15147. Do you remember whether he addressed any conversation at all to him individually when you were not exactly present?—No; I was present all the time.

15148. Was your brother at this time aware of your going across to give information to the police?—Yes.

15149. Did you give information to the police on this occasion?—No; I know they got the information, but whether it was from my mother, or sister, or Aaron I do not know.

15150. How was it you did not on this occasion start away directly and give information to the police?—We were frightened of being watched by the rest of the gang.

15151. What time was this?—About seven or eight o'clock. It was after dark.

15152. Would there have been greater danger then than on the previous occasion?—On the previous occasion I was not in the house, I was in the paddock a quarter of a mile off, but on this occasion there was danger in leaving the house.

15153. Do you think your brother had, during the time he was in the employment of the police, been in the habit of going to Mrs. Byrne or any of the outlaws' friends, and apparently pretending to be on friendly terms with them?—I believe he did.

15154. Do you know of any occasion when your brother did visit Mrs. Byrne's place?—No.

15155. Do you remember any circumstance that he repeated to you as having occurred?—Yes; he used to speak friendly to the young Byrnes.

15156. And visited the house?—I cannot say that. He might come into Beechworth, and might buy them something.

15157. Did he ever go to Mrs. Byrne's house?—I do not know.

15158. You are not aware whether at any time he made appointments to meet them at any given place?—No. I wish you to understand that Aaron was employed by the police for a good while before I knew anything about it. I was splitting in the bush. I was not living at home.

15159. At this time you knew where he was, and used to meet him on friendly terms?—Yes, always friendly terms, except that one occasion.

15160. You frequently met him?—Yes.

15161. During this time you were ignorant of his connection with the police—that he used to visit those places—you were looked upon as friends of Byrne's and Kellys'. Did you visit them from time to time, the same as you had always been accustomed to? I might go down there perhaps on Sunday, and perhaps not be there for three or four weeks.

15162. And Aaron would do the same?—Yes.

15163. What was the subject of conversation generally when you visited there—was it referring to the outlaws and how they were getting on?—Yes, she used to talk about the outlaws; say she wished that Joe would give a look round and shoot Mullane and Ward, and several others of the police; and said if they were shot there would be no danger of the outlaws being caught if they visited her place.

15164. Did the outlaws come and visit her place sometimes—did they venture home?—I do not know whether they did at this time.

15165. You never heard of it?—Not at this time. I had nothing to do with the police at this time.

15166. Still you visited Mrs. Byrne's and entered into conversation in the ordinary way?—Yes.

15167. Have you any idea at this period how those men got supplied with provisions?—I believe that Mrs. Byrne supplied them with provisions part of the time.

15168. Did you see anything at all to indicate that?—Yes, I have several times.

15169. Saw them preparing the food?—Saw Byrne's family, to my own knowledge; they are small eaters, and I used to see meat there, and plenty of bread, cooked, and everything.

15170. A much larger stock than they would require for themselves?—Yes.

15171. They prepared it?—Yes.

15172. What did they do with it then?—I expect they conveyed it to somewhere.

15173. Do you know how?—I think I do—by Patsy Byrne, and sometimes herself.

15174. Have you any idea of the direction they took to convey those supplies?—I have no idea which direction. There are several they could take, because there are hills all round.

15175. Did you ever hear of the particular spot where they were accustomed to take those supplies for the outlaws to come for them?—I do not think so. On one occasion—the same Saturday about two in the afternoon that Aaron was shot—I saw young Byrne with a parcel of clothes on the range over Mrs. Byrne's

on the right-hand side up the gully, and he just went round the creek, and I did not see him any more. I could see him, but I just caught a glimpse of him to see it was him with the clothes.

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John Sherritt,  
*continued,*  
4th August 1881.

15176. You had very little doubt he was taking clothes for the men?—Yes.

15177. Can you remember any other instance where the friends of the outlaws were taking either clothes or food for them. Did you ever meet anyone you suspected of that?—No, I do not think so.

15178. *By Mr. Hare.*—Did you ever see me before until you came to the dépôt to join the force?—No.

15179. Never saw me or spoke to me before?—No.

15180. You were asked by the Commission about the cave party and your brother being seen by Mrs. Byrne—were you aware there were any police in the gully at the time?—No, and I was working in the gully at the time.

15181. When did you discover that I had been in the gully?—I do not think till a day or two afterwards—I went away after the men were shifted. I did not know whether you were there or not.

15182. You were then on intimate terms with Mrs. Byrne?—Yes.

15183. Did she tell you she had seen Aaron in my camp?—No, she did not.

15184. Do you think if she had seen him she would have told you?—I am certain she would.

15185. Were you on intimate terms with Aaron?—Yes, I was. I met him one day—he had some tobacco, and I asked him for some, and he gave me some—I believe he was with some of the police, and I did not know he was engaged with the police then.

15186. Were you aware I was in your straw-shed for two days and nights when you were living at home?—No.

15187. Were you told afterwards?—I was told a considerable time afterwards you were there.

15188. What was I there for?—Watching for the Kellys, to see if they would come to our place.

15189. *By the Commission.*—Do you know the date of that?—I was only told of this afterwards.

15190. *By Mr. Hare.*—You did not work for me—you were not one of my agents when I came up the second time?—No, I was not.

15191. You wrote a letter to me which was put in evidence here by somebody?—Yes, I did.

15192. You said you had a great plan for catching them?—Yes.

Here is the letter. The question is:—

“Was it reported among your comrades that any order for special care had been promulgated among them; was it said among the men that there was to be special caution, or anything?—No, I never heard of it.

“*Mr. Nicolson.*—May I ask for D 13 to be produced and read?

“*The Chairman.*—It is a letter from John Sherritt to Mr. Inspector Hare, Sheepstation, dated June 20th 1880:—‘Dear Sir,—I would very much like to have seen you yesterday, as the outlaw Byrne does be frequently and sleeps in ——’s haystack on Sebastopol. I cannot see how it is that he is not caught before now. His brother Patrick does be out all night and sleeps all day. Mrs. Byrne has their winter flannel and socks all ready to go to them, and she has provisions for six families stored by in her house. Sir, I don’t want to dictate to a gentleman of your ability, but the plan I would suggest is this—for Patrick Byrne to be watched minutely day and night, as this is a particular time. As long as Aaron has the men down there, they will never do any good, as to my knowledge he lets too many of his mother-in-law’s children to his house, and his mother-in-law herself will go there night after night, and will stop sometimes until two o’clock in the morning, and this will be the means of discovering the police, as the Barry children and the Byrne children go to the same school, and are on friendly terms. Dear sir, the reason I send you these few lines is this—anything I say up here, they will not listen to it; therefore I would like to explain matters to yourself. I am certain before long they are going to make another raid; I have not heard yet what it is. I am very busy now, but if you don’t succeed, sir, I have a grand plan made up that I think will carry through. I remain yours most respectfully, JOHN SHERRITT, junr.’”

15193. Was that the first communication you ever had with me?—Yes.

15194. *By the Commission.*—You have been in South Australia?—Yes.

15195. When did you return from there?—I stopped there awhile working, and came back.

15196. How long have you been back?—I was discharged on the 19th October 1880. I was two or three months there, and I have been in Victoria since.

15197. Did you come back to Victoria in consequence of any information that you obtained that the Commission was appointed to enquire into the Kelly outrages?—No; it was too hot in South Australia, and I got a fall from my horse.

15198. Have you been in communication with any of the officers of police since the time you were discharged from the police force?—No.

15199. Have you received letters from any officers of the police since that time?—No.

15200. Have you had any personal interview with any officer you knew in the North-Eastern District before you came here to give evidence?—No.

15201. Have you had any conversation with Ward during the last week?—No.

15202. With Messrs. Nicolson, Sadleir, or Hare?—No, and no other officer at all.

15203. Have you had any conversation with Mr. Hare since you have been in Melbourne this last week?—No.

15204. *By Mr. Hare.*—Since you left the service, have you directly or indirectly had any communication with me?—No.

15205. You have been to my house?—Yes.

15206. Did you see me?—No.

*Mr. Hare.*—I refused to see him.

15207. *By the Commission.*—Have you been to Mr. Hare's house at any time since you were discharged?—I was a few days after. I did not see Mr. Hare then.

15208. What was your object in going there?—I wanted to explain the way that I was treated. I did not know what to do.

15209. You felt you had been unfairly dealt with?—Yes, that is what it was.

15210. And you wanted to explain it was through no fault of yours you were dismissed?—Yes, that is what I wanted to tell Mr. Hare; but I did not see him.

15211. *By Mr. Hare.*—You said you had been at Sunbury. Had I anything to do at all with your going to Sunbury?—No, nothing whatever.

*The witness withdrew.*

*Adjourned to Tuesday next, at Eleven o'clock.*

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TUESDAY, 9<sup>TH</sup> AUGUST 1881.

*Present:*

The Hon. F. LONGMORE M.L.A., in the Chair;

G. W. Hall, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.,

E. J. Dixon, Esq., J.P.,

W. Anderson, Esq., M.L.A.,

*Mr. Sadleir.*—I wish to refer to page 461 of the evidence—Mr. Chomley's evidence. "I heard from the Chief Secretary, a long time before, that Mr. Sadleir had written a letter imploring his removal from the district, as he was in danger of his life." That is a question by one of the Commissioners to Mr. Chomley. I beg to point out that this question was put when myself and the other officers were excluded from the Commission, and this is the first opportunity of learning that such a question was put. I can assure the Commission that there is not the smallest foundation whatever for such a statement.

15212. *The Commission (to Mr. Sadleir).*—You never did make the application for removal?—I never did, except the one on the 22nd April, which you have before you. I never had any communication, verbal or otherwise, with Mr. Berry or anyone else on the subject. So far from desiring to leave my district, I no sooner heard of another officer being sent up with the means to carry on the work, the want of which means was the only reason for my leaving, than I went to Mr. Berry, in the presence of Mr. Chomley, and said I thought I was the officer best fitted for the work of that district, and I wanted to go back. I can give a copy of everything the last three years. The letter I did write is on page 357, dated 22nd April. The gentleman asking the question, or making the statement, says it was a long time before that he heard from Mr. Berry that I implored to be removed from the district. As I was just stating, I saw Mr. Berry, and asked him to let me return to the district; and his reply was that, as the matter appeared to be critical, and I was likely to be detained before the Commission for some time, he could not do it. I think, with great respect, that I may say I have had more than my share of aspersions of this sort.

15213. What do you object to?—That it contains an aspersion on my character and motives that there is no foundation whatever for.

15214. This seems almost to imply — ?—That I wanted to clear out of the district from fear.

15215. But your letter of the 22nd says something like that?—But this says long before.

15216. Then the time is what you object to?—You see Mr. Chomley says he can find no other letter than that one. Mr. Chomley mentions having handed in that letter, and then this question I object to was asked. I hope, in consideration of my character and length of service, that the Commission will see me put right in this matter.

The Honorable J. H. Graves, M.L.A., sworn and examined.

*The Witness.*—I first of all hand in the document which is the original letter which I was asked to produce. The letter was a private one, sent to me as the member of the district. There is the original letter. It is as I got it, with the exception of the name, and I will explain why that was removed, but I have no doubt that was a false name. The name of the writer of the letter was a false one, and I gave it at the time I gave this letter to Captain Standish. I wish to be called as a witness in regard to this letter and other correspondence received by me. The name to the letter was M. Connor, and I satisfied myself there was no person of that name. It was written by some one in Melbourne, and my own impression is that it was written either at the instigation of or by some constable, but I do not positively know. The name was M. Connor, and I cut it out in order to ascertain in my district, if possible, who was the writer of the letter. I believed at first that that was

The Honorable  
J. H. Graves,  
M.L.A.  
9th August 1881.

<p>a genuine signature. I told Captain Standish about it at the time.—[<i>Letter referred to inserted above.</i>] I have to mention also that Sherritt came to me and made certain statements, and my sole object in talking with him was to endeavor to bring the matter before the Chief Secretary, and in consequence of statements made by him, I could not act in the matter unless he verified his statements by an affidavit. I did not wish to put this original document before you while I was on the Commission. The second document I hand in is the affidavit made by John Sherritt. That was based on the letter you have in your hand.—[<i>The affidavit was read as follows:—</i>]</p> <p>“I, John James Sherritt, of the Richmond police barracks, in the colony of Victoria, formerly mounted constable of police, do solemnly and sincerely declare that I am above 21 years of age, and that about 15 months ago I was a selector on Sheepstation Creek, near Beechworth, and occupied 100 acres of land, being also at the time engaged in a contract for fencing for Mr. Crawford, coach proprietor, which I had taken jointly with my brother, amounting to the sum of about £300. During the progress of the contract I received a message from Detective Ward that Mr. Nicolson, superintendent of police, wished to see me; that in consequence of the said message I had an interview with Superintendent Nicolson in the township of Wangaratta, who asked me to undertake police duties to assist in the capture of the Kelly party of outlaws. I said I would consider his proposition. About three weeks after I met him by appointment at Beechworth, when he again asked me to do duty for him. I told him that the party of Kelly outlaws constantly visited Mrs. Byrne’s house at Sebastopol, and that they might be easily captured. He then engaged me, and I commenced to do duty, with six other police constables, under charge of Constable Alexander. I therefore had to give up my contract with Mr. Crawford, and I continued to do the police duty entrusted to me for over six months; that during this time individual members of the Kelly gang constantly visited Mrs. Byrne’s house, and that some time after the robbery of the Jerilderie bank by that party the whole gang came to Mrs. Byrne’s house, and I sent word to Mr. Nicolson that they were there; thereupon no action was taken by this officer. I then saw him personally on the matter in Beechworth, and asked him why he did not capture them. He replied that he did not attempt it on that occasion, as if they had found it out they would not come back any more. In about fourteen days afterwards I received a letter from Joe Byrne, requesting me to meet him at Sandy Creek, near Wangaratta. This letter I forwarded to Mr. Nicolson, who instructed ins to keep the appointment with Byrne. I accordingly did so, and met Joe Byrne, and had a conversation with him. He told me that the Kelly gang were close at hand, and that they went wherever they liked, as the police were frightened at them. No action was taken on this occasion by Superintendent Nicolson for their capture. I then got thoroughly disgusted with the conduct of the police, and determined to discontinue doing duty for them, and to return to my contract with Mr. Crawford, which I did. Mr. Nicolson again sent for me, and I met him at Allen’s store in Beechworth. He then persuaded me to continue on doing duty for the police, and he gave me £5 in £1 notes, saying that when the Kellys were captured I would get the biggest portion of the reward; that he would never forget my services, and that he would make me a permanent member of the police force. At his urgent request, I then consented to do duty. Subsequently I constantly saw Byrne at his mother’s house and in the township of Sebastopol, and so informed Detective Ward and Mr. Nicolson. Shortly afterwards I saw Mr. Nicolson again in Beechworth, and told him that Ned Kelly had been at Mrs. Byrne’s house and at my own house, and I told him that my brother William had seen Dan Kelly in the neighborhood. Shortly after this Dan Kelly called at my house and asked to see me. I was not home at the time, but I heard of his calling immediately afterwards, and went in to Beechworth, saw Mr. Nicolson, and told him that Dan Kelly had told my mother that he (Dan Kelly) would come back at eight o’clock that</p>	
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<p>The Honorable J. H. Graves, M.L.A. <i>continued,</i> 9th August 1881.</p>	<p>evening. Dan Kelly did come at the hour appointed, and went away again. Mr. Nicolson said that he would not send down any police, but that I had better go down and see what he (Dan Kelly) wanted. I did not do so. There was hardly a week that I did not see Mr. Nicolson and give him particulars of the movements of the Kelly gang, and I believe he could have easily captured all or some of the party almost during the whole time he was up there. Subsequently Mr. Nicolson was withdrawn, and Mr. Hare took his place. I then wrote to Mr. Hare to say that I had constantly given Mr. Nicolson information of how and where the Kelly party could be captured, and I told him that I was sure he could easily capture them if he was so inclined, and in a very short time. Immediately after this my brother Aaron was shot by Joe Byrne and Dan Kelly; in two days afterwards the Kelly party were captured and destroyed at Glenrowan. I was present at their capture, and had that morning collected the police detachments about Beechworth, and accompanied them to Glenrowan. I then received orders from Captain Standish to join the police force at the depôt, Richmond, and both myself and my brother William were sworn in as constables at the Police Department at the Treasury. Our uniform cost, with our other appointments, £33 each. We believe that we have given entire satisfaction to the police authorities at the depôt.</p> <p>On Tuesday last, the 19th day of October, Mr. Nicolson called myself and brother into the office at the depôt, and discharged us on the instant, without any reason, except that the Chief Secretary had ordered him to do so. He said we should make up our minds to clear out of the colony immediately; he would give us a free pass, and a few pounds to carry us along. We then went and saw Mr. Graves, the member for Delatite, and told him the whole circumstances, and begged him to get some consideration of our case from Mr. Berry. He promised to see the Chief Secretary on the subject.</p> <p>“Next morning Mr. Nicolson telegraphed for us from Melbourne. We went in to see him. He asked us if we had made up our minds to clear out of the colony, and where we were going. I told him that we were waiting for a reply from our parents as to what we had better do. He said, there is no occasion to wait for them; you are old enough to judge for yourselves; and directed us to clear out at once, as we could not stop at the depôt, stating that if I remained about Richmond I would get into gaol in three months, and don’t attempt to use any political influence in this matter.</p> <p>“I and my brother cannot with any safety go home to Beechworth. We have no home and no money, except 11s. 6d. My father and mother have, beside us, eight children to support. I and my brother have lost our selections, and given up our contract. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of Parliament rendering persons making a false declaration punishable for wilful and corrupt perjury.</p> <p>“JOHN JAS. SHERRITT.</p> <p>“Declared at Melbourne, in the colony of Victoria, this twenty-second day of October, One thousand eight hundred and eighty, before me—SHERBOURNE SHEPPARD, J.P.”</p>
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<p>John Sherritt, 9th August 1881.</p>	<p>John Sherritt was perfectly unknown to me, but brought letters from constituents of mine in whose respectability I believed, and especially one from Mr. Crawford, a magistrate and a couch proprietor, whom I have known for the last eighteen years. I determined to take action and represent the matter and the position that he was in with regard to the expenditure he had been at to the Chief Secretary, and upon that declaration being received and handed to me, I did wait on Mr. Berry, and he caused, I think, £50 each to be given to the Sherritt brothers. Before I saw Mr. Berry, I had an opportunity of seeing the late Sergeant Porter, and, I think, Sergeant Jarner Beckwith, whom this man told me he was in constant contact with, doing his duty; and also about that time, I do not know at what exact time, I also saw Mr. Hare, and asked him whether the statements made by this man were true relative to his having given complete satisfaction in the dépôt; and these three people that I have mentioned told me that they had never had a better conducted lad in the dépôt. Then, having satisfied myself that in all probability the case was meritorious, I represented it to the Chief Secretary, and he gave them £50 each, on the condition that their uniform was handed over to the Government, which was done.</p> <p>15217. <i>By the Commission.</i>—I suppose you have other matters that have come under your own notice?—Yes; and I now simply give that statement with reference to these documents. I think it right to say that, after that affidavit appeared in the paper at the time, Sherritt wrote me a letter in which he said that that information was correct, but drawing my attention to some slight inaccuracy in one matter in that declaration. I suppose he will tell it to you now. I have his letter here somewhere; but I know it was a matter of not very great importance—something as to date, I think.</p> <p><i>Mr. Nicolson.</i>—As Sherritt is to be cross-examined to-day, it would be better that any inaccuracy should be corrected now.</p> <p><i>The Witness.</i>—I do not recollect what the inaccuracy was, but if Sherritt corrects it now it will be sufficient.</p> <p>15218. <i>By the Commission (to Mr. Sherritt).</i>—Do you remember what that inaccuracy was?—No, I do not.</p> <p>15219. If you look over it you may discover it now—[<i>handing the affidavit to Mr. Sherritt</i>]?—</p> <p><i>The Witness.</i>—Whatever it was, it was only one unimportant matter, and I will be able to produce the letter.</p> <p><i>Mr. Sherritt.</i>—There was a paragraph in the paper stating I did not collect the police to go to Glenrowan in the morning.</p> <p><i>The Witness.</i>—Yes, I think that was it. He said in his declaration he did collect the police that morning.</p> <p style="text-align: center;"><i>The witness withdrew.</i></p> <p style="text-align: center;">John Sherritt further examined.</p> <p>15220. <i>By Mr. Nicolson.</i>—Do you remember your first meeting with Mr. Wangaratta?—Yes.</p> <p>15221. Who accompanied you?—Nobody.</p> <p>15222. Who came with you to me?—Nobody came with me to you.</p> <p>15223. Do you not remember Wallace, the schoolmaster, and he came with you?—No, I do not; he did not come.</p> <p>15224. Do you not remember about this time, the month of November 1879, an agreement being made that you could sleep in your garden instead of in your house?—Yes, I do.</p> <p>15225. What was the object of that?—I was frightened to stop in the house, for fear of the Kellys.</p> <p>15226. Do you remember the date of the agricultural show at Wangaratta?—I did not keep any dates, but I think it was the latter end of the year 1879.</p> <p>15227. It was about April in 1879. After that you were in the habit of sleeping in your garden, to prevent being surprised by the outlaws?—I was.</p> <p>15228. At that interview you had with Joe Byrne he had proposed you should join them as a scout?—Yes.</p> <p>15229. And, in relating that to me, you objected very strongly to doing so; and one of the arrangements made for your safety to prevent it was to sleep in this garden at night; and you could also come in</p>
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and give information to the police without being observed—was not that the arrangement?—Yes, that John Sherritt arrangement was made only on one occasion.

15230. *The Commission.*—About what date was that?

*Mr. Nicolson.*—I cannot give that exactly. It was 6th November 1879 he had an interview with Joe Byrne. When I met him first was the 12th September 1879. That was at the agricultural show, and I believe this was after.

15231. *By Mr. Nicolson (to the witness).*—Was it after that interview that you had with Joe Byrne that you slept outside?—It was a good while after that. I and my brother had a row about his getting married to this Miss Barry. The police used to sneer at me in the cave, and I was not going to do any more duty for you, and I went to fencing; and Detective Ward sent you to me, and gave me £5, and it was on this occasion

John Sherritt,  
*continued,*  
9th August 1881.

I was to sleep in the garden. I said perhaps the outlaws might carry me off, and I might be shot along with them if they went to the bank.

15232. *By the Commission.*—How long was Aaron married before the Kellys were caught?—He was only going to get married about this time.

15233. Was the time that Mr. Nicolson made the arrangement for you to sleep in the garden after the time that you rode into Beechworth and informed them that the outlaws had called in the afternoon?—I cannot remember.

15234. Was it before or after you had told Mr. Nicolson you would do no more for the police because they would do nothing with your information?—I think it was after.

15235. *By Mr. Nicolson.*—What was the object then of your sleeping in the garden?—I was frightened of being carried away by the outlaws.

15236. Do you remember another arrangement that was made by me or by the police as a precaution against such a thing—do you remember your likeness being taken?—Yes.

15237. What was the object?—The object was, if I went with the outlaws, or was carried away with them, I would be recognized among the outlaws.

15238. And those would be distributed about the colony and New South Wales, and you would be recognized?—I do not know whether they were distributed.

15239. The object was that?—Yes.

15240. You were therefore very much afraid the outlaws at that time would come and compel you to join them?—I was frightened they would compel me, because seeing them so often at the time I was frightened they would take me away whether I liked it or not.

15241. *By the Commission.*—You were pretending at this time to work with the outlaws?—Yes, I was.

15242. *By Mr. Nicolson.*—You were speaking of something that occurred on the 13th November; did you fix the date?—I do not think I fixed the date.

15243. When you gave the information when Dan Kelly visited your house?—Yes, I recollect that well.

15244. Now, going back to your meeting with Byrne a short time before, did not Byrne make the appointment to meet you at Evans's Gap?—Yes.

15245. To meet you on Sunday week at Evans's Gap?—Yes.

15246. Did he meet you at Evans's Gap?—No.

15247. On another occasion did he not previously make an appointment to meet you at Thomson's, at Peechelba?—Before the appointment at Evans's Gap he did.

15248. When you met him at Sandy Creek, was not your proposal to meet him at Thomson's, at Peechelba?—That was the proposal.

15249. Did you meet him there?—Yes.

15250. At Thomson's, at Peechelba?—No, not there, but the next day coming back.

15251. Where?—At the Illewarra run. I was to meet him at Thomson's house, at Sandy Creek, but I did not meet him there, but on the next day, when I did not expect to meet him, I met him on the road.

15252. Did he not on that occasion make an appointment to meet you at Evans's Gap?—Yes.

15253. Did he meet you there?—No.

15254. He sent you word he would not come?—Yes.

15255. You say when your sister came and gave you this information that Dan Kelly had called at your house, and she said you were not in, that he went round and searched the house?—Yes.

15256. What did you do than?—Went to Beechworth.

15257. What hour was this?—About dusk.

15258. Was it not about four o'clock your sister came to you?—I could not say the hour, it was about dusk. I know it was a little after seven when I came to Beechworth.

15259. Which paddock were you working in?—Crawford's.

15260. Which one is that—the one about a mile ahead of the gully in which Mrs. Byrne's house is situated?—No, it is the paddock that runs across in front of our place on the road to Beechworth.

15261. Where your brother had a small hut?—No, it is a paddock right in front of our house.

15262. How far do you say that is from Beechworth?—I suppose the nearest side to Beechworth of this paddock is two miles and a half.

15263. Was it daylight when you reached Beechworth?—No.

15264. Did you not think if the outlaws heard of your going to Beechworth immediately after the visit of one of them to your hut they would be very suspicious of you?—I was very careful when I was going to Beechworth to go through the bush all the way.

15265. Who told you when you went home afterwards that the whole gang had called at your mother's hut at eight o'clock that evening?—Mrs. Byrne.

15266. When were you told this?—That night I was sent to the Woolshed by Detective Ward, where I got along with Patsy, and I saw Mrs. Byrne the next morning after I gave the information.

15267. Was it Patsy or she that told you?—She herself told me.

15268. Did you tell the police that Dan had called that night again the second time?—I did.

15269. Did you tell them that the whole four had called at eight o'clock that night?—I would not say whether it was I or my brother informed the police, but I know they got the information direct.

John Sherritt,  
continued,  
4th August 1881.

15270. The last time you gave your evidence you said you did?—I could not say for certain which of us did, but I know they got the information.

15271. About this declaration of yours. In it you say, “I was not at home at the time, but I heard of his calling immediately afterwards, and went into Beechworth, saw Mr. Nicolson, and told him that Dan Kelly had told my mother that he (Dan Kelly) would come back at eight o’clock that evening. Dan Kelly did come at the hour appointed and went away again”—you only say that Dan Kelly called at your house—you do not say about the four men calling?—I say that they did call. If I did not say it in that declaration, it is a mistake of mine. I was certain that they did come back. It is a mistake of mine the other three not being down.

15272. *By the Commission.*—You are certain that Dan Kelly called at your house, and Mrs. Byrne told you about the other three calling?—Yes.

15273. *By Mr. Nicolson.*—If it had been the fact that the whole of the gang had been there, would you not put that in the declaration naturally?—There were plenty more facts I did not put in the declaration.

15274. That was a very important one?—There are still a good many facts I have not yet told the Commission about.

15275. That is your own fault. Are you sure you told me Dan Kelly would be back to the house at eight o’clock?—I am quite certain, and Detective Ward was in the office, if I am not mistaken, at the time.

15276. Who were present besides me?—Detective Ward; no one else that I am aware of.

15277. *By the Commission.*—Are you quite sure he was present on this particular occasion?—Yes, I am quite positive.

15278. *By Mr. Nicolson.*—Do you not remember seeing Mullane in the room?—No.

15279. Do you not remember my coming into the room and finding you sitting on the small safe that stood alongside the table, near the window?—I do not remember whether I sat down at all or not.

15280. Do you remember the hour at which you left?—I do not remember at what time I left; but I know one thing sure, that you looked at the clock, and you said there was half-an-hour or three-quarters. I am not certain at what time you said there could be any men down there.

15281. You said in your evidence that on a subsequent occasion that Joe Byrne called and had a long interview with you, at your house, on the 23rd November?—Yes.

15282. Do you remember Byrne saying that night what Dan’s object was in coming?—I do.

15283. What was it?—That he was not going to bother with any banks.

15284. Will you just try and recollect this: Did not Byrne say to you that Dan’s object in calling upon you that night was to tell you not to meet him on the following Sunday, or Sunday week, at Evans’s Gap?—Decidedly that was part of it too; and not to bother to go to Yackandandah bank.

15285. You never mentioned this the other day when you were giving your evidence—that part of the message was not to meet this man at Evans’s Gap?—Well, if I did not mention it, I made a mistake.

15286. *By the Commission.*—Was the meeting at Evans’s Gap portion of the plan to stick up the Yackandandah bank?—It was to give information as to what I had found out about the bank.

15287. The conversation was to tell you that the idea of sticking up the bank had been abandoned, and there was no necessity to meet you at Evans’s Gap?—Yes.

*The witness withdrew.*

*Adjourned to to-morrow, at Eleven o’clock.*

WEDNESDAY, 10TH AUGUST 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

W. Anderson, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.,

E. J. Dixon, Esq., J.P.

John Sherritt further examined.

John Sherritt,  
10th Aug. 1881.

15288. *By Mr. Nicolson.*—You remember J Byrne calling at your house on November 23rd while you were there at home?—Yes.

15289. It was subsequent to you coming to Beechworth and telling about Dan Kelly?—Yes.

15290. Will you repeat the reason that Byrne gave for Dan’s previous visit?—He said, “Never mind going to Yackandandah bank”—they were not going to stick that up.

15291. Did he say he also brought a message not to bring a message to Evans’s Gap?—Yes. Byrne said that Dan Kelly said that.

15292. For what purpose did you get the ten shillings; did you not get it to go down to Julien’s?—Yes.

15293. That was on the evening of the 13th?—Yes.

15294. Is that near Sebastopol?—Yes.

	<p>15295. How far from Mrs. Byrne's?—About a mile.</p> <p>15296. What was the object of your going to Julien's—why were you told to go there?—I think it was to see if I could see Patsy there.</p> <p>15297. I will remind you—was it not to show yourself at Julien's, and stop there and make a fuss there, so as to have it talked about, and to account to Dan for your absence the night he came?—Yes, I believe that was it.</p> <p>15298. When did you tell the police that Ned Kelly and Byrne had called at the Chinaman's store?—Immediately afterwards.</p>
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15299. Whom did you tell?—I think I told Ward first; I will not be positive; and then I told you the matter afterwards.

John Sherritt,  
*continued,*  
10th Aug. 1881.

15300. Where?—In Beechworth.

15301. Do you remember the occasion?—No, but I remember telling you, and you cross-questioned me over the matter a great deal—you said, "How did I come there and how did I know that?"

15302. How long after the occurrence with the Chinaman did you tell me?—I think it was the next day.

15303. *By the Commission.*—The day after you received the information?—Yes.

15304. *By Mr. Nicolson.*—You told me the next day?—Yes, I think so.

15305. How long after their being there did you hear of it?—They were there, say to-night, and I heard it in the morning.

15306. And you told Ward that day?—Yes, I think so.

15307. Are you sure?—I say I think so.

15308. Are you just as sure you told me the day following?—I will not be sure it was the day following, but it was about that—but I am certain I told you.

15309. *By the Commission.*—Did you avail yourself of the earliest opportunity to come in and tell him?—Yes.

15310. *By Mr. Nicolson.*—Did you ever complain to me or anyone that you had given this information about the two men being at the Chinaman's hut, and it had not been acted upon—did you ever mention to me it had not been acted on?—I do not know that I did.

15311. When you did tell me—say the second day after—did you make any mention of your having told about it and it not having been acted on?—I do not know.

15312. *By the Commission.*—At the time you informed Mr. Nicolson, did you tell him that you had communicated with Mr. Ward the information that the Chinaman had given you?—Yes, I did. There are so many times that I do not know the date. It is not one time, but dozens of times, but I cannot get at the exact time.

15313. Have you any doubt in your own mind as to the occurrence with the Chinaman?—No, I have none.

15314. There was no other occasion on which you conveyed information from the Chinaman as to the movements of the outlaws to Mr. Nicolson and Ward?—Yes, there were other occasions that Byrne used to come and get tobacco and things.

15315. You are not confusing that with the other?—No.

15316. There was one occasion, on the 13th November, that you said Mr. Nicolson did not act on your information?—Yes.

15317. Was there any other time that you informed Mr. Nicolson of their being anywhere about that he did not act upon your information?—Yes; the four outlaws were in Mrs. Byrne's. I think I told Ward.

15318. Was it Detective Ward or Mr. Nicolson you told?—Ward.

15319. Was it Detective Ward or Mr. Nicolson that you told those things to generally?—Well, both of them I told generally.

15320. *By Mr. Nicolson.*—I was up every time at Beechworth—was that about the Chinaman before or after Dan Kelly's visit to your house?—I cannot get near the period.

15321. Can you say whether it was before or after?—I cannot say.

15322. Do you remember whether it was before or after Byrne's visit to your house?—Byrne came after Dan to my place, when we were inside.

15323. Was the Chinaman affair before or after that?—I do not know. I dare say I could find out.

15324. *By the Commission.*—Was there a long time between the two occurrences?—He has called so many times on the Chinaman, I cannot remember.

15325. You understand the two circumstances alluded to?—Yes.

15326. Can you remember, by reflecting a little, as to the probable length of time between the time Byrne called at your place, to tell you they did not stick up the bank, and the time that Dan Kelly and he called at the Chinaman's store?—I do not know.

15327. Was there six months?—No.

15328. A month?—No, not a month at all. I think about a week, to the best of my belief.

15329. *By Mr. Nicolson.*—When you saw me on all occasions, did you see any member of the force

first at Beechworth?—Not always; sometimes I did.

15330. Were you not in the habit of coming in and seeing Ward or Mullane; I was not always there?—I do not think I ever saw Mullane in regard to the Kellys in my life; I saw Ward.

15331. Did you ever see me on any occasion but when you were brought by Ward or I was to meet you by direction of Ward?—Yes, you have come to me.

15332. Did you ever come to me without Ward's knowing of it?—I do not think so.

15333. Did you ever see me without seeing Ward first?—I think I saw you first when I went to give information about Dan being at our place.

15334. *By the Commission.*—Did you on more than one occasion see Mr. Nicolson and give him information without Ward being present?—Yes.

15335. Had you seen Ward before on those occasions?—No, I had not seen Ward before on all the occasions.

15336. How often did you see Mr. Nicolson in that way?—Two or three times.

15337. How often was that after you had told Ward?—On several occasions.

15338. Nine or ten times?—More than that.

15339. As a general rule, you saw Ward before you saw Mr. Nicolson?—Yes.

15340. You made an arrangement with Mr. Nicolson to give certain information?—Yes.

15341. In the earliest arrangement?—Yes.

15342. You were engaged by Mr. Nicolson?—Yes.

15343. Did you receive any order from him that you were to give anything that came to your knowledge—you were to convey it to anyone else in his absence?—Yes, to Ward.

15344. Then if you came in with any information and you met Ward you would give it to Ward?—Yes, immediately.

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15345. But if you came into Beechworth, and Ward was not there, and Mr. Nicolson was, was it your duty to see Ward first before you gave the information?—No.

15346. *By Mr. Nicolson.*—You remember the 21st February 1880, about Patsy Byrne having told you that Joe had visited his mother's hut one night, and you told that afterwards to Alexander and Armstrong?—Yes; I did not give the date.

15347. Had you given any information between that and the 27th November previous?—I will not say that I did not.

15348. Between Byrne visiting your house and Patsy telling you that—did you between those two events give any information to the police?—I may have.

15349. Do you remember your going into training for running?—Yes, I do.

15350. Did you not come down to Melbourne and run?—Yes.

15351. Were you not, through that, and one or two other matters, absent from the police from giving any information—did you not withdraw for a period from acting with the police?—No, I did not. I think I was only a couple of days in Melbourne.

15352. I mean about the time you were in training?—I never trained to run; I did run.

15353. What time do you mean in your declaration that you withdrew from the police in disgust, and went to work, and I sent for you—when was that?—I think about Christmas.

15354. Was not that about the time you were running?—Yes.

15355. Previous to that, when did you withdraw disgusted, as you say?—You might recollect the Sunday afternoon you saw me going to Beechworth with a swag, and you thought I was bringing the Kellys into Beechworth. I was informed about that.

15356. *By the Commission.*—Cannot you give the date. Was it about that period you considered you were not acting with the police. Was it after the 27th November you felt the police were not acting on your advice, and you threw up giving information?—Yes, I think it was about that time.

15357. Can you fix about the date that Mr. Nicolson saw you after the Christmas time, when he interviewed you, and asked you to again afford him assistance?—I can tell you that. I think it was about a day and a half. I met a constable in Beechworth when I was going out to Crawford's. The question asked is this: How long was I absent from the police when I got disgusted with them? Well, when I was going out on this Sunday afternoon, riding to Beechworth, I had a parcel tied before me on the horse. I went to Crawford's, and stopped there that night; but on my way out I met a constable—McCall, I think—and I told him I was not going to do any more work for the police. I did not tell Ward I was leaving the police; so Ward, when he heard this, came out to me on horseback—out to Crawford's—and told me Mr. Nicolson wanted to see me; and I went immediately and saw Mr. Nicolson, and he said, "What do you mean by this, Jack; what are you going to leave me for now?" I told him that I had given him information, and I thought the Kellys could have been taken, and he had not acted upon it.

15358. What did you do then?—He said, "It is no good your leaving now; we have got good information, and no doubt they will go with you to the bank."

15359. Did you then consent to resume the same position as you had previously held?—Yes.

15360. What time had elapsed from the time you had made up your mind not to give information that

you decided to resume?—About two days altogether.

15361. *By Mr. Nicolson.*—When did you have the first quarrel with your brother Aaron?—I never had a quarrel with him. I will not answer that question. I never had any quarrel with Aaron only once, and I told the Commission about that the other day.

15362. Give some particulars about it?—I do not know any particulars about it, only what I have told the Commission.

15363. Where did the quarrel take place between you and Aaron?—At home.

15364. About what time—how long before Christmas. You remember the cave party was formed at the beginning of December—how long after the cave party was formed?—Some time after that.

15365. *By the Commission.*—Was Aaron married before Christmas?—No, the day after—Boxing Day.

15366. *By Mr. Nicolson.*—Was it between the cave party being formed and Christmas that you had the difference with Aaron?—The cave party was established at this time.

15367. And how long before Christmas was it you quarrelled?—

15368. *By the Commission.*—That is hardly a fair question. You say it was after the cave party was formed?—Yes.

15369. How long was it in your mind after the cave party was formed, can you say—was it before your brother Aaron was married?—No, it was not.

15370. *By Mr. Nicolson.*—When you went to Crawford's, and I sent for you to see me, did you not leave the service of the police there on account of your brother's quarrel?—No.

15371. Did you not go away to Melbourne against my will and knowledge, and contrary to the remonstrance of the police?—I do not think so.

15372. *By the Commission.*—Did Mr. Nicolson remonstrate with you about going?—I do not think he did.

15373. Did Ward object to your going to Melbourne to run?—No.

15374. *By Mr. Nicolson.*—My conversation with you—was it not asking you to return to the work, and make friends with your brother Aaron?—No, there was no quarrel; only just the one occasion on the one day.

15375. *By the Commission.*—That was shortly after his marriage?—Yes.

15376. How long after, do you think—a month or six weeks?—I expect it would be about that. My duty to Mr. Nicolson was such that I was not bound to be all the time helping his men. I was to knock around, and he did not tell me I was not to go anywhere unaware of him. I was to go about just as usual, pretending I was working for myself, and not for the police.

15377. *By Mr. Nicolson.*—Were you not working?—Very seldom.

15378. Were you not working with someone bark stripping?—Yes, but very seldom.

15379. *By the Commission.*—Your engagement with Mr. Nicolson did not prevent your going to Sydney if you thought fit?—No, so long as I gave all the information.

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15380. *By Mr. Nicolson.*—Not quite so far as that. Were you not supposed to be following your ordinary occupation?—Yes.

15381. *By the Commission.*—Was there an understanding with Mr. Nicolson that the whole of the time you were to be engaged with the police, and not in anything else?—I was to attend to the police as long as I was not detected. I had to do a little work—to make an appearance of work.

15382. Do you remember anything of this letter—[*showing the witness an envelope*—addressed to Detective Ward?—I do not know that it is my handwriting.

15383. *By the Commission.*—Is it your handwriting?—I do not know.

15384. *By Mr. Nicolson.*—Do you remember giving a letter to Ward, about the beginning of September. I think that was before you ever met me at Wangaratta?—I gave Ward so many letters—about fifty or sixty.

15385. A letter that was given to you by a man of a certain description. There is a memo, here, stating that the letter was handed by you to Detective Ward, having been given to you by a man who asked you to put a stamp on it; do you remember that circumstance?—This handwriting on the envelope is not mine.

15386. *By the Commission.*—Do you remember giving that letter to Ward?—I do not know whether I posted that or not, but I can tell about the occurrence, and tell you what I told Ward and Mr. Nicolson. I told them I was harrowing up in my father's paddock, when a man came to me, whom I knew, and told me to post that letter for him and he would pay me for it.

15387. Who was he?—Joe Byrne; and he said he would shoot me if I told who it was. I did not tell Ward who it was, but I told Ward what he wanted me to tell him. I told Ward I did not know the man, and so I told Mr. Nicolson who it was—that it was Byrne.

15388. *By Mr. Nicolson.*—Well, I did not know you at that time; I never saw you?—I am certain I told you that.

15389. You may have done so after you became acquainted with me. This is dated the 1st September

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1879. I think it was the 13th September I first saw you.

15390. *By the Commission (to Mr. Nicolson).*—The question is: was the letter given to Ward on that date.

*Mr. Nicolson.*—Yes; there is Ward's report about it. My instructions to Ward were, after its being received by Ward, that it was to be passed through the Beechworth post office and noted in the Ovens and Murray Advertiser that Ward had received a threatening letter from the outlaws.

15391. Did he at any future time tell you?—I found it out. It was not he that told me.

15392. *By the Commission (to the witness).*—You say you told Mr. Nicolson of this; when did you tell him?—I think he brought this into conversation about this man coming, and I told Mr. Nicolson who it was shortly after I was engaged to work for him.

15393. Would it be a fortnight after you brought this letter to Ward?—It would.

15394. Were you engaged to the police when you got this letter and brought it to them?—No; I do not think so.

15395. Had Ward at this time engaged you in any capacity and paid you for your services?—No; but I used to tell Ward if I thought the bushrangers were about.

15396. You know that envelope?—Yes.

15397. Did you take that to Ward?—No, I believe I posted it myself.

15398. Did you have that in your possession—[*handing a letter to the witness, who examined the contents*]?—Yes, I had that in my possession.

15399. What did you do with it?—I posted it.

15400. Addressed to whom?—To Ward.

15401. At that time were you engaged by Ward to supply information to the police on the movements of the outlaws; were you receiving money from Ward for that?—Not at that time.

15402. Were you engaged by Mr. Nicolson, or had you seen Mr. Nicolson, previous to posting that letter?—No, I had not.

15403. Did Ward at any time before you were engaged by Mr. Nicolson ask whether you knew anything about the letter?—I told Ward I did not know the man; just what the man told me to tell him.

15404. Did you tell Ward you knew of that letter but did not know who gave it you to post?—Yes.

15405. How long after that was it before you met Mr. Nicolson?—I think about a fortnight or three weeks.

15406. Then, after that, did Mr. Nicolson ask you anything in reference to the letter?—Yes, he was asking me what the man came for; if I knew him.

15407. What did you tell Mr. Nicolson when that subject first cropped up with him?—I told him who it was; I told him it was Joe Byrne who came with the letter.

15408. Then you told him the first time the conversation cropped up with him who it was?—Yes.

15409. You could not have told Mr. Nicolson at the time you delivered it to Ward, because you did not at that time know him?—That is so.

15410. *By Mr. Nicolson.*—Do you remember your brother Aaron's hut being robbed of a saddle?—Yes, I do.

15411. When was that?—I do not know the date.

15412. How long after his marriage?—A good while after his marriage.

15413. Do you know who committed the robbery of the things from his house?—No.

15414. There was a lady's side-saddle that was taken?—I say, gentlemen, Mr. Nicolson must think I am very ignorant and low, if you want to make out that I took the saddle. If I give any evidence I will only be criminating myself.

15415. I do not imply anything?—I will answer any fair questions you put.

15416. *By the Commission.*—When was this side-saddle lost?—I do not remember the date.

15417. Do you remember the time the side-saddle was stolen?—Yes.

15418. Can you fix anywhere about the date?—(No answer.)

15419. *Mr. Nicolson.*—Mullane can supply the date. (*To the witness.*)—Were you ever accused by the police of stealing the saddle?—No.

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15420. Was any information lodged against you for stealing that or any other article?—No, never.

15421. You were not apprehended?—Never in my life.

15422. Was not that stolen to make a charge against Patsy Byrne and the old woman?—I do not think so. I must ask the Commission to allow me to explain all I know about the saddle.

*The witness was requested to withdraw.*

*The Commission deliberated.*

*John Sherritt was again called in.*

15423. *By the Commission.*—It is understood that there is not to be any further questioning on the subject?—I do not decline to answer any question about the saddle.

*The Chairman.*—It is not before the Commission.

15424. *By Mr. Nicolson.*—I have nothing more to ask, excepting when did you go down to

Oakleigh?—That was when I came to Melbourne, when I was sent for by the Chief Commissioner of Police, Captain Standish.

15425. You got orders then to go to Oakleigh?—To join the force.

15426. Did you go to Oakleigh immediately after that?—I do not know whether I did immediately after, or whether I stopped at a hotel.

15427. *By the Commission.*—Were you at the hotel for two or three days?—Yes, I was.

15428. *By Mr. Nicolson.*—Was that all the time you were at Oakleigh; how many days were you there?—I was there on several occasions.

15429. But when you went there when you came down for the purpose of joining the force, how long did you stop there?—Two or three weeks.

15430. Did you stop at the police station?—No, I stopped at a relative's place.

15431. May I ask who that was?—Yes, Mrs. Baker.

15432. Who is Mrs. Baker—what is she?—She is a relation of my mother's.

15433. Is she a selector there or in the township?—I do not know. I never asked her what she is. She lives just out of the township. Her daughters are dressmaking. Her husband is dead, I think.

15434. What constables were at Oakleigh whom you know?—I did not know any constables down there. I saw a man there; I was told his name was Grey. And before I went to Oakleigh I told Captain Standish I was going out there, and he said, "All right, but tell the constable where you are, so that if I send out I may know."

15435. Was Constable Falkiner there?—No, I did not see him there.

15436. Do you remember the schoolmaster, Wallace?—I do, perfectly well.

15437. Did I not often warn you against him—not to associate with him?—Yes, once you did so.

15438. Did I not caution you strongly against him?—Yes, you did.

15439. Did I not warn you to be careful that he was not pumping you and trying to find out what you were doing?—Not about pumping, but to be careful about him.

15440. Did I not explain to you that he might be trying to find out from you about the outlaws or what you knew about them?—No, you did not tell me that.

15441. Are you sure of that?—Yes, I am quite certain you did not. You only told me to beware and not tell him anything.

15442. Did I tell you to avoid having anything to do with him?—Yes.

15443. This declaration of yours is dated 22nd October. You say in it that you met me, and then about three weeks afterwards you met me by appointment at Beechworth, when I again asked you to do duty for me. "I told him that the party of Kelly outlaws constantly visited Mrs. Byrne's house at Sebastopol, and that they might easily be captured. He then engaged me, and I commenced to do duty, with six other police constables, under charge of Constable Alexander." Are you sure that is correct?—I was to do duty along with Alexander.

15444. Do not you think that was the cave party?—Yes.

15445. That was not formed till 2nd December, and I saw you in September?—Yes.

15446. Again you say—"I therefore had to give up my contract with Mr. Crawford, and I continued to do the police duty entrusted to me for over six months." Were you not working for Mr. Crawford after I saw you?—Yes, but very little work I ever did after I was engaged for the police.

15447. You did work for Crawford?—Yes.

15448. Did you give up your contract after September?—I did.

15449. Are you sure that from September, when I saw you, that you gave up your contract with Crawford, and that you never worked with him on contract afterwards?—I had two or three contracts.

15450. Did you work with him on contract after September or October 1879?—I do not know whether I did or not.

15451. You say here you gave up your contract?—Will you read what is before and after?

15452. "He then engaged me, and I commenced to do duty, with six other police constables, under charge of Constable Alexander. I therefore had to give up my contract with Mr. Crawford, and I continued to do the police duty entrusted to me for over six months." Do you mean to say you threw up your contract with Crawford?—Did I work any more on contract with him?

15453. Yes?—No, I did not.

15454. You have been working for him?—Yes.

15455. "During this time individual members of the Kelly gang constantly visited Mrs. Byrne's house, and that some time after the robbery of the Jerilderie bank by that party the whole gang came to Mrs. Byrne's house." Is that correct?—Yes.

15456. "And I sent word to Mr. Nicolson that they were there"?—Yes.

15457. Are you sure of that?—I am positive sure of it.

15458. Do you know I was not in the district at all at the time?—I do not know. I know I told Ward, and I was under the impression he sent word to you.

15459. I will read it again—"During this time individual members of the Kelly gang constantly visited Mrs. Byrne's house, and that some time after the robbery of the Jerilderie bank by that party the whole gang came to Mrs. Byrne's house, and I sent word to Mr. Nicolson that they were there; thereupon no action was taken by this officer"—now you say you sent word to Ward?—Yes; and I was under the impression that you got the information. Did I say what date I sent to Ward?

15460. I was not in the North-Eastern District at the time. You say—"In about fourteen days afterwards I received a letter from Joe Byrne requesting me to meet him at Sandy Creek, near Wangaratta.. This letter I forwarded to Mr. Nicolson, who instructed me to keep the appointment with Byrne." When you received this letter from Byrne, making the appointment to meet him at Sandy Creek, were you to meet the whole gang or Byrne alone?—Byrne alone—not the gang. What Mr. Nicolson refers to about the outlaws coming and going away again, that may not be put right in that declaration as to the time, because I did tell Mr. Nicolson about that, and I asked him why did not he take action to catch them. He said, "If I miss fire, they will not come back again"; meaning that if the outlaws had gone it would spoil his chance the next time.

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15461. As to your discharge from the force, did I ever show you any unkindness before that occurred in my transactions with you?—No, I do not think so.

15462. Had you any ill-feeling to me previous to that?—No, I had not.

15463. Had I shown any ill-feeling to you previous to that?—Yes, you did.

15464. When?—I could tell by the way you talked to me—I could see you seemed to have no faith in me, and I will tell the reason. The reason was that, I could see after that, you were under the impression, when you got my portrait taken, that I could lead all those outlaws to a bank, and first inform you and the bank, and then you would be waiting there with the police and catch them; and I would not do it, I told you, because I would be shot myself; I would not do it.

15465. *By the Commission.*—Was such a proposition made to you?—Yes; that I and my brother should go and stick up the bank.

15466. Who made it?—Mr. Nicolson.

15467. *By Mr. Nicolson.*—Did I not make the proposition that you should hide in the garden, that the outlaws should not catch you?—

*The Chairman.*—That is not the point.

15468. *By the Commission.*—Was it known to Mr. Nicolson that the outlaws asked you to enquire about certain banks?—Yes, it was.

15469. Was it known to him that the outlaws expected you to help them?—Yes.

15470. Did Mr. Nicolson then, upon that knowledge, propose that you should continue that same appearance of helping them, until they would come to the bank, and he would capture them?—Yes, that was it.

15471. That proposal was made to you and your brother, you say?—Yes.

15472. And you and your brother were known to the police to have been asked by the outlaws to come with them for the purpose of giving them information?—Yes, and we got our portraits taken on this.

15473. That you declined because you were afraid of being shot?—Yes, and the outlaws did not know I was frightened of them; but Mr. Nicolson did; I told him so, and he told me to sleep in the garden.

*Mr. Nicolson.*—I was determined I should not lead the outlaws into any trap that would bring bloodshed upon anyone except the police.

15474. *By the Commission (to Mr. Nicolson).*—You thought it better, for police purposes, for him to continue to deceive the outlaws till you laid your hands on them?—I saw he had not nerve to go, and was not fit to go with them.

15475. *By the Commission (to the witness).*—Last week you said the first time it was generally known your brother Aaron was assisting the police was at the time he was supposed to have been seen by a man of the name of Batchelor: do you know the circumstances surrounding that. Was your brother engaged by the police to go to that particular spot and receive information about the outlaws?—Yes.

15476. Do you know of your own knowledge whether the police, Ward, Mr. Nicolson, or others, could have gone to the place indicated without the assistance of your brother?—No, they could not.

15477. They did not know the country sufficiently well?—No, and it was necessary to take my brother for that purpose.

15478. You have laid considerable stress on the fact that you, after being engaged by the police, were dismissed, and also made a very strong statement that Mr. Nicolson told you to clear out, or you would get into trouble. Did Mr. Nicolson, or any other officer of police, give you any letter of introduction to any one in this or the neighboring colony?—No, Mr. Nicolson did not give me any letter—he gave my brother William one.

15479. What did he do with that letter?—It was a letter of introduction to the Chief Commissioner of the Queensland Police.

15480. Do you know where he went after leaving here?—He went with this letter of introduction, but it was no good.

15481. Do you know of your own knowledge that he had a letter of recommendation?—I did not see it, it was in an envelope. He obtained it from Mr. Nicolson, it was supposed to be a recommendation, it was a sealed envelope addressed to the Commissioner of Police, Queensland.

15482. Did he give you one?—No.

15483. Did your brother ask for this one?—I think he did.

15484. *To Mr. Nicolson.*—Have you got a copy of that?—No.

*The Chairman.*—Well, I think we should telegraph to Queensland for a copy of that letter.

*Mr. Nicolson.*—It was a private note addressed to the Chief Commissioner of Police and was received by him. I have no copy of it.

15485. *By the Commission (to the witness).*—Did not the letter refer to you also as well as your brother?—No, I think not. I did not propose to go to Queensland. I said I would stop about Melbourne.

15486. Do the Commission understand that about Christmas 1879—about the time Aaron was married—the outlaws were continually in the neighborhood of Sebastopol?—Yes.

15487. They were seen time after time?—Seen time after time.

*The witness withdrew.*

The Honorable J. H. Graves, M.L.A., further examined.

15488. *The Witness.*—I wish to remark first that it was not my intention to appear at all as a witness as being a member of the Commission, and my late brother Commissioners will recognize the fact that I did not express any opinion, and though no longer a member of the Commission, I should not have

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attended now except as being summoned to present the document already handed in. [*Inserted above.*] On receipt of that letter I endeavored to get satisfactory information as to the statements made in it, and I did that simply in my representative capacity of member for the district, because at the time many of the statements were unknown to the public. I have been for a considerable time connected with that district. In 1864 I was a magistrate of New South Wales and a station owner on the Murray in New South Wales, adjoining this very district, at the place called Terremia, adjoining a place then called Mulwalla, now called Yarrawonga. It is the junction of the Ovens River with the Murray. At that time that district was in a very great state of excitement in consequence of Morgan being then at large, and the adjoining stations to mine had been all stuck up. I was asked to take the Commission of the Peace for Victoria in 1865, and I accepted it as a territorial magistrate for Victoria, and from that time to the present I have been intimately connected as a magistrate with that district as I am now. My station was on the Murray opposite Peechelba where Morgan was afterwards captured and shot; and this position on the river was the one where the men connected with horse and cattle stealing generally crossed over, near Mulwalla, because it was the only fordable part of the Murray River, and in the summer months they could almost cross that part of the river dry-footed. I remained there for some years, and left about the year 1870 going away for two or three years, and about 1872 I returned and resided at Tatong station, being the manager of that station, comprising the Emu and Springs. The Emu station was the one of those under my charge. The boundary fence of that station adjoined the Kellys' residence, and therefore I became thoroughly acquainted with the members of their family and the men connected with them by marriage—the Lloyds and others—they all adjoined me. At that time Ned Kelly was in gaol, and I think his uncle, one of the Quins, also about that time.

15489. Convicted for an offence?—I think Quin was in gaol; remember, I am not now professing to be accurate as to dates, but I think it was about 1870, one was in for assaulting a man with a bullock yoke, and I think for striking Constable Hall; at any rate they were weekly at the court at Beechworth, or the court I used to attend at Benalla. There was a brother-in-law of the Kellys also in gaol of the name of Eman Gunn, who lived near the Tatong Station where I resided. At that time Constable Flood was stationed at Greta; Scanlan, the murdered constable, was stationed at Mansfield, and Kennedy was stationed at Doon. By reference to the map you will see that these positions I have indicated nearly control the passes of the Strathbogie Ranges. Constable Flood or Scanlan or Kennedy was almost daily there; certainly a week never passed by that they were not on the station and through the back country, and they had a thorough knowledge of it. The police almost had at that time the whole families of the Lloyds, Kellys, and Quins completely under observation. And without a thorough knowledge of those people and their personal appearance, and a thorough knowledge of the country, I do not care how efficient a constable may be, he is utterly useless in dealing with them. For one thing, the country is so rough, it is impossible for any inexperienced man to find his way about.

15490. Those policemen must have had long knowledge of it?—Yes, they were perfectly accustomed to the country, were thoroughly capable, and had full knowledge of the men. Constable Flood was removed for some reason, I do not exactly know what. It was some complaints that were made; the magistrates of the district appealed to Captain Standish through me, not to remove him, on the grounds that as long as he was there, the Kellys and their companions were under complete control, and that he spared himself neither night nor day to keep them under that supervision. Captain Standish at the same time also was presented with a petition on behalf of the residents of the shire, I think, of Oxley (you can refer to this document, I am speaking now from memory) asking him not to remove Constable Flood. He was removed from that time; he went, I think, from Greta to Oxley.

15491. Pardon me, you said an appeal was made to Captain Standish—did that appeal bear any fruit at all?—No.

15492. Was any reason given for its not bearing fruit?—I saw Captain Standish on behalf of the magistrates of the district, but he removed Constable Flood, and from that time up to the present date, in my humble opinion, the Kellys and their friends and their connections got ahead.

15493. You look upon that as the first cause of disaffection?—Yes, and one circumstance was Ned

Kelly being in gaol. It was in consequence of sending men who were inefficient as far as the country was concerned, that the Kellys got ahead—that is my individual opinion. At any time that you went about those places, any of their houses, you always saw strange faces there. If I asked my stockman who knew all these men, who they were, he would say, “He has just got out,” meaning he was a prisoner of the Crown who had met them, and brought up the latest accounts of how their relations were faring in gaol. At that time there was a house in Winton, close to Greta, between Greta and Benalla, which was a place where all these characters assembled. There were then two public-houses in the place. From time to time the members of the Kelly family were taken up for different offences, and sometimes they got off—in fact they carried their audacity to almost an incredible extent. As an instance, I may mention just before I left Benalla, which must have been in the year 1876, that I had two very valuable mares that I had heard for some time would be likely to be stolen, and I determined to remove them. I brought them into Benalla, and on the day they came into Benalla for the purpose of being trucked down here to Melbourne, the Kellys followed them into the town. They were locked up in the stock-yard, and those men remained watching those horses till towards morning. The man I had in charge of them left his own horse, saddle and bridle at the hotel close by. One of the Kellys, I believe Dan Kelly, walked into the stable, and as he could not get the horses he stole the man’s new saddle and rode out of the town with it on his horse. He was after some months arrested by the police—the prosecutor was Mr. Smith, my man who swore to the saddle having been made for him, and that it was stolen out of the stable. It was at the Beechworth court, and I think it was Dan Kelly. I am speaking from memory, but you have the documents referring to the case. He was tried for it in Beechworth, and he got a number of witnesses to prove that he himself had bought the saddle, so that it was almost impossible to convict him. He was discharged. The saddle was made for Smith, and there was no doubt at all about it, I think Kelly produced a receipt for the horse, saddle, and bridle, and they got witnesses to prove that, and they were seen with them by the police on the day of the robbery. I instance that to show the audacity of those men, and, correctly or incorrectly, I attribute their getting ahead and the subsequent results to the impunity with which they committed those offences, and the state of the police not making them amenable to justice; and, that was from the want of knowledge on the part of the police of their persons and of the country. I desire now to pass from that time to the time of the murders. You have the records of them before you I suppose. It has been stated

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that in my place in the House I expressed an opinion unfavorable to the police. I wish to put myself right with regard to that. There was only one occasion that I recollect speaking of the matter, and it was reported in *Hansard* on the 25th of November as follows: —“I am in a position to assert, and to prove when the proper time comes, that a large amount of money was spent by the outlaws at Benalla, under the very noses and to the knowledge of the police.” That has been corroborated, and that is the only assertion I made. I was always willing, to the best of my ability, to assist the police authorities. I have got a series of letters here which were sent to me, but I will only refer to two or three, in order to draw attention to one or two salient points. Of course, being member for the district, matters came under my observation which it is requisite now to mention to you. I was personally acquainted with all the constables except Lonigan. There could not be, in my opinion, more efficient or more determined men. Scanlan and Kennedy knew every inch of the country, and I believe Lonigan knew the persons of the outlaws, the men then known to be out. Sergeant Kennedy did not know them personally, but knew all their mates and acquaintances, because they were continually coming to Wild Wright’s, and up the Mansfield country. The first document that I wish to hand in is the first message transmitted to me after I heard the account of the murders of the constables, a telegraph message, 31st October 1878, from Mansfield, signed by the President of the Shire of Mansfield. You will notice that the murders took place on the 26th, I think, and this telegram is sent to me on the 31st:—“I have just returned from the scene” (that is where the men were murdered). “On my way home met police in pursuit, all of whom are badly armed. Three rifles among twenty-three men. Revolvers are useless in the ranges, and terrible scenes will be enacted unless a strongly armed force is sent at once. Civilians have done all yet and we must be supported by armed police. Do bring it before the House publicly, for no notice is taken of private representations. (Signed) JAMES TOMKIN5, President of the Shire of Mansfield.” Up to that time the residents had done all they could to ascertain the full particulars of the murders, and bring the perpetrators to justice. That telegram, I think, indicates, as far as the Delatite residents are concerned, that they had done all they could, and there must have been neglect on some official’s part in handling his men. The complaint of residents is that after the murders the police were not sent quickly to the scene to follow the murderers—that time was lost. I now pass to the Euroa bank robbery. On the morning after the Euroa bank robbery I was in Mansfield, and it was known about breakfast time that the bank had been robbed the previous day. I will ask you to fix the dates; I think it was on the 10th December 1878. I was at breakfast at the hotel about eight or nine o’clock, getting ready to come down to Melbourne by the coach, and the bank was robbed on the previous day. In the hotel where I was stopping there was a large body of police stopping I think. I know their horses were in the yard—I will not be certain as to that, but I saw the horses, and there was a large body of constables about the hotel, I think boarding at the hotel. The officer in charge, Mr. Pewtress, came over to me, knowing I was going by the coach, and told me about the bank robbery at Euroa, and asked me if I thought it would not be better to postpone my journey, because I should pass quite close to the place through the mountain road to the Strathbogie Ranges. He then told me that the bank had been

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robbed, that he had got a telegram that it had been robbed, and that he was going to send a body of police to intercept the robbers. I said to Pewtress, "Well, if the bank at Euroa is robbed as you say, and the robbers were there late last night—and this is before the coach left before nine in the morning—then in my humble judgment it is quite impossible, with an active body of police, that the robbers can escape in the time to their fastnesses in the Glenmore Ranges; and in my opinion they can only get there by coming up towards Dry Creek way, or by going the lower track under Healey's Station through Strathbogie Ranges. I think it is likely they will take this lower track, because if they have got money the probabilities are that they will give it to their relations and friends, and the lower track that I have indicated will bring them very close to their grandmother's house, Mrs. Quin, and also take them out towards the Victoria Sawmills and on the Lima road as it is called, and that will bring them quite close to their aunt's place, where they have other relations and friends." Upon hearing this Mr. Pewtress sent for his senior- constable named James, and told him in my presence what I had stated. Senior-constable James, in my presence, then said that the statements made by me, in his opinion, were accurate, and if he had his own way he would take the track I had indicated, by which alone I thought they would escape. Inspector Pewtress telegraphed down for permission to do so, and I heard he was not allowed to adopt the measures which both Inspector Pewtress and Senior-constable James considered desirable, but was to go another road, which, if my information was correct, was exactly the opposite way to what they ought to have gone.

15494. *By the Commission.*—Do you mean to infer that they were instructed to take a course precisely opposite?—Well I would ask you now to see the telegrams of that date. The Secretary will no doubt have the telegrams. My impression is that if a body of police had been sent in the first instance to the scene of the murders at the Wombat Ranges, where the Kellys were, and had followed them down the only track, they would go home immediately after the murders, it is extremely probable they would have been overtaken. They would have been caught between the place of the murders and the place where the pack-horse was found in the Warhy Ranges in November—I think the 7th of November. I am also of opinion that at the robbery at Euroa, if the police had been on the spot immediately upon the knowledge being acquired of the robbery, that it would have been impossible for them to get any distance without being able to pick them up, because they had to travel back again to Strathbogie Ranges during the night. I wish now to read some extracts from letters which I have no hesitation in using, but I would like the names of my informants, at present, for safety to them, to be left out. This is an extract from a letter dated 6th April 1881, and directed to me:—"I do not know whether you would consider the evidence I could give respecting the Euroa bank robbery, as showing great tardiness on the part of Mr. Nicolson in pursuing the robbers on that occasion. I will sketch it briefly, and you can call for it or not, as you think fit. I was in Euroa on the evening of the bank robbery, attending a committee meeting held at the hotel, some 30 yards from the bank. About 9.30 p.m. the landlord said he thought something was wrong at the bank, as there were no lights about. On going there we found that the place had been robbed. Shortly after the station-master came in and said he had received information that Faithfull's Creek station had been stuck up, and that the banker's family had been taken there from the bank. I proposed beating the town for volunteers to rescue them. The one constable stationed there, by name Anderson, said it was impracticable, owing to there being no firearms in the place. He said he intended going by the 9.50 p.m. luggage train (just due) to Benalla, to carry the information. I told him his duty was to stop, and any one could carry the information. He was, however, determined to go. I told the station-master, in the constable's presence, that I intended riding

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out to Faithfull's Creek station, which is 4 miles on the railway from Euroa to Benalla, and if the robbers had left I would obtain all the latest information about them; I would then signal the train and give them this information, which could be acted on by the Benalla police. I heard the station-master tell the engineer to stop on being signalled. I then galloped to Faithfulls Creek, found that the robbers had left about an hour previously, in the direction of Benalla; ascertained the number of men and the horses they had with them; I then rushed to meet the train just approaching, signalled it, but, instead of stopping, it went the faster. This train reached Benalla at 11 p.m., therefore the Benalla police received information of the Euroa robbery just two hours after the robbers had left Faithfull's Creek station. Now, how did they utilize this early information? First, it took the police four hours to get to Euroa; they arrived at 3 a.m.; then they had to wait seven hours (until 10 a.m.) for Mr. Nicolson. The next three hours were spent poking about. This exertion, according to Mr. Nicolson, so wearied his men that they had to rest. At 7.30 p.m. precisely they left Euroa in pursuit of the robbers, just giving them 22 hours' start, when, at most, they need only have had until daybreak, or about 6 hours. Trusting you will not scruple to employ me in any way you may desire—" That letter is written by a man I have known for a great number of years. I am perfectly satisfied with the correctness of his statement, and believe it to be true. I have a series of letters, but I will only trouble you with the most important ones. I have hundreds of them, of all descriptions.

15495. May I ask whether the writer of that letter could not have been produced here to give evidence direct?—Yes, he has no objection to do so; but why I mention it is my having given corroborative reasons why I believe this statement to be true. The man is a schoolmaster, right in the centre of the Kelly country. He

was a schoolmaster at Euroa, and of course it would not be pleasant for him. He is a man of undoubted character, and the statements made might subject him to some inconvenience. With regard to the letter produced yesterday on the application of Mr. Nicolson—[*inserted above*—]at the time I got that letter I took it up to the district, and I did not bring the matter therein stated before Parliament for a similar reason—that the publicity of those matters might retard the police and inconvenience them; but I made enquiry as to the allegations made therein, and I was quite satisfied, from information I received, that the greater number of the statements were accurate. However, after ascertaining that they were accurate, to the best of my belief, I handed the letter to Captain Standish, and said I would prefer not making it public, as I was requested, in Parliament, and as I was quite sure, having received that information, he would endeavor to remedy any defects there were, and make the outlaws amenable to law. I forgot to mention, upon receipt of that telegram I spoke of, about the men in Mansfield not having arms, I went to Captain Standish, at the Melbourne Club, and told him of the telegram—showed it to him—and I remonstrated with him for not having sent police immediately in the search party, and expressed to him that there would have been, in my humble judgment, no difficulty in the way of having a large body of police much earlier on the scene of the murders, instead of entrusting the search to private individuals, and that an armed party of desperadoes in the mountains could have shot off any number of civilians if they chose.

15496. Is that letter, produced yesterday, the letter you forwarded to Wallace the schoolmaster?—Yes, but I am not sure that I forwarded it to Wallace.

15497. Wallace swears you did?—I would not swear I did not, but I know he saw it, because I asked him about several particulars in it, as I did in several other instances. For instance, I asked him about the paragraph, “At the present time there are men in the district who have been picked out for their smartness and activity, and they are not allowed outside barracks for fear of their hearing anything about the murders.” That kind of paragraph I made enquiry about, as to its accuracy, and I found out that there were two men who had not been out of the barracks. I see here a note I wrote on the letter, in pencil, at the time that Constable Phillips was one of those.

15498. The impression conveyed to my mind is, that the letter was sent to him by you for the purpose of ascertaining from him if he knew anything as to the author of that letter?—I would not say it was posted to him, I was up in the district, but that is true undoubtedly that he saw it, for I showed this letter to half-a-dozen people for the purpose of ascertaining whether they believed that the statements therein were true.

15499. Had you any idea at the time you either handed that letter to him or sent it to him that he knew anything as to who inspired it?—I knew that very likely he might, because Wallace knew more about the Kellys than anyone else. My impression was that he could have told me who wrote it.

15500. Are you still under that impression?—I think it was written by a constable of police.

15501. Are you still under the impression that Wallace knew something about the letter prior to his receiving it?—No, I am satisfied in my own mind he did not. He might know many of the facts in it, but my own impression is, from my conversation with him, that he did not know of some of the contents of that letter.

15502. Before Wallace received that letter from you—how long before that had you seen Wallace himself?—That is “19th April 1880.” I think I must have seen him a month before this letter was written.

15503. And at no date between the month before that letter was written?—At this distance of time I could not tell. Wallace was the schoolmaster near Oxley, and I was constantly going by the train to Wangaratta, and I do not think I ever went there without seeing Wallace.

15504. You may have seen him a few days perhaps before you received the letter?—I might; but I do not think I did. I was constantly in the habit of seeing him, and I knew he was a schoolfellow of Byrne.

15505. That is dated the 19th, and I think he swears he had an interview with you on the 17th?—I would not be sure he had not, but I have no recollection of it. I have not read his evidence, and have no idea what he, said. I would not even say I spoke to him about this matter before then—I might have.

15506. I think he said he travelled in the train with you on the 17th, or saw you on the station?—My impression was from the first, about this year 1880, that Wallace knew more about them than anyone else in my district, but I have no actual grounds for that except my own supposition. My own belief was that the principal time that the Kellys were out (this is a matter of mere belief) they kept in the immediate neighborhood between Greta and Moyhu. Either at Glenmore Station, or on the Hedi Station, there were always strange horses whenever I went up, or marks of strange horses in paddocks, and my impression is they were in the district the whole time. That was also confirmed by a statement made by Ned Kelly,

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when he said, “he could have got me” any time he wanted, showing he knew when I was going backwards The and forwards in that district. My own feeling was that, on very many occasions, the Kellys, individually or part of them, could have been made amenable to justice; and I thought it was a mistake on the part of the officers attempting to capture them as a body and not taking them individually, because I believe in all history of bands of bushrangers and this kind of thing they have been generally broken up into parts, and it is more effective to catch them when you can, even individually.

15507. May I point out to you that you have just made a statement, that, in my opinion, ought to be borne out by more than statement; can you give data, showing when any one member of the gang could have

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been taken by the police at any time?—I am giving my evidence as to why I came to certain conclusions, and I make no statement of which I do not give you the opportunity to judge of its correctness by referring to the papers. I ask you to look at the telegrams about the Euroa bank robbery, and I now give you an opportunity of ascertaining the correctness of my knowledge by documents I will hand in to you. In any case where I give my evidence as hearsay, I would be glad to be asked the reasons.

15508. Here is the telegram you refer to, 11th December?—I have asserted that if energetic steps had been taken on the day after the bank robbery at Mansfield, and as advised by James, who is one of the best men in the police force, it would have been impossible for the Kellys to have escaped back to their haunts. Now that is the telegram he sent, and I want the reply to him which prevented him taking the steps he proposed. (*The telegram, dated 11th December 1878, was read as follows:*) “I do not see how the trackers can reach Superintendent Nicolson at or near Euroa till late to-night. If he awaits them, then much valuable time is lost, if he does not wait the chances are the trackers and men with them never come up with him. I think the gang likely to make for Strathbogie Ranges and *via* Double Creeks to old haunts. My party with trackers should go on to table land at back of Dry Creek and Doon, at once, and endeavour to intercept Kelly or cut his tracks and run them. By dividing my party and leaving it without trackers ‘tis rendered of little use any way. FRANK JAMES, Senior-Constable, 2339. (Time lodged, 10.15. Time received, 10.27.)” There should be a telegram from Benalla to Mansfield, in reply to James’ telegram. I saw the telegram in Mansfield, stating that the bank was robbed. I never believed the men would go to the Murray, but that they would get back to Strathbogie Ranges, so Senior-Constable James telegraphs to ask permission to go his own way, where he believed they were going, and I think a telegram was sent, directing him to go in the opposite way, otherwise he would have gone that way. There must be a telegram early in the morning, instructing him to go the other road.

15509. Here is another telegram:—“To Mr. Pewtress, Mansfield.—Yes, portion of James’ party to remain at Mansfield and portion to go to Broken River; those for latter place to take up the duties of James’ party, by which, on enquiry from him, will be explained to them.—S. MAUD, for Superintendent. (Received at 11, sent at 11.8)” —That is exactly the opposite direction to which he proposed. I think that is the telegram. At all events, that would exactly adopt the opposite course to what had been suggested. My first allegation is about the police at Mansfield, and you have got the evidence to see whether the police were sent up in time. My second is, that I did not consider the search made sufficient; and my third allegation is, that, in my judgment, the attempt to make the party altogether amenable to justice, instead of individually catching them, was wrong. I think you will find that the police waited till eleven o’clock that day, and then took the opposite course to what James and Pewtress said was desirable.

15510. Do you consider that telegram the reply?—It must be, because it was exactly the opposite course to what Constable James advised.

15511. Here is another telegram, dated 11th December 1878:—”*Re* Sr.-Const. James’ telegram.—He must carry out instructions given, as they are those of the inspecting superintendent; and as he is now away, I cannot say what his arrangements are. The Mansfield and Broken River police should co-operate in watching the Mansfield road, to intercept offenders should they attempt a crossing from the Strathbogie ranges.—S. MAUD, for Supt. (Received 12.5, sent 12.10 p.m.)” —I see that is the one and must be taken with the other.

15512. What we gather from you generally is this: that this is one instance in which, had the recommendation of Constable James, of Mansfield, been complied with, the probability is that the outlaws would have been intercepted after the Euroa Bank robbery, before they arrived at their haunts in the ranges?—Yes.

15513. He was the responsible officer in charge of the district?—Yes.

15514. And they were prevented from taking these measures, because of information from head quarters?—Yes, and they did exactly the reverse. I am asked by the Commission why I formed the opinion that if the police had endeavored to catch them singly that they might have brought them to justice earlier. This letter I now produce was sent to me by a dismissed constable named Meehan, who was in the district all the time. As to his character I know nothing. I have merely heard him in courts where I have been adjudicating. He called and said he could give valuable information. The address is torn off, but that is of no importance. The letter is as follows:—”Sir,—I, having changed my address as above, take this opportunity of informing you I will reside there, pending enquiry. On passing through Euroa I met Constable McGuirk, and in the course of a conversation, re reward, enquiry, etc., he adverted to the fact of having given information to Mr. Nicolson of having found the tracks of two of the outlaws—McGuirk having been sent specially to watch for those tracks—Mr. Nicolson thanked the constable for his efficiency and the promptitude with which he acted. McGuirk then suggested that the trackers be immediately put on, and follow up the tracks, as the ground was soft. Mr. Nicolson then said it would not do to catch only two; he wanted the four, and sent the constable back again to watch. McGuirk said that made him indifferent. I respectfully make the above facts known, as he is most anxious to be heard, and thinking it may be material. McGuirk knows nothing of this, I telling him I took no interest in the matter.—I have the honor to be, Sir, your most obt. servant, THOS. MEEHAN.” I do not know McGuirk. That is the evidence that I go on, and a lot of evidence of that kind. That is why I have formed that opinion. I will give another instance where I think that want of—well may I use the word—luck, or want of care was shown. It was well known in Melbourne, and I heard it, that the Kelly family were down for the purpose of buying supplies of ammunition, and food, and clothing, as the case may be. That was known in Melbourne, and the police knew it. I think there was not due care exercised to prevent that ammunition going back to the district. Again, passing up the street here in Melbourne one day, I met a magistrate (this is exactly my difficulty—

I do not want to give the names), but in reference to the matter you will see

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it in the printed list of appearances here, on April 6th, 1879, where it is stated that I had informed the police that Ned Kelly had been seen in Melbourne.

15514A. "April 6th. Reported by Mr. Graves, M.L.A., that Ned Kelly was seen near Melbourne"?—Now, on that date, I met a magistrate from my district, and in conversation relative to the Kellys, as every one was talking of them at the time, he said that it was well known they were up in the district, in fact they travelled about, and he said further, "You will be surprised to hear that, within the last two hours, I met Ned Kelly in Melbourne." I said, "Nonsense."

15515. Was he a person you could rely upon?—Most thoroughly; but of course a man may be mistaken. I said, "Surely it can be no such thing; he could not be in town." And he said, "I am quite sure I met him. He had on a short jumper, and his pockets seemed full of apples or something, and the moment he recognized me he jumped into a cab, and there was no policeman near." He showed me the place where he saw him, and I said, "Can you be mistaken?" And he said he knew Kelly since he was a boy, and was not likely to mistake him, and that anyone who saw Ned Kelly once could not mistake him; that you could tell him because he shrugged his shoulders like his two uncles. That magistrate can be called. I have no objection to give his name to the Commission. And this magistrate in Strathbogie informed me that the Kellys were in the habit of staying at a certain hut there, and that he had sent the police notice that they were likely to be there on a certain date, and that he had no reason to doubt the accuracy of his information, and that the police were not sent. I am telling you who I got the information from, to show why I form certain conclusions; and this magistrate also can be summoned.

15516. Will you give the names to the secretary?—Yes, I will be happy to do so. I had a letter, early in the enquiry, saying that Constable Dixon could give very material evidence in the case. I do not know who he is, or whether you have had him before you.

15517. Did you have any conversation with him?—No. Here is a letter from a man named Henry Perkins. The police will know how far this man gave them information or not. "Wombat, Mansfield, May 2nd, 1881. To J. H. Graves, Esq., M.P. Sir.—I hope you have not forgotten to call on me in the Police Enquiry, please inform me if it is coming to Mansfield, and when. In consequence of my arrest as a Kelly sympathizer I have lost three situations. My family are still debarred from selecting." One of the complaints in the district is that the police have given the names of people who are not entitled to select, and although a great number of those were cases of men well known to be connections and friends and sympathizers of the Kellys, still the indiscriminate way in which that power was used by the police has alienated a great number of people from the police.

15518. Do you know anything of this Perkins?—No, he was one of the sympathizers arrested.

15519. Have you had any conversation with him?—Yes. He is a selector, but the Government have deferred his application. He was one of those who were arrested. He is a man who, in my opinion, must have known the Kellys' position at the time of the murders, because he resides at the Wombat.

15520. Do you think he was aware of the whole proceedings connected with the murders of the constables at Mansfield prior to the actual commission of the deed, that is, the intention to murder?—I would not like to say that of any man.

15521. Have you ever heard any information that would lead you to suppose that he was in possession of information of their intended movements?—You are asking me now to swear as to matter of belief. The general impression is that he was the man who gave information to the police where the Kellys were, and afterwards told the Kellys the police were coming after them. That is the general impression. That somebody told the police where the Kellys were is certain, and that somebody told the Kellys the police were after them.

15522. Did you ever know whether Sergeant Kennedy knew where the Kellys were?—That would be hearsay evidence.

15523. I will put it in a different way—Did you ever hear it said that these men, Kennedy and Scanlan, had information as to where the Kellys were?—They must have. They would not have gone to that place without some pretty well grounded information.

15524. Did you ever hear any comments upon the fact of two of the policemen being left behind while the other two went away?—Now you are asking again a matter of opinion.

15525. I am not asking for your opinion, I ask whether you heard rumours that those two men must have had information as to where the Kellys were?—I think they must have got instructions from somebody about the locality. The Kellys were digging there, but the police did not know exactly the position the hut was in, and the country was new to those men, except Scanlan and I think they would keep as close as they could to the part where the diggings were; and from my knowledge of Kennedy and Scanlan, I think they did not know exactly the place where the hut was, and that they left the other two men in camp while they went to reconnoitre and find the exact place and then surprise them. If the Commission visited that place they would get the information much better than I can give it.

15526. It is asserted, I do not know with what authority, that this was a part of the pre-concerted plan to lead them into a trap, in connection with the information which had previously been given to the police, and from which information they arrived at this spot, and also the two separated from the others?—I am sure that is

not correct. I am sure when they got there they camped at the most likely place for a camp, and they did not know where the hut was, and Kennedy and Scanlan went to find it.

15527. I understand you that the police received information which led to the formation of this party and proceeded to the spot where they first camped?—Yes.

15528. And which was subsequently left by two of the party?—Yes.

15529. My question is, do you think the object of the information given first was with a view of leading them to this position there, and the fact of the two leaving was part of a pre-concerted plan to bring those police into a position that they might be betrayed?—I do not think so. My impression is this: that soon after the attempted shooting of Fitzpatrick occurred, the Kellys took the same horses that they had used that morning and a pack horse, and went up towards the very place where the murders were committed, having previously been there with other people who were evading justice, and therefore knowing perfectly well where to go to. I think that this hiding-place was known to prisoners in jail. The police will know how they got the information, but I will read you an extract from a letter which induced me to come to that conclusion. This is written from the Penal Establishment to myself. “On the 19th October, 1878,” (this is before the murders), “during my transit from Beechworth, I informed Constable Reilly,

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of Benalla, of the whereabouts of the Kellys, which up to that time they (the police) appeared to be perfectly ignorant of, and only one week after was enacted the Wombat tragedy. Again in 1879, about July, I was visited by Sergeant Leahy, of the Richmond Police Station, for information about the Kellys and their friends in Benalla, Major Plains, Broken Creek, and Lake Rowan, which he took down in writing. I understood from him that the information was required for the Benalla Police. I also forwarded a statement through the Superintendent to Captain Standish, giving additional information, but did not put my name to it.” I came to the conclusion that the whereabouts of the Kellys was known to prisoners in Pentridge prior to the Wombat murders, and that the police by that means or some others gained a knowledge of where they were. They must have known where the Kellys were, but they were uncertain of the exact position, and the party went out for the purpose of searching that country. I think they arrived at the Stringy Bark Creek, and it being very rough country, they intended to camp there while Scanlan and Kennedy went to look for the hut. That would be the hour when constables would be most likely to find a place like that, because as the men came off from mining, and would be likely to light a fire, and the constables would be able to see the smoke. My correspondent on the 19th declares he told the police where the Kellys were. It has been stated, I think, that knowing there was a reward for Ned Kelly, that the chances are that Sergeant Kennedy and Scanlan went off together for the purpose of capturing them by themselves and getting that reward. I think that is extremely unlikely. I think it was simply by that they did not know where the hut was.

15530. Did you ever have conversation with this man Perkins?—Every one of the constables knew all about him.

15531. What was the nature of the conversation you had with this man Perkins—did he in conversation talk of the circumstances which led up to the formation of this party and the subsequent action taken?—Quite the reverse. Whenever I saw Perkins, he said he never set eyes upon them in his life—which I knew to be a lie.

15532. Are you aware whether Perkins was intimately acquainted with Sergeant Kennedy?—Yes, he must have seen him, because Kennedy was removed after the appointment of another constable. Perkins was continually in Mansfield, and must have seen him every day. Besides Kennedy had been in the district for years.

15533. You are not aware whether there was any confidential communication between the two?—No, the private telegrams in the possession of the police would tell who gave the information about the Kellys.

15534. As a matter of fact, in your opinion, do you think the information which this man gave was the first that caused the formation of the party?—I cannot say that, I am only arguing from my knowledge of the country. I do not think men could have been digging there for so many months, living, and either buying meat, or killing some one else’s meat, without Perkins knowing they were there.

35535. You know they got gold there?—There is an old diggings there, and as a matter of fact, they must have bought provisions there, and I believe the gold was sold in Mansfield, and I believe that the people knew they were there. They might not have known exactly whether it was the Kellys, but they knew people evading the law were there; and if you go to the place you will see marks on the trees showing that for months and months those men must have been practising shooting with bullets, and you will see the remains of slaughtered cattle there, and these things could not occur without people knowing.

15536. Perkins is available to be called?—Yes, he could speak for himself—he is there still. I have a series of other letters, but I do not think they are of any great consequence; I think I have substantiated my reasons for coming to the conclusions I did in many matters.

15537. *By Mr. Nicolson.*—In that original letter you have handed in, about which you refer to Wallace the schoolmaster, you say that Constable Mullane’s name is mentioned?—No, I did not say that, I said that as soon as I got this letter, the statements made therein being so extraordinary, before I would communicate with Captain Standish, or bring the matter before Parliament, I went to my district for the purpose of ascertaining the facts. One was in page 3, it says, “At the proper time evidence will be brought

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forward to prove my statement true. At the present time there are men in the district who have been picked out for their smartness and activity, and they are not allowed outside barracks for fear of them hearing anything about the ‘murderers.’” After I got that letter I made enquiry as to whether that was the fact or not, as to the men being shut up in the barracks, and I wrote in pencil in the margin of the letter what I did not notice till just now, that I found that Phillips had been shut up in the barracks, and not employed. What I personally spoke to Wallace about was about Ward’s general conduct, and also about the probability of Aaron Sherritt being true or false. I think that is all I spoke to him about.

15538. Did Wallace write his replies to you?—I do not think so—he might have got this letter and written a reply—if he did, I have no recollection of it. I heard somebody say he did, but I have no recollection of it. I would not say he did not, because I cannot recollect at this time, if I sent that letter by post, but I know that I saw him about that time.

15539. Do you remember when you handed Captain Standish that letter on that occasion or subsequently, whether he asked you if you had seen Wallace, and you replied that you had not seen him for several months?—I do not recollect Captain Standish mentioning Wallace’s name at all on that occasion. He might have done so.

15540. Here is Captain Standish’s letter dated May 5th, 1880, “I saw Mr. Graves this morning. You are quite wrong in your surmises about the anonymous letter which I forwarded to you, as Mr. Graves assures me that Wallace had nothing to do with the writing of it, and that he (Mr. Graves) has neither seen nor held communication of any kind with Wallace for many months?”—That would simply be untrue, for I had seen him.

15541. “He did not however inform me who was the writer of the letter. I sent down some documents to meet you at the 2.55 train yesterday, but as you did not start by that train Mr. Moors had the letter posted to you?”—Can I see the copy of Captain Standish’s letter. [*same was handed to the witness.*] I gave the letter to Captain Standish and he ordered it to be copied in the office “Strictly confidential.” The letter of which this is a copy was handed to me yesterday by Mr. Graves. It was signed by the name of O’Connor or Connor, but Mr. Graves told me he was positive it was written at the dictation of another man who resides at or near Violet Town, and whose handwriting he recognized.” (That was incorrect—

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I thought it was, but I was wrong.) “In the address of the envelope,” I still think it was in the hand: writing of the man at Violet Town—the address, not the document itself—“Mr. Graves, however, declined to give up his name.” I have no recollection of saying to Captain Standish that I had not seen or heard of Wallace, because it would have been perfectly untrue. My belief is I sent to see him on another matter about that time.

15542. You spoke several times about the Strathbogie Ranges?—Yes.

15543. What grounds had you for saying the outlaws were ever there except supposition and rumour?—I do not believe that the outlaws made use of the Strathbogie Ranges. I never said any such thing. I think the outlaws did not remain in the Strathbogie Ranges. I think they remained in the immediate neighborhood of Glenmore, Moyhu and Greta, nearly the whole time they were out, and that they got their supplies from the Bright road, and from Chinamen and the people there up towards Mount Typo at the back of Glenmore. They did not use the Strathbogie Ranges at all except passing through them, but I think they were in the habit of visiting their aunt and grandmother in the Stratlibogie Ranges. The Strathbogie Ranges are places where they could not remain concealed, and there are splitters there, and there is not back country where they could escape to—they would want a place where they could get back.

15544. Have you any knowledge of how the Kelly gang approached Euroa, or where they left it to?—I have an idea.

15545. Have you any information?—Yes, I think they came from Mr. Begg’s station, having been there the day before, and Byrne was in the town of Euroa for two days before the bank robbery with Gould, the hawker, and I think the rest were camped by Begg’s station, and that the police were aware they were there. I think the police are in full possession of the fact that the Kellys were in the neighborhood of Euroa two days before, and that Byrne was in the town. I know that one gentleman in the town, at the taking of the outlaws at Glenrowan, recognized Byrne as having been to his hotel two days before the robbery of the bank—that was Mr. De Boos. This is matter of opinion for which you have asked me.

15546. You said you asked Wallace about the statements in that letter?—Yes.

15547. Because you knew he knew so much about the Kellys?—I believed he knew thoroughly about them.

15548. Those were statements about the police—how could you expect him to give information about the police?—I said I asked different parties in my district as to parts of it that they would be likely to know about. I recollect speaking to Wallace, and the only thing I recollect speaking to him about was if Detective Ward was a capable man, and was it likely that Sherritt was selling the police. That was principally what I knew he would know, from being a schoolfellow of Byrne’s and knowing his private character.

15549. *By Mr. Sadleir.*—I took charge of this North-Eastern district—the Kelly country—in July 1878?—Yes. When I first went to the district there was no officer stationed at Benalla; the officers in charge of the district were Messrs. Barclay and Reid.

15550. Then I had nothing to do with the removal of Constable Flood?—No, the person responsible

for that is Captain Standish himself.

15551. I am in no way responsible?—No, nor were you in charge of the district until after you took it—about the time of the murders.

15552. That was long after the Fitzpatrick affair?—Yes, long after. I think you must have only taken charge of what is now called the Kelly country a very short time prior to the murders. The gentleman in charge of this, and responsible, was Captain Standish allowing the men to be changed, and that was done under the direction of Messrs. Brook Smith, Barclay, and Reid.

15553. I was responsible for the selection of the four men who went out?—Yes.

15554. Could I have selected better men?—No. I should say that Kennedy and Lonigan and the others knew the country well, whereas the Wangaratta party, under Sergeant Steele, that went up the Fifteen-mile Creek, would have been utterly useless about Mansfield. The great secret of making men amenable to justice is having policemen that know the country, otherwise they are perfectly useless. For a series of years from Power's time they had a regular well-beaten track from Mansfield to cross, which was only used by themselves. A week hardly elapsed that I did not find in my paddocks either one of my horses ridden, or one of theirs left there and one of mine taken. They had always relays of horses at those back country places, as you are not allowed to impound horses if they belong to neighbors, and there they would remain till they would come for them. They were always on the beaten track backwards and forwards to Mansfield.

15555. *By the Commission.*—Do you think that there would be much information of value got by the Commission visiting Mansfield?—Well there are people there who are no sympathizers with the Kellys, but still who are reluctant to let their names be made public. There was one very remarkable fact showing how they can give evidence if they choose. After the murders of the police, the whole circumstances, and the details relating to Kennedy appeared in an up-country journal, supplied to the press by private information, not by the police, and the man who gave that can give information still. I refer to the newspaper published by Mr. Hall, a member of this commission.

*Mr. Hall.*—The party I got that information from was altogether separate from the police, and I was bound at that time to secrecy; never to divulge the names.

15556. *By the Commission to the Witness.*—Evidently Perkins is not afraid; in his letter he says he is ready to attend?—If the Commission could go there, they could see the hut and the traces I have mentioned, showing that the Kellys must have been there a considerable time before the murders. I think it was a very serious error not following them down after the murders.

15557. Do you think for the purposes of this enquiry it will be necessary to go to Mansfield?—I am positive if you go there you will get most material evidence as to how those men were supported, but I cannot say whether they will give you the information; they can give you astonishing information if they think fit. I would like, before going, to express the opinion than the plan now adopted of patrols, and making the men individually acquainted with the district is one of the wisest that the Commission could have sanctioned, because I do not care how plucky or efficient the men are, unless they know the district they are utterly useless. Within the last three or four months the police up there have become acquainted

with the localities, and if any offence is committed they can go to likely points and find out the offenders' whereabouts which they did not know before till the progress report of the Commission was given effect to.

15558. You have had a very large amount of information connected with the Kelly business all through, and are thoroughly seised of the question that has been remitted to this Commission, and I wish to ask you—do you think it is necessary for us to visit the scene of the murders at Mansfield before sending in a progress report dealing with the three officers of police who have been for some time relieved from duty in order to be before the Commission. I do not refer to our general report?—I would not like to say that those officers were responsible in regard to what happened at Mansfield. I do not think Messrs. Nicolson, Hare, and Sadleir were accountable for that, because the offence was not committed in their district. Mr. Sadleir was not in charge of any portion of the district where those men were. I think it was not till about the time that Kennedy went out that Mr. Sadleir took charge.

15559. As far as you know, Mr. Nicolson also was not at all responsible as to that?—Yes, I think, under the regulations, that Mr. Nicolson was responsible to a certain amount. I think that one of the charges is that the men were inefficiently armed, and I think your enquiry will show that was so, and the duties of the Inspecting Superintendent (Mr. Nicolson's office) are very clearly laid down. This, however, is only matter of opinion.

15560. So you think that, incidentally, Mr. Nicolson may have been responsible?—I do not think he was responsible for the men remaining at large, but the Inspecting Superintendent's duties seem to me to be the most important of all. I think the district got disorganized under the charge of Messrs. Barkly, Reed, and Brook Smith, and, when Mr. Sadleir took it, it was in a very disorganized state. I think that Mr. Nicolson, as Inspecting Superintendent, is responsible, to a great extent, for that occurring in any district; but the Commission can judge of that.

15561. As to Mr. Hare, how far is his responsibility affected in the matter—I am confining the question solely to those men being at large prior to the murders at the Wombat?—I think the officer in charge of Wangaratta was responsible. It cannot possibly affect Mr. Hare, because he went afterwards,

virtually to supersede Mr. Sadleir, and could not, therefore, be responsible. It could not directly relate to Mr. Nicolson; if he was not allowed to have the proper number of men there, the number being reduced, he cannot be held responsible, and Captain Standish must be. But if it was done with his knowledge and sanction, that is another matter. As to Mr. Sadleir, the only thing he could be held accountable for would be if he had the knowledge that those men, charged with attempting to shoot, were within his Mansfield district at the Wombat prior to the murders. They must have been in his district, with warrants out against them, from the time of the attempt to shoot Fitzpatrick till the murders in October; and Mansfield was part of Mr. Sadleir's district, and was amalgamated with Benalla about October. I do not think you would get any information in Mansfield that would either free those gentlemen from blame or attach blame to them—you might; I cannot say. I am sworn, and am endeavoring to tell the truth honestly, and I do not think you would get much evidence there. I think Inspector Pewtress was in charge of the district then. I think it was a grievous mistake that police were not at once sent in sufficient numbers after the murders, because immediate pursuit is the main point in dealing with criminals.

15562. *By Mr. Sadleir.*—You said I was superseded by Mr. Nicolson—how do you mean that?—Perhaps that was an unguarded opinion, but I hold that an officer is, according to the regulations, fit to take charge or he is not. If he is, he should not be called upon to divide his responsibility with any other individual.

15563. Did I not still retain charge of the ordinary duty of the district after those officers were sent?—I could not say you did.

15564. Do not you remember that Captain Standish, in his evidence, explained that those other officers had charge of the Kelly operations and I had still charge of the district?—Yes.

15565. Is that your meaning as to superseding?—I think if the Kellys were at large in your district—.

15566. Will you please plainly answer the question?—I think you were virtually superseded at Benalla by Mr. Nicolson, contrary to the interests of the public.

15567. Would it surprise you to learn that it was with my full consent and desire that other officers should be sent to meet the special occasion of the Kelly outbreak, knowing that it was quite impossible for any one officer to attend to that in addition to the ordinary business—is that new to you?—It would be quite new to me and unlikely, and I would be greatly surprised at it.

15568. Do you think any one officer (you knowing the extent of the district) could undertake the two duties?—I do, because you had two subordinates—Inspector Smith at Wangaratta and Inspector Pewtress at Mansfield—and if they were not fit for the duty they should not have been there.

15569. Do you know that Inspector Pewtress had not been in the bush before?—Yes, but he was virtually superseded by Inspector Twoey—he was under you.

15570. Who was responsible for the position of officers there?—I suppose Captain Standish. I hold the opinion that, according to the regulations, that there is no warrant for any officer being virtually superseded.

15571. But no one officer could undertake both the duties?—What were your duties?

15572. Looking after the ordinary requirements of the police, and the officers senior to me were sent to take charge of the Kelly business solely?—My impression is that the act of sending Mr. Nicolson and Mr. Hare relieved you from the responsible position you held by the regulations; and from the facts, I know you did not confine your operations to controlling the police in the district, because you took part in the Kelly business and were one of the principal persons in the Sebastopol business. I know you were informed by Quinn that the Kellys were at Lloyd's house, and you took a party there. I do not think it is possible that the duties of a superintendent could be divided in that way.

*The witness withdrew.*

Michael Edward Ward further examined.

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15573. *By the Commission (to Mr. Nicolson).*—Have you any questions you desire to ask?—Yes.

15574. *By Mr. Nicolson (to the witness).*—Just relate to the Commission what you remember of that occurrence when Sheriitt came into Beechworth?—

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15575. *By the Commission.*—What time did he come?—I could not tell the time; it was night; I think between seven and eight o'clock. He saw Mr. Nicolson, Senior-Constable Mullane, and me; the three of us.

15576. Are you sure Mullane was present?—He was in his office.

15577. Was he in a position to hear what was said to you and Mr. Nicolson?—I do not know that he was.

15578. What did Sherriitt tell you?—That he was working in Crawford's paddock; that his sister came to him; that Dan Kelly had been at the house, searched the rooms for him, and that he waited was dark and he came into Beechworth to tell me.

15579. Any more?—And that he said he would come back at eight o'clock at night.

15580. What for?—He did not tell me.

15581. What did you say to Sherriitt?—I sent for Mr. Nicolson.

15582. Was Mr. Nicolson present when he told you that?—Not at first; he was up at the hotel first.

15583. What did Sherritt say to you and Mr. Nicolson together?—The same thing again.

15584. What time was it when Mr. Nicolson came and Sherritt repeated that conversation?—I would not be certain as to the time; from the best of my belief, I think between seven and eight o'clock.

15585. What did the police do?—I left all to Mr. Nicolson then. As soon as I brought him there we consulted, and from the arrangement Mr. Nicolson had previously made on a previous meeting——

15586. Let us deal with this first. What was done between you and Sherritt and Mr. Nicolson?—Nothing was done then.

15587. Did the police go to watch Sherritt's place?—I do not think they did. I did not go.

15588. Do you know what became of Sherritt that night?—I do. Sherritt was instructed on that night to go to Julian's, a shanty-keeper on the Woolshed, and to be able to prove, if he should see any of the gang, that he did not come in to see us; the same as he would prove an *alibi*. I gave him ten shillings to go there.

15589. Did the police take any action, as far as you are aware of, to watch Sherritt's place to see whether Dan or any other portion of the gang returned?—I do not remember that they did.

15590. Did they?—I could not say.

15591. If they took any action would you be acquainted with it?—I think so.

15592. Can you swear whether they did or not?—I do not think any action was taken that night. I went myself the following morning.

15593. Did Jack Sherritt usually inform you when he saw any of the outlaws?—Jack Sherritt gave very little information to me at any time. Aaron Sherritt was principally my confidential man, and one of the daughters and the mother.

15594. How often did Jack Sherritt tell you he had seen any of the outlaws?—I think about twice is all I can remember, and the third time was he told me that Patsey told him that Joe slept at home last night, and I made enquiries on that occasion. The cave party was out and the men watching, and I made enquiries of Aaron Sherritt. The men at the cave said they did not believe it. They said it was impossible for Joe to come home and they not see it.

15595. How long is it that you know Jack Sherritt?—Shortly after the Kelly business.

15596. Did you keep a diary?—No.

15597. Do you remember the circumstance about Jack making the appointment about Sandy Creek?—Yes.

15598. And before did Jack Sherritt inform you that he had an appointment to meet Joe Byrne at Sandy Creek?—Yes, I knew that.

15599. Did you take any action to allow Sherritt to keep his appointment?—I reported the matter to Mr. Nicolson, and as soon as I did I left all in the hands of the officer in charge.

15600. What did you really do?—I reported the matter to Mr. Nicolson.

15601. By what means did you receive the communication from Jack Sherritt that he had an appointment with Joe Byrne?—I could not tell the date.

15602. How many days before the appointment to meet Joe Byrne?—I do not know. My reports will show.

15603. A sufficient number of days to take action if you thought fit?—The moment I received information I communicated with Mr. Nicolson immediately.

15604. When did you communicate with Mr. Nicolson that Jack Sherritt told you that?—It will be in my correspondence, November 7th, 1879, about eight. I either wrote, or ran to the telegraph office and telegraphed if there was not time to write.

15605. That telegram would be in existence?—Yes, or the report.

15606. Sherritt has sworn that he told you (and he did not know Mr. Nicolson at that time) that he had an appointment to meet Joe Byrne at Sandy Creek; now when did he so inform you?—I cannot tell the date, but I know that immediately anything occurred I made Mr. Nicolson aware of it at once.

15607. Then you knew some time prior to the appointment, and communicated to your superior officer that the appointment was to take place at a certain time?—Yes.

15608. Were any arrangements made by the police to intercept the outlaw on the occasion of that appointment?—No.

15609. Could you give a reason for not doing so?—No, I can give no reason, because I had not power to. I had not sufficient knowledge myself as an individual, as I would not dare to dictate to an officer of standing like Mr. Nicolson.

15610. You said, in your evidence before, you were in a position at any time to act on your own responsibility on any information that came to you. Were you not in that instance?—No, I was not. I could not have done so.

15611. Then which are we to believe—the statement you made when you said you could take any action you thought necessary, or the statement now that you had to obtain authority from your superior officer before you acted?—At what time do you refer to?

15612. I refer to your first evidence, in which you stated that you could at all times act upon information that was given to you without waiting for instructions?—Yes, if I could do it; but how could

I collect men? Suppose I could see one of the Kellys, and had men with me, then I could do so. This was thirty miles from Beechworth in this instance, and I was in Beechworth at the time.

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15613. Did Sherritt from time to time give you information that he had seen any of the outlaws?—Not that he had seen them, but that he had heard of them. He gave me from time to time information. On his return from Sandy Creek he told me he met Joe Byrne, and, as he has described, that when he went to the place appointed this man Thompson had left there for twelve months, and he remained there for the night, and did not see Byrne until he was returning home. When returning home, Byrne suddenly rushed out of the bush at the foot of the hill, and called him, and they stepped to one side, and he was speaking to him, and they had a long conversation. His boots were bloody and his spurs, as if he had ridden a long distance. And he asked about the Yackandandah and Beechworth banks, and the different means about getting there to the banks, and that Ned and himself could not agree. They would want a couple of men there with them, and several things like that; that their horses were bad, and that Joe's grey mare was the best of the lot.

15614. Shortly the substance of the statement was that Byrne asked him to assist them in sticking up the Yackandandah bank; is that so?—No, to give information as to the advisability or otherwise.

15615. Did he also tell you an appointment was made that, after Sherritt had made the enquiry, he was to meet him at a certain place to report?—Yes, at Evans's Gap.

15616. Did Sherritt after that see you and when?—I could not say when. My reports will all speak for themselves on that subject.

15617. When Sherritt next met you did he tell you the result of this meeting with Joe Byrne as to the advisability of sticking up the banks?—He sent a letter in accordance with instructions. He did not see them after that with my knowledge, but from time to time he received instructions from Mr. Nicolson what to do—to tell them they would not get £20 in the Eldorado bank, and as to the Beechworth bank that was too large, and as to the Wangaratta banks that one of them might be got at—all to that effect.

15618. In point of fact that Sherritt did, from the very first time he told you he had an appointment with Joe Byrne to meet him at Sandy Creek, and long after he visited you, supply you with all the information he obtained in relation to the outlaws?—Yes, I believe he did.

15619. We have had this evidence about Sherritt's telling you that Dan Kelly had called at his mother's place—do you remember when you saw Sherritt next after that?—No.

15620. Did you see him the next day?—No.

15621. The day after?—I think not.

15622. Did you ever hear afterwards that Dan Kelly had appeared at his mother's place at eight o'clock?—Never, till here the other day.

15623. Did you never hear that he had reported to you and Mr. Nicolson that the whole of the gang were outside that place?—No.

15624. Did he tell you that Joe Byrne had called at his mother's place when Aaron and himself were present?—Yes, 27th November. I think it was four days after the occurrence that he told me.

15625. How do you arrive at that conclusion?—Because he mentioned the day they were there.

15626. What grounds have you to swear that it was after?—Nothing but what he told me.

15627. How can you fix the time at four days?—My reports will show it all. Here is a note of the reports, in this printed paper.

15628. What date was it that Byrne was at Sherritt's place?—I do not know.

15629. How do you know it was four days afterwards?—Because they told me so.

15630. Does your report say so?—I expect it does.

15631. You say here on the 23rd that Byrne visited Sherritt's hut?—I had not the information. It was my business to receive these reports and send them away as soon as possible.

15632. This is a portion of your report?—That is abridged from my report. If it had been on the next morning I would have reported it at once. I would not have kept it three days and not act on it.

15633. Where is your report, that on the 23rd Jack was at Sherritt's place, and you only received the information on the 27th?—If Mr. Nicolson was in Beechworth I would not have to report.

15634. Then the probabilities are you had the information before, and you did not report on it till you met Mr. Nicolson?—Not at all.

15635. Well, have you the data to show that you received that matter of the 23rd on the 27th—how do you know that?—I gave it to Mr. Nicolson if he was in Beechworth, if he was away I telegraphed to him.

15636. Is it at all possible that you had that information on the 24th?—No.

15637. Have you any diary?—No, only from time to time when I travelled. The Sherritt family always explained to me they did not give the information before, because they were frightened.

15638. *To Mr. Sherritt.*—Was it four days before you gave that information?—I do not think it was four days, but it was old information I know.

15639. Were they both together when you gave the information?—No, I do not think they were both together.

15640. Did you give it to Detective Ward before you saw Mr. Nicolson?—Yes, I believe I did.

15641. Did you give the information to Detective Ward first, before seeing Mr. Nicolson?—I have seen them so often together, and I kept no notes.

15642. If you spoke to Detective Ward, and Mr. Nicolson was not on Beechworth, did you as a rule together to Mr. Nicolson afterwards?—I might have walked to where Mr. Nicolson was with Detective Ward, but what I had to say to Mr. Nicolson, Detective Ward did not hear.

15643. Then in this case you suppose you gave the information the same day to Mr. Nicolson as to Detective Ward?—I think Detective Ward makes a mistake that he had information four or five days old, and I think he and Mullane and four mounted men came down—I forget what was the exact information.

15644. As to this point—can you remember how many days after Byrne being at your mother's place did you give information to Detective Ward?—It was not four days.

15645. Was it two days?—To the best of my recollection I believe it was two days.

15646. It may have been four?—Yes.

POLICE.

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M. E. Ward,  
*continued.*  
10th Aug. 1881.

15647. *To the Witness.*—Did you at any time know of this information as to which Sherritt complains of bad treatment—that Byrne had visited his mother's without being seen by the cave party?—I heard about that.

15648. He said that he was subject to certain insults because he told the police that Joe Byrne had paid a visit to his mother's and they had failed to discover it. Have you reason to believe his statement was correct?—I made enquiries.

15649. At the time referred to by Jack Sherritt, when the cave party said it was impossible for Joe Byrne to have come home, Aaron Sherritt said it was Denny Byrne coming to deceive Jack Sherritt. From the time you first knew Jack Sherritt, up to the time of the Gleurowan capture, had you any reason to believe he was dealing anything but honestly with you?—As far as I was concerned, Jack and I were not so friendly.

15650. I am not speaking about "friendly"; I want to know whether you, as an officer of police, thought he was conveying all the information he possibly could to enable you to capture the outlaws?—Well, I could not say he was conveying all he knew, but he did convey information that was correct.

15651. Have you any reason to believe he was acting in any other way than fairly to the police, according to the information he obtained?—No.

15652. You have no reason to doubt that he was doing all that lay in his power to assist the police to capture the outlaws?—I believe that.

15653. Did you at any time suspect him of being guilty of any crime at that time?—It was reported to me that he was guilty of a crime.

15654. What particular crime?—Taking a saddle from his brother.

15655. What date?—I cannot tell the date.

15656. When were you first informed he was suspected of having stolen the saddle?—On the day after it was stolen.

15657. On what day was it stolen?—I cannot tell either month or day.

15658. What year?—It would be during the time the cave party were out.

15659. You were informed he was suspected of stealing a saddle?—Yes.

15660. Did you take any steps to ascertain the truth of it?—I went to Benalla, and had a consultation with the officers about it.

15661. Would Aaron's marriage be before this?—Yes.

15662. What time was the cave party broken up?—I think it would be in January or February 1880 I was informed about his being suspected of that.

15663. What steps did you take to ascertain whether it was correct?—No steps, except to report the matter to the officers, Messrs. Nicolson and Sadleir.

15664. Verbally or by writing?—Verbally.

15665. What did you tell them. That Aaron Sherritt told me that his saddle was stolen on a certain date—that himself and wife were at a merry-go-round, that they remained there for some time, and locked the door going out. On their return they found the place had been broken into, that the saddle and a gold watch were taken. I asked them did they suspect anybody, and he said, "I suspect Jack." I said, "Why would Jack do that?" And he said, "On account of my getting married to Miss Barry." I said, "I do not think Jack would do anything of the sort." He said, "There was a collar and tie of his found in the house."

15666. What did you do?—Nothing more.

15667. What was the impression conveyed to your mind by the statement of Sherritt?—I thought it was the jealousy between the two brothers.

15668. Did you think that Jack had really stolen it?—No, I did not think so at that time.

15669. Do you think he did since?—The saddle has been found since.

15670. Do you believe, from any information you have obtained since, that Jack stole the saddle?—No, I do not.

15671. Do you remember receiving this letter—[*handing one to the witness*]?—Yes.

15672. Do you identify the envelope?—Yes.

15673. Was that letter in the envelope?—Yes.

15674. From whom did you receive that?—From Johnny Sherritt I think.

15675. Not through the post?—No; I posted it myself after.

15676. What was your object?—Instructions from Mr. Nicolson, to show that it came through the post.

15677. *For what purpose?*—Arrangements he had made with Sherritt, to show that Sherritt was faithful to the gang.

15678. Can you account for the stamp on the envelope in that position—[*handing the same to the witness*]—I could not tell the stamp. I put a stamp on it.

15679. Do you think that is the same stamp?—I could not tell that.

15680. Will you look at that stamp, and see whether there has not been a post-office date stamp under it?—I cannot account for that at all.

15681. Is the envelope in about the same condition as when you got it first?—No, the stamp was not obliterated at the time I put the stamp on it and put it into the post.

15682. How can you account for this stamp covering the post-office stamp?—I cannot account for it any way.

15683. When Sherritt handed you that letter what did he tell you?—I do not remember that.

15684. You do not remember the conversation that took place?—No.

15685. Do you think it is possible you received that through the post, and afterwards had an interview with Sherritt in relation to this letter?—No.

*Mr. Sherritt.*—I think I made a mistake; I think I did give that letter to Ward to post.

15686. *By the Commission (to the witness).*—Did Sherritt say whom he got it from?—Yes, he said a man came into the paddock and gave him the letter, and he did not know the man. He gave a description of the man. I described the man and sent the letter to Mr. Nicolson.

15687. Was that before or after Mr. Nicolson was acquainted with Sherritt?—I think after. Mr. Nicolson will be able to tell; I cannot give the date.

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15688. I may tell you that the time that Sherritt handed you that letter was previous to Mr. Nicolson knowing Sherritt at all?—There should be a report attached to that letter.—[*The same was handed to the witness*]—“Since writing, the attached has been handed to me by Jack Sherritt. A man came to him in his father’s paddock and asked him to put a stamp on the letter and post it for him, and when the contents of it be published in the papers he said we will pay you well. Description of man:—About 30 years of age, 5 feet 7 high; wore moustache only; grey tweed suit. Jack never seen him before; he was on foot. Aaron has not come back yet.”

M. E. Ward,  
*continued,*  
10th Aug. 1881.

15689. That was really before Mr. Nicolson saw Sherritt?—I sent it to whatever officer was in charge.

15690. Did you hear the first time that Sherritt got to know Mr. Nicolson?—September, at the Agricultural Show.

15691. Would there be anything inconsistent in Sherritt’s swearing that when he saw Mr. Nicolson he knew it was Byrne?—He might have told him that, but I did not hear him tell it.

15692. He may have withheld it from you?—No doubt he did.

15693. You have been about the North-Eastern district a very long time?—I have.

15694. Except the suspicion that arose from the statement made by Aaron Sherritt, do you know of any other case against Jack Sherritt of a criminal nature?—No.

15695. Connected with this saddle, was not there a suspicion cast upon one of the young Byrnes of having stolen it?—Well, I never heard that there was.

15696. Was not the saddle found in Mrs. Byrne’s house?—Yes, there was a search warrant for some jewellery there.

15697. They found the side-saddle Sherritt was accused of having stolen?—Yes.

15698. Was not young Byrne suspected of having taken it there?—I did not trouble my head about the saddle at the time. I had too much to attend to at the time.

15699. You did not hear it said that Jack Sherritt was altogether away at the time the saddle was missed?—He was not, because I remember Mrs. Sherritt said that Jack was seen at the Hurdy Gurdy, on the Woolshed, that night.

15700. And Byrne was with him—did you hear that Byrne was missed from him?—I do not think it was Byrne; I heard of Burke.

15701. Did you hear that Byrne was missing from this Hurdy Gurdy on the night this saddle was stolen?—I might have heard this afterwards but not at the time.

15702. If you had heard it, it would have taken away your suspicion of Jack Sherritt?—But at the time I would not have taken any steps under any consideration.

15703. You said about a collar and tie found there—did you hear afterwards that Mrs. Sherritt admitted that this collar and tie were similar to what her husband wore?—No, but I know that both Jack and Aaron wore a lot of my clothes; in fact, they used to wear a lot of the same clothes.

15704. Your collar and tie might have been found there?—Yes, they might.

15705. Because of that, you would not like any one to believe you took the saddle?—No, I would not.

15706. You knew Jack Sherritt more or less from the time that he gave information to the police, and till after the capture at Glenrowan?—I did.

15707. Did you know him at any time make any statement to you which afterwards proved to be untrue?—No, none that proved untrue.

15708. *By Mr. Nicolson.*—Was it dark when Sherritt came in to Beechworth that time?—Yes.

15709. The sun sets on the 13th November at 6.46 p.m.—[*looking at the almanac*]?—Yes.

15710. If the sun sets at 6.46 p.m., what time would it be dark in that month?—After the sun is down, it would be nearly half-an-hour before it would be very dark.

15711. You say he came in after dark?—I am certain he did.

15712. What time did he arrive—can you fix the time?—No.

15713. How many miles had he to come?—About five miles.

15714. Are you sure about his having stated that Kelly was to be back—that he had been told that Kelly was to be back at eight o'clock?—I would not be positive, but I think so. I think he was not into our place till after eight, after the time appointed.

15715. Why do you think so—you did not say so when you were examined first?—I think it was after eleven o'clock I gave him the money to go down.

15716. How long had he been in the office?—He might have been an hour in the office, not longer.

15717. Do you say I did not see him till nine?—I do not think you did, because I know it was eleven o'clock when I gave him the half-sovereign.

15718. Do you remember that Jack was very fearful at the time of being brought away by the outlaws to act as their scout?—I do, perfectly well.

15719. Do you recollect on that interview that night his speaking of having hidden himself after his sister gave this information?—Yes, he said he concealed himself until the night came on.

15720. *By the Commission.*—Are you quite sure of that?—I am; he said he would not start till after night.

15721. *By Mr. Nicolson.*—What is your impression of the period that elapsed from the time his sister gave the information till he started to Beechworth?—I could not say.

15722. Did he say he came at once or remained some time?—I cannot say.

15723. *By Mr. Hare.*—How was it when I came up to Beechworth, on the 2nd June, that you did not tell me that there was good information that Jack had told you—that you did not mention his name to me?—You had all the papers and everything in your possession.

15724. I had not read the papers when I saw you?—We had only a hurried meeting—I just spoke to you.

15725. Why did not you suggest that I should see Jack Sherritt, whose name you never mentioned to me, and I never heard till this enquiry, that he had given all this information?—You had all my reports and minutes before you.

15726. I could not look over all those and be able to give an opinion on him. You thought him so reliable?—We have nothing to contradict that; he had not been doing anything for me for some time prior to your coming there.

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M. E. Ward,  
*continued,*  
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15727. At what time was he discharged?—He was not discharged, because he never got regular pay, and got very little altogether.

15728. How did you pay him?—Five shillings now, and 10s. at another time.

15729. And £5 at another?—He never got £5 from me.

15730. How long previous to my coming up there had he given you or Mr. Nicolson any information?—Not for months, I suppose. My sole agents were the other members of the family.

15731. Was it not your duty to have told me all this when I came up?—I thought you were in full possession of everything; he had not been working for me for months before. It was hard work to get any money for Aaron even. Mr. Nicolson told me once to discharge him; he said he could not get money.

15732. Why did not you tell me that Jack Sherritt had given such reliable information?—I suppose I never thought of it—you had all the papers.

15733. *By Mr. Nicolson.*—Was it not a fact that Jack had discontinued for a considerable time giving any information?—Yes; he was working at his business—a contract with Crawford.

15734. *To Mr. Sherritt.*—You said you gave information to Ward when you did not to Mr. Nicolson?—Yes, but Ward always received information from Mr. Nicolson how I was to act.

15735. *By Mr. Sherritt (to Detective Ward).*—Did I ever refuse to take any money for information?—Yes; you used to say, “Ward, you cannot afford it; I do not want money.” I must certainly say that the Sherritt family were the easiest people I ever met about money.

*Mr. Nicolson.*—I can say the same.

*Mr. Hare.*—I can say the same of Aaron.

15736. *By Mr. Sherritt (to Detective Ward).*—Did you ever give me or Aaron a collar and tie of yours?—I gave several ties and about a dozen collars.

15737. *To both?*—To both. Aaron I gave the ties to. I gave you clothes; I gave you coats.

15738. Did you ever give me a collar and tie?—I saw you wearing the ties that I gave Aaron.

15739. Did you ever give me ties?—Yes.

15740. Did you ever see Aaron wearing the ties you gave me?—I could not say that. The suit of clothes Aaron was shot in, coat, and pants, and everything else was mine.

15741. Was there anything to lead you to believe that it was for money that I was giving information?—No; you got very little.

15742. Did you ever find me out in trying to secrete information from the police?—I do not know of any case.

15743. Did Aaron ever tell you that I kept back information with regards to the outlaws?—He did not.

*The witness withdrew.*

Patrick Mullane  
10th Aug. 1881.

Patrick Mullane further examined.

15744. *By the Commission.*—Were you present at the time Jack Sherritt came in to tell Mr. Nicolson that Dan Kelly was down at his mother's house?—I was not, or, if I was, I have no recollection whatever of it. I do not think I knew it for about a week afterwards, when Mr. Nicolson himself told me. I may say I never knew of Jack Sherritt bringing information, and I never saw him bring information in, except once, when I was with Aaron Sherritt.

15745. Then, in reality, you barely knew Jack Sherritt?—I knew him well, but not as an informant.

15746. *By Mr. Nicolson.*—Do you recollect any conversation about it—you say I told you?—Yes.

15747. *By the Commission.*—Have you any idea of the conversation held at the time?—I remember the conversation between Mr. Nicolson and myself. He told me Jack Sherritt gave him certain information, and that he (Sherritt) was frightened the outlaws were going to take him away, and he said he thought he had given me this information, but I told him he had not.

15748. *By Mr. Nicolson.*—Do you remember if anything was said about the hour at which those outlaws visited the house?—I do not.

15749. Have you your occurrence-book here?—Yes——[*the same was produced*].

15750. Will you turn up the 13th November 1879?—Yes.

15751. Will you read the occurrence entry of that day?—[*The witness did so.*]—There is no entry about this matter of Sherritt. Mr. Nicolson arrived on this day, but the entry of his arrival was neglected to be entered, because I have an entry of his departure next day.

*Mr. Nicolson.*—My memorandum is this:—"Thursday, 13 November '79.—Office with Mr. Sadleir until 11 a.m., arranging various matters. To Beechworth; saw Sergt. Steele at Wangaratta. Beechworth. Inspector Smith and Detective Ward. Communication to Chiltern local land board to refuse Baumgarten's applications for more land. Met Judge Skinner. Saw Sr.-Const. Flood. [Then comes my conversation with him.] Police at Yackandandah have Colt's revolvers; ammunition scarce. Jack S—t arrived from Sebastopol, stating, while he was at his work in Crawford's paddock, when his sister came to say that Dan Kelly called at Mrs. Sherritt's; asked for Jack; when told he was out, he searched the rooms for him, carrying a revolver in his hand. Jack got his horse, and after dark rode from his work to Beechworth, much frightened; thinks they have come to carry him off with them. His sister Mary Jane was sent for by Mrs. Byrne on Tuesday, 11th, but did not go; said as excuse 'she was sick.' No doubt an interview wanted by outlaws with Jack, probably to anticipate his going to Evans's Gap on Sunday week, 23 Nov. Jack's return, 11 p.m., to Sebastopol, to visit Julian's and pass the night there as if drunk, create a row and have it talked about, so as to account to outlaws for his absence." I was afraid at that time, from the fear that this man showed of coming in contact with any of them, that he would betray himself. I can fill up that with my own statement if you wish it. That is the exact memorandum written by me at the time. I was not sent for to see him till about nine o'clock at night, and he left the office at eleven.

15752. *By the Commission (to Mr. Sherritt).*—Do you still adhere to your statement that you were in at seven o'clock?—Yes, I do; I am certain of that.

15753. How do you account for remaining—what were you doing till eleven o'clock?—I did not stop till that time.

15754. *By Mr. Nicolson (to Mr. Sherritt).*—You left the office at eleven?—No, I did not; I got into Beechworth between six and seven o'clock.

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15755. It would not be dark then?—Yes, it would.

15756. Was it quite dark when you got in?—It was about dusk.

15757. *By the Commission (to Mr. Sherritt).*—Did you see Mr. Nicolson immediately you went in?—Yes, I did. It could not have been any more than that time, because when he looked at the clock in the room, he called to Detective Ward and said there was half-an-hour or three-quarters to go down there, and if Mr. Ward can refresh his memory a bit, he can think of the same words.

*Mr. Nicolson.*—He said he hid himself until dark.

15758. *By the Commission (to Detective Ward).*—Have you any recollection of Mr. Nicolson referring to the clock?—No.

15759. Were you in when Sherritt met Mr. Nicolson?—Yes; there are two rooms, and I was in and out.

Patrick Mullane,  
*continued,*  
10th Aug. 1881.

15760. He must have referred to the clock without your knowledge?—Yes, he might, but there is no clock in the room.

15761. *To the witness.*—Where is the clock?—In the verandah outside. It is not visible in the room; the clock is outside the house.

15762. *To Mr. Sherritt.*—Had you any other means of ascertaining the time but by this clock?—Yes, the town clock—the Beechworth clock.

15763. You could see that when you came in?—Yes.

15764. Immediately after you heard that Kelly had been to your house, did you start for home then?—Yes.

15765. How long would it take you to come?—A quarter of an hour at the very outside.

15766. Through the bush?—Yes.

15767. How many miles is it?—About three miles the way I went; I did not go along the road.

15768. Is it not a very rough country?—Yes.

15769. *To the witness.*—Could you ride that in a quarter of an hour?—No, except I killed my horse.

15770. In half-an-hour?—In three-quarters of an hour with good riding. I rode it the other day fast in three-quarters of an hour.

15771. How many miles do you think it is?—Between four and five.

*Mr. Sherritt.*—I was in the paddock nearest Beechworth.

15772. *By the Commission (to the witness).* How far is that?—About four miles.

15773. *To Mr. Sherritt.*—Where was the horse?—In Crawford's paddock.

*The witness withdrew.*

*Adjourned to Tuesday, the 23rd inst., at Eleven o'clock.*

TUESDAY, 30TH AUGUST 1881.

*Present:*

The Honorable F. LONGMORE, M.L.A., in the Chair;

J. Gibb, Esq., M.L.A.,

G. R. Fincham, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.,

E. J. Dixon, Esq., J.P.,

G. C. Levey, Esq., C.M.G.

F. C. Standish further examined.

15774. *By the Commission.*—You have read the evidence, I suppose?—I have.

15775. The Commission now wish you to say anything you desire to say with reference to it?—I have very little to add to the statements which I made on the occasion when I was examined here. It might take me nearly a month to comment on the gross mis-statements which have been made on me by Mr. Nicolson and Mr. O'Connor, but I will just give you only three or four instances of the inaccuracies they have been guilty of in their evidence. In part of Mr. Nicolson's evidence he alludes to the fact that our official relations had been strained for about three years. In reply to that I may state that, up to the time of his removal by order of the Ministry of the day, I always entertained the most friendly feelings towards him, and our official relations were always carried on in a very pleasant way. As for private relations, he is a man I hardly ever saw except on duty, during the many years I have been in the police with him. He also states in his evidence that he is aware that it was owing to my representations that the Government decided to remove him from Benalla and to send Mr. Hare in his place. To that I give a most positive denial. As I stated in my evidence before, Mr. Ramsay sent for me one day to his office, and told me the Cabinet had discussed the question of Mr. Nicolson's fitness for the duty he had been engaged on for nearly twelve months, and they had unanimously resolved to remove Mr. Nicolson and send Mr. Hare in his place. Now, I had no more to do with that than any gentleman present in this room; and, as I stated before, when he came down to see me he behaved in a most rude and impertinent manner, and whenever he met me in the street he cut me dead. I have not the slightest ill-feeling towards him or personal feeling towards him, but I feel it my duty, in self-defence, to make these statements. In addition to this, I see in his evidence that in November 1879, when I went up to see him at Benalla, the day after the Melbourne Cup, and when, owing to information received, we started at once for Beechworth and went out with a lot of mounted men to the Sherritts, Mr. Nicolson states that, after we had decided to stop there and all the men were at luncheon, he had reproved me for talking to Aaron Sherritt before the constables. Now, I want to put before you the true facts of the case. I had sent for luncheon for the men to the adjoining public-house, and I was smoking my pipe afterwards, and I saw Mr. Nicolson and Mr. Sadleir talking to a man whom I did not know. They conversed with him some time, and then—I cannot state positively whether it was Mr. Nicolson or Mr. Sadleir that came up to me—at all events, I went and talked to Mr. Nicolson; and he told me he had been talking to Aaron Sherritt, and had every hope that Aaron Sherritt would assist us; and that very likely, if I held out to him the inducement that he would

F. C. Standish,  
30th Aug. 1881.

receive a considerable portion of the reward, he would work loyally for us, and that I had better see him myself, that could give him a personal guarantee, being the head of the department. I went up with Mr. Nicolson and had a talk with Aaron Sherritt, and told him if he put us in the way of catching the outlaws shortly, I would guarantee that he would receive a substantial portion of the Government reward.

15776-7. This was at Beechworth?—It was after we left Beechworth—near Beechworth and Sebastopol, close to Mrs. Byrne's house. After this conversation we decided to return home, and I see that in the face of this Mr. Nicolson has stated in his evidence that he reproved me for going to talk to Aaron Sherritt.

15778. *By Mr. Nicolson.*—Not "reproved"?—Well remonstrated then; and previous to that I knew nothing of Aaron Sherritt, and it was entirely at Mr. Nicolson's request I went to talk to him.

15779. *By the Commission.*—As a matter of fact, did you, in the presence of some of the police, make overtures to Sherritt?—We were standing about 100 yards off, and Mr. Sadleir and Mr. Nicolson had been speaking to him before I did, and I saw them talking to him.

15780. The statement was that you endeavored to negotiate with Sherritt in the presence of some others?—That is utterly untrue. I beg to state that personally I have no ill feeling against Mr. Nicolson, and it is probable that the loss of memory, which certainly is very palpable in him, may have induced him to make those statements, believing them to be true. I may add that I have read through the whole of Mr. O'Connor's evidence, and really it is so beneath contempt that I shall not offer any comments on it. The statements he makes about me are utterly false. Amongst other things he stated that when he consented to take the black trackers up in pursuit of the murderers of Aaron Sherritt, he asked me to order a special carriage for the convenience of his wife and sister-in-law. Not only is that untrue, but if he had asked me I would have declined, because I do not think men being despatched on important duty should be allowed to be accompanied by their wives and families.

15781. Have you anything further to add?—I may also state that I read Mr. Winch's evidence, given lately, and I see amongst other things he states that it was a well-known fact that for some years I was entirely under the control of Mr. Hare, or words to that effect; and I think if you ask Mr. Hare he will convince you of the utter falsity of that statement. Mr. Winch moreover states that shortly after I left the police I had made an apology to him for my coolness and my manner to him for the last few months, or words to that effect. Whereas the true facts of the case are that, immediately after I left the police, I met Mr. Winch in the Club, and he followed me up to my bedroom, and began crying and saying how deeply he regretted that any ill feeling had existed between us, and he hoped that unpleasant feeling would come to an end. As I am not at all a vindictive man I shook hands with him, and said, "Let bygones be bygones"; but still I am well aware that when I was up in Benalla he circulated some very unpleasant and untrue statements about me.

15782. Is there anything further?—I have nothing further to add. Of course I have confined myself to a few of the mis-statements that have been made about me.

*The Chairman.*—Do you wish to put any questions, Mr. Nicolson?

15783. *By Mr Nicolson (to the witness).*—Do you recollect my inspecting the North-Eastern district in 1877?—You were inspecting superintendent, and used to inspect all the districts then.

15784. I inspected the district in 1877. Have you, since you gave your evidence, seen my reports about Greta and other places in that district with reference to the Kelly gang and the outrages, the horse stealing and cattle stealing, and my suggestions?—That was a good many years ago. I have not had access to any official communications for nearly a year now.

15785. Do you not recollect my report, for instance, of Greta being under-manned, and my suggesting the removal of Constable Thom?—I have no positive recollection of that. Of course you have access to all the papers, and have been living on them for some months, but I cannot charge my memory with them.

15786. Do you recollect, after my return to Melbourne, that it was the custom that I had an interview with you in your private room, about the districts I had just inspected and reported on?—I remember I used to receive your reports and forward them to the officer in charge of the district.

15787. In addition to that, do you remember private interviews?—Yes, and you were always singularly reticent about the business.

15788. Do you recollect my saying to you once about the district, that I thought you should send me back again?—No, I have no recollection of that.

15789. I pointed out to you the tone of the people, speaking about the cases of horse stealing, that they were utterly beyond the constable, being carried on by the Greta people—horses carried into New South Wales, which they could not make anything of; and that I should be sent back to see how the arrangement made with Mr. Singleton in New South Wales was acting?—I have no recollection of that.

15790. After seeing the evidence about the Seymour bank, do you still persist in stating that I sent no information that that attack was premeditated on the banks, in the North-Eastern district?—Yes, I stated that in my evidence.

15791. Having seen the correspondence and letters from Williamson, in Pentridge, to you, and what was sent up to me about the bank in Seymour, do you still persist in that statement; because your memory may have failed you in that?—My memory is better than yours, at all events. I may point out that events that happened four years ago, and I having had no access to official documents since then, cannot have made the impression on my mind that they have on yours.

15792. You made these statements against me at the beginning of this enquiry?—I stated you had

information that the banks were to be stuck up.

15793. In the North-Eastern district?—Yes.

15794. Now the correspondence has been unearthed, showing that it was only the Seymour bank, and I ask you if you still say the same thing in the face of the correspondence?—You informed that one of the banks in the North-Eastern district was to be stuck up. I took all the necessary precautions about Seymnour.

15795. That is not the question, I admit that; but do you still persist in saying that I sent you information about the banks in the North-Eastern district?—Yes.

15796. I am not imputing anything, but are not you confounding the one bank with all the banks in the district?—I adhere to my former statement.

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15797. When you spoke, in the last instance, about the original cases and the difficulty in the North-Eastern district, you said it was the lawlessness of the district?—There is no doubt it has been a most lawless district for years.

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15798. What was that caused by?—By the class of people who inhabited that district.

15799. Was not there the means of preventing that—was not the cause the want of police?—I think not.

15800. That is not the original cause, and if there was a mode of dealing with that, you think not?—I think not.

15801. You say in your evidence, with reference to the party at Sebastopol, that we were a day or two late after the fair; so, after consulting with Mr. Sadleir and Mr. Nicolson, we decided it was no use carrying on further, and returned to Beechworth?—Yes.

15802. What did you mean—it was no use carrying matters further?—The information we procured there showed we had been misinformed about the outlaws, and what was reported to us had happened two or three days before.

15803. What about further search in that country?—It would have been simply madness. Of course when a large body of police moved, even at an early portion of the day, the news would spread all over the district.

15804. Then you agree that the use of police in that manner, on that occasion and former ones, was unnecessary?—We thought we had a chance against the outlaws, and that was why we proceeded there; but from subsequent information received I had not the slightest doubt we were grossly misled by the man who furnished the information.

*Mr. Nicolson.*—I do not dispute that in the least.

15805. *By the Commission.*—I would like you to just glance over that correspondence—[*handing papers to the witness, who read the same*]—I remember this correspondence well; I have looked over it.

15806. Do you still adhere to that statement—that the information came from Mr. Nicolson?—Yes, I do.

15807. After reading the document?—Yes.

15808. Will you look at the date of that document from Williamson?—It reached me about the 30th November 1878.

15809. No. I think you will see the date at the head of Williamson's document?—[*The witness examined it*]—The 15th November 1878.

15810. What is the date upon which you returned that document to Mr. Nicolson, you will see it on the back I think?—The 28th November 1878.

15811. Then you had that information from the 15th to the 28th in your possession according to that?—But it passed through several hands before it came through mine. I cannot tell the date it reached me.

15812. You sent it on the 28th November?—Yes, to Mr. Sadleir and Mr. Nicolson.

15813. What is the date of Mr. Nicolson's telegram in reply?—The 29th.

15814. And the desire he expressed in that telegram?—That one or two men should be sent.

15815. That is that information was given in reference to the Seymour bank, and one or two men should be sent?—Yes, which was done.

15816. Then the question is—do you still adhere to your statement that you heard from Mr. Nicolson that the Kellys were going to rob the bank?—Yes, I do, certainly.

15817. In the face of those documents?—In the face of those documents—yes.

15818. In what way did Mr. Nicolson give you the information?—I cannot remember, positively, whether it was by private letter or by telegram. Of course you must see that a man who has been out of the department for nearly a year, and has not had access to one single document, must be completely at a disadvantage as compared with a man who has been poring over every document he can lay his hand on.

15819. I agree with that—but you still adhere to your statement?—Yes.

15820. Those documents would be still in existence?—They might, or not.

15821. How could they be destroyed—they would be official?—Private and confidential notes I used not to file; I kept them in my own possession.

15822. Would anything be private and confidential from the officer next in rank to yourself as to the movements of the outlaw gang?—Certainly; most of those were marked "Private and confidential."

15823. Still they would be documents belonging to Government?—Those special documents relating to the Kelly business I used to keep in my own cupboard.

15824. *By Mr. Nicolson.*—You say you believe the information that Mr. Sadleir had upon which we were out that time was correct, but we were a day or two after the fair, and it was no use carrying matters further—did you come to the conclusion then that such open search parties were no use?—I thought, unless we had very good grounds to go on, sending search parties without any definite ground to go on was a mistake.

15825. In question No. 39 you say, “The morning Mr. Nicolson reached Euroa, on the morning of Tuesday; and after some hours’ delay, he started off with a party of police, and returned the next day without any result.” What grounds have you for saying I started after some delay?—I was informed so by the police.

15826. What reasons had you—can you name them?—I know perfectly well there was that delay, and it was told me by several members of the police force—that there was unnecessary delay.

15827. You speak in question No. 47 about the “great disadvantage under which we labored, viz., that the moves of the police in Benalla, Wangaratta, Mansfield, and Beechworth were closely watched by the numerous friends and sympathizers of the outlaws—at Benalla especially; and I may state that if I had determined, without consulting anybody, in the middle of any night to come down to the barracks by myself and to start a party of police, which I could have done in half an hour, I firmly believe that before the men had left the barracks some of those spies would have been galloping off to the outlaws.” Do you consider that, in the face of all that knowledge, that it was good generalship on your part to start parties of police at Benalla for upwards of seven months?—I do not know what you are alluding to.

15828. In the face of this question No. 47, do you think it was good generalship continually to start parties of police for upwards of seven months?—I left off the practice of sending out the search parties after I had been there some time and found they were no use.

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15829. There were search parties sent up till May?—We only started them when we thought there was some chance of getting them, but not merely on vague information or on the hope of catching them.

15830. What definite information did you ever get on any occasion?—When I got information I kept it to myself, and acted upon it.

15831. I am asking the question—what definite information did you ever get on which you started search parties?—When you were in charge you were always galloping about over the country without any object.

15832. I am not talking about that; what definite information did you get?—I received information which I thought reliable, and I acted on it.

15833. You say in question No. 54—“Was that Mr. Ramsay?—No, Mr. Berry was Chief Secretary at the time; and Mr. Nicolson being next in seniority, I had to send him up, though I confess I had but little faith in his energy?”—Well, you did very little all the time you were there. You hardly did anything all the time. You displayed what is called masterly inactivity.

15834. Did I show “masterly inactivity” during the time I was previously there?—At the time you were galloping about apparently for no object?

15835. When did I show the “masterly inactivity”—after June 1879?—Yes.

15836. But here you say in June 1879, “I had to send him up, though I confess I had but little faith in his energy.” You spoke of my want of energy previous to that?—Not previous to that. Before I went up there, you were galloping about the country the whole time.

15837. You spoke of a want of energy previous to my going up the second time. I had been only there once before—where was my want of energy?—You doing nothing all the time you were there the second time.

15838. That is a period afterwards—I require an answer?—Well, there is no doubt that the bad health you suffered from impaired your energy—you were in very bad health when you left Euroa.

15839. But the point is that you speak of your having had little faith in my energy when I went up in June, the second time?—Well, I had not much faith in it.

15840. You say I was galloping about uselessly the first time?—Yes.

15841. Then when did I have the opportunity to show want of energy before the second time?—That refers to the second period.

15842. You spoke, in question 57, about my “absurd reticence”?—I could never get anything out of you.

15843. Were you not in the habit of showing my letters, marked “confidential,” to other persons?—I was not.

15844-5. Did you not do so?—I have no recollection of doing so.

15846. Did you not show them to Mr. Hare?—I might have shown him one.

15847. Do you not recollect my speaking about it at Benalla, and you said you would show them to any one you liked?—I was at liberty to do so.

15848. I am not speaking of that. I ask, did you not show to persons my letters marked “confidential”?—I may have shown one or two to Mr. Hare. I am not certain that I did that. I never showed

them to any one else that I remember. I never showed those letters to anyone but Mr. Hare, who had been with me in the Benalla district for six months. We used to talk over the matter.

15849. In question 71 it says, "You gave evidence of what occurred on the 25th and 26th of March, before the outlaws were captured, and you see Mr. Nicolson was in charge on the 25th of May, but Mr. Hare succeeded him early in June, therefore it is most important that you should fix the dates, because you see Mr. Hare succeeded him a couple of days after?"—About a week before Mr. Nicolson was removed from Benalla, Mrs. got up early to look for cows, and when passing an unoccupied house, about six or seven miles from Beechworth, she saw Joe Byrne getting on his horse. She said, 'What are you doing here, Joe?' and his reply was, 'Looking for Aaron, to shoot him.' She had some further conversation with him and he rode away, and Mrs. made her way into Beechworth and informed Detective Ward, who telegraphed the fact to Benalla. The result was that that night Mr. Nicolson, Mr. Sadleir, and Mr. O'Connor went to Beechworth without the trackers, saw Mrs., who stated what she had seen, and decided it was no use going after him, and they returned to Benalla next day." You recollect the telegram from Benalla, which you brought down to the railway station, Spencer street, to me?—Yes.

15850. That was on the 26th of May. Are you not aware that was on the Saturday following, two or three days after that, I saw this Mrs. alluded to, that it was immediately after my leaving the district. Mr. Hare superseded me the following Saturday?—Yes, that telegram I handed to you at time railway station was nearly a month before you left Benalla.

15851. No, it was just immediately before?—No, I beg your pardon, it was when you came down to remonstrate. The telegram I alluded to is the one that came before you at the detective office, and it was brought up to me.

15852. That was just a few days prior to Mr. Hare superseding me?—He did not supersede you for nearly a month after the Chief Secretary decided it. When you were in Mr. Ramsay's presence with me, you asked to be allowed to remain there another month, and he acceded to your request.

15853. Did you state to Mr. Hare, about the year 1863, that, in all probability, if you left the force, he would succeed you?—Not in 1863, I think; it must be long after that.

15854. Did you make that statement at any time about ten years back?—Mr. Hare was offered a superintendentship in New South Wales, by Mr. Fosbery, and he consulted me, and I said I thought he had better stay here; that he might some day be Chief Commissioner of Police.

15855. Do you recollect on your return from New Zealand some years ago that I spoke to you of time prospect I had of entering the constabulary there, and you made some complimentary remark that you would object to my doing so?—I do not recollect.

15856. Do you recollect stating to me that some time I might probably succeed you, if you left?—I never made any such statement.

15857. When you were in charge of the district with Mr. Hare, did you complain that you were short of men or found you were short of men that time?—No.

15858. You had a large reinforcement, I mean after I left?—Most of the men were sent whilst you were there.

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15859. There was a reinforcement of about thirty or forty men and military?—The military were sent, but that was in opposition to my wishes; the Government decided to do it.

15860. Did you keep a sentry in front of your office, at the Benalla barracks?—No.

15861. Not for any time?—No.

15862. Are you quite sure of that?—Quite.

15863. Was there any sentry?—There were men in barracks all round.

15864. Was there not a man told specially off for your office?—No.

15865. With reference to that appearance of Aaron Sherritt at Sebastopol, whom did you say you saw with this man?—You were talking to him the first time I saw him.

15866. Are you sure of that?—Quite sure of that. I asked some of the men, "Who is that man that Mr. Nicolson is talking to?" and they did not know.

15867. Are you sure it was not Mr. Sadleir that brought him to you?—No; you took me to him.

15868. You remember the cottage?—Yes, perfectly well. Supposing our men were just here, you were out about there—[*indicating the position*—in the bush, talking to Aaron Sherritt when I first saw you. I could see you talking to him from where I was standing.

15869. I was standing near you?—You took me to him.

15870. Are you sure that Mr. Sadleir did not bring him up to you?—No, I think Mr. Sadleir came and told me that you wanted to speak to me, and then you took me up to Sherritt, who was close by. You first spoke about the chances of his putting away the outlaws for a consideration; and you said if I gave him a personal assurance that he would get a considerable portion of the reward, you had little doubt he would help us.

15871. You are sure that was not one of the members of the police force?—No; it was Aaron Sherritt and yourself.

15872. Who was it spoke to him about the proposal as to the betrayal of the outlaws in your

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presence; you did not address this man?—That subject was never brought up on that occasion about one being pardoned; it was subsequently—many months afterwards—but not by Aaron Sherritt.

15873. What promise was given to Sherritt?—That he would get a substantial portion of the reward if he put away the outlaws.

15874. Was there any allusion to pardon?—No.

15875. Do you recollect when you first came to town, the first time after you relieved me, my speaking to you about Aaron Sherritt in your room—in the adjoining room?—Yes.

15876. Mentioning to you that that was a sort of man that would be useful to us in capturing those outlaws?—Yes, I remember that.

15877. Do you recollect on that occasion my talking to you about the mistake made in talking (meaning the impropriety) of talking to that man on that occasion at Sebastopol?—Certainly not, because it was you that took me up to him.

15878. Are you sure he was not taken up to you?—He was not; you took me up to him. I had not the slightest idea who he was till you told me.

15879. You do not recollect on that occasion my pointing out the impropriety of one of the officers or members of the police speaking of a promise of pardon to some one in your presence, without authority from you?—There was no allusion made to the pardon when I was talking to Sherritt in your presence.

15880. About Mr. O'Connor's evidence being untrue, about his asking for a carriage for his wife and sister?—There is not a word of truth in it.

15881. Why then was the carriage sent up?—The first-class carriage was sent up for the officers.

15882. At whose request?—I had an order which I procured from the Chief Secretary and the Minister of Railways, Mr. Gillies, and I took the order to the railway station, and had the train sent out to pick up Mr. O'Connor and the black trackers at Essendon.

15883. Was it usual, on trips for such duty, to put a first-class carriage on for the officers?—I never ordered one.

15884. You have seen special trains at different times?—Considering an officer was in charge it was only fair he should have one.

15885. Do you remember going to Sebastopol with me—was there a carriage on or only a van?—No, only a van.

15886. Was that not the usual practice?—What has that to do with it? Mr. O'Connor's statement is a deliberate untruth. Not only he never asked me for a special carriage, but if he had asked me I would have said I could not accede to it.

15887. And yet a first-class carriage was supplied, which was quite unusual?—That had nothing to do with me.

15888. My want of energy you spoke of and my inefficiency—will you tell, before the whole Commission, of any occasion on which I showed any inefficiency previous to this Kelly business?—No; I alluded to the last twelve months you were there. You apparently did nothing and threw away many chances.

15889. Will you tell me one instance where I ever failed in my duty—mention one?—The evidence that I have read, taken before the Commission, shows you threw away numbers of chances during the twelve months.

15890. Tell the Commission one instance, where I was employed in the police force, in which I failed. It is a disagreeable thing for me to ask any question of the kind about myself, but, when I have such charges against me, it is unavoidable?—When I used the words "want of energy" I did not mean it to apply to the time you were there by yourself. No doubt you were then very active galloping about the country great deal of unnecessary riding about.

15891. *By the Commission.*—I might state that we have a report of yours here about the sticking-up of the Euroa bank, dated Benalla, 15th December 1878, in which you say at the beginning, "I have the honor to report that I proceeded from Melbourne to Euroa, on the morning of the 12th instant. I there met Mr. Nicolson, and at once saw that he was utterly prostrated by bodily fatigue and mental anxiety, and that he was entirely unfitted for the duties he was engaged in, and at once telegraphed to Superintendent Hare, directing him to proceed at once to meet me at Euroa. He arrived in the course of the evening." Then at the end you say what appears to be important, taken in connection with the questions that have been

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asked:—"With reference to the remarks I have made which may be prejudicial to Mr. Nicolson's judgments, I may here report that there is not a more zealous, intelligent, and efficient officer in the force, nor one in whom I have more thorough confidence"?—I always had that opinion, but there is no doubt he was very jaded and poorly, and his eyes were bad.

15892. That is he was injured by hard work, going through the country?—Yes.

15893. The time you spoke of his want of energy is June 1879?—Yes.

15894. *By Mr. Nicolson.*—Do you remember that letter signed "Connor" being shown to you by Mr. Graves—[inserted above]?—Yes, I recollect his handing it to me.

15895. Do you recollect my stating I believed it was written by Wallace?—I remember your saying so.

15896. Do you recollect mentioning that to Mr. Graves, and Mr. Graves stating he had not seen Wallace for several months?—No. He told me it was not Wallace.

15897. Did Mr. Graves say he had not seen Wallace for several months?—I believe he did. I will not be quite certain.

15898. It is in your letter written at the time—do you recollect Mr. Graves denying that he had seen Wallace?—I think he told me he had not seen him for some time.

15899. *By Mr. Hare.*—May I ask you to read at question 1600—will you read that telegram from Mr. Fosbery to me?—*[The witness did so.]*

15900. You remember that telegram?—I do.

15901. Will you read the next paragraph?—*[The witness did so, as follows:—]* “I was then holding the rank of an inspector of police in Melbourne, and I consulted with Captain Standish, and told him that I felt inclined to accept the appointment, as it was better than the one I held. He said to me, “I do not want to stand in your way, but I think you are foolish to leave this colony after the services you have rendered. The Government have a good opinion of you, and I feel sure that if anything happens to me you will get my appointment.”

15902. Is that correct?—It is correct.

15903. You remember that?—I do, perfectly.

15904. There is no promise of the appointment there to me?—No. How could I promise the appointment?

15905. I want to ask if you recollect my being sent up—selected to go after Power?—Yes.

15906. Will you state to the Commission the circumstances under which you ordered me up there?—Mr. Hare was superintendent of police at the depot, and certain negotiations were carried on between myself and gentlemen in the North-Eastern district, which resulted in a certain person, who is now no more, promising to put away Power. For that purpose I selected Mr. Hare and Mr. Nicolson to accompany him, and Mr. Montfort, who was then sergeant of police at Wangaratta, and they started under the guidance of the informer, who led them to the place where Power was supposed to be camped out; but he was afraid of the consequences, and he left, and the search party had to forage about near Quin’s house. They were in a swamp the greater part of the night.

15907. I want to know who was in charge of that party?—Well, Mr. Nicolson was the senior.

15908. Who had the organization of that party?—You had.

15909. Did I ask you to allow me to take Mr. Nicolson with me—did you leave the organization of the party with me?—I think so—yes.

15910. Do you remember saying that Sir James McCulloch had directed you to send me up there?—Yes, he did. I had a long talk with him.

15911. Do you remember saying, “I leave you to make your own arrangements, and take with you whoever you please?—Yes.

15912. Whom did I select?—Mr. Nicolson.

15913. Do you remember my coming to you and telling you that Mr. Nicolson wished to go with me, and asked if you had any objection to his going?—I remember that perfectly.

15914. Do you remember my taking some men from my own district, and sending them up there?—I am not positive on that point.

15915. *By Mr. Nicolson.*—Before this party went up, did I not volunteer to go?—I think you wrote to me from Kyneton, where you were stationed at the time, offering to go.

15916. Did you accept my offer?—Ultimately I did.

15917. Did Mr. Hare and I go up there once or twice?—I think only the once, as far as I remember.

15918. Do you not recollect our going up in the first instance to see the man, to have an interview with the man, and our returning, and then going up within a week or a month?—I do not remember that. I thought you only went up once, but I am not positive.

15919. Do you not recollect our going up once, and then I returning again to my district at Kyneton to wait until the news should come?—Well, it is so many years ago I cannot be sure.

15920. Do you not recollect writing to me when we came down. I told you it was all arranged, or Mr. Hare told you that the matter was all right, and about a week or so afterwards you wrote to me to Kyneton, saying you were sorry you could not accept my services in consequence of Dr. Ford’s statement about my health?—Yes, I recollect that.

15921. Does not that bring to your recollection that we went up twice?—You may, but I do not recollect.

15922. Do you recollect my coming down and seeing you the following morning after you wrote that letter?—You may have done so.

15923. And telling you that Doctor Ford said I could go if I felt strong enough, and stating that I was quite fit to go?—No, I do not.

15924. I did go?—Yes.

15925. Did you not tell me when I volunteered to go, that you were very glad, and you would send Mr. Hare up to drive me, to save the jolting in the coach, and perhaps Mr. Hare would be of some use to me?—No; Mr. Hare was the man I selected for the duty.

15926. Do you recollect about the driving up in the buggy and the jolting in the coach?—No.

15927. Do you recollect speaking to me a month or two before Sir George Bowen left this colony, to the effect that he had remarked what a fine young man Mr. Hare was; that he had captured Power, and

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you replied that there was not much in that, as Mr. Nicolson had captured Power?—That is not the case; I never said such a thing.

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15928. And that Sir George Bowen would not listen to you, saying Mr. Hare had told him he had captured the man, and you were mistaken?—I never said such a thing to you.

15929. Will you kindly look at that letter?—This is the letter alluded to in Mr. Graves's evidence (my own letter, dated May 5th 1880). [*The witness read the same.*]

15930. Mr. Graves states in that that Wallace had nothing to do with the writing of the letter, and that he (Mr. Graves) "had neither seen nor held communication with him for many months." Do you recollect Mr. Graves stating that to you?—I do perfectly.

15931-2. Is that statement of yours correct?—Quite correct.

*Mr. Nicolson.*—Well, I do not wish to pay you a compliment, but I believe your evidence to be correct in preference to believing Mr. Graves's contradiction.

15933. *By Mr. Sadleir.*—In sending Mr. Nicolson up to Benalla, on hearing of the murders, was it the intention to supersede me in any way?—No; but for an arduous duty of that kind it was necessary to send somebody up, because you would not have had time to look after your office affairs.

15934. You did not look upon it as superseding me?—Not in the least.

15935. Nor when you went up there with Mr. Hare, there was no superseding me in the intent?—Not in the least.

15936. You think the duties of the district were quite enough to occupy my time?—Yes; an enormous district like that would take up all your time.

15937. But I was bound to give all the assistance I could in such a case?—So you always did.

15938. Would you put me down as the responsible officer in the Kelly business at any time?—During the whole time I was there, Mr. Hare and you and I used to discuss matters together, and have a kind of council.

15939. To be absolutely responsible for business of that sort, you must have the power to follow your own judgment?—Yes.

15940. Was my position there that of the responsible officer in the Kelly business?—No; because you must see yourself that it was necessary to have somebody to conduct the ordinary affairs, because in the charge of an enormous district like yours, if you had been in charge of the Kelly pursuit also, you would have had to neglect the supervision of your district.

15941. *By the Commission.*—How far would that authority rest with Mr. Sadleir, because we have it in evidence that when Mr. Nicolson was in the district it was the duty of Mr. Sadleir to act in the absence of Mr. Nicolson on any information he received. When that happened would it be necessary for him to communicate with Mr. Nicolson?—If Mr. Nicolson was at Benalla, of course it would be, but if he was away, some way off, and he could not, communicate with him by telegram, it was Mr. Sadleir's duty to act upon any valuable information he might have received.

15942. *By Mr. Sadleir.*—I accept that position. Will you state (you have known me since you joined the service in 1858) what is my character as an officer, publicly and privately?—Privately you and I have always been on the best of terms, and publicly I have always found you a very active and efficient officer, and have never had any fault to find with you.

15943. You say an efficient officer?—A very efficient officer.

15944. What is the practice of the police service as regards records in the constables' sheets in the country; is it to make them known to constables or not?—No; they are not communicated to the constables, except when a man has done a very gallant or heroic deed. He is then informed that an entry has been made, but that is only if the man has really distinguished himself, and I think that is only right.

15945. The rule of the service not to make known an ordinary matter that may be entered?—No.

15946. If I departed from that rule, would I not be held blamable?—I may say that it is a custom of the department, not a written law.

15947. There is a law that the record sheets are merely to be prepared in the Superintendent's office, and forwarded to the head office?—Yes.

15948. Does not that imply the dealing with those papers in a more secret manner than the ordinary correspondence?—They are generally kept dark; but if a man has done anything specially gallant or heroic, he is informed of the entry.

15949. But, as a rule, they are confined to the Chief Commissioner and the Superintendent. Will you look at this correspondence—the report of Senior-Constable Kelly at question 8314—and will you read this in connection with it—[*referring to a letter dated 18th September 1880*]?—{*The witness read the same.*}

15950. Will you say whether I dealt with that matter fairly or not?—I think I left the department on September 13th.

*The Chairman.*—I think the object is to ask whether Mr. Sadleir has treated Senior-Constable Kelly

fairly.

*Mr. Sadleir.*—Yes, that is the point. Captain Standish has had twenty-three or twenty-four years' experience.

*By the Commission.*—I will read the letter.

Police Department, Superintendent's Office,  
Benalla, September 18th 1880.

MEMO.

For information of the Assistant Commissioner of Police.

I had arranged to send Senior-Constable Kelly to Greta, to form a station there, with three other mounted constables, but at once, when I informed him of this, he asked to be relieved from the duty.

He is the only sub-officer I have available. I admit that the senior-constable's reasons have some weight, and that his past services have been satisfactory. His conduct now, nevertheless, is calculated to discourage others, and I am obliged to employ an ordinary constable on a duty that this sub-officer does not think it prudent to undertake. I shall be glad to have a bold active single sub-officer in his place.

(Sgd.) J. SADLEIR,  
Supt.

The Assistant Commissioner of Police, Melbourne.

*The Witness.*—I think Mr. Sadleir has stated very fairly that he wanted to leave.

16951. *By Mr. Sadleir.*—What I want you to say is whether that entry of mine, in question 8333, is a fair one or not, under the circumstances?—*[The witness read the same.]*—I do not quite understand

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this. I do not see if he applied for transfer, and you recommended it, that that would be an expression of disapproval of his conduct.

15952. *By the Commission.*—At question 8314 there is another portion of the evidence, a report of Senior-Constable Kelly. I think before you answer that question you ought to be seised of the whole circumstances of the case. Do you think it would have been prudent for Kelly to take charge of the Greta station after the very active part he had taken in prosecuting the outlaws and sympathizers?—I will give my candid opinion. In the case of a man who has done such very active duty, and been so important an agent instrumental in the destruction of the Kelly gang, and who is, moreover, a married man, I really cannot see any impropriety in his applying for transfer.

15953. Do you know the entry that Mr. Sadleir made on Kelly's sheet?—I have read it here. I do not see, after being two years there, and working very hard the whole time, any harm in Kelly's applying for transfer to another district.

15954. *To Mr. Sadleir.*—Was Kelly made aware of that record on his sheet?—No, I was not at liberty to make him aware of it; but when he gave his answer in his evidence, at questions 8593 and 8600, he had seen it, "Did you distinctly understand, from what Mr. Sadleir told you, that it was to be only a temporary remove to Greta?—Yes, temporary." "You knew that?—Yes." "Have you any idea of the meaning of 'temporary'?—I expected four or five months." And there were also promises of promotion held out to him as far as I had power.

15955. *By Mr. Sadleir (to the witness).*—Was it an extravagant thing for me to expect Kelly to go and do his duty even in the face of danger—looking at it from my point of view, I having to manage the district, was it unreasonable that I should put a man like Kelly for a short time in a dangerous position, he being the only efficient man I had?—I do not see why you should not have directed him to go there.

15956. Then it all amounts to this, that, in your opinion, I may have been harsh; but may I not have been justified in making the entry?—The officer in charge has to exercise his power on his own judgment.

15957. Is it a mark of tyrannical or harsh dealing?—I never knew you to be harsh with anybody under you.

*By the Commission.*—Here is Kelly's own evidence—*[reading question 8333 above]*. That is the officer's report, and now we will read Kelly's report, when asked to remain at Greta—*[reading questions 8314 et seq. above]*. On that comes the memorandum that Mr. Sadleir put on the papers.

*Mr. Sadleir.*—But you must take that in connection with question 8590.

15958. The Chairman.—The question is, whether that was a fair report to make on the sheets, after the services the man had performed. *(To the witness)*—Have you any opinion to offer?—

*Mr. Sadleir.*—I beg your pardon, will you read question 8590 in addition to what you have read? *[Questions 8590 to 8598 were read to the witness.]*

15959. *By Mr. Sadleir (to the witness).*—Was it an unreasonable thing to ask Kelly to take charge of the Greta station, as a temporary arrangement, under those circumstances?—Well, I think it was reasonable on your part to order him there; but still I do not quite concur in the unfavorable entry in his record sheet.

*Mr. Sadleir.*—I wish to state that later circumstances have come to my knowledge showing that Senior-Constable Kelly—like myself, Sergeant Whelan, and other men, who were very anxious, and took a prominent part in the Kelly captures—was thoroughly exhausted after the business was over; and I think, if he had been as fresh as he was in the earlier stage of the proceedings, he would not have dreaded taking charge of Greta or any other station; and, in so far as my overlooking the trial and exhaustion he had undergone is concerned, I now admit that I possibly did do him an injustice. I have no hesitation in saying he is a first-class man, and one whom I would like to have serving with me anywhere.

*The witness withdrew.*  
*Adjourned to to-morrow at Eleven o'clock.*

WEDNESDAY, 31ST AUGUST 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;	
J. Gibb, Esq., M.L.A.,	G. C. Levey, Esq., C.M.G.,
G. W. Hall, Esq., M.L.A.,	E. J. Dixon, Esq., J.P.
G. R. Fincham, Esq., M.L.A.,	

F. C. Standish further examined.

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15960. *By the Commission.*—There is a very important matter before the Commission at present—the disagreements that took place between the officers—that has come out most prominently. I think in your own evidence it was very prominent. Can you tell the Commission what led to those disagreements originally?—With the exception of Mr. O'Connor, I had no disagreement with any officer in the police force until I had a disagreement with Mr. Nicolson owing to his having been ordered by the Government to leave Benalla and Mr. Hare to take his place. I never had an angry word with Mr. Nicolson in my life, and had always a friendly feeling; but owing to what occurred afterwards, which I have spoken of, there were no longer terms of friendship.

15961. Do we understand that the officers were agreed in their different duties upon everything before that time?—It is possible that some officers who were not selected for duty which they thought they were fitted for may have been aggrieved, but those reports never reached my ears.

15962. That is an extraordinary statement after the evidence you gave?—The only evidence bearing on that point is the feud that ensued between Mr. Nicolson and myself, and also the disagreement between myself and Mr. O'Connor; but that was not an official, but entirely a private matter.

15963. The first we find of it in your evidence is in question 15, where you intimate you had confidence at one time in him, but you had not afterwards?—Certainly, I stick to that most firmly.

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15964. Now, if you look at question 57, “Mr. Berry instructed me to do all I could to reduce the expenditure,” and so on?—That was after he returned from the embassy.

15965. At the bottom of the page—question 57—I see, “‘It is not a chase of months or weeks, but of days and hours.’ That was his favorite utterance to me on every possible occasion; and, from information which I have received from time to time, I believe there is no doubt whatever that nearly the whole time Mr. Nicolson was in charge the outlaws were hanging about Greta and Glenrowan.” Did you know anything at all of the outlaws being there during the time Mr. Nicolson was in the district?—Most of this information reached me from certain private sources; but, subsequent to the destruction of the gang at Glenrowan, I had information, from time to time, that led me to believe that they were about Greta, and all the information I got I always conveyed to Mr. Nicolson.

15966. I put these questions because in your evidence you spoke so strongly against Mr. Nicolson with reference to this that I thought there must be something more than the passing view of it?—No; I tell you fairly that I was very dissatisfied at the long time during which nothing was done in that district, and I spoke to Mr. Nicolson about it, and wrote to him about it.

15967. In question 71 I see, “Towards the end of April 1880 I had some conversation with the then Chief Secretary, Mr. Ramsay, on the Kelly business. He asked me my opinion how things were going on, and I said I thought that nothing was being done now, and that beyond employing reliable spies I did not see what good Mr. Nicolson would ever effect.” Also, in question 76, you make a very strong reference to him again?—Yes, and every word of that is true.

15968. If you look again at question 96, you will see quite a different aspect put on it. “Do you believe ‘that the police officers have shown a want of generalship,’ all or any; and, if so, particularise the ones; if you do say they showed a want of generalship, do you believe they did or not?—None of those who were actively engaged in the pursuit of the Kellys did.” That seems contradictory after the statements you made with reference to Mr. Nicolson. You come on then to question 100, almost immediately after, “Do you think Mr. Nicolson showed want of generalship?—I do.” In what way do you think so?—As I have stated already, he seemed to do nothing, and did not seem to act on information he received. He seemed to do nothing the whole of the later period he was there.

15969. In your evidence yesterday you condemned him very severely for galloping about the first time without any object in view apparently?—He was very active and energetic, but he was always riding about with a lot of men when he was first up there, until the time of the Euroa bank robbery.

15970. Of course he left almost immediately after that?—The day after he came in; and he was evidently worried and jaded, and his eyesight bad; he was quite knocked up, and it was on that account I sent

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him down.

15971. Was there any result at all from that galloping about?—It seems not.

15972. You mean he never seemed to find out anything of the Kellys. Did you alter that system when you went up?—I did. After conferring with Mr. Hare and Mr. Sadleir, we came to the conclusion that sending parties galloping about the country who were known to everybody was a mistake, and, unless we had real information, that it would be foolish to send parties galloping about the country—that it had no object.

15973. Did you consider that Mr. Hare had reliable information the first time he was up, when he sent parties out?—Yes. Mr. Hare came the day after me.

15974. Did you always go upon reliable information then?—Well, I cannot positively say all the information we received was reliable.

15975. As far as you believed?—Yes.

15976. During the seven months you were there, did you ever come, as far as you understand, anywhere near the Kellys?—Well, I was never near the Kellys.

15977. Did the parties ever come near—had you any information that they did?—Well, we had information, but it generally turned out to be useless, and there is no doubt that the enormous number of sympathizers and friends they had in the district kept them informed of all the movements of the police.

15978. I want this point cleared up—because you condemn Mr. Nicolson unsparingly—were not both you and Mr. Hare there seven months?—Yes.

15979. Did you ever come within sight of the Kellys?—No.

15980. Nor did any party?—No.

15981. Had you not nearly double the number of constables and troopers up there the time you were there that Mr. Nicolson had?—The parties were not reduced for some time after Mr. Nicolson went there, and it was done by special direction of the Chief Secretary, Mr. Berry.

15982. Had you not sixty or seventy extra men in that district during the time you were there?—Yes. The newspapers said 300.

15983. And you and Mr. Hare were there for seven months?—A little more than six months.

15984. And you scoured the country the whole time with parties?—At first we did; then we found out the utter uselessness of doing so.

15985. And you never came near the Kellys, so far as you know?—So far as we knew, no. I have no doubt we were very near them at times.

15986. How do you condemn Mr. Nicolson for using that means, when you followed it exactly yourself?—I always immediately sent out when I had information.

15987. Do you say Mr. Nicolson had no information?—From the evidence taken before you, gentlemen, it appears that he had no end of information, which, if he had acted on, he would no doubt have caught the Kellys.

15988. That is not the point. You have condemned him for scouring the country uselessly?—That is not when he was there before me. I did not condemn him at the time; but after Christmas, when I was up there, I found it was perfectly useless to send parties out.

15989. At the time you were there, you and Mr. Hare had some seventy men?—Sixty or seventy men, besides the ordinary strength of the district.

15990. With those extra men you followed the same course, and you were not successful?—I was not successful.

15991. Do you consider now, in the light of later events, that you are justified in making this sweeping charge against Mr. Nicolson, when you could not do any better yourself with double the means?—I was always actively engaged.

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15992. I want a distinct answer. You had double the means at your disposal, double the expenditure at your command. You had Mr. Hare to send at any time, and you had Mr. Sadleir to send at any time. Are you justified now in condemning Mr. Nicolson for not doing, with half the number of men, what you did not do with double?—There were some reductions made; but the way the expenditure was decreased was by transferring men who had been only temporarily relieved.

15993. That is no answer to my question; I want “Yes” or “No.” Do you think you are justified in specially condemning Mr. Nicolson, when you failed also, with double the means?—I did all I could. I have said what I thought and believe, and I adhere to it.

15994. Do you consider you are justified or not?—I do.

15995. That is a distinct answer. Now in what way will you consider your own want of success with double the means, having condemned Mr. Nicolson?—I merely say we were not successful, but did our best.

15996. Was not your conduct subject to double condemnation?—I cannot see it.

15997. How do you condemn Mr. Nicolson then?—I see by the evidence that he threw many chances away.

15998. Did you ever know where the Kellys were when you were in the district?—We had information from time to time; but they kept moving about very much.

15999. I want to bring you back to the point. What is the Commission to think of your conduct with search parties in the North-Eastern district, when you condemn Mr. Nicolson?—Condemn him for what?

16000. For riding about and not catching the Kellys?—I said he was very energetic in doing that.

16001. You condemn him for that?—No; I said, after experience there, I found it was utterly useless to send those parties galloping about.

16002. You followed the same course?—From time to time, but always acting on information.

16003. Then it comes back to the old question—did you do anything more in the North-Eastern district than Mr. Nicolson did?—He was so excessively mysterious about his doings.

16004. That is not the point. Did you do anything more than Mr. Nicolson did in the district?—All I can say is, we neither caught them. I did my best. I was there seven months, and during that time I only came to Melbourne three times, for a few hours.

16005. He was there from the 27th November 1878 up till the 13th December 1878. Now look at question No. 100—“Do you think Mr. Nicolson showed want of generalship?—I do.” You have there condemned Mr. Nicolson in the most unsparing terms for not doing things you could not yourself accomplish with double the means at your disposal?—I think you make a mistake about my having had double the means. The reductions were made by permanent transfer of a great many of the men who had been only temporarily transferred, and that made a great reduction in the expenditure.

16006. That was merely in the travelling expenses?—Yes.

16007. We were not speaking about the money power you had, but the man power. You had sixty or seventy men more than Mr. Nicolson had?—Yes.

16008. Mr. Nicolson went there for six weeks, and you say that he appeared to be galloping round the country without any object in view; now you are there with seventy more men for six months—did you accomplish anything?—I did not, and, what is more, I was not at all sanguine about success; and I remember telling Mr. Berry, shortly after the constables were murdered, that I thought if we caught them within twelve months it would be a most fortunate thing for the department. You are probably well aware that, with friends and sympathizers in every part of the country, the police are very heavily handicapped when they have not only to work against the outlaws but the numerous sympathizers.

16009. That is right, and you have to give some reasonable allowance for the man who goes first into a district. I think you proved by experience yourself that they were not so easily caught?—Certainly.

16010. Did it suggest itself to you that when Mr. Hare returned broken down, I think very considerably, with being out on search parties, that it was quite right another system should be adopted?—Well, Mr. Nicolson had *carte blanche* to act as he thought proper.

16011. I think, in your evidence yesterday, you said that he afterwards kept up a “masterly inactivity”—I think that was your expression?—Yes.

16012. Did you mean to say by that that he should have rushed about the country as usual?—No, I think that would have been a most unwise thing to do.

16013. You know these things leave a curious impression on people’s minds?—I only say what I think freely and openly.

16014. But when you tried the system for eight months, you yourself being there over six, with nearly a double force in the district, did you not think it was right in another officer going up to try some other system?—What system do you mean?

16015. He tried the secret agency system?—Yes, and he employed some agents who were in communication with the Kellys.

16016. Was that system in force all through of employing agents?—When we were there we had men in our employ to whom we made small payments from time to time; but I was very cautious, knowing so many there were sympathizers, in that district, with the Kellys; I only trusted them as far as I thought there was a chance of success.

16017. Had you anything at all to do with Wallace the schoolteacher?—Yes.

16018. During the whole time you were there you had no definite information as to where the Kellys were?—No certain reliable information.

16019. You have no doubt they were resident in the same neighborhood where they were said to be in Mr. Nicolson’s time?—There was no doubt they were all about; I had reliable information on that.

16020. Events have transpired since to show they resided in the same district where they were first when Mr. Nicolson was there?—Yes.

16021. Therefore, the chances you had were equally great to those that Mr. Nicolson had during the period he was in charge?—Yes.

16022. Therefore if his condemnation was deserved, yours would equally be?—That is in your hands to say. I did my best all the time I was there.

16023. Would not that be a proper inference, the circumstances being the same in each case—would not the condemnation equally apply to each?—That is a matter for your consideration. I know I worked hard, and did my duty, and never anticipated success.

at first imagined?—I know he threw chances away that I never had.

16025. Do you think he had better chances than you had?—I think he had. If you read the evidence you will see that.

16026. In what way had he?—He had information on one occasion from John Sherritt that the outlaws would be at his house at eight o'clock that evening.

16027. Did you always consider John Sherritt a reliable agent?—Yes, I did. There was nothing against him at any time.

16028. On what ground did you consider any other agent unreliable?—I never put implicit confidence in any man.

16029. No, but you have stated that he had agents who were telling the Kellys everything that occurred?—Yes, no doubt.

16030. Did it not occur to you that it was possible John Sherritt would tell the Kellys?—He was never in my employ.

16031. Then you had in reality, so far as we know, no grounds beyond mere opinion for saying his agents were unreliable?—I was told by private sources—the names I am not at liberty to disclose.

16032. Did you ever speak with Aaron Sherritt?—Yes.

16033. Did you ever speak with Wallace?—Yes. I may tell you, that shortly after I went up there, Wallace was schoolmaster at Bobinawarrah, and he came in to see me shortly after I arrived at Benalla, and he told me he could get leave during the Christmas holidays, and would go out shooting in the ranges, and point out where the outlaws were, and give me information. Well, of course, if you employ a man on duty of this kind, it is necessary to make enquiries. If you place yourself in the hands of men you do not know, it would be unsafe. I found out shortly after that there were reasons why I should not employ him.

16034. What did you find out with reference to him?—I will tell you. I started with a horse and a man we had employed acting as constable for Wangaratta, at night. I slept at Wangaratta, started at dawn of day with this constable, and I rode to Bobinawarrah. I had seen Wallace twice before—once, the first occasion mentioned, and the second time he came into Benalla again—and I left the constable and my horse about a quarter of a mile from the school, and went to the school, and Wallace was outside. That was about a quarter past eight in the morning, and he said, "Oh, Captain Standish, what are you doing here?" I said, "It is rather a perilous job—I came here to meet a man who gave me information." Of course this was not true. It was said on purpose to mislead him. He asked me to breakfast, and I stayed there two hours, and conversed with him during the time, and he told me Joe Byrne was in the habit of coming to see him, but had not been there for six weeks or two months. Then, after that, we went on talking about the outlaws, and he said, "You are doing rather a risky thing coming here"; and I said, "I have got my revolver here, and a constable with me." Then I said to him, "By-the-bye, have you seen Aaron Sherritt lately? I know he is the man who is in the habit of going to your house often"; and he said, "No, he has not been here for six weeks." The conversation ended, and I went back to Wangaratta, and thence to Benalla; and when I got there I found Aaron Sherritt had arrived, and wanted to see me. I went out in the bush to meet him, and said, "Well, Aaron, where did you come from?" and then he said, "I have just spent two days at Wallace's, and I came away yesterday morning early." This showed me the reliability of Mr. Wallace. After that he communicated with me, saying he had seen Byrne, and that he had a long talk with him, and Byrne said he was not disinclined to throw his mates overboard, provided that it was guaranteed he was not taken up by the police and the sum of £100 or £200 to get out of the country. I went up to Benalla very shortly afterwards, and Wallace came in to meet me, and we had a long talk, and he said that evidently Byrne had declined—would not throw up his mates—thought it would not do.

16035. I have a letter here from Mr. Wallace dated August 29th 1881, in which he gives his version of the interview, and refers to other matters.—[*The letter was read to the witness*].—Is that a correct statement?—Yes. I think I have made a mistake. I think that the communication that Byrne would not consent was made in writing, but I am not quite certain.

16036. As to the other statements in that letter, so far as you are concerned, are they true?—They are almost true. There are some few things that are not exactly correct. On the whole they are true.

16037. Now you say you paid some small sums?—Yes, not to any large amount.

16038. You were there up till when?—The end of June; but my disbursements for secret-service money were very small.

16039. There is an account here mentioned for 156 days. That would be the whole time you were there. The precise amount is £473 19s.?—Yes.

16040. In your evidence (question No. 43) I find something on which I think the Commission will certainly require some information. I find that you are just as lavish in your praise of Mr. Hare as you were in blame of Mr. Nicolson: "I need not say I was most ably seconded by Mr. Hare, who not only never spared himself in any kind of way, but was most indefatigable in the pursuit of the outlaws. Not only was he most active and energetic, but he was so popular with the men under him that they would have done anything in the world for him. In fact, he treated the men under him like friends, not like dogs." The Commission will require an explanation of that?—An explanation of what?

16041. As to one man "treating them like men" and another "like dogs." You held a very responsible position, and a statement like that ought not to go to the public without full justification?—I do not want to say anything against Mr. Nicolson, but if you insist upon my speaking I must do so. Shortly after Mr. Nicolson took charge, on the occasion of my first visit to Benalla, I went to the office the following morning and had a long talk with him, and then we went to the stables, where all the horses were in rather a rough

state, and I said, "I want to see this horse out," and said to a constable "Lead him out," and it seemed that Mr. Nicolson had given orders that everybody taking a horse out of the stable was to stand in front of him and hold him with both hands. The language that Mr. Nicolson used to that man for not doing that was really positively disgraceful.

16042. What were the words?—I cannot remember the words, but it was most violent language.

16043. We have many statements about Mr. Nicolson in this evidence that are very vague, but they convey a very bad impression. We want to get evidence. I need not tell you that the impression left on my mind is that those statements were intended to leave a bad impression?—I assure you that I have uttered nothing but what I meant, and what I stick to and adhere to, and what I believe to be true.

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16044. What did Mr. Nicolson say to that man?—I cannot remember the words, but it was the most violent language I ever heard.

16045. Is that the only instance?—There are many instances I could quote, but of things that occurred not in my presence.

16046. Do you remember who the constable was?—No, I forget that. It was one of the mounted constables on duty.

16047. It is very unsatisfactory to put a charge like that on the book?—I shall be glad for that to be erased if you wish.

16048. Was it his general demeanour?—I was very little with him, but I have heard so many things about him in that way that I know they are true.

16049. Where did you hear them?—From members of the force.

16050. Can you name anyone that can give evidence of that?—I should not like to name any man, because it might compromise his position.

16051. We have had evidence from plenty of members of the force, and no man's position would be compromised by giving the name?—I would rather not say anything about the constable. It might possibly do him harm.

16052. Did you not consider, when you made that statement, the injury that it would possibly do Mr. Nicolson?—A man very often says a thing on the spur of the moment.

16053. This was not said on the spur of the moment?—Where a man has to make a lengthened statement before a Commission and has not had time to prepare.

16054. There is a clear plan running through your evidence, and that plan is to elevate Mr. Hare and depress Mr. Nicolson. I ask any man to read that, and if he does not rise up from the reading of it with that impression I do not understand his mental power?—With all due deference, I stick to what I said. I have no occasion to change my opinion.

16055. But then you damage Mr. Nicolson, and will not give him the slightest opportunity of protecting his character?—I merely tell you I gave my evidence straightforwardly and truthfully, and I adhere to all I said, and I have no occasion to change a word of what I said.

That does not make the attack less gross upon Mr. Nicolson.

*The room was cleared.*

*The public were re-admitted.*

16056. We were speaking about the language of Mr. Nicolson to the constable—would there be any difficulty in finding out who that man was?—I could not tell you. I have not the slightest idea.

16057. How many men were usually in charge of the stables there?—There was only one man there when I went in with Mr. Nicolson.

16058. Was any other officer besides yourself and Mr. Nicolson present at the time?—No, only Mr. Nicolson and myself.

16059. What had Mr. Hare done at this time (question No. 43) different from what Mr. Nicolson had done that you praise him so much?—I think he is the best officer in the police force out and out, without any exception.

16060. In what respect does the contrast come between the two officers, because the difference in speaking of them is very marked?—That one is a most popular man in the police force and the other is about the most unpopular man in the force.

16061. Is that the only cause of your speaking with reference to him?—He is popular because he is kind, genial, and active, and never worries the men under him, and the men who have been serving under him would do anything for him.

16062. Do the police perform their duties more efficiently under Mr. Hare than under Mr. Nicolson?—I should think they would.

16063. You ought to know the fact whether there is a marked difference or not?—Of course you all know that a police officer who is an active man, and who has pleasant manners and is kind and genial to all the men, they would do anything in the world for him, and I am quite certain there is not a more popular man in the police service than Mr. Hare.

16064. It is not a question of what you heard or said, but do they act more efficiently under Mr. Hare

than under Mr. Nicolson?—I am certain they would.

16065. I ask do they act more efficiently?—They do.

16066. Has Mr. Hare shown any superior knowledge of office work over Mr. Nicolson?—No. Mr. Hare has the office work as superintendent, and that is not very voluminous. It is in work he can get through it in about half an hour in the day.

16067. I think you mentioned that you came down to town and found the office in a muddle under Mr. Nicolson—do you adhere to that?—I go by what I heard from the clerks in my office.

16068. Mr. Moors has been before the Commission, and said there was nothing of the sort?—Well, I should be very sorry to give him the lie. Of course he is a most honorable man. I have a great esteem and regard for him; but there is not the slightest doubt that evidence came from the clerks in my office. That I adhere to most firmly.

16069. Mr. Moors in his evidence explained that by saying that Mr. Nicolson was not so perfect in office work as you were, and did not perhaps deal so rapidly with papers—delayed them a little longer in the office; would that be a reply to that statement?—Well, I suppose it is a *quasi* explanation.

16070. But then Mr. Moors said that all the papers that could be were cleared up every night, so that the office was never in any muddle whatever—would that be a correct statement that only a few papers were left for you officially to deal with?—All I know is from hearsay.

16071. You would know if they came under your own notice?—He was performing my duties in the office for about six months, but there were no arrears of any importance left when I arrived there. There were some few papers that had been dealt with.

16072. Do you adhere to your statement that the office was in a muddle?—I am going from what I heard from the clerks in my office.

16073. Is there any clerk in the office that would be able to give the information?—I would rather not give the names of anybody, it might do them harm.

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16074. Did you approve of the work done by Mr. Nicolson during that time, or find fault with it?—I am not saying I found fault with anything particular; I am only saying what I heard from the clerks.

16075. They said they were kept longer hours?—Yes, sometimes till half-past eleven.

16076. Are there any clerks that are likely to be able to give evidence on that besides Mr. Moors?—I cannot state the names of anybody.

16077. Would any of the clerks be able?—That I cannot say.

16078. Did you ever complain to Mr. Nicolson that he kept work in a muddle, and kept the clerks back?—No, I do not think I did. It would have done no good.

16079. If any real cause of complaint had come before you, would it have been your duty to put a memorandum on the papers indicating your sense of the conduct of Mr. Nicolson?—There was no formal complaint ever made to me—no official complaint.

16080. Did you, as a matter of fact, see cause of complaint when you came down?—As I said, there were a very few arrears; and as I was only down for a few hours three times during the time of my banishment at Benalla, I could see nothing personally myself of the working of the office.

16081. You gave evidence here that the office was in such a state that you had to leave Benalla and come down?—There were complaints about the correspondence in various districts.

16082. How did you discover those complaints?—Well, I heard of them by private letters generally. I was urged to come down and take charge of the office.

16083. By whom?—Well, as I tell you, I do not like to give names here.

16084. But somebody must have done it. The Commission are, at all events, bound to the plain statement, when you have made this statement about things being muddled in the office?—That is what I learned when I came down and what I heard before.

16085. Who was the party that reported that to you—was it Mr. Moors?—I think it would be unfair to give up the names of anybody, because it would do them harm.

16086. I respectfully submit to you how unfair it is to make a charge to the detriment of Mr. Nicolson and not give the authority for making the charge?—Generally, it was the opinion of most of the clerks in the office.

16087. If it is not desirable to, give the names of witnesses, it is not desirable to make a charge. You ought to have the proof against a man?—Well, I would sooner withdraw that part of my evidence than give the names.

16088. It cannot be done. A charge is made, and the proof must be given of the correctness or otherwise of it. I think when a charge of that character is made against an officer, the proof must be given. If you have not proof yourself, the evidence on which you acted must be given, and the authority you have for making the charge must be produced for the benefit of the Commission. Surely there would be more than one officer in the department who would know about this. Can you not indicate any other clerk in the office?—You are at liberty to call all the clerks, or any witnesses you choose.

16089. You received information from the office that you thought of sufficient importance to bring you to town?—Yes.

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16090. That being so, you arrived at the office, and satisfied yourself there was just cause for bringing you down?—Yes.

16091. That being so, the Commission require the evidence on which you acted, in corroboration of the charge now made against an officer of the force. I think it must be done?—Pretty well all the clerks told me that owing to Mr. Nicolson coming late, and not staying very long, they were kept very late.

16092. Whom did you receive those statements from?—Those were verbal.

16093. But you received a written communication that led you to come down—whom did you receive that from?—I shall not say.

16094. I think you must say. I think you are bound to reply to that question?—Well really, I do not want to say anything to contradict Mr. Moor's evidence, or to impugn his veracity. He is one of the straightest men I ever met.

16095. You see the strange position in which Mr. Nicolson is placed. A charge is made to his detriment, and we want to see justice done to all parties, and, when you have made the charge, you must abide by the circumstances and produce the evidence?—I have not the letter.

16096. Then you should say the name?—I cannot say positively the name.

16097. Can you say, on your oath, you cannot say from what officer you received the letter making the charge?—I could not positively say.

16098. How many officers are there you could receive it from in the office—what gentlemen in the office would presume to write to the Chief Commissioner?—I am not certain whether it was in writing or verbally.

16099. You said you got a letter?—I got a letter in which there was an expression of regret that I was not in the office, because I got through the work much more rapidly than Mr. Nicolson.

16100. The charge must have been in writing if it induced you to come down?—It was no charge, and I am not certain whom it came from; but it complained they were kept so long, owing to Mr. Nicolson coming late to the office.

16101. You said in consequence of the office getting into a perfect muddle you had to leave Benalla and come down—you still adhere to that?—Yes, I do.

16102. You just now expressed your readiness to withdraw that statement altogether?—How?

16103. That the office was in a muddle?—Well, "muddle" is perhaps not the word. I mean that the business was not got through at all quick.

16104. That is another matter altogether. That was not the impression that was conveyed by your evidence quite. I imagined, not that the clerks were kept late, but that the office business was badly done, or not done at all. If you wish to modify your statement, so as to say the work was not done so well as in your time?—That is what I meant—that the work was not got through so promptly.

16105. Was the work of the office in arrear at the time?—There were several things standing over.

16106. You got this letter from someone in the office. Is there any other gentleman in the office occupying a position of sufficient importance beside Mr. Moors who would write to you officially on the subject?—I got no communication officially on the subject; I got a private letter.

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16107. That would not surely bring you down to do official duty. You say you came down to put the office right?—Yes; and the general management of the police force. I had no official communication on the subject from anyone.

16108. Has Mr. Hare had anything to do with the office work in town?—Never during my time.

16109. Do you wish to abandon that charge of the office being in a muddle?—I want to explain what I meant, that there were complaints that the business was held over, and the clerks were kept a long time beyond their usual time, owing to Mr. Nicolson not coming to the office early.

16110. Were there any more clerks employed in the office when he was there than before?—I fancy not.

16111. Then, if the work was got through every night except a few papers for yourself to deal with, could the office be in a muddle?—The word "muddle" is rather a vague word. I mean the work was not got through quickly or expeditiously.

16112. That is simply abandoning the charge, is it not?—I leave it to you to decide that.

16113. Could there have been more work at that particular time in the office owing to the Kelly business?—I do not think there was much more.

16114. You have expressed an opinion about Mr. Hare. Has Mr. Hare done anything extra either outside the office, in the field, or in the office beyond what Mr. Nicolson has done?—Mr. Hare has always been one of the most active and energetic and capable officers of the police force.

16115. Mr. Nicolson asked you yesterday if any business ever failed under him that you gave him to do, and you did not reply?—As Inspecting Superintendent?

16116. Yes?—He used to go round and send in a long report.

16117. He had other duties before that; was not Mr. Nicolson an energetic officer?—Excessively reticent and not fast.

16118. Was not he a reliable officer?—I know nothing against him.

16119. That is not an answer to the question. Was not he a reliable officer while he was engaged with you twenty years?—I had no reason to doubt his reliability, but he was so excessively reticent and mysterious at all times, particularly at the time of the Kelly business.

16120. Did he do his duty?—He was very slow in many things he did.

16121. This led you to push to the front a younger officer in the service?—It was from purely conscientious motives.

16122. Why did you pass over all the others who were entitled by priority to the position besides Mr. Nicolson?—Because I thought, and think still, and everybody will admit it, that Mr. Hare is the most suitable officer for that kind of work. I mean for the work in the Benalla district.

16123. Was Mr. Chomley not considered suitable for the work?—I do not know how he conducts the business of the office. I know nothing about that. He is an excellent officer.

16124. And there was Mr. Winch, who was senior—would not he have been adapted for the position?—In selecting an officer I selected the one I thought by far the most suitable.

16125. Was it in consequence of your not thinking the others adapted for the position?—It was my duty to select the fittest man for the work, and I did it.

16126. You thought Mr. Hare the best man?—Certainly.

16127. Was that the sole reason that actuated you in the appointment?—The sole reason.

16128. In making that selection, would you suppose that the senior officers would naturally have cause of jealousy?—I do not see it. It is my duty, in the position I occupied, to select the man I thought the fittest, and I did it. Mr. Hare, in addition to that, was a capital horseman, a good shot and bushman.

16129. As a question of precedence amongst the officers, would they be justified in feeling jealousy in consequence of your preferment of Mr. Hare?—They may have, but they had no right to.

16130. Did ever Mr. Nicolson go to inspect Mr. Hare's district?—Yes, once, I believe.

16131. Did Mr. Hare at any time object to his inspecting the district?—I have no recollection of any objection of that kind being made.

16132. Did he ever make any request that Mr. Nicolson should be brought away from his district?—I have no recollection of it, and I do not think it was ever done.

16133. There is one thing I wish to ask with reference to the Kelly outbreak—the black trackers were brought here contrary to your wishes?—Yes, they were.

16134. I think, in answer to Mr. O'Connor, when he was asking you why you did not inform him or order him and his "boys" to pick up the tracks, you said, "Because if we had you and your numerous baggage, horses, and trackers, we should have been known some hours before we got there." Was that when you went to Sebastopol?—They were not here then. It was four months after that that they arrived.

16135. Would it not have been advisable on the occasion of going to Cleary's hut, where you expected to find the outlaws, to have the trackers?—I think Mr. Hare had a black tracker with him. It was information that the outlaws were to be in the place that night, but it turned out to be unreliable.

16136. Suppose you had found the outlaws had just left the place, would it have been advisable to have the black trackers the next morning to go in pursuit?—No doubt the trackers are of use to track in an almost uninhabited place like Queensland, but I am perfectly certain, if they had been put on the tracks of the Kellys, for instance, after sticking up the bank, they would not have been of use. The outlaws travelled eight or ten miles in the hour, and the trackers have to look on every side, and the outlaws all took different routes, and had their friends with them to confuse the tracks, and I am certain the trackers would not have been of use.

16137. We have evidence that they can go forty miles a day?—On clear country, but not in that country up there, and where the outlaws all separate and ride different routes.

16138. Do you consider that Mr. O'Connor, from the fact of his bringing trackers from Queensland, had a right to complain of your not giving him the chance of following?—We never had a chance. The only time we had a chance the trackers were away—when Mr. Hare went to the Warby Ranges.

16139. There was a time that Mr. O'Connor said he had had a chance on the information you received?—The trackers were away on that occasion; but whenever I heard any information likely to lead to good results, it was necessary for me to be as cautious as possible. If you went jabbering about things to Mr. O'Connor and others, it would at once get spread all about.

16140. Could you not rely on the police?—Most of them.

16141. What was the good of Mr. O'Connor being there with his trackers then?—The trackers were not there at the time.

16142. What was the use of Mr. O'Connor in the country?—As I told you before, I entertained that opinion before and afterwards, and entertain it still, that in the event of their having to follow the outlaws after any outrage, they would have been of no use.

16143. Why not prove that to the public by giving them an opportunity?—They went out tracking several times when they first came, but we had no opportunity of putting them on after that.

16144. We have had evidence that they were put on in several places, and proved very successful in

that district—that they succeeded in capturing people guilty of offences since then?—That is very different, following a criminal making his way out of the colony, and following four outlaws galloping about. I quite agree that black trackers may be utilized for certain purposes, but for going out after the outlaws they were not the slightest use. Those men you speak of are special trackers we have got from Queensland.

16145. You have no knowledge that Mr. O'Connor's trackers were different?—No doubt they could track well enough.

16146. They were experienced trackers that Mr. O'Connor brought?—Yes; but those you allude to are those I got from Queensland myself.

16147. Have you any proof that they are better trackers than the others?—I have no connection with the department now, and cannot give you any information about that.

16148. Mr. O'Connor was not assigned a definite rank in the police; he seems to have been sworn in as a constable?—No, he was sworn in as a sub-inspector.

16149. Was he gazetted to any position in the police force?—He was sworn in.

16150. As a constable?—No, I think as an officer. At any rate he came and occupied the rank of sub-inspector.

16151. Was that assigned to him by the Gazette, by regular and proper appointment?—I fancy it was in the Gazette, but I cannot remember.

16152. It appeared that nobody knew whether to follow his orders or not?—He was merely in charge of the black trackers in search parties, under the officer in charge.

16153. Had he any authority over white constables?—No, none whatever. He was only temporarily appointed as a sub-inspector of police in charge of the trackers.

16154. No authority over any sergeant?—None over any white policeman or officer whatever.

16155. Mr. O'Connor stated that while you were at Benalla you were very unwilling to enter upon the subject of the pursuit of the Kellys with any of the officers in conversation. In questions 1091 and 1092 he says:—"How long was this after you received information about the horse?—A considerable time—months. Captain Standish, I may say, did not believe anything. When we gave information about it, he laughed at it, and took no more trouble about it. Up to about this time, and a little later, Captain Standish was upon the most intimate terms with me (in my statement in my report of 7th September, it ought to be fourteen months he treated me most discourteously, instead of sixteen), and often expressed a wish that I would join the Victorian force after the Kellys were taken. Captain Standish showed a great want of interest in any work in the Kelly pursuit. This was not only observed by myself, but by both Mr. Sadleir and Mr. Hare." "Was that verbally or how?—Repeatedly, day after day. Mr. Sadleir will be ready to prove it, and I suppose Mr. Hare will repeat what he has often said to me. In fact, Mr. Sadleir often observed to me that he could never get two minutes' conversation with Captain Standish upon Kelly business; that the moment he began to talk upon the subject Captain Standish would take up a novel and commence to read. Mr. Hare also frequently remarked the indifference of the Chief Commissioner to his work." And so on. Are those statements true?—They are a tissue of lies from beginning to end.

16156. Here is Mr. Sadleir's evidence at page 424 of the printed evidence. Mr. O'Connor here asks Mr. Sadleir:—"Is my statement in questions Nos. 1091 and 1092 correct:—'Captain Standish showed a great want of interest in any work in the Kelly pursuit. This was not only observed by myself, but by both Mr. Sadleir and Mr. Hare.'" "Was that verbally, or how?—Repeatedly, day after day. Mr. Sadleir will be ready to prove it, and I suppose Mr. Hare will repeat what he has often said to me. In fact, Mr. Sadleir often observed to me that he never could get two minutes' conversation with Captain Standish upon Kelly business; that the moment he began to talk upon the subject Captain Standish would take up a novel and commence to read?"—Well, Captain Standish is not here, and not in the service." "No matter I make this statement, and it is to corroborate or otherwise my statement?—What is the question then?" "Nos. 1091 and 1092. If the Chairman thinks I ought not to put it I will withdraw it." "*The Chairman*.—I think it may be put, under the circumstances." "*By Mr. O'Connor*.—Will you answer that?—It is quite true that Captain Standish showed want of interest in the work; we all remarked it—every officer there.' Is that true?—It is not true. I assure you that never at any period of my life had I as much anxiety as in the six months at Benalla.

16157. "*By the Commission*.—You have made a very peculiar statement, that is that you begged of him to allow you to speak to him calmly, to sit down and not feel irritated; was there any necessity for anything of that sort?—He had grown very irritable of late. Of course I should be sorry to say anything hurtful to a man's feelings, and make him appear irritable; but he was so constitutionally. His temper had become infirm—no doubt about it." What do you say to that statement of Mr. Sadleir's?—I do not think I was of an irritable temperament.

16158. And they could not get you to speak on the Kelly business at all?—I used to go to the office every day, and speak with Mr. Sadleir and Mr. Hare, and never kept anything worth knowing from Mr. Sadleir.

18159. Those are very serious charges from your own immediate officers?—All I can say is there is no foundation for them.

16160. And they are not true in fact?—I say certainly not. Of course you can understand that if I had got a piece of secret and important information, which it would not do to let fly about until I had considered how it should be acted upon, I would keep that strictly to myself. If a man, directly he hears of anything, spreads it about, it will be known all over the town in ten minutes.

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16161. It seems passing strange that they should be so unanimous. Mr. Hare states "Mr. O'Connor never, when we were on terms of friendship, said, 'If Captain Standish had done so and so we would have got the Kellys.' He used to remark to me the indifferent manner in which Captain Standish behaved from time to time when the subject of the Kellys was mentioned." "What do you mean by indifferent—apathetic?—Yes, apathetic. He would change the subject to something else; and Mr. Sadleir has remarked the same." Every officer under your command?—I positively deny I was ever apathetic, and I do not know when I was so worried mentally as while I was at Benalla; and as to saying I neglected the Kelly business, that is a wilful falsehood.

16162. One says you threw yourself on the sofa, one says you took a novel, and another says you would not give two minutes to speak?—You are aware that I used to go to the office and stay the greater part of the morning, and after that time I had nothing to do, and used to go back to the hotel. I deny that I ever neglected my duty. I do not suppose there is anybody who had so much mental strain and anxiety and worry upon him as I had at that time.

Of course Mr. Hare qualifies it in the next two sentences. He says that he thinks you were not so, but his statement in that sentence is very definite.

*Mr. Hare.*—May I be allowed to read questions 1327 and 1328:—"What do you mean by indifferent—apathetic?—Yes, apathetic. He would change the subject to something else; and Mr. Sadleir has remarked the same." "Mr. O'Connor said you had several times remarked to him that Captain Standish was indifferent?—I do not deny Mr. O'Connor's statement. I dare say I may have said, 'He does not take a great interest when you speak to him'; but when I have spoken to him he has always shown the utmost interest in the whole affair." I wish to call attention to the whole of it.

16163. *By the Commission (to the witness).*—Can you explain in any way how it was you were altogether indifferent, and treated the subject of the capture of the Kellys with indifference when either Mr. Sadleir or Mr. O'Connor spoke to you?—There was a complimentary telegram sent to me from Lord Normanby, praising the officers and men, and I had a similar communication from Lord Augustus Loftus.

16164. That is no answer to the question. Those men charge you with directly pursuing a policy of non-interference, and would not speak to them on the subject except under great pressure; that they could not keep your attention up to it for two minutes together?—That is decidedly untrue. I tell you I was never so worried in my life as I was at Benalla with the mental anxiety I had there. I lost upwards of a stone weight.

16165. Mr. Nicolson also in his evidence says at question 597, "You did not carry on a correspondence with him while you were in Melbourne doing duty, telling him verbally or by official communication that you considered the system of riding after the Kellys would be inoperative?—You had better ask him, but I have no recollection of it. When I came down to town—when I was in town in charge of the department, on every occasion that Captain Standish was called down to town by the Government, and it was very often he would be in my office, and he was most remarkably reticent, and never would give me the slightest information—I would not ask him. At the same time I always asked him, 'Do you wish me to go up, I am ready to go at any time?' That was all that passed between us, and he would shake his head and say nothing, and I knew nothing from that time of what was going on in the country." That is strange conduct towards every officer under you?—If I had nothing to tell him, how could I tell him anything?

16166. One would hardly think you would be without anything to speak of about the Kelly business at that time?—I had nothing to tell him when I came down, and if I had had any important information, I should have kept it strictly to myself.

16167. Why did not you keep it from Mr. Hare?—Mr. Hare was virtually in charge of the working part of the Kelly pursuit.

16168. No, it is upon both occasions he could get no information from you when in the office—you would not impart any to him?—What could be my object in doing so?

16169. When you were in the office together?—If I had nothing to tell him, how could I?

16170. Then in reality you consider that according to your evidence that you had a right to keep all the information to yourself and not let your officers know anything?—I had a perfect right.

16171. And you considered that the best way to manage the affair?—If you talked about everything, it would be a great error.

16172. Did you ever find Mr. Nicolson untrue to you when you spoke about anything?—Not to my knowledge.

16173. Why did you not give him some little confidence, to know what was going on?—If there was nothing going on, what could I tell him?

16174. Do you mean to say there was at any time, during the Kelly outbreak, nothing going on in reference to it—that there was not sufficient to talk about so as to consult?—We were sometimes weeks and weeks without hearing of them.

16175. You tell us you always consulted with Mr. Hare?—When he was up there with me, and very often with Mr. Sadleir. We generally used to talk the matter over.

16176. Mr. Sadleir has sworn he could not get you to speak for two minutes at a time?

*Mr. Sadleir.*—That was only on occasions. Captain Standish often consulted with me.

16177. *By the Commission (to the witness).*—Then the fact remains that you were six months in the district and it ended without any result?—Certainly.

16178. And ended with all your officers complaining that you would not give them any of your confidence?—I had perfect confidence in Mr. Hare and Mr. Sadleir. Why I should go and tell other people anything seems to be rather curious.

16179. They have all complained?—Who do you mean by “all”?

16180. Mr. Sadleir, Mr. Nicolson, and Mr. O’Connor?—Mr. O’Connor was merely subordinate, in charge of the black trackers—why should I tell him everything I heard?

16181. Was he not recognized as a branch of the service, and it was advisable for him to know what was going on?—I am afraid it would have got about.

16182. Did Mr. O’Connor, to your knowledge, tell anything of importance that should have been kept secret with reference to the Kellys while you were with him?—I do not know what you are alluding to.

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16183. You see how unsatisfactory the evidence is—it is no reply to the charges of this officer that you say it might have got about. They have simply made a charge, and there is no reply other than that it is not true?—I do not know what the charge is you particularly allude to.

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16184. They have made charges that it was difficult to get you to speak to them about the Kellys and outrages?—I certainly did not deem it part of my duty when I heard anything to go and blab it about to everybody.

16185. They all complain you did not give them confidence, and when I asked whether you had ever found them breaking confidence with you by telling what you told them you say no?—Not to my knowledge.

16186. Quite so?—But with reference to that I may tell you, as a matter of policy—a matter of duty—that when a man hears an important piece of information, which may possibly result satisfactorily, to go and tell everybody, that I think the man would be a fool.

16187. Do you consider the three officers co-operating with you “everybody”?—I had perfect confidence in Mr. Hare and Mr. Sadleir.

16188. What shook your confidence in Mr. Nicolson—was it telling what you had told him about the Kellys?—I had a most friendly feeling towards Mr. Nicolson.

16189. You have left him out several times in that clear way, to mark that you had no confidence in him, I presume—did he ever betray your confidence by telling your secrets with reference to the Kellys?—Not to my knowledge.

16190. About the information that might lead to a satisfactory result not being divulged—how could satisfactory results be obtained from information of that kind, if the information was not divulged to your responsible officers?—If action had to be taken on it, it would be divulged.

16191. What satisfactory action could be taken if not from instructions about the information?—If I had received information that was necessary to act upon at once, I would have instructed the officers at once, and told them all the information.

16192. You say that by divulging information which you may have received to your officers it might prevent leading up to satisfactory results—how could that be, when those results could not be obtained without informing your officers who would require to carry out the work?—Of course, the two officers serving with me at Benalla, Mr. Sadleir and Mr. Hare, I had perfect confidence in, and I would never withhold anything from them.

16193. That implies that a certain officer you had, occupying a responsible position, you had not confidence in. Now will you say what officer you had not confidence in, and what was the cause?—I had perfect confidence in Mr. Sadleir and Mr. Hare.

16194. Whom, occupying the same position, did you not have confidence in, and would not entrust with that information?—Those are the only two officers that served with me at Benalla.

16195. What officer would not be worthy—you have spoken of those you would trust?—The only two that served with me there were Mr. Sadleir and Mr. Hare.

16196. Mr. Nicolson was for a long time at that work?—Not with me.

16197. No, but that would equally apply to information you might receive in town. Supposing you occupied your position as Chief Commissioner in town, you might receive information—would it not be your duty to convey it, not only to the officer in the district, but equally to officers in other districts?—It depends on the class of information. I would convey it, if necessary, to Mr. Nicolson direct, and to Mr. Sadleir, in the absence of Mr. Nicolson.

16198. What is the ordinary custom of the Chief Commissioner, who may be the recipient of valuable information with regard to any outrage, what course he should take to bring the parties charged with any offence against the law to justice?—In any ordinary district I would communicate to the officer in charge of the district by telegram; and, if an urgent matter, to the policeman at the nearest station.

16199. Would your communication stop there; would that be the extent of the information?—It depends entirely upon the nature of the offence.

16200. I think if you are anxious to capture any person guilty of a breach of the law, the information that would be necessary to convey to any officer it would be necessary also to convey to the officers in charge

of every district?—Exactly; but that depends upon the nature of the offence.

16201. Should it not be the practice at all times for the Chief Commissioner of Police to cause the necessary information to be given to every branch of the service, all over the colony, as well as to officers in the other colonies?—Certainly, in case of crimes of great magnitude, but not petty offences.

16202. These are not petty offences we are talking of; and I would like to have your answer, as the result of your long experience, as to your practice in that case. If you received the information, did you then take immediate steps to convey that information to every officer in charge of every district in the colony?—In crimes of great magnitude I might, but that is generally done by the officer in charge of the district. The officer in charge of the district does what is necessary.

16203. You seem to evade the question?—I do not. I say if a crime of great magnitude is committed, and there is a trace of the person absconding, it is the duty of the officer of the district, to communicate with nearly all the stations in the colony.

16204. Then it would be your duty as Chief Commissioner to give the necessary instructions to your subordinate so as to convey it by telegram to every station in the colony?—It is very expensive to send to every district in the colony; it would cost £100 to send it to all the districts. The district there is so enormously large.

16205. You say you had to keep the information entirely to yourself—it would have been dangerous to have communicated to your officers even the plan of operations you had mentally decided to carry out. Is it not, as a matter of fact, the practice of the police force in every case when a crime is committed to let the chief officer of every district in the colony know the nature of the offence and the character of the offender, in order that the regular course may be taken for the capture?—No, it is not the custom; it is the custom that if a criminal is wanted in a certain district to telegraph to all the adjoining stations, but if a crime is committed in the North-Eastern district it would be folly and waste of money to telegraph to Portland.

16206. With regard to your position whilst you were in charge of the district there, did you ever make a practice of consulting at given periods with the officers under your charge as to the efficacy of

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carrying out the plan of operations you had then determined on or as to altering them?—We used to talk the matter over almost every morning in the office, Mr. Sadleir, Mr. Hare, and I.

16207. I presume you worked on a decided plan of operations in carrying out the search; there was some recognized plan?—I cannot say there was some recognized plan, because the information was so very slender and so very infrequent; but I very soon found out that the plan of having large search parties all over the district was waste of time and money.

16208. Did you on any occasion specially intimate to the officers the advisability of meeting at a given period to take into consideration the best mode, with a view of capturing those men?—No, never.

16209. Do you think now, in the ordinary way, the efficiency of the force would not be improved by such a system being recognized?—What system?

16210. The system of confidence with the officers. Instead of a gentleman occupying the responsible position of Chief Commissioner of Police undertaking solely the responsibility of the plan of operations, which might or might not be successful, would it not add to the probable efficacy if he consulted with other officers under his charge?—I used always to consult with officers I had confidence in; but there are lots of men in the police force whose opinion I would not be inclined to take, not that I want to say anything against them.

16211. There is something implied in that—that there were some officers who were not deserving of confidence?—I mean whose opinion I would not value.

16212. May I ask what are their names?—I do not think that is fair.

16213. Was it any officer in charge of that district?—No.

16214. Then it does not apply?—No. I had perfect confidence in Mr. Hare and Mr. Sadleir.

16215. Do you remember upon whose recommendation the force was weakened in the North-Eastern district before the Kellys broke out. There were several stations closed—Glenmore and Hedi—and several had one or two constables taken away from them. How did that come about?—It is such a long time ago, and having no official documents to look back to, I can hardly be expected to give an off-hand answer to that.

16216. Do you remember any reports coming in against the closing of those stations?—I believe, from Mr. Nicolson's evidence, he states that he reported against Glenmore being broken up; but this was many years ago, and I have no distinct recollection of what occurred at the time.

16217. Did Mr. Nicolson report more than once against it?—I cannot tell you.

16218. Were you aware that it was a district notorious for cattle-stealing and horse-stealing?—Had been for years.

16219. Do you think if those stations had been kept at their usual strength that there would have been so much likelihood of the outbreak?—I do not think that question would have affected the outbreak. There was no doubt the outbreak was not premeditated; but at the time of the outrage on Fitzpatrick the men took to the bush, and then the shindy began. That station at Glenmore was at a very out-of-the-way place, and there was only one constable there.

16220. Was not it on the track of the mountains?—It was close to a station that belonged to the Quin

	<p>family.</p> <p>16221. Was the lawless character of the North-Eastern district fully reported to you before those stations were abolished?—It was generally known to be a cattle-stealing district for many years.</p> <p>16222. The Hedi district was opened about that time, and I see in this report of Mr. Nicolson's upon the district, of 2nd August 1877, he says:—"Crime report book.—About six cases to date in 1877, mostly horse-stealing, which horses were ultimately recovered, impounded in New South Wales. This is a form of crime which is said to be common here, when the Murray River is low. The animals are said to be impounded with the view of buying them out cheap. They are frequently recovered, but the offenders, said to be New South Wales men, are never convicted. I can see no difficulty in bringing the offenders to justice, if the Ovens district police make systematic arrangements, with the co-operation of the well-known Mr. Singleton, who is in command of the New South Wales police, Albury district." Was there any action taken on that to increase the security of property in the district?—The police force was not increased there.</p> <p>16223. Mr. Montfort, when under examination on this question, was asked:—"Is it your opinion that, if the police stations which were dispensed with had been kept up and the same watchfulness observed, that the Kelly difficulties which afterwards occurred would have been prevented?" He replied—"It would certainly have had that effect no doubt—the same stations, and proper men in charge. I have heard that the man placed in charge of Glenmore station was utterly unfit. I did not think of that just now, when you were asking about the abolition of the station. There was a constable named McInerney; this I heard afterwards—". Was that the man dismissed?—He died in the Lunatic Asylum I think, or got killed—I am not certain."</p> <p>16224. Did it ever come under your notice that efficient bushmen were taken away from that district and men who could hardly sit upon a horse were sent up to occupy their positions?—We admit no men into the mounted police force unless they can ride well. Of course some young men, who have been young experienced bush-riders, are better riders than others; but every man has to pass as a rider, and if he shows he is a bad rider he is not taken on.</p> <p>16225. Do you remember how long it is since Mr. Brooke Smith took charge of that district?—It was a sub-district then. He was never in charge of a district—he was under Mr. Sadleir.</p> <p>16226. Did it ever come under your notice whether he was a man who could be relied upon or not?—I do not think he was a man with very much head, not much mental capacity. I would rather this should not be published.</p> <p>16227. We have plenty in the evidence already about him, that he was a man without courage at all at the time of the attempt to catch the Kellys?—I have seen that in the evidence.</p> <p>16228. You were not aware whether he was a man of courage or not?—No, it was never brought under my notice one way or the other.</p> <p>16229. Were you ever made aware whether he was given to intemperate habits?—I did not know that; I never saw him the least under the influence of liquor.</p> <p>16230. Did you see the evidence given here, that the police were unable to use arms—have you any explanation to give to the Commission why?—As you are aware, the only weapon that the mounted police</p>
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had was the revolver, and a great many of them have had no practice with guns or rifles. If, as I understand, after this part of your labors is concluded, you proceed to enquire into the future organization of the police force, I shall on that occasion be most happy to give any information you wish; and I think I have some suggestions which, if you examine me, you will think it advisable to adopt. I remember, several years ago, insisting upon having all the men drilled here once a month, and firing and using their arms. There was a great outcry against it. The Chief Secretary of the day said this military organization was very bad and it must cease.

16231. It was through that that organization was prevented?—It did not interfere with the discipline of the force, but with its action as a semi-military body.

16232. We will not pursue that subject further at present. We simply have it in evidence that the men were not armed, and that when they were armed a great many did not know how to use them?—The weapons were breech-loading double-barrelled guns.

16233. That they were not expert in the use of them at all. Here is the report with reference to Mr. Brooke Smith.—"Benalla, 10th November 1879. My dear Captain Standish,—I went up to Beechworth on Tuesday last, the 4th instant, and returned the following day. I am sorry to have to write you on such a painful subject in connection with my visit. I saw poor Brooke Smith for a short time on each of those days, and he was a wreck both in body and in mind. There was no odour of liquor about him, but his appearance was wretched, and his memory apparently much gone. He seems to go about muttering and speaking incoherently about the Kellys, &c. He evidently has broken down in mind just now, and his presence as chief officer at Beechworth at the present time is simply a reproach to the department, and I assure you I cannot correspond with him on any matter of the slightest importance. But I have to write to Ward. It appears to me that the Kelly business has preyed upon Brooke's mind, and that he requires a change and medical attention and relief from duty for some time. I was quite shocked at the change I observed in him last week, and I fear the consequences if he is not removed; even suicide was suggested to me by more than one person at

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*continued.*  
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Beechworth. But I do not think Brookes has the courage for that remedy." That is written by Mr. Nicolson. "I was also told that his private circumstances were bad just now, and that was also preying upon his mind. I would suggest that he be ordered promptly to Melbourne, and after a fortnight's leave of absence there, and quiet living among his private friends, you may then be able to decide what to do with him. At present he is not only useless in Beechworth but an object of reproach to the whole service." Did you do anything upon that information?—If I remember right, I gave him leave, and he came down and stayed with Judge Hackett and his wife. I know he came down here for the benefit of his health and stayed with them.

16234. Is he in charge of the district now?—No; he is in the Wimmera district now, under Super intendent Nicholas, stationed at Horsham. He is in charge at Horsham, and has to assist Mr. Nicholas in the supervision of the district.

16235. You complained of Mr. Nicolson not giving you information?—I certainly did.

16236. Did you, as a matter of fact, show his private letters to Mr. Hare? I may have shown him one, but I am not quite positive, and I am not in the habit of showing those letters to anybody.

16237. Mr. Nicolson complained that his advice was neglected. If you look at question No. 619 you will see he says—"Any advice I offered on the strength of my experience was pooh-poohed previous to that and on that occasion." That was with reference to the advice given by Mr. Nicolson. "On this occasion you left no record, neither did you verbally express to the gentlemen with whom you were associated as officers the importance of following out any course you thought best adapted for the object you had in view, neither in writing nor verbally?—No. The day I left was upon that occasion, the 12th. I was, as I tell you, when I came in from that party, completely prostrated; in fact when I was going about the street I had to be led about, and take the arm of someone.—Your answer is that you were too incapacitated at that time to advise?—Yes.—And Captain Standish did not ask you?—No.—Subsequently you say you performed all the functions pertaining to the Chief Commissionership of the colony?—Yes.—You were in constant communication with the Government on matters official?—Yes.—After you had time to recover your health, did you not think it of sufficient importance then, from the position you had occupied and the important position you then occupied, to consult with the Government, and to advise as to the best course?—I did not. Captain Standish at the time was in direct communication with the Government himself, and I was not. I did not know what course he was pursuing at all, and he never invited me to give any opinion. I gave an opinion once or twice, a suggestion, but on all those occasions he treated me with coldness and repelled me"?—That is utterly untrue.

16238. Did you intend at any time during the time Sir George Bowen was here to station Mr. Hare out in a country district?—No. Mr. Hare was in charge of the depot all the time Sir George was here.

16239. Did you intend to remove him to any country station?—No, not the least intention.

16240. There was no intention at any time to give him charge of any other district?—No.

16241. How long has Mr. Hare remained in charge of the depot?—About ten or twelve years I think.

16242. Do you remember going up to Glenrowan after the burning of the hotel?—Yes.

16243. Were the police all paraded there before you then?—No, the next morning, at Benalla.

16244. Were the black trackers there?—They were in the barracks, but whether on parade I cannot tell.

16245. You do not remember whether they were there or not?—I do not think they were, but it is possible they were.

16246. Do you remember their being paraded before you along with the police there?—I am not positive, they may have been.

16247. Do you remember ordering them off the parade?—I saw that stated in the evidence, but I do not remember it, and I do not believe they were ever on parade. They may have been on the barracks. I saw that stated by some one, but it is not true.

16248. What position did you consider that the black trackers and Mr. O'Connor occupied at that time at Glenrowan—was it the position of volunteers?—No; they were temporarily attached to the police force as trackers.

16249. How could that be when they had their instructions to go home?—Then they consented to return.

16250. Was it as black trackers, or did Mr. O'Connor return as an officer in the Victorian police, or as a volunteer?—I will explain in a few words. I got the startling information of the massacre of Aaron

16252. Was not he, to all intents and purposes, disconnected with the police force of Victoria before he returned to that charge?—I suppose as long as he remained in Victoria he was reckoned in his previous capacity.

16253. Then why ask him as a favor to go up?—Because Mr. Hare sent word for him, and I submitted the matter to Mr. Ramsay, the Chief Secretary.

16254. Could you not have ordered him?—I fancy not.

16255. Would you have consulted them then as volunteers tracking for Aaron Sherriitt's murderers, as members of the police force of Victoria?—I think, after obtaining the Chief Secretary's consent, I would have, and if they consented to continue their services—they were not members of the police force, they were attached to the police force.

16256. Suppose when Mr. O'Connor and his black trackers were at Beechworth, or Benalla, prior to his leaving, would he have been compelled to go out, if you had instructed him to do so?—If he had not been ordered home by the authorities at Queensland?

16257. No; I mean if he had remained there, stationed as he was, would he have been compelled to go out if you had ordered him?—Certainly.

16258. Could you have ordered him out when he was here?—No, I could not.

16259. What was the difference?—He was under orders to return home.

16260. He was an officer of the Queensland Government at the time?—Yes.

16261. And only that?—Yes.

16262. Consequently he and his men were only volunteers at Glenrowan?—Yes.

16263. You do not acknowledge he had any command at Glenrowan, or any right to undertake the command of the police there?—No.

16264. You remember my referring you to the black trackers being ordered off parade. I have got the question here:—"By Mr. O'Connor.—There is still another conversation I must ask you to state, that is perhaps very objectionable to you, that is in reference to the general parade that was ordered after Glenrowan of all the men that were at Benalla who had been in the fight; will you give the Commission the facts in reference to that?" Mr. Sadleir replies:—"I will take the Commission's word for going on. The police, I think at my suggestion, were put on parade, the whole of the men in barracks. I asked Captain Standish to say a kind word to them after all their work was over, and he consented at once. Then we came out into the yard, and he objected to including some four or five of the trackers that were there on the parade." Does that recall it to your memory?—No, I do not believe that is true.

16265. You think it is not true?—I think it is not true.

16266. You would not swear it is not?—I am quite certain I would not have given orders to that effect.

16267. "By the Commission.—Mr. O'Connor's Queensland men?—Yes. I know there were four or five, and he refused to say anything as long as they were in the ranks, so I fell them back out of the ranks. It was done publicly before the whole parade. I do not think his voice was heard. I do not think he spoke so as to be heard.—But everybody saw them retire?—Yes.—You heard his voice?—Yes; he used some strong words, and I had to go and order the men back. The trackers did not understand it, and possibly the white police did not know." If that were so, would it correspond with your general dealings with the black trackers?—Certainly not. They were all very decent fellows—the black trackers. I always had a kind word for them.

16268. You might have had a reason, considering they did not belong to the police force?—I will not say positively, but I do not think I did.

16269. You cannot charge your memory with it?—I cannot. I think it is very unlikely I would have ordered them off parade, and I am almost certain I did not do so.

16270. What position was Mr. Hare in after the capture of Power—was he promoted?—No; he was promised promotion, and never got the slightest advantage; but the other two got promotion Mr. Nicolson and Mr. Montfort—and nothing was done for Mr. Hare.

16271. How do you account for that?—It was not my fault.

16272. You recommended him for promotion?—Certainly.

16273. And it was never acted upon?—Never.

16274. What promotion did Mr. Nicolson get?—He was made Inspecting Superintendent.

16275. By Mr. Nicolson.—Was I promoted to that office by seniority?—I fancy it was so.

16276. Then I do not understand your saying I was promoted for the capture of Power?—Both you and Mr. Montfort got the promotion shortly after.

16277. Was I promoted to the rank of Superintending Officer for that or through being senior officer?—I believe you were senior officer.

16278. By the Commission.—Which was it; was it in consequence of the capture of Power, or because he was entitled to it by seniority?—I fancy it was on account of his seniority; Montfort was promoted also immediately in consequence of the assistance he rendered in the capture.

16279. I asked you whether it was natural for the other officers in the department to feel jealous at their being overlooked when Mr. Hare was being, as they considered, pushed forward before him, you considering, as you say, that he was the best man for it. I have got a question that was put by Mr. O'Connor to Mr. Sadleir on page 426—[reading the questions, 11963—11969].—Then he goes on to say that no doubt Captain Standish's temper was infirm at times. Was it upon your recommendation that Mr. Hare alone was to be commended?—No, I got a telegram from the Governor after I returned to Benalla.

16280. Did you inform him of all the circumstances of the case?—I had not time. I came up in the morning by special train, and, unfortunately, after reaching Benalla, I was detained there about three hours, and when I got to Glenrowan the whole thing was over.

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16281. When were you appointed Chief Commissioner of Police?—In September 1858.

16282. Were Mr. Nicolson and Mr. Hare then officers in the police force?—Mr. Hare was the junior officer at Maryborough and Mr. Nicolson was the superintendent of the detective force.

16283. That was your first official acquaintance with them?—Yes.

16284. When were you first brought into official contact personally with Mr. Nicolson?—Shortly after I joined the force.

16285. When first with Mr. Hare—I mean when you made his acquaintance?—I made his acquaintance when I visited the district four or five months after I joined, when he was stationed near Maryborough, a new goldfield named Talbot.

16286. For a long time you had confidence in Mr. Nicolson?—I had, but not latterly.

16287. When did your feelings towards Mr. Nicolson commence to change?—I always entertained the most kindly feelings, though I only met him on duty.

16288. I did not mean that about kindly feelings, but you considered some officers more efficient than others; when did you first lose your confidence in Mr. Nicolson's efficiency?—After he had been a few months at Benalla after the Kelly gang.

16289. Up to that time you had thorough confidence in him, and after that you ceased to have the same confidence in him—is that so?—Yes.

16290. You were first brought into official communication with Mr. Hare shortly after you joined?—Yes.

16291. What opinion did you form of Mr. Hare?—I have always entertained a very high opinion of Mr. Hare ever since I have known him.

16292. As to his efficiency as an officer, not as a private man?—Yes.

16293. It was in consequence of this very high opinion of Mr. Hare that you gave him opportunities of distinguishing himself?—Well, the only two occasions in which he went on special duty were the capture of Power and the Kelly business.

16294. You selected him for that because he was the fittest man?—The fittest and best man for the work.

16295. Then, in any opportunities which Mr. Hare had over other officers, you thought you were consulting not the interests of Mr. Hare but of the force?—The interests of the public service.

16296. In selecting Mr. Hare to form a party for the capture of Power, and in sending him up to Benalla, you merely had the interest of the public service at heart and no other object?—Yes.

16297. You mentioned to-day that you had a conversation with Mr. Berry, then Chief Secretary, at just prior to your going to Benalla, and you then said you did not suppose the Kellys would be got very soon?—Yes.

16298. Might I ask what grounds you had for coming to that conclusion?—Knowing the state of the district—knowing they had heaps and heaps of confederates and allies—I merely told Mr. Berry, "I deem it my duty to point out to you I do not think we shall get them for many months."

16299. During the last twenty years you have taken a very lively interest in what has taken place in regard to bushranging in the other colonies. Can you give the time the bushrangers of the other colonies eluded the police?—Sometimes two or three years.

16300. When did the number of stations in the North-Eastern district commence to be reduced?—Not very long after Mr. Nicolson returned there.

16301. I am not speaking of the Kelly outrages, but as to the number of stations being reduced before that—when did that take place?—Some four or five years ago.

16302. Can you give the Commission the reason why those reductions were made?—The persons in charge of the district thought some of the stations unnecessary.

16303. You say that was done on the advice of the officer in charge of the district?—Yes.

16304. That was not your suggestion?—No.

16305. Then the reduction in the number of stations in the district was done at the suggestion of the officers in charge of the district?—Yes, on their opinion.

16306. It was objected to by Mr. Nicolson?—Yes.

16307. Then, when the reduction in the North-Eastern district was made, it was done on the advice of the officer in charge, but against the advice of Mr. Nicolson?—Yes.

16308. You have read the evidence of the Honorable Robert Ramsay before the Police Reward Board?—No, I did not. [*the same was handed to the witness.*]

16309. Will you kindly read that?—[*The witness did so.*]

16310. Mr. Ramsay says that it was he who insisted on Mr. Hare going up to the North-Eastern district on the second occasion during the Service Ministry, a month or two before the capture of the outlaws, and that Mr. Hare was not at all anxious to go?—It is perfectly correct. I have stated that before.

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*continued,*  
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16311. That fairly represents the state of affairs?—Yes.

*The witness withdrew.*

Frederick A. Winch further examined.

F. A. Winch,  
31st Aug. 1881.

16312. *By the Commission.*—There is a portion of your evidence that you desired should be strictly private. Do you still desire it to be kept from the public?—I do not think it is desirable that the opinion given by one officer in respect to another should be made generally public, but I have no objection what ever for Mr. Sadleir to hear what I did say. It is a very trifling matter in itself. There is one thing, as I am here, I should like to state, and that is with respect to what Captain Standish said yesterday about my following him up stairs, and crying in his room. It is simply untrue, I say. I give it the most unqualified contradiction. As I said before, he asked me to go to his room, and said, as I have already said, let bygones be bygones, and so on.

16313. You want it to appear in the evidence that you contradict that distinctly?—Yes, I do; for we had not been on speaking terms for some time, and it was not likely I would go to his room. He invited me to go, and I thought it was a fine, manly thing of him to do.

16314. You say distinctly he invited you to go?—Yes.

*The witness withdrew.*

*Adjourned to Half-past Eleven o'clock to-morrow.*

POLICE.

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THURSDAY, 1ST SEPTEMBER 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the chair;

G. R. Fincham, Esq., M.L.A.

G. W. Hall, Esq., M.L.A.,

G. C. Levey, Esq., C.M.G.,

E. J. Dixon, Esq., J.P.

*The Chairman.*—John Sherritt met me at the door, and handed me this letter. [*The same was read, and is as follows:—*] “Paddington Hotel, August 31st, 1881. To the Honorable Francis Longmore and the Members of the Police Royal Commission. Honorable Gentlemen,—I see in the report of the evidence to-day before you that some person gave it as his opinion that the letter signed ‘M. Connor’ was concocted by me and others. I am ready to give evidence on oath that this is altogether false. I heard nothing of what is stated in that letter except about the ‘Sebastopol charge,’ and that I did not hear of until a week after it occurred, and I can prove on oath that all this is correct. I wish to inform you that I have been told by my mother and others, and do believe, that during the time I was giving evidence before you that Mrs. Nicolson, the wife of Mr. Superintendent Nicolson, was up in Beechworth, and asked magistrates and others to sign paper and to give evidence unfavorable to my character. I appeal to you, gentlemen, to protect me, as all this is done to blast my character unfairly. I have told the truth, and done nothing wrong or discreditable. I would pray of you to have me reinstated in the police force, and so enable me to clear my character and earn my livelihood, as was promised to me. Your most obedient servant, JOHN SHERRITT.”

*Mr. Nicolson.*—Might I take this opportunity of giving a complete denial to that part of his statement about Mrs. Nicolson.

16315. *By the Commission (to Mr. Nicolson).*—You deny the statement altogether?—Yes. Mrs. Nicolson was up at Beechworth, but not doing anything of that sort.

16316. Nothing of that kind was done?—No, not with reference to getting up a petition of any kind against this man. If desirable, Mrs. Nicolson will attend and give this information herself.

Francis Augustus Hare further examined.

Francis A. Hare,  
1st Sept. 1881.

16317. *By the Commission.*—The Commission is now ready to hear anything you have to say in reply?—I wish to commence my statement with drawing the attention of the Commission to the report that I sent in on the 2nd July 1880 to Captain Standish. In that I have made two statements which I wish to comment upon, and wish to draw the attention of the Commission to. Upon my report, Mr. Nicolson urges in his report of the 24th July that a Board should be appointed in consequence of “the recent publication of a report from Superintendent Hare, dated the 2nd instant, containing serious charges against me, compels me to bring the said application again under notice.” Now, in his evidence that he gave before the Commission here, he made no mention of those charges; and when asked by the Commission whether he had any explanation to make, his reply was, “I would rather wait until Mr. Hare gives his evidence. That is at questions 995—6. The statement in my report, that he gave me no verbal information, I still contend is correct, when I took charge from him on the 2nd of June. My evidence on page 79, with the entry that I made on that day, bears me out in this. Also Mr. Sadleir’s evidence (question 2526), where he says a quarter of an hour or twenty minutes was devoted by Mr. Nicolson to giving me information. I must leave it for the Commission to say whether I could take over the accounts of several agents, and receive information, and all that has been said here in a quarter of an hour or twenty minutes. Regarding what took place during the

eleven months I was absent from the district, he most distinctly said nothing to me about the armour, and Mr. Sadleir told you in his evidence that he was the only one that believed that armour was made; nor yet about the mould-boards being stolen of which the armour was made; nor yet about Jack Sherritt giving the important information that has been discussed here; and many other things that have been stated to the Commission, which I need not enumerate. He said nothing to me about taking Aaron Sherritt from Everton to lead the way to Sebastopol, and that he had been seen by Chandler, who is a great sympathiser of the Kellys and the chief agent of Joe Byrne, nor did he say to me that the Kellys were completely under his control, as he states in his evidence. Mr. Nicolson in his evidence (question 767) says he used to meet his agents and enter information in his note book. How was I or Mr. Sadleir to know that information, and the contents of that book? I merely had all the papers which have been laid before the Commission to wade through, and hundreds of telegrams, besides information I never heard of until I came before this Commission. With regard to the second paragraph in my report, in reference to Mr. Nicolson banding over charge to me—[*reading the same, printed above*—I wish to say that had I not sent for Ward the next morning, the Sherritt family would have been discharged, because they were all in our pay—that is to say, with the exception of Jack—the old people and Aaron Sherritt were. The strength of the Beechworth district was still further reduced by Armstrong being sent away, and the cave party was to be withdrawn with the men who were in Aaron Sherritt's hut. Senior-Constable Mullane in his evidence (page 495) says he was ordered “To withdraw the watch party that was in the house. I may state that the watch party had been withdrawn from the house the morning, or the morning before, I got this telegram. It was withdrawn by order, I was informed, of Mr. Nicolson; that he told Sherritt to go back to the hut and tell the men to come back.” Now, I would point out to the Commission that in the case of the commander of an army being relieved by another officer, if he, after having handed over everything to his successor, was to give orders six hours afterwards to remove some of the outposts, and make several important changes, what would be said of him? I put myself in that position. There is another thing I wish to draw the attention of the Commission to. It is that it has been all along said here that I was only at Glenrowan five, ten, fifteen, or twenty minutes on the morning of the 28th June. But the facts are these:—That I left Benalla at two o'clock on the morning of the 28th, and I returned within five minutes of five o'clock—I will say ten minutes. I allow thirty minutes for going to Glenrowan and ten for returning—I must have been two hours at Glenrowan. There can be no gain saying that fact. My telegram to Captain Standish is dated ten minutes past five. I walked straight to the Telegraph office, and that could not have taken more than fifteen minutes going there. Where could I have been the rest of the time unless at Glenrowan? The witnesses all give different versions of the affair. Some go as far as to say I was only five minutes on the ground, and you must remember I had no opportunity of cross-examining the majority of the witnesses

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that gave evidence on that subject before the Commission. My report that I have referred to of the 2nd July, on the capture of the Kellys, was dictated by myself, without the slightest assistance of any one, and was entirely from my recollection of the affair. I was very ill at the time it was written, and it was only four days after I was shot. Mr. O'Connor implied that some one assisted me in it, and no doubt he meant Captain Standish; and I state most positively that Captain Standish never saw it or had anything to do with it till I sent it to him officially. My reason for sending that so soon was because I saw no end of false reports daily appearing in the papers from different persons, and I was anxious that the Government should be furnished with the official report. I must leave the Commission to say whether my report was not a fair and faithful account of what took place on that morning. I do not think there is a line in that that has not been corroborated by those men who went with me. Some went further than I did, in stating the orders I gave them on that morning. There is one fact I wish to impress strongly on the Commission: that after I was shot I did not move one foot from the position I had taken up, but kept firing as fast as I could in the direction of those firing at me, and until I saw the outlaws retreat into the hotel. Then I called upon my men to disperse. I remember distinctly standing in front of the hotel by myself, and then returning to the station to try and stop the bleeding. When my hand was tied up I hastened back to my men, notwithstanding that I was pressed by those on the platform not to return, as I felt my place was with my men. I accordingly left; and after remaining behind the tree which I have described to the Commission, I was compelled to leave the field or bleed to death. Had I been able to return from Benalla after my wound was dressed I should have done so, but the Commission heard the state I was in then. I would point out that Ned Kelly was seriously wounded in the first engagement by a bullet in the foot and through the upper arm and lower arm—and with 95lbs. weight of iron, it was impossible for him to escape, besides being shot in the thumb. I put in now a declaration made by the attendant of Ned Kelly in the Melbourne gaol. I have not seen this man, but it was sent the day before yesterday by the Government medical officer at my request:—“I, Henry George Weston, of Melbourne, in the colony of Victoria, now a confinee in Her Majesty's Gaol, Melbourne, do solemnly and sincerely declare that Edward Kelly was received into the gaol hospital on the afternoon of the 2 June 1880. I was present when he was admitted, and attended on him subsequently, acting under instructions of Dr. Shields, the medical officer of the gaol, until his (Kelly's) removal to Beechworth on the 31st July 1880. I had several conversations with Kelly during this period, while dressing his wounds and attending on him as aforesaid, in the course of some of which he told me (*inter alia*) that he was one of the first wounded in the

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fight with the police at Glenrowan, while he was on the verandah of the hotel. That, as soon as he heard the train stop, he knew there had been foul play, meaning (as he explained) that the police had received information that the gang were at Glenrowan, and he and his mates then prepared for resistance. He distinctly told me that he recognized Superintendent Hare, and took deliberate aim at him, and when Kelly was told that Superintendent Hare was severely wounded in the wrist he seemed much pleased, and described to me the position the Superintendent was in (according to Kelly's idea) when he received his wound, viz., a 'firing' position, and made use of words similar to the following:—'The ——meant to have shot me or my mates; I wish the bullet had struck him two inches lower.' On my asking him why he deserted his mates, he replied (in words similar to the following):—'I had plenty of mates in the neighborhood ready to join us, but I couldn't mount my horse, the flap of my armour broke, and my arm was useless.' The wound in his arm, he said, was received in the first volley of the police while he was on the verandah at Jones's hotel, and the wound in the thumb, received early in the fight, prevented him from using his gun, as he could not 'cock' it. In reply to a question as to why Byrne and his other mates did not come out of the hotel and join him, he said (in words similar to the following):—'Ah, if they could have, there would have been a different tale to tell,' meaning that Byrne and the others, or one, or some of them, were wounded. Kelly told me when he returned to the hotel and signalled to his mates, by rapping on his armour, that Byrne crawled on his hands and knees as far as the kitchen at the back of the hotel, with the object of joining him, but that he (Byrne) must have fainted from loss of blood or the weight of his armour. When I told Kelly that his mates had died a horrible death by burning, he replied (in words similar to the following):—'No fear; if they were alive I am sure they 'finished' one another when they found the game was up, as we had all sworn to shoot each other, if surrounded at any time, sooner than surrender to the police.' And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury. HENRY GEORGEWESTON.—Declared before me at Melbourne Gaol, in the colony aforesaid, this twenty-ninth day of August, in the Year of Our Lord One thousand eight hundred and eighty-one.—A. Shields, J.P." The Commission will see by that that Byrne, or some of them, were wounded in the first engagement, which prevented them from leaving the house; also, all my party that have been examined before the Commission have said that they received no orders after I left the ground, and throughout the day they were carrying out the instructions that I gave before I left. I now put in a declaration made by Mr. Ramsay. I asked some time ago that he might be called as a witness before the Commission, but he has not been called. He is the only witness I have asked for since the proceedings commenced. He has not been called, consequently I am obliged to put this in.—[*The same was handed in and read, as follows:—*] "I, Robert Ramsay, of Melbourne, in the colony of Victoria, gentleman, do solemnly and sincerely declare that the printed minutes of evidence annexed, and marked with the letter A, contains a true report of the evidence given by me on the 8th day March 1881 before the 'Kelly Reward Board.' And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of the Parliament of Victoria, rendering persons making a false declaration punishable for wilful and corrupt perjury.—Robert Ramsay. Declared before me, at Melbourne, in the colony aforesaid, this 31st day of August, in the year of Our Lord One thousand eight hundred and eighty Ryan, J.P."

A.

These are the printed minutes of evidence referred to in the declaration of Robert Ramsay, made before me this 31st day of August 1881.—CHARLES RYAN, J.P.

KELLY REWARD BOARD.—TUESDAY, 8TH MARCH 1881.—The Hon. Robert Ramsay, M.L.A., examined.

1. The principal object for which we wanted to see you was to find out from you the nature of the position in which you placed Mr. Hare—whether you placed him in an entirely independent and responsible position, acting on his own judgment in everything?—I will state the facts as briefly as possible. Shortly after the formation of the Service Ministry

the question of the capture of the Kellys came up in the Cabinet, and formed the subject of several discussions. At that time there was evidently a very strong feeling in the public mind that the police were to blame in connection with the proceedings for the capture of these men. Articles appeared daily in the public press, in various portions of the colony, calling attention to the delay that had taken place and the want of organization in connection with the pursuit of these criminals. I had several interviews with the Chief Commissioner of Police on the subject, and communicated the result of those interviews to the Cabinet. At last the matter was put into my hands to deal with on my own responsibility, and, as the result of that, and of enquiries I made, I told Captain Standish that in my opinion Mr. Hare was the officer in the police who was most likely to effect a capture. I had instituted independent enquiries, and gathered information from various sources. I requested the Commissioner to send for Mr. Hare, and I saw him at the Chief Secretary's office either at the end of April or the beginning of May, and I told him that the matter had been discussed by the Cabinet, and the conclusion arrived at was that he was to proceed to Benalla and take the entire control of the pursuit of those men. I told him that in doing so he was to feel himself entirely untrammelled by any regulation of any kind—in fact, he was to assume the entire responsibility, and in whatever steps he took for that purpose he would have the entire support of the Government. In regard to money, he was to feel that he was unfettered, that the utmost confidence was placed in his judgment that his proceedings would not involve unnecessary expenditure, but that if money could be profitably employed in the capture of these men he was to feel himself entirely uncontrolled. He told me, in reply, that there were men in the force who were his seniors, and he felt himself in a position of difficulty on that account. He then referred to his health, and I told him that it was of the utmost importance in

connection with the matter that he should take the responsibility. I then had an interview with Captain Standish, in which I briefly related these matters to him. I afterwards saw Superintendent Nicolson, and he asked that he might be allowed a still further time in order to pursue his own line of action with reference to the capture of the Kellys, and I allowed him a month further, and Mr. Hare's proceeding to Benalla was delayed for that time. At the expiry of the month Superintendent Hare proceeded to Benalla and took entire charge, with my full concurrence, and that of the Government.

2. I understood you to say responsible to no one but the Government?—Responsible to no one but the Government. There is another matter that perhaps I should mention. Mr. Hare mentioned, in connection with his state of health, that he felt he was taking a great responsibility in going, that he was going at the risk of his life, and that his determination was not to come down until the men were captured. He spoke of having been engaged in the capture of Power, and of the promise that had been made by the Chief Secretary of promotion in the event of that capture, which promise remained unfulfilled up to that time; and he showed me a letter, signed by Mr. Moore, who was then Under Secretary—Sir James McCulloch being the Chief Secretary—bearing on the subject, and he said he hoped that if his life was sacrificed this matter should be considered. I assured him that, in the event of the Government remaining in office, that should certainly be done, and in the event of any changes taking place I would leave a minute with my successors, whoever they might be, This is the minute that I left:—"Having with some difficulty induced Mr. Hare to take charge of the entire arrangements for the capture of the Kelly gang on the distinct promise from me that, as he did so at the imminent risk of his life, he should be substantially rewarded if successful, I feel it only due to him to place on record that, had the Ministry remained in office, Mr. Hare would have been promoted to the first vacancy in the force and a substantial sum would have been placed on the Estimates as some acknowledgment for his most valuable services. The great energy he displayed, the risk he ran, and the serious and unfortunately permanent injury he has sustained, all render this duty so incumbent on those who follow, that I feel assured my successor will have no hesitation in adopting the same course.—19th July 1880."

3. The promise you made as Chief Secretary, on behalf of the Government, was with reference to promotion—giving Mr. Hare a reward for his services if he succeeded?—Distinctly so—promotion and a substantial recognition. It was fully my intention to have promoted him if any vacancy had occurred, because it was a matter in which the whole public of the colony was concerned.

4. And if his health was injured, you would give a substantial recognition?—Certainly. With regard to the Kelly gang, it was a matter affecting the whole of Australia; it was the common talk whenever two people met.

5. Would it be a fair question to ask what sum you contemplated putting on the Estimates?—I have not the slightest doubt that if £5,000 had been proposed at the time, there would not have been a dissentient voice. I feel it would be a very small recognition; in fact the proceedings of those men were a heavy incubus on the entire colony, rendering life and property unsafe.

6. From your experience as a public man, you are still of opinion the State should recognize Mr. Hare's services?—I am.

7. What change was made in the mode of proceeding after Mr. Hare went up?—It seemed to me that Mr. Hare was a man who had a wonderful faculty of infusing his own spirit into his men—that instead of being trammelled by regulation, he selected the men in whom he had confidence, and he allowed them a considerable latitude. In the next place, he was thoroughly acquainted with the country—he had the means of getting information that no one else had at the time. In fact, if I were to go into some matters within my own knowledge, I could satisfy the Board on the point but of course a great deal of the information was confidential, involving a great many people in the district. There was such a reign of terror that those who were resident in the district were afraid of giving the slightest clue to the police, for fear their lives might be sacrificed. All these matters were gone into between Mr. Hare and myself; in fact, from the time Mr. Hare was appointed, there was a spirit of energy displayed in the pursuit of those men that was altogether unknown up to that period.

8. Did the Chief Commissioner of Police coincide in your judgment?—He did.

9. How long was Mr. Hare up there before those men were taken?—He was up on the 2nd of June, and they were taken on the 28th of June. In relation to that, that is one of the matters to which Mr. Hare referred, he told me that those men were in fear of the black trackers, that so long as they remained there they were not likely to break cover, but immediately the trackers were removed they would be at once heard of, and his plan of operations was such that their capture was certain immediately they made their appearance.

10. Was the reward spoken of to Mr. Hare as an inducement?—I do not know anything about that.

11. "I received a communication from you that Mr. O'Connor and his black trackers were to be sent back to Queensland"—was that Mr. Hare's idea or the Government?—We had sent up to Queensland for black trackers; Mr. Chomley had gone up to Queensland to obtain them—in fact, they were on their way down at the time.

12. Why were they sending away Mr. O'Connor's men—were they of no use?—It was thought that others could be got down equally efficient—in fact, the Queensland Government were anxious to get those trackers back.

*The honorable member withdrew.*

16318. Referring to your own report of the 2nd July, will you look at paragraph 3:—"I accordingly, on the 2nd June, went up there. I arrived at Benalla about 11 o'clock that day. I saw Messrs. Nicolson, Sadleir, and O'Connor in the office. After some conversation on general subjects, Mr. Nicolson produced a letter he had received from you, directing him to give me all the information he had obtained concerning the Kelly gang during his stay at Benalla. He showed me the state of his financial account with one of his agents, and said there was nothing owing to any of the others. He opened a drawer and showed me a number of papers and the correspondence which had taken place during his stay at Benalla, and said, 'You can get all the information from these papers.' He gave me no verbal information what ever, but said, 'Mr. Sadleir can tell you all I know concerning the movements of the outlaws.' He left the office, and I never spoke to him again, and he went to Melbourne by the evening train. The principal agent employed by Mr. Nicolson I had appointed to meet me that evening. He was one who was considered the best man they had. After talking with him a few minutes, he positively refused to work for me or have anything to do with me, although he had accompanied the police from Beechworth the previous day for the purpose of having an interview with me. That evening I telegraphed to Detective Ward to come down to Benalla the next morning by train. He did so, and, after some Conversation, he informed me that on the previous evening the senior constable in charge of Beechworth had received a telegram from Mr. Nicolson to pay off all the agents he had employed. I at once endeavored to

obtain a copy of this telegram in the office, but there was no record kept of it, nor did the clerks know anything about it, so I presume it must have been sent from the railway telegraph office, as Mr. Sadleir knew nothing whatever about it." The effect of all that is to make a very grave charge against Mr. Nicolson—that he not only gave you no assistance whatever in the way of giving you any information in his possession, but that he prevented you from getting that information from others, and that he both actively and passively prevented you from getting information that was in his hands. After hearing Mr. Nicolson's evidence and others, do you wish to withdraw that?—No, not in the slightest.

16319. Then, in fact, you charge Mr. Nicolson with not giving you all the information in his possession when you took charge at Benalla?—I charge him with not carrying out Captain Standish's instructions, and not giving me all the information in his possession at the time.

16320. Do you feel at liberty to say who that principal agent is?—"Rennick." You see in my statement I merely gave the fact about him that he came down from Beechworth for the purpose of giving information, that night I met him, and that he got into the train and went away.

16321. Then if Mr. Nicolson states that he gave all the information in his power, he is not stating the facts?—Exactly. I have stated fully in regard to that already. Before I go into the fact of my being sent up by Mr. Ramsay, I wish to explain to the Commission, and I hope it may get the same publicity as the statement made by Captain Standish yesterday with reference to my being favored with regard to the police force. I just take that one case of Power's solely. Mr. Nicolson and myself were directed to go after Power, and we took Mr. Montfort with us. Power was captured, and the Government thanked us in Parliament and wrote us complimentary letters, and said that we should be promoted. Mr. Montfort was promoted at once from a sergeant to a sub-inspector, and now is placed in charge of the North-Eastern district in the same position as a Superintendent of Police. Mr. Nicolson was at that time, as he has told you, in charge at Kyneton. He was receiving a salary of £375 a year; he was moved to Melbourne immediately after the Power business, and he was placed, as well as being in charge of the city, in charge of the detectives, for which he received £100 a year. His predecessor did not receive that sum, and his successor did not receive that amount. Mr. Nicolson subsequently was promoted to Inspecting-Superintendent. At the time that he obtained the appointment his predecessor was receiving £425 a year; he (Mr. Nicolson) received an increase of £75 a year, and has received £500 a year since. Subsequently he was made the Assistant-Commissioner of Police. Now I take my position. I was the officer in charge of the depot at the time of the Power capture. I was receiving £350 a year as superintendent of the dépôt. About three or four years after the Power capture the two classes of superintendents were amalgamated, and I received an extra £25, which brought my salary—mine and that of three or four superintendents—to £375. I am receiving that salary at the present day. It has been said that I was promoted over the heads of others; where is the promotion? The two officers with me both received promotion, and I am in the same position of superintendent as I was then. Now, with regard to the Kelly business, where also I was supposed to be put over the heads of other officers and promoted. Sergeant Kennedy was shot on a certain date; immediately the news came to Melbourne Captain Standish sent Mr. Nicolson up to the district, being the inspecting-superintendent, whose place it was to be there. He remained there till the Euroa Bank robbery. Captain Standish then went up himself. I was in his office at twelve o'clock. I received a telegram after he left that I was to report myself that evening at Euroa. I immediately got my horses and things ready, and started off at once. I stayed up there acting under Captain Standish for seven months. I did, as you have been told over and over again, the hard work of searching throughout the whole time I was up there, camping out in the mountains all the time. I stayed there till I was so completely knocked up that I had to be carried on a trap to the nearest station to where I was. I asked Captain Standish to let me come to town; he acceded to my request. I came down and went to work again in my own district, after having gone through hardships which nobody here, and very few people in the country could realize what I went through—however that is past. I came down to town and Mr. Nicolson was sent up he was up there for eleven months. I was sent for then by Mr. Ramsay, not Captain Standish, and ordered, against my wish, to go and take charge of this business. I protested against doing so, and I go up there; the matter is brought to a termination, and at the end of that time I am wounded and injured for life; I suffer a considerable amount of pain and agony. Directly I am well enough I go back to my duty, and the Commission is appointed. I never asked for the Commission. I never say a word about anything, and perform my duty until this Commission is appointed. I am brought here and suspended from my duty for five months, and I am now in the same position as I was before Power's case. Where is the promotion—where is the favoritism? I think on the contrary. I was looking over a file of papers in my office this morning. In the year 1871 a vacancy occurred amongst the first-class superintendents (which was the paltry sum of £25 a year). I wrote and asked Captain Standish to give me that vacancy. He declined—he said, "No; why should you be put over the heads of all the other officers senior to you? You must wait your turn to be promoted." I have the file here. He writes there and says he will not promote me, and recommends the Government not to do it. I wrote a second time, and asked when the vacancy occurred. In the first instance I was referred to Sir James McCulloch, and he agreed with Captain Standish. The second time a vacancy occurred I applied again to Captain Standish, and he referred it to Mr. Berry, and it was again refused; and then I am told here that Captain Standish has favored me. He has made me do all the hard

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work; he has sent me, not only in these cases, but in many other cases, to do work I ought not to have been called upon to do. I was sent up to the Murray on duty there, though there was a superintendent in the district, and it was a very responsible post there. After it is all over everybody is very wise, and say it was a simple thing to do. It was not Captain Standish sent me there, it was Colonel Mair. I got the thanks of Sir James McCulloch and the Commissioner of Customs then, but that is all. There was another case in 1855; the Governor recommended me for my services and said I would be promoted. Here is a letter I will put in evidence which shows you I got the promotion, and it is mentioned at the same time that there is no pay attached to it. The letter has been given in evidence here (*vide question 1601 above*). Again, on the 14th of August there is this letter (*also at question 1601*). There is also a letter the Governor wrote to me at the same time—[*reading the same*]. I will now go back again to the declaration by Mr. Ramsay. I may state to the Commission that one reason I did not at once accept the position offered to me, to take charge of the Kelly business, when spoken to by Captain Standish and Mr. Ramsay, on my being sent for in June 1880, was because my health had suffered to such an extent the previous seven months in the North-Eastern district that I thought it was unfair to myself

Francis A. Hare, <i>continued,</i> 1st Sept. 1881.	<p>to have to undertake the same exposure again, which appeared to me as certain death. However, when Mr. Ramsay put the matter in the way he did, I had no alternative but to accept the position, and do what I could to bring the matter to a termination. Another thing was, I knew I would bring down the displeasure of the senior officers on me, which I have done, and the Commission have seen the animus shown towards me during this enquiry. I never had a quarrel with any officer in the force, and have always been on good terms with them all. I have been ready and anxious to do my duty to the best of my ability, and I will continue to do so as long as I am in the force. I wish to draw your attention to the fact that I have received a very severe wound in the execution of my duty, from which I shall suffer pain for the rest of my life. It is surely very unfair that I should receive nothing but promises, and then be told I had been promoted under different Governments, and when a vacancy does occur it is said I was not the senior officer. In other cases, such as Weiberg's, two young constables were sent after him—one a detective, and the other an ordinary mounted constable. Weiberg was arrested by them. A few days afterwards Sir Bryan O'Loughlen, then Chief Secretary, promoted both of them. They were only of three years' standing, and they were put over men of twenty years' standing in the force. If the rule is carried out in lower grades I do not see why it should not be in the upper grades. I always complained to Captain Standish that he should select a senior officer to do the work, and told him that whilst I had been camping in the mountains with a great responsibility on my shoulders my seniors were lying at home comfortably in their beds; and now they come forward and say I was favored by being sent on this duty. That is all I have to say.</p> <p>16322. Your first complaint is that Mr. Nicolson did not give you any information?—Yes.</p> <p>16323. Now Mr. Nicolson, in question 900, replies:—"I spent over an hour in the presence of Mr. Sadleir and Mr. O'Connor, and I gave him during that time all the information I could think of; and turned from time to time to Mr. Sadleir, and asked him, "Is there anything else, Mr. Sadleir, you can suggest?"—and Mr. Sadleir from time to time would tell me if he had thought so, and remind me; but I presume it would be better to defer that till Mr. Hare has been examined." Was Mr. Sadleir present when Mr. Nicolson was giving you the information?—He was.</p> <p>16324. I see Mr. Sadleir estimates the time at about fifteen or twenty minutes?—Yes.</p> <p>16325. Did Mr. Nicolson give you that information so far as he relates?—No, not beyond what I have said—giving me the accounts of the different agents, their aliases, and how they were to be written to. I do not remember one circumstance he told me about the Kellys.</p> <p>16326. Did he appeal to Mr. Sadleir?—Yes.</p> <p>16327. If there was anything else?—Yes, he did.</p> <p>16328. Would it be your impression from his manner that he had exhausted his information?—He never commenced any.</p> <p>16329. But he states he did?—I say he did not give me any information.</p> <p>16330. Then did he turn round and appeal to Mr. Sadleir to know if there was anything that he ought to inform you of?—Yes, he did. I took that to be with reference to the accounts alone.</p> <p>16331. Did Mr. Sadleir suggest anything else that he might tell you?—I do not recollect that he did. I think not.</p> <p>16332. Was Mr. Sadleir acquainted with nearly everything that was going on in the North-Eastern district?—I should fancy he was.</p> <p>16333. Was he, so far as you know, equally well informed as Mr. Nicolson?—He was, to a certain extent; but Mr. Nicolson, as I have said in my evidence, was in the habit of taking notes in his books on meeting his agents—these notes were taken with him to Melbourne.</p> <p>16334. Except those private notes of his own, would Mr. Sadleir be equally well informed?—I do not know. I fancy Mr. Sadleir knew a great deal, but Mr. Nicolson must have known a lot more.</p> <p>16335. Did Mr. Sadleir give you any information when you were up there that Mr. Nicolson omitted?—Yes, every bit of it. Mr. Sadleir gave me all the information that I could have possibly expected from him.</p>
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	<p>16336. Did Mr. Nicolson draw your attention to the files of papers as they were docketed and put up, and say that all the information was there?—He did.</p> <p>16337. And you had Mr. Sadleir’s assistance—loyal assistance—in giving all information?—Yes, certainly.</p> <p>16338. Did you have any intercourse with the agent signing himself “Diseased Stock”?—I had; I wrote to him immediately Mr. Nicolson went away—under an alias.</p> <p>16339. Did Mr. Nicolson introduce you to him?—No, but I introduced him to Mr. Nicolson—not man to man, but told Mr. Nicolson, when he relieved me on the first occasion about him. I had seen him three or four times or more myself. He came to see me at Benalla, and I had been to his selection to see him after that.</p> <p>16340. You knew him before Mr. Nicolson knew him?—Yes.</p> <p>16341. If there is a letter of Mr. Nicolson’s about the “diseased stock” agent, giving you all the information he could, would that bear out your idea with reference to Mr. Nicolson not giving you any information and trying to prevent you getting it?—Certainly. I say he gave me no verbal information. I put the word “verbal” information.</p> <p>16342. In your report you say, “The senior-constable in charge of Beechworth had received a telegram from Mr. Nicolson to pay off all the agents he had employed?”—That is a subsequent thing, not referring to this.</p> <p>16343. Would you think that such a very serious charge against Mr. Nicolson, when he left a gentleman almost his own equal (Mr. Sadleir) in full possession of all the facts to give to you?—I stated it I found it. I have made no reflections.</p> <p>16344. Well, it is a very serious charge?—Well, I stated facts.</p> <p>16345. Was it in any way interfering with your usefulness?—The telegram to Mullane was, most certainly. And I think also that Mr. Nicolson might have given me a lot of information and his ideas of the matter that Mr. Sadleir might have differed with him in, and which he did not give me. As far as the armour was concerned, Mr. Sadleir said he did not believe in it. He said Mr. Nicolson was the only one that did believe in it.</p> <p>16346. Then, the information Mr. Nicolson had about the armour was doubted by the man next to him?—Yes.</p>
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16347. It was simply a report that one believed in and the other did not?—Yes; but one had facts, and the other had not. Mr. Nicolson had the facts as to the mould-boards being stolen. He knew—I heard afterwards—that some iron was first beaten up and tried. The “diseased stock” man said that, and upon that they tried the mould-boards. Mr. Nicolson knew about that, and I knew nothing about that till I saw this “diseased stock” agent.

16348. Do you remember seeing that in the papers. Was that before or after you saw the “stock” man?—I fancy it was in the papers before that the mould-boards had been stolen.

16349. Was not that information in the possession of Mr. Sadleir as well as Mr. Nicolson?—I suppose it was, but I never heard it till I saw the “diseased stock” man.

16350. Do you remember, on reflection, that the matter was ever discussed between you and Mr. Sadleir before you saw him?—No. I cannot remember, but I know it was discussed in the presence of Mr. Sadleir, and the “diseased stock” man was present.

16351. You do not remember hearing Mr. Sadleir express his dissatisfaction at Mr. Nicolson keeping back information from him?—No, quite the reverse. He said at first Mr. Nicolson did, but then he (Mr. Sadleir) put up his back, and then Mr. Nicolson told everything.

16352. You never found Mr. Sadleir keep back anything?—No; he always consulted in the most friendly manner, and co-operated entirely.

16353. Did he not do that with Mr. Nicolson?—He told me, when Mr. Nicolson first came back, he found that he was withholding information from him; but he came to a stand with him, and from that time he gave all the information in his power.

16354. The inference you draw from that is that there was a temporary estrangement between the two?—Not estrangement. Mr. Nicolson is a very secret man. We have all very different temperaments. I am just the reverse.

16355. With the exception of this short interval for explanation between Mr. Nicolson and Mr. Sadleir, there was no misunderstanding between them?—I do not think so at all.

16356. Did that, in your estimation, amount to a misunderstanding?—No.

16357. Then the chances are that Mr. Sadleir, who was colleague of Mr. Nicolson at that time, was working in perfect co-operation with him as his superior officer?—I fancy so.

16358. Then the chances are he would be in possession of the most important particulars of any evidence that was of value to the police force as well as Mr. Nicolson?—Yes.

16359. Then, in that case, the time that Mr. Nicolson had it in his discretion to communicate those matters of information to you, of course his opinion might have been that Mr. Sadleir, being in possession of them, they would be available to you equally as well as if he had divulged them?—No doubt it was, but Mr.

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Nicolson opened a letter from Captain Standish, by which he was directed to give me all the information in his power.

16360. Is it your opinion that Mr. Nicolson wilfully withheld from your information matters which were within his knowledge, which would act detrimentally to your carrying out your duties there?—I say he did withhold them—whether he did it wilfully I cannot say—because he gave me no information.

16361. Was the impression you formed then, that Mr. Nicolson, from bad temper or any other cause, did wilfully withhold information?—I did think that at the time.

16362. Do you think, from what has transpired since, that that was what actuated him?—Yes, I undoubtedly do.

16363. Might it not have been disappointment?—It might have been; he was annoyed equally with myself.

16364. Where is the difference in the two positions. If Mr. Nicolson was guilty of any act which would interfere with the service, it was very serious; and even if merely from temper and disappointment he did not communicate as he might, the evil would have been just as great?—That is for you to decide. I have merely stated the facts.

16365. Was Mr. Nicolson guilty of what would certainly amount to a great evil on his part if he withheld any information from you?—I say he withheld all information, and I complain of that, together with the fact of his sending that telegram after seeing me.

16366. As a matter of fact, do you consider the successful carrying out of your duties was interfered with in the slightest degree by any information that was withheld?—I think Mr. Nicolson could have given a great number of important facts about agents, principally about that man Jack Sherritt. I think it was his duty to have told me that man was in communication with him, but I never heard it till he gave his evidence before this Board.

16367. Was not that within the knowledge of Mr. Sadleir?—I do not know. I suppose it was, but I never knew it.

16368. It may not have occurred to him at the time?—No.

16369. The question is: within your knowledge, did any circumstance transpire which led you to form the conclusion that, had Mr. Nicolson given you the information he possessed, you would have more successfully carried on matters?—Yes; the circumstances of Jack Sherritt. I am told by him that he was in constant communication with the outlaws. Up to the time he wrote that letter to me I did not know anything about him, or that he had been employed. Had I known that I would have gone straight to him.

16370. Did not the documents disclose it?—I never saw it. As I say, I never heard it till it came out before the Commission.

16371. Did you discover soon that Mr. Nicolson had not given you information?—No, I did not discover soon. The first thing I discovered was about that telegram; that was the first thing that led me to believe I would have to work very hard in reading over papers.

16372. Did you discuss the matter with Mr. Sadleir then?—No, I did not; I never mentioned it to him, because I knew that Mr. Sadleir was very great friends with Mr. Nicolson. He was very adverse to my coming up there, and I wanted to keep on as good terms as possible with Mr. Sadleir, and not raise any points of discussion with him.

16373. Did Mr. Sadleir exhibit any coolness to you then?—No, not at all. I know he did not approve of it, by his own letters to me. He begged and implored of me not to come up; said I was a great fool, and it was a great mistake my ever coming up.

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16374. Did he assign any reason?—For the good of the service solely. He said it was a wrong move for the Government or Captain Standish to make.

16375. You having accepted the position?—I was ordered to go. I did not accept it; I was compelled to go.

16376. You obeyed the order to go?—Yes.

16377. Did you observe any coolness in Mr. Sadleir's demeanour towards you?—No.

16378. Any disinclination to the proper discharge of duty?—I did not; and on one occasion I said, "Sadleir, I cannot help thanking you for the kindness you have shown throughout this matter, in giving all the information you can. I did not expect it from the way you wrote about my coming here."

16379. It did not interfere with your work?—No.

16380. You worked very harmoniously?—Yes.

16381. There is nothing that has transpired since that leads you to consider that Mr. Nicolson possessed information that Mr. Sadleir did not?—No; except his private entries in his private books.

16382. When you discovered this wrong towards you by Mr. Nicolson, did you report it?—I did not at the time, because I did not want to raise ill blood between myself and anybody connected with Mr. Nicolson.

16383. Would not you consider that would raise ill blood at a later period?—I did not care then; it was all over. I had but one object in view.

16384. Will you read that rule 44, in the Police Manual?—[*The witness did so as follows:—*]

"Any member of the force feeling himself injured or aggrieved must bring the circumstances of the case under the notice of his superior officer at once; for if he broods over his grievances, real or imaginary, and delays making his statement, his motives will be judged of by such delay, and his statement questioned in proportion to it.

16385. Do you not think it would have been better, in the interests of the force, to have reported at once?—No, quite the reverse; I thought it would raise more enemies round me.

16386. To your superior officer, Captain Standish?—I did write to him privately but not officially, because there would have been an enquiry about it. I said Mr. Nicolson had left me without giving information.

16387. Did that impression suddenly occur to your mind, that Mr. Nicolson was withholding information?—No. I merely said it was his duty to have given all the information instead of referring to Mr. Sadleir, and I made a minute that night, which I can produce.

16388. It strikes me that, if at the time you were struck with the impression that Mr. Nicolson (who was relinquishing charge) withheld information, you would naturally have remonstrated with him?—No; he was my superior officer. I said nothing to him, and stood passively by, receiving what I could get.

16389. You made no complaint to him?—No.

16390. Did not Captain Standish upon several occasions indicate to Mr. Nicolson that he had no confidence in the secret spy system?—I do not remember; I was not with him on any occasion when he was with Mr. Nicolson.

16391. Did he tell you at any time that he had told Mr. Nicolson that his secret spy system was no good?—I do not remember his doing that. He did at a private conversation—not officially.

16392. Have you become aware from the evidence that he ridicules the spy system?—Yes.

16393. Had you any conversation with him before you went up, when he slighted that spy system?—No. I do not remember his giving any advice then. He inspected the depot twice a week; at ten o'clock in the morning, he told me that I was to go to Benalla to take charge of the Kelly business. Then, in the afternoon, I saw Mr. Ramsay, and then a month elapsed before I was sent up.

16394. You did not hear him make any remarks about the inadequacy of the spy system?—He gave me no information, and no advice. Mr. Ramsay said I was to go, and do what I liked. Captain Standish did not advise anything about the spies.

16395. You mention a telegram to Mullane. The telegram is, "Send Constable Armstrong back to his station." This was from the Benalla railway station, 6 p.m. You remember his explanation of that, that he remembered that had been spoken of, but that he only remembered it just at the instant he went to the station?—Yes, I heard that.

16396. "Send Constable Armstrong back to his station. Withdraw watch party, and send them to duty." What watch party was that?—In Aaron Sherritt's house.

16397. "Any further orders from Superintendents Hare or Sadleir? Detective Ward already instructed that no further authority for money or supplies to Tommy or his friends." Was that not simply a notification that those men were to come to you for instructions?—No, certainly not. The other agents did not come to me for instructions.

16398. Could you not have known from Superintendent Sadleir all about this man?—He did not tell Mr. Sadleir about it, or give him a copy of the telegram.

16399. Do you mean to charge Mr. Nicolson with having done this covertly for a purpose?—That is for you to decide. I merely give you the facts.

16400. He does not stop Tommy or his friends by this telegram from co-operating with you?—No. But you must remember I never saw that telegram till I saw it before the Commission. I was going upon the words Detective Ward used to me on the morning he came down from Benalla the day after I arrived there. He said, "Mr. Nicolson has instructed that Tommy and all the people are to be discharged."

16401. Mr. Nicolson did not give that instruction apparently?—Detective Ward already instructed that no further authority for money or supplies to Tommy or his friends?—Yes; that was not the statement that Detective Ward gave me, but still I contend that should not have been sent without a copy being sent to me at the office, or Mr. Sadleir informed.

16402. There is one question I would like to ask you with reference to Mr. Nicolson's leaving Benalla—do you know whether he had any special instructions to leave Benalla soon after you took charge?—I do not think so. A letter of Captain Standish's, which has been put in, shows that Mr. Nicolson was directed to hand over and give me all the information, and then leave, and he left at night. I thought he would have stayed with me for two or three days.

16403. Then you did not at the time think of that as a matter to charge Mr. Nicolson with having done any wrong towards you when he left—so soon after he left?—No, I do not; but I told Captain

favoring came in, that I had to do the work, and I got no reward.

16405. Did you ever make representations to Captain Standish yourself, when you were asked to go upon any of those duties, that there were superior officers who had claims?—On every occasion I did. When I met him at Euroa, the first time I went up, I said—"Standish, it is too bad your ordering me up here and making me go through the business of undertaking this work," for I knew if the Kellys had been caught whilst he was up there, that he, being in charge, would get the credit, and that I should have done the work.

16406. You mentioned in your statement that you have never got any promotion, or that your promotion has come very slowly?—I got none but my ordinary promotion from that time. I may tell you that I was once put over the head of Mr. Nicholas, the superintendent in charge at Stawell, now in the Wimmera district. I was put over him and made a superintendent before him. It was years before the Kelly business—that was in 1865.

16407. Was it any better position for you to be in the Depot than to be out in a country district?—No, not at all. I liked it better; at least it was the head-quarters of Captain Standish, and he visited the place twice a week, but I got no extra pay for it. I did for a year get £100 a year, but my successor also got it. When I went home Mr. Ramsay gave it to me, and Mr. Winch retains it to the present day, as we were supposed to have the greatest number of men and the greatest responsibility.

16408. Are there not quarters and attendance in that to make up something?—Nothing. The officers in charge—Mr. Sadleir, Mr. Nicolson, and Mr. Winch—received the £100 a year extra beyond their pay, and I had Government quarters, and got nothing out of it.

16409. Do you remember when you came back from Europe; it was in 1878?—Yes.

16410. I see there was an order made that you should take charge of the Ovens district?—Yes.

16411. Mr. Berry put a memo. on, "Superintendent Hare to go to the Beechworth district"?—Yes.

16412. Did you go to the Beechworth district?—I did not. May I state the whole circumstances of the case. I applied for twelve months' leave of absence, for the purpose of going to Europe, to the Chief Secretary of the day, Mr. Macpherson. Previous to doing so I asked Captain Standish if he would recommend it. He said, "Yes, I will the leave of absence, but you must make your own arrangements about returning to the Depôt." I said, "Very well." I went up to Sandhurst, and I saw Mr. Chomley, and I said, "I have got an opportunity of going to Europe, on twelve months' leave; will you take my place at the Depôt whilst I am away and give it back on my return, because, unless I can get it back, I do not think I will go." He said he would, and took charge of the Depôt. On my return Mr. Chomley was fully prepared to give up charge, and carry out my agreement, but Mr. Berry ordered me up to Beechworth. I asked Captain Standish to point out to Mr. Berry the agreement that been made between Mr. Chomley and myself. He said he had done so. I said, "Will you ask Mr. Berry if he will allow an interview with him," and he said, the next day, "Mr. Berry did not want to see you; you must go to the Ovens," and he said he could not assist me in the matter. "Then," I said, "I will ask some private friends to interest themselves." Subsequently, I got a letter from Mr. Chomley, offering to carry out the agreement between us, and I sent it to Mr. Berry; and Mr. Chomley offered to go to Beechworth himself, and I go to the Depôt, and upon that Mr. Berry agreed to that.

16413. Do you remember why Mr. Chomley objected to go to Beechworth at first, and afterwards agreed to go?—No; he did not want to go to Beechworth; neither did I; but he wanted to carry out his contract with me, and he gave me this in writing.

16414. I see that it is between the 8th and 19th February 1878 that Mr. Berry made the altered order himself. What was the nature of the pressure brought to bear on him?—I spoke to two or three friends, and spoke to Sir George Bowen, and asked him to interest himself with the Chief Secretary. I was out shooting with Sir George Bowen on two or three occasions, and in course of conversation told him I was going to Beechworth, and if he could do anything I would consider it a great favour.

16415. What is the nature of your objection to going to a distant district, instead of remaining in town?—Because I have been accustomed to the district and know it. I have it in very good order, the men know me, and I would have to begin afresh if I went up to Beechworth. It takes three or four years to get accustomed to the men.

16416. When you were allowed to remain in town, and Mr. Chomley sent to Beechworth, I see that he was a first-class superintendent at that time, and you were a second-class?—Yes, he had been at Sandhurst for very many years. He did not wish to remove from there, because I remember suggesting once that he should apply for a certain district, and he did not wish to leave Sandhurst.

16417. This was a matter of arrangement between you and Mr. Chomley?—Entirely a private arrangement, sanctioned by the head of the department. I think that now these things are being looked up against me, and a number of officers giving evidence against me, in that case you should call for papers about other officers being removed, and everything else.

16418. Do you think, from your knowledge of what occurred in the North-Eastern district, that your bringing your own men from the Bourke district to that district had any effect in causing jealousy throughout the force?—No; there were men from every district in the colony brought there; and I, knowing my own men, preferred my own men when I went up there naturally.

16419. You in your evidence said a constable, sixty miles away, had informed you about Mr. Nicolson's cave party; could you give the name of that constable?—As I said before, I can give it.

16420. I think you ought to give it. I may say there is an extraordinary delicacy shown about men by the officers, but the officers cast every possible imputation at one another. Witnesses are asked who told them what they mention, and they shield themselves by saying they do not want to tell. I think you ought to say who did it?—I told you before if the Commission ordered me to do it I would. It is Senior Constable Johnson.

May I tell you the circumstances? I was in the Depôt, and doing my usual duty, and I saw Johnson cross the yard, and I said, "Halloh! Johnson, are you here?"

16421. Was he one of your men?—He had served under me at the barracks. He was not a man in my district. He had been out in the party. I said to him, "What is going on?" and, after some

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conversation, he said, "I do not know that very much is going on; but," he said, "there is a cave party up at Beechworth, and has been there for some time." "What are they doing?" I said. He said, "They are watching Byrne's house." And nothing more transpired. The next morning, I think—the morning Captain Standish came to the Depôt—we were talking about the Kelly business, and I casually said to him, "If Mr. Nicolson thinks that cave party is not known, it is talked about in the Depôt." That is all I knew or did about it, and it was my duty to tell Captain Standish.

16422. Johnson did not communicate it in any spirit of dislike to Mr. Nicolson?—Not the slightest. Nor did he give it officially. Nor did he reflect on it in any way—he merely said it.

16423. He might have the best intention in suggesting to you that the cave party was known?—He did not even tell me that. He merely said that Mr. Nicolson had the cave party.

16424. He did not imply he was finding fault?—Not in the smallest degree.

16425. Is it the duty of the inspector of police to visit the district at any given time?—No.

16426. Or when he is sent by the superintendent?—Which?

16427. The superintending inspector. Does he visit by himself, or is he sent out?—He gets direction from Captain Standish to visit a certain district.

16428. Are there appointed periods for inspection?—No, at irregular periods.

16429. When was your district—the Bourke district—last inspected?—By Mr. Nicolson some years ago. I have no doubt you have got the date there; I cannot tell.

16430. When was your district inspected last?—I do not remember.

16431. Did you ever have any objection to Mr. Nicolson inspecting your district?—No, not that I remember—not the slightest.

16432. You never expressed any?—No; it is some years ago. I have no recollection whatever of expressing a wish that he should not visit it.

16433. When you went up to Glenrowan, upon information, at the time that Aaron Sherritt was shot, and were made aware that the Kellys were in the immediate neighborhood of Glenrowan?—I was not made aware of that. When I got out of the train I saw the engine ahead of me, and I walked towards the train. I met the guard and then the engine-driver. They told me that a man, who said he was a schoolmaster—they did not know his name—had said that the line had been pulled up, and the Kellys were going to catch the inspector and the black trackers; and I had my doubts whether it was not a trap, and on the train I said to the man, "Do you know whether the rails are pulled up this side or the other side?" and he said he could not tell. Upon that we kept our eye upon the line as we went up to the station.

16434. When you made the attack on Mrs. Jones's house, after Constable Bracken came out, and you were made aware of their being there, was it your idea of the proper military method to go upon to say, "For God's sake follow me; let us rush at them." You did not organize your force?—I thought I did. You must remember that circumstances alter cases. Here is a man who tells me, "For God's sake go quickly, otherwise the Kellys will escape." I waited till my men surrounded me, and then I went away with them. It has been asked me, "What did you intend to do?" The only answer I can give is this—to find out whether the Kellys were in Jones's or not. Having found that out, I would have surrounded the house and not let a soul escape, but in making that discovery I got shot. The men attacked us, not we them. As to military tactics, I know nothing about that. We were told to go and catch the Kellys; there is no such nonsense as military tactics in it.

16435. If you were rushing at the house, expecting the men to be present, you would have seen you had not sufficient men with you?—I had plenty of men, I think, four or five being close to me.

16436. What was your idea on that morning when you left, with reference to Mr. O'Connor's position?—I differ entirely with Captain Standish's evidence on that. I fancied that in case of my being injured or killed Mr. O'Connor would have taken command, and I have no doubt there was not a man on the ground in my party who would have disobeyed an order from Mr. O'Connor, had he given it. I know nothing at all about the volunteer idea; there was no such thing; the only volunteer there was Rawlings.

16437. You recognized Mr. O'Connor as an officer of the force?—Beyond a doubt I did; and I think he was recognized all the time he was in the district as such, although he never interfered with the men.

16438. Then you consider he was left in command when you left?—I do, decidedly. I called upon him, I called upon Kelly, my next in command, and to both of them, and impressed on them not to let the Kellys escape, when I left on the first occasion.

16439. I see by your report that you said you would not accept any of the reward?—Yes, I did.

16440. Did you apply to be allowed to participate in it?—I did. In sending in my report I said I would not accept of any; and subsequently, at the suggestion of Mr. Ramsay, who wrote to me and advised me to withdraw that portion of my report, I did so. He told me (I have got his letter, if you wish to see it) to withdraw that portion of the application, as he had intended to put a sum on the Estimates for me; and, as I

was not likely to get it, he advised me to go in for the reward.

16441. Are you aware whether the other superintendents engaged in that have applied also?—I believe they have, every one of them; Mr. Sadleir and Mr. O'Connor, the only two officers engaged in it, both applied for it.

16442. You heard Captain Standish's evidence yesterday?—I did.

16443. Did you also know of the circumstance that he alluded to, of the arrangement made between himself and Wallace the schoolmaster to have an interview?—I think I did. I think he told me everything. I remember I advised him strongly not to do it.

16444. Did he make you aware that the interview took place?—That was after I left the district that meeting took place, and he told me he had been up to Benalla—a suggestion had been made by Wallace.

16445. You were not informed what took place at the interview?—Nothing more than I have said, that he was asked to make an appointment to meet Joe Byrne in the bush.

16446. *By Mr. Nicolson.* With reference to your allusions to Power's case, you spoke of Mr. Montford being promoted?—Yes.

16447. And you also say I was promoted at the time to Melbourne?—Yes, you were brought down to Melbourne.

16448. Do you mean to say I was brought down as a promotion?—Yes, you got extra pay; not in

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16449. Are you not aware that Inspector Ryall, my predecessor in the detectives, received extra, and I merely got that?—Yes.

16450. That £100 a year was attached to the office?—Yes, the officer in charge of the detectives. You got an increase of £100 a year I say.

16451. £100 a year was attached to the office?—I say you received £100 a year when you came down to Melbourne after the Power capture.

16452. Do you say you were the leader of the Power party?—I say I was the organizer.

16453. Can you make a distinction between that and leader?—I should. I say I organized the party, and I took you up instead of you taking me; and I took my clerk Montfort, and my four constables, and drove you up in my own buggy to Benalla, and I was communicated with about the matter before you were, and I had *carte blanche* to make whatever arrangements I chose.

16454. It has been said there was only one trip to Benalla?—There were two trips.

16455. You and I then went up together?—Yes.

16456. And made the arrangements?—No, I do not think we made any arrangements.

16457. Did you not see the person who was to lead us?—I am not certain of that. I do not think we saw the person at all. As far as I can recollect, we did not on the first occasion. We went up there about Ned Kelly being arrested by Mr. Nicholas and his party, and we had some communication with him; and Mr. Nicholas told us that he knew of some person that could give information about Power, and we asked him and pressed him to give us that information, and Mr. Nicholas did not do so. And then we returned to town with Ned Kelly, who was brought down to the Dépôt. Ned Kelly and Power were together.

16458. When I came up to Benalla in July 1879 to relieve you, were you not on leave of absence at that time?—I think I had just come, about four days before, from a search party.

16459. Were you not on leave of absence?—No, I was sick.

16460. Was there a courting meeting going on at that time?—Yes, just after you came up there was one going on in Benalla.

16461. Did you attend that?—I did.

16462. Was not the weather very wet? Was it not raining every day?—I do not recollect. It may have been.

16463. And yet you say you came into Benalla, in order to come down to Melbourne, knocked up?—I did, from my position where I lay dying, as the men thought, and I got to Violet Town, and sent for Dr. Nicolson.

16464. You asked for promotion over a certain superintendent?—I did, in 1871, and it was refused me by Captain Standish himself.

16465. If you were the principal in Power's case, why were you not promoted?—That is what I want to know; I have often asked that question myself. I would like you to tell me.

16466. Will you point out one step of promotion I received except by seniority?—I say in the matter of pay.

16467. You have led the Commission to think I was promoted in that matter?—Yes; I said you got the money.

16468. Was I not the next on the list for promotion?—Yes; but I say your pay has been increased several times; mine has never been but once.

16469. Were you not a second-class superintendent in 1870, at the time of the Power business?—Yes.

16470. Was I not well up in the first-class superintendents—[*handing a paper to the witness*]?—I see here by this return that Mr. Winch is above Mr. Nicolson, and the next year he is below.

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16471. That has nothing to do with this business?—It has.

16472. If Captain Standish considered you were deserving of so much credit that he actually placed you over me as you assert?—I do not think he placed you over me, or me over you. I think in the drawing up of the report we both signed it, and that is a most unusual thing. If you went out to capture the Kellys, and you had a junior officer with you, both would not sign.

16473. Supposing we both went out to capture any one, do you think I would write a despatch and sign it myself?—I do.

16474. Two officers and their men being out together, do you think we would not sign it together?—I do not think so.

16475. I gave that as my reason for it, that I would have given Montfort permission to sign it if he had not been only a sergeant?—Such a thing as that is not usual in the service.

16476. With reference to your salary, since you say in 1854 you received £300 per annum, and now £376; have not changes in the rates of pay been common since then in the civil service, and with officers generally?—Yes.

16477. And that has affected both your salary and mine?—Yes.

16478. You stated I received £500 a year and house allowance when I was in charge of the detective force?—I do not think so, but I suppose you did.

16479. No, I did not. If you remember the Estimates, I received £500 a year then in lieu of all allowances?—This was the year before the Power business that you were in charge of the detectives. I never referred to you on that occasion, because I did not know anything about you.

16480. You said a little ago that Mr. O'Connor assumed that Captain Standish helped you to compose that report of the 2nd July?—Yes.

16481. What grounds have you for that?—I ask the Commission if he did not leave that impression on their minds, when I read the evidence, that it implied that, and I explained it to the Commission afterwards.

16482. *The Chairman.*—I think he implied that some one had assisted you to write it.

16483. *By Mr. Nicolson.*—You stated that Mr. O'Connor assumed that Captain Standish helped you in that way?—Because he assumed that Captain Standish and I were united in such bonds that I could not do anything without him.

16484. Since the capture of Power you received an addition to your salary for a year or two of £100 per annum?—I received an addition from Mr. Ramsay when he came into office, I think for a year, and I think after that for a year and a half; and whilst I was away Mr. Chomley received the same pay while he was in charge of the Dépôt.

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16485. That was an increase after the Power arrest. When you were away on full pay, did you not also receive full pay?—Yes.

16486. Do you know any other officer who did?—I think Mr. Langley did.

16487. *By the Commission.*—Are you receiving £100 a year extra over what you received formerly?—No, £25 a year more than in 1870, the time of the Power capture.

16488. Have you received no other allowance?—For one year and a half Mr. Ramsay gave me and Mr. Winch £100 a year for being in charge of the two most responsible districts in the colony, and when Mr. Berry came into office he knocked off my £100 but not Mr. Winch's.

16489. *By Mr. Nicolson.*—Is it usual to get a year's leave on full pay?—Mr. Langley had it.

16490. In your application for a year's leave on full pay, did you mention the capture of Power?—I daresay I might have done; I may have done. Mind you, this is five or six years ago. In all probability I did mention that promises had been made to me.

16491. *By the Commission.*—You did not receive an extra £100 a year while you were away?—No, Mr. Chomley received it—he was in charge of the Dépôt.

16492. *By Mr. Nicolson.*—Why do you say in your evidence that you deserved success in pursuit of the Kellys, when, according to your own accounts, your search parties all ended in failure, and showed your system was wrong?—I did not say my system was wrong.

16493. Your parties ended in failure?—So did yours.

16494. But I did not give it up—you did?—I was obliged to. You did on the first occasion give it up because you had failed in it, and then I gave it up afterwards because I was ill. I said I worked hard and deserved success.

16495. In your evidence then you spoke of catching a horse and saddling it yourself—are you not! aware that other officers did that?—No.

16496. Are you not aware that Mr. Sadleir did that?—No.

16497. *By the Commission.*—If other officers say they did it, you do not deny it?—No.

16498. Did you intend to imply that you did work that other officers did not?—No, only that I was accustomed to work, and used to pack the horses myself.

16499. *By Mr. Nicolson.*—You spoke of the manner in which the search parties were conducted, and the way they were spread out in the bush—were they not managed in a similar mode before you came

there?—I suppose so. I only gave information to the Commission as to how the parties worked.

16500. *By the Commission.*—Did you reflect on other officers when you said that you did these things?—No, I did not.

16501. *By Mr. Nicolson.*—I wished to remove the impression on that occasion that other officers did not take the same trouble and care?—I did not reflect on the others.

16502. Did you not exhaust the mode of capture which you adopted up to the time you left?—I do not think it.

16503. *By the Commission.*—The question on that is, had you at any time a reasonable prospect of catching the Kellys that you were aware of it?—Yes.

19504. What was the prospect?—That on the Warby Ranges; and on the second occasion Mr. Sadleir said he had received information that I was very close on them.

16505. Were you aware at any time that you were close on them?—I believed I was at that time in the Warby Ranges.

16506. *By Mr. Nicolson.*—Can you give the Commission one instance where the information on which you went out proved to be correct—one solitary instance?—No, I cannot; I never caught the Kellys.

16507. You remember about the tent in the Warby Ranges?—Yes.

16508. Belonging to the outlaws?—No; the tent shown to the men on the spring.

16509. Did not you mean to infer that that was a tent belonging to the outlaws?—The squatter thought it was, and took me up to it.

16510. Are you satisfied it was not?—No; because I knew those bee men used to supply horse feed and provisions to those men. There was horse-feed in the tent, and I believe the outlaws could have got it.

16511. Those people believed that tent belonged to the outlaws—why did not you cause it to be watched?—I did; I watched it myself. I went away, and came at daybreak in the morning on two different mornings.

16512. As to the constables you took to Whorouly races, do you think that those men, taken in disguise, were able to throw dust in the eyes of sharp men like the splitters in that district?—I do, most decidedly; the way they came, the way they kept out of the crowd. I am as confident as I am sitting here they were not known to the public. The policemen on duty did not know it.

16513. Was not one of the men employed on that duty under the influence of liquor on his return to Wangaratta?—I do not think so. He did not return to Wangaratta.

16514. Did you not speak to him about it—Senior-constable Johnson?—No.

16515. Did you not hear of it?—I will swear I did not.

16516. Did you not caution him about it?—I remember some man made a complaint that Ward and two others, the following day returning from the races, had met someone that they had overhauled, and the man made a complaint about it. I spoke to Ward about it, and he satisfied me there was no cause for complaint at all. That was the following day.

16517. Will you state to the Commission what you have done to warrant the immense confidence that you say Captain Standish placed in you?—I did not say so. I cannot tell the Commission. How is it possible for me to say why Captain Standish placed confidence in me. He came to me from time to time, and consulted me, and I gave my opinion to the best of my ability.

16518. Was it not a fact that he placed great confidence in other officers?—Yes.

16519. Was it not a characteristic of him that there were always one or two officers that he made favorites of—made his intimate companions?—I was never so.

16520. Is it not a well-known characteristic in the force that Captain Standish had always one or two officers that were most intimate acquaintances?—Yes, I think so. I think his most intimate acquaintances were Mr. Winch and Mr. Littleton. I am not a member of the Club, and I only met him on duty, and we were always excellent friends.

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16521. *By the Commission.*—Was it a habit of Captain Standish's to go with one officer or two for a time?—I think he used to stick to the same officers, Mr. Littleton and Mr. Winch.

16522. He did not make confidants of others at the time and then give them up?—I could not say so—from the time I came into the city he always seemed to place confidence in me.

16523. *By Mr. Nicolson.*—I am not alluding to you but to the well-known characteristic of Captain Standish in the force?—Both of those officers were intimate acquaintances, and, as members of the Club, they were in the habit of meeting him. Before my illness I do not think Captain Standish had been in my house more than twenty times.

16524. When I relieved you in July 1879, what information did you give me as to the movements of the Kellys?—Every bit of work we had done.

16525. What were the points?—You put them down into your note-book—you were writing down with me, and you were time after time with me. We were sitting in the hotel for hours of a night, and every circumstance I had had to do with during the time I was there I gave you; there was the cave party; all about Mrs. Byrne and Aaron Sheritt—what trust I could put in him, and so on; the "Diseased Stock" man; about the tent in the mountains; about Faulkiner being taken for one of the outlaws, and everything that was in my

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mind. For hours we sat after dinner for one or two nights, and I assisted you in every way I could possibly do.

16526. What you allude to was similar to your evidence, the story of your adventures?—Yes.

16527. What information was there in that?—I told you the “Diseased Stock” man was the most reliable man I had, and was looked upon as such by Whelan and Mr. Sadleir and myself. I thought if he could do it safely, he would give you all the assistance in his power.

16528. Had you any agents in your pay at that time?—I had men I was paying money to from time to time.

16529. Did you tell me of any other agent besides Aaron Sherritt?—Yes, the “Diseased Stock” man.

16530. What about him?—What I have already mentioned.

16531. When did you see or hear of that man, just previously to July?—I called at his house. Another bit of information was, that the Kellys, in my opinion, were camped at Wilson’s paddock, in the Wangaratta sub-district.

16532. *By the Commission.*—What was the size of that paddock?—About 600 or 700 acres, and this is the paddock I am told they lived in during the greater part of the time Mr. Nicolson was there. They had the Greta Swamp on the one side, the Warby Ranges on the other, and one of the sympathisers, McAuliffe, hired the paddock, and I told Mr. Nicolson all about that. I directed Sergeant Steele to make inquiries about this paddock, and he said he had done so, and could get no information.

16533. *By Mr. Nicolson.*—I am not insinuating that you did not give full information, but I ask as to its value?—I have given you that.

16534. Do you still persist that you told me that “Diseased Stock” was an agent?—Beyond a doubt.

16535. When we were going up the hill to Power’s hut, did I ask you to lead the way?—No, previously you told me you intended leading the way.

16536. Have you stated to any one outside that that was the case?—No.

16537. You stated that the reason you had for writing to me was, because you had been told that I had used the expression, on being informed by Captain Standish that I was to return, that I had said to him, “What! he relieved by that underling”?—Yes; Captain Standish told me that.

16538. Did you ever hear me use that expression?—No.

16539. With reference to that telegram about which Ward brought you, that erroneous account about the agents—you were three weeks up after that?—Yes.

16540. You were in Beechworth after that?—Yes.

16541. You say you did not report that to Captain Standish?—Not officially. I wrote to him privately, and told him I had received no information from you, and I gave the Commission this morning my reason.

16542. Am I not your superior officer in rank?—Yes.

16543. Do you consider you were justified in making such a report about that telegram about your superior officer on such a serious thing as that without first seeing the telegram?—I have made my statement on that. I still stick to it.

16544. You are aware that Mullane has proved the sending of that telegram was needless, that the action had already been taken?—Only on one point, that the men were to be removed from the hut.

16545. Do you not recollect, when I was handing over charge, Aaron Sherritt’s name being mentioned between us?—I do not think so. It may have been on my asking about him, but you could not have given it in the ten minutes or twenty minutes.

16546. Do you not recollect my mentioning Aaron Sherritt at all?—I do not.

16547. Do you recollect my mentioning the Chief Commissioner’s name once?—No; in what way?

16548. I had determined not to allude to the Chief Commissioner in this interview, as I was on bad terms with him, but I made this exception, by handing over the account about Aaron Sherritt, telling the position he was in, and made use of the expression, “But the Chief Commissioner thinks fit—thinks he is a better judge of who is fit to be employed than I am”?—You may have done so.

16549. Was I not explaining about Aaron Sherritt?—What necessity was there then to telegraph six hours after to discharge the agents.

16550. We subsequently walked to the hotel together?—Yes, but we did not mention the subject of the Kellys.

16551. Had you not an opportunity of asking me anything?—I had; but you had received your orders, and I had received mine.

16552. In your report relating to the trackers, did you not detain them as long as you could till orders to send them to Melbourne were received?—I carried out my orders directly I received them, when directed that Mr. O’Connor was to go to Melbourne, I said I could go at once.

16553. In your last paragraph, you said you thought it advisable to send the trackers away as a *ruse*?—Yes.

more was known of the outlaws or their movements than when you left Benalla twelve months before?—I remember saying that to Mr. Sadleir and Mr. O'Connor, "What more is known of the Kellys now than when I left twelve months ago?" and I got no answer.

16556. When you relieved me in June 1880, did you not learn all the information about "Diseased Stock"?—I did by letter.

16557. Did you not learn of that; was not that something more?—Nothing towards their capture. It was old and stale that they were to appear in armour.

16558. Did "Diseased Stock" come in and give you warning that they had gone out?—No; that there was likely to be an outbreak, and Mr. Sadleir said the man had said that, over and over again, for months.

16559. Did he not say he had learned in the beginning of the week that they were to go out within a week?—No; to break out shortly.

16560. Did you not say to Mr. Sadleir that it is very hard they should break out just now? Yes. I said, "It is a very black look-out for me that this should take place directly I relieve Nicolson," and he said, "Oh! but that fellow has been giving the same information for months past."

16561. Did you not also, in that correspondence with Ward, get some information about the breaking out?—Only that they were going to do something that would astonish the world, but they were always going to do that.

16562. Did not "Diseased Stock" warn you on the Thursday that they were to break out?—No, I do not think it.

16563. Did you send the warning round on that occasion to be on the alert?—No, the men were all on the alert. Directly Aaron Sherritt was shot I said, "Look out, something is going to happen."

16564. I asked why you took no notice under those circumstances if he told you the very day before Aaron was shot?—I say he did not tell me the day before he was shot. I do not think I saw that man a week before Aaron Sherritt was shot. I have only the recollection of seeing him once. I may have seen him twice—that once was about a week after Mr. Nicolson was relieved.

16565. *Mr. Sadleir.*—I think there was another interview on the Thursday?—I think I have stated all about that in my evidence.

16566. *By Mr. Nicolson to Mr. Sadleir.*—It is your impression that it was on the last Thursday before the murder?—That is my impression—surely there was an interview within a week previous to the murders.

16567. *Mr. Hare.*—I got no information from that man that would cause me to circulate to the outstations to be on the alert, because our men were always being told that, and I would not do that unless I got some positive information.

16568. *By Mr. Nicolson.*—You say in the last paragraph of your report:—"I said also it was a general belief that the outlaws were afraid to show out because of the trackers, and in my opinion, if such was the case, the sooner Mr. O'Connor and men were removed the better, because, should the gang make a raid, there would be a probability of capturing them, but as long as they remained in the mountains we had little chance of finding them. Mr. Ramsay agreed with me in this opinion. I frequently expressed the same opinion to you in the last few months. The trackers were removed on the 25th June; the outlaws believing they had left for Queensland, showed out on the 26th"?—Yes, what about it?

16569. You say in your evidence that the trackers were frequently out?—No, I do not.

16570. You said you were told by Bracken that the outlaws, when they had the prisoners in, were speaking of "having the Inspector," and did not know why there was such a down on you for the trackers, and they also spoke of destroying Mr. O'Connor and the trackers?—Yes.

16571. How do you account for the contradiction?—I merely stated facts, that I had brought a certain matter under the notice of the Chief Secretary, and those things turned out as I expected, that the outlaws did show directly the blacks were away from Benalla.

16572. Was it because the blacks had gone away?—No, I will not say that—there was only the coincidence.

16573. Are you not aware that the trap laid at Glenrowan for the police was laid also for the destruction of the black-trackers?—So it was said—I said that in my evidence.

16574. This was written on the 2nd July?—Yes, and every word of it is true.

16575. In the face of having received all this information so recently from "Diseased Stock" you allowed the trackers to leave the North-Eastern district?—Yes, undoubtedly. I had two others there. I had Moses and Spider at Benalla in place of the five that were there before.

16576. When you met Aaron Sherritt after you left, and told him you were sorry that he had not lately given satisfaction, whom did you allude to?—To you; that he had not given satisfaction to you.

16577. Did Ward tell you that he had not worked satisfactorily with me?—Yes, over and over again; and I said to Aaron that I was sorry to hear it. Ward told me so, and he admitted it.

16578. Was not the impression made on your mind, at the interview I had in handing over the district, that Aaron was still one of my best agents?—Yes, I had no doubt of it; and that is what made me so surprised to hear that you had withdrawn his pay from him.

16579. In placing the party of four men in Sherritt's hut, so near the road, did you not think they would run a great risk?—I thought they would run a great risk of being discovered, but I was going to leave them till they were discovered.

16580. If they had an encounter with the outlaw, they would have to fight hand to hand?—Undoubtedly they would.

16581. Ought there not to have been a watch?—How could you have a watch on the main road, and

with houses round? You have seen the place—what would have been the result an hour afterwards? They would have been discovered immediately after.

16582. Another place might have been chosen?—I selected that place because they were there before, and you did too.

16583. That was only temporarily?—I was going to leave them there till they were discovered, and I do not believe they were discovered up to the time Aaron was shot.

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16584. You say a telegraph message was sent out of the gaol at Beechworth?—Yes; that was when I was up there.

16585. Did you make no arrangement with the gaol authorities to keep you posted about messages from those people?—No.

16586. In your evidence you are always speaking about people saying this and that, and “they” say so-and-so?—I said this morning that one of the articles in the press, and the public had often said to me that I had been favored by Captain Standish. Not you; you never said so.

16587. You said you felt a great delicacy in taking command over your senior officer. If you were so delicate in that, how was it you were not when you organized the party that captured Power?—I did; I took you with me.

16588. Do you pretend that you did not know that the outlaws had no difficulty about ammunition?—I do not pretend anything.

16589. Are you not aware that the outlaws had no difficulty in obtaining ammunition?—I do not think they had much difficulty in obtaining ammunition. Where was the difficulty?

16590. You have been comparing small things with great, talking about generalship and so on in police matters;—do you think it was good generalship being discovered by Mrs. Skillian night after night?—I did not say I was a general. I said I was nothing to do with the military at all.

16591. Do you think it was good to have had men discovered watching Mrs. Byrne’s, many and many a night?—Captain Standish arranged to send them there, and they did their utmost, and those men used to be found out at night by Kate Kelly or Mrs. Skillian.

16592. Do you think it was a good plan to catch the Kelly’s?—Yes, I do, to watch the house.

16593. Where the police were observed?—No; when they were observed they went away.

16594. They came back?—They came back two months afterwards.

16595. You stated that you cut off the places from which the Kellys received their food and so on, after I left?—I tried to.

16596. You spoke of Hart’s and Mrs. Byrne’s and Mrs. Skillian’s?—Yes.

16596a. Now when you came up that time, did you not find a party watching Hart’s house, near Wangaratta, before you arrived?—I do not think it. Sergeant Steele told me that the men had been watching previously, but there was no watch on either of those places when I went up.

16597. Are you sure of that?—I am confident of it.

16598. Was there not a watch party set by me at Skillian’s?—Not that I am aware of.

16599. Why did you order the men to fire low at Glenrowan?—I did not. It was an order after I left.

16600. Was Sergeant Steele aware of the armour?—Yes; he was the only man who knew about the armour.

16601. Did Sergeant Whelan know?—I heard him state he did, and he says I had a conversation with him about it.

16602. You stated that Steele was the only constable that received such information?—So I believe. Ward told me he did not know.

16603. With reference to that conversation that you had with Phillips at the Depot, when he stated to the you that he had not been out—that the Kellys had not come into the barracks to surrender themselves yet?—Yes.

16604. Did you continue the conversation with him after that?—I do not remember. I remember those words.

16605. Do you consider, as officer of the Dépôt, the nursery of the Force, that that was proper on your part to allow a man to speak in a manner reflecting on his senior officer?—I do not see how he was reflecting. I put the question to him, “How is it you have not caught the Kellys?” and he said what I have told you. I spoke to every constable that has been under me.

16606. I am speaking of what occurred at the Dépôt, the nursery of the Force, where men are taught discipline?—It is a fine nursery now!

16607. Do you think that a man who had never fired a gun in his life was a man likely to be sent out after the Kellys?—I do not know that Phillips never had, and I was informed afterwards that he was one of the best shots, and Whelan said in his evidence that he did not say he had never fired a shot.

16608. Do you not think that before you took Sherritt into the force you ought to have been very clear as to whom that sheep belonged that he was seen skinning by the constable?—No, I do not think so. My reasons are for acting as I did that through some means or other these men were thrown on the Government. I I do not know how, but when I returned to duty I found they were there, and the best means

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of disposing of them, and I made the suggestion, and Captain Standish said "Find out everything you can." I did, and reported to Captain Standish, that is all I had to do in the matter.

16609. Did you not recommend their being taken into the Force?—Yes, certainly, in the first instance; and when I made inquiries I could find nothing tangible against them, and two clergymen and other inhabitants of the district with Mr. Zineke, a member of Parliament, all gave those men an exemplary character.

16610. That is since I spoke of it, and since you recommended them to be taken—was it not your duty to make enquiries about this matter of sheep stealing?—All the enquiry was made that could be. Barry saw Sherritt skinning a sheep as he passed, and that was all. What further enquiry could be made.

16611. To whom did the sheep belong?—How could I specify to whom it belonged, when it had been skinned and eaten—whom could I have got information from?

16612. Could you not have used the police to ascertain for you who had lambs running about in that quarter?—Certainly; that would be a gross injustice to imply that a man stole a sheep. There was no proof of it; because a squatter ran sheep on the run this man lives on, and because this man is seen skinning a sheep, it is to be implied that he stole it.

16613. I did not say implied; I say enquiry?—Sufficient to prevent him getting into the force.

16614. No, but to make enquiries?—I did make enquiries.

16615. Did you make enquiries whether the Sherritts had sheep of their own?—No; they might have bought it.

16616. Would not the possession of this sheep be *primafacie* evidence of his stealing it?—No,

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16617. Do you consider that if a man is for a short time in the *Depôt*, with a couple of sergeants looking after him, and associating with respectable men, and nothing said against him, is that a guarantee of the character of the man?—No. I merely said they were well behaved men the whole time they were in the *Depôt*.

16618. When I told you I was going to recommend their discharge, why did not you warn them?—I had no right to do so. It would be a most outrageous breach of confidence for me to tell them you were going to discharge them.

16619. I told you openly?—You said to me you had recommended Mr. Berry to discharge them, and I said "all right," and waited for my orders.

16620. With reference to the accounts that I handed in, and which are printed in the accounts of expenditure, you stated that the cause of the excess in your accounts over mine was owing to expenses incurred in my time being paid afterwards in yours?—Yes.

16621. Have you made enquiry to find that was correct?—Yes, the reason was that it was not decided when you left what travelling allowance was to be given to the men, and Captain Standish decided that after he went up there. Mr. Sadleir, Captain Standish, and myself discussed what would be a fair thing, and we said we would give a fair amount—five shillings—as the work was arduous.

16622. Are you not aware that one of the items of that account is for services rendered, the dates of the services rendered, not the dates of the payment?—I was not aware of it.

16623. Why did not you make yourself aware before denying the accuracy of those accounts?—I do not deny anything.

16624. The account of expenditure which is wanted here is made out, not for the date of payments, but for the services rendered?—I was not responsible for any expenditure there—you were—I was not, except on the second occasion.

16625. You hired Mr. MacBain's paddock?—Yes.

16626. Are you aware that soon after I came there I dispensed with it?—I was not aware of that.

16627. You spoke of allowing the outlaws to attack a bank?—Yes, I would have given anything if they would have attacked a bank, because that would have been the best chance of catching them.

16628. Do you think, as an officer of police, you were justified in using the public or private residence belonging to citizens as a trap for desperate characters such as the Kellys?—I never did it. I said I would have been glad if they would have come out and attacked a bank, as the banks were well protected.

16629. *By the Commission.*—What protection had the banks?—There were always two or three constables and bankers on the alert, and every attempt was made to keep them up to the mark, to shoot the Kellys if they came.

16630. *By Mr. Nielson.*—Was there no risk of shedding blood?—No doubt there is always.

16631. You stated this as one of your plans?—I always looked upon a bank as a trap to catch the Kellys. I do not say I made it a trap. It was by our taking proper precautions in case of that.

16632. Do you think that a proper principle for a police officer to act upon?—Undoubtedly. I often said to the bankers, "I wish they would stick you up, and we would know where they are."

16633. Are you not aware that Constable Falconer wrote to some constable about the cave party and about the *Depôt*?—No; I never heard of it.

16634. Did you not hear he had written to a young horse-breaker named Lawless?—No, I never heard it, nor did Lawless ever tell me.

16635. Why was Falconer recommended by you, lauded by you, to the neglect of Canny, who was his guide?—Because Canny was in the capture. It was not for promotion; it was for a portion of the reward. I never did recommend him for promotion, and never would at present.

16636. Do you say the Sherritt family were about seven or eight?—Yes, I think so; perhaps five or six.

16637. You reduce it now to five or six; you said seven or eight?—Yes; I say they must have known it.

16638. But I am speaking of seven or eight?—Five or six I think was what I said.

16639. Did not Mr. Sadleir request you to send warning to the police at Sherritt's hut, on the receipt of John Sherritt's letter?—No; I do not remember anything of the kind.

16640. *By the Commission.*—About the agents—I would like to ask if Mr. Nicolson told you before he went away that he had agents?—Yes; he showed me their accounts.

16641. You know how many he had?—Yes.

16642. Did you know their addresses?—Yes.

16643. You knew how to communicate with them?—Yes; he told me all about the accounts of those agents, who consisted of Stevens at Glenrowan and Aaron Sherritt at Beechworth, and no one else was receiving pay.

16644. There were only two?—Only two receiving pay from the Government.

16645. Only two that were furnishing information?—Yes; that is all I know of, and the "Diseased Stock" agent. He used to get payment from me when he came in and gave information.

16646. You were complaining that Mr. Nicolson did not give you the names of the agents he employed, and afterwards you said he paid them all off, so that you could not get them?—Will you read what part you refer to?

16647. You spoke of one man,—"The principal agent employed by Mr. Nicolson I had appointed to meet me that morning. He was one who was considered the best man they had. After talking with him a few minutes, he positively refused to work for me, or have anything to do with me, although he had accompanied the police from Beechworth the previous day, for the purpose of having an interview with me?"—Mr. Nicolson said nothing about that agent to me.

16648. This man must have told you, because you said he was the principal agent?—I heard it from Mr. Sadleir and Senior-constable Kelly, and I heard that Mr. Nicolson made more of him than any other. His name was "Renwick."

16649. You do not consider he is one of the number that was left when Mr. Nicolson said to Mr. Sadleir, "Is there anything else"?—In all probability he spoke about "Renwick."

16650. Can you state why this man refused to work for you?—I think I have stated in my evidence all about that.

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16651. You do not impute anything to Mr. Nicolson about that agent?—No.

16652. You say, after that, that Nicolson had paid off all the agents he had employed—did you imply he had dismissed them all?—That refers to the telegram that he sent up to say no more payments for Tommy and his family.

16653. How many agents had you employed while you were up there after Mr. Nicolson left on the second occasion?—I had this man—"Diseased Stock"—who brought me information; I had Aaron Sherritt, and one Stevens, and a man I sent out to Glenrowan two or three days before the Kellys were captured.

16654. Were those all the agents that you had who had been formerly employed by Mr. Nicolson?—All, with one exception, but he had written up to say, "No more payments for Tommy," consequently I had to take them on.

16655. How many did Mr. Nicolson discharge?—I do not know how many were in his payment up to at Beechworth, but I told them to carry on. I think the whole of the Sherritt family and the old woman was paid for keeping up the thing. I took them all on, all that he had got rid of.

16656. You do not know how many Mr. Nicolson had?—No, I heard Mr. Sadleir say there were certain agents that they did not feel it was right to give over to me until they had consulted them, and Mr. of Sadleir said he referred to the "Diseased Stock" man, and I never was made aware of that till I heard it here at the Commission.

16657. Was Wallace one of your agents?—No.

*The witness withdrew.*

*Adjourned to Tuesday next, at Eleven o'clock.*

TUESDAY, 6TH SEPTEMBER 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;  
W. Anderson, Esq., M.L.A., | G. R. Fincham, Esq., M.L.A.,

Francis A. Hare,  
*continued,*  
1st Sept. 1881.

John Sadleir further examined.

*The witness.*—I have made some notes of the evidence of my own connection with the Kelly business especially, and with the North Eastern district, and I will read from this, as I think it will be the most expeditious mode of getting through the business. I have made an index of the various points that I may have to refer to, and the Commission can say whether they wish the points referred to or not. The first business I have to deal with is the condition of the district as regards crime previous to the police murders, and previous to my going there. I took charge of the district in July 1878. The witnesses who testify to the evil condition of the district for years before I had anything to do with it are Captain Standish, myself, Detective Ward, and in fact every person who was questioned on the subject. I have shown by my own evidence, and other witnesses show the same, that even under the best circumstances the district is so extensive as to be quite beyond control. On my taking charge I pointed out this to Captain Standish, and his answer was that he quite agreed with me, but the Government insisted on the new arrangements being carried out.

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16658. That was putting two districts into one?—Two and a half districts; nearly three.

16659. Too much for the supervision of any one man?—Yes. The Commission have before them all the correspondence relating to the preliminary search for the Kellys, the gang being formed of the two Kellys only, and not of four men, as Captain Standish has stated in error. I visited Greta police station for the first time on July 30th, 1878. Besides Senior-Constable Strahan, who was then in charge, I met a gentleman residing on the King River, and his servant, whose names I can give, who informed me in a somewhat mysterious way that the Kellys were in the neighborhood of Conuolly's, or towards the Wombat or Holland Creek. I gave this gentleman a seat in my buggy to Benalla, and promised to drive him on to Mansfield next day, as I hoped to get his assistance and that of his servant, who could, I believe, have given useful information. This gentleman was the worse of liquor when I met him next, and I had to travel alone. At this same visit to Greta Senior-Constable Strahan told me that he and Constable Ryan lately saw two horsemen standing on a point of the Bald hill, whom they suspected to be the Kellys; that they rode up as quietly as they could to try and capture them, but when the police reached the spot the supposed Kellys had disappeared. It was on the information of these several persons that I gave my first written instructions to Sergeant Kennedy, dated August 10th, 1878. Subsequently, in consequence of further correspondence with Captain Standish, Detective Ward was sent up, and I had no other information of any description of the Kellys' whereabouts, further than is shown in Mr. Secretan's letters given in my evidence. While the preliminary inquiries were going on I saw Sergeant Kennedy several times, and no doubt I made him acquainted with my own views on the subject. I had, before this, gone myself with him through the country, where the murders took place. This was in search of the Kellys for shooting Constable Fitzpatrick, and with the view of getting the man (Perkins is the man I refer to), to assist the police. This man was from home, his wife told us, making inquiry about the Kelly's in Sergeant Kennedy's interest, as he had previously promised, and that he would see the sergeant as soon as he returned. Soon after this I saw Sergeant Kennedy who informed me that this man (Perkins) had not kept his promise; that he had been once or twice in Mansfield, and had kept out of his way. I did not wish to interfere myself further, for I knew I could trust entirely on Sergeant Kennedy's discretion, and he in fact knew the man's character much better than I did. I do not think Sergeant Kennedy had one word of information beyond what I told him, and I am quite satisfied the insinuation that he left with Constable Scanlan, so as to have an advantage over Constables Lonigan and McIntyre is groundless. I think his conduct in allowing McIntyre to go out shooting is proof enough that he had no notion that the Kellys were near. I received information of the police murders at Dookie on morning of 29th October. When I got to Benalla I found

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Mr. Nicolson busy despatching parties of police in various directions. I left that business altogether in his and rode on to Mansfield, forty miles further, that evening. The bodies of Lonigan and Scanlan had been brought in, and I arranged, with Mr. Pewtress' assistance, for, a search party on the following morning to find the body of Sergeant Kennedy. His body was found on the following day (31st). The Mansfield people, in the first scare, thought that the Kellys would be still in the neighborhood, but I urged on them that they were sure to clear out across the Murray, as actually proved to be the case. The next item in the index I have made is Mr. Nicolson's position and my own in the district at this time. As regards Mr. Nicolson's position and my own in the district, this is clearly defined in the evidence of Captain Standish, Mr. Nicolson, myself and Mr. Hare, and the same evidence explains my position. The witnesses all show Mr. Nicolson to be in charge of the Kelly operations, Mr. Sadleir in charge of the district, and the definition has been accepted right through by the Commission until Mr. Graves and Mr. Winch gave their views. It is a perfectly well understood thing in the service that Mr. Nicolson as Inspecting Superintendent had the *entree* of every district whenever he chose or was desired by the Chief Commissioner to go there. Captain Standish, with Mr. Hare, took exactly the same position in December 1878, when Mr. Nicolson left, and the latter again resumed his old position in July 1879. My original duties were never taken out of my hands, and I was never, in any sense superseded. Captain Standish, in his evidence,

has made this plain, and shows he knew it to be impossible that one and the same person could take charge of the double work. The same remarks apply to the question of responsibility in the Kelly business. My own certain conviction is that I have properly no responsibility in any transaction, even where I acted as a free agent at the time, so long as my action was afterwards approved by my superior officer. But I am not going to shield myself behind any mere technicality of this sort. As far as being equally responsible, or responsible in the same sense as my seniors, that is quite out of the question. An officer can only be responsible where he has the power of carrying out his own opinions, which I had not. As a junior officer I had to follow the opinions of others.

16660. You had not responsibility with reference to the Kellys, but with reference to the general business you had?—Yes. Of course in the ordinary business I had to have respect to arrangements made by the other officers; that is, I could not take away men from bank townships, my own men, without their consent.

16661. Supposing any information you became suddenly possessed of was of sufficient importance, would not you have been justified in assuming the responsibility of taking what steps you thought best?—Yes. Of course I am speaking of general responsibility. I am speaking of the abstract rule of every disciplined service. That is, in general matters a junior officer cannot be responsible except in matters where he has been allowed to carry out his own opinions, and even then he is not responsible if his actions afterwards, or his opinions, have been approved by his superior officer. The latter then becomes responsible but I am not shielding myself behind that. I will accept responsibility to this extent: whenever I acted alone, or even offered advice that was acted on by my senior officers, I will take the consequences. Apart from the question of responsibility, I think the evidence leaves it perfectly clear that I gave all the assistance in my power. I think I may say, that it is the value and extent of that assistance that has caused some persons to consider me as having taken a separate and independent responsibility in this matter. The next question I come to is the search at Sebastopol, on November 7th, 1878. This is a case in which I took a personal responsibility. It was I who collected the police from Taylor's Gap, expecting six only, but thirteen turned up. I brought two from Beechworth, and on my advice five were brought from Benalla. This, with the three officers, made twenty-three police in all. I know the popular belief was, that there were many more. In my own evidence I stated thirty-five, but twenty-three is, I believe, the absolutely correct number. In the letter handed in by Mr. Graves, it is stated the information by the bark stripper was delayed for two days, in order to take away the chance of capturing the gang from the six or seven constables then at Beechworth. Will the Commission be good enough to refer to that letter. It is one of the statements in that letter I am referring to now. The statement in the letter is, "Another case similar happened shortly afterwards at Beechworth, where reliable information reached the constable in charge, that the outlaws were in the vicinity. The constables, five or six in number, decided to visit the house, and when everything was complete and ready to start, an officer dropped in, and ordered them to remain in barracks, and wait for orders, which they were obliged to do. The consequence of this delay was, that when all the usual red tape routine was gone through, they surrounded the hut in three days after the information reached Beechworth. The Kelly gang had decamped the day previous. There is something very singular in this case. When this particular hut was surrounded, there were almost as many officers present as constables. The question arises, were those constables delayed for the purpose of collecting all the officers in the district to be present at the "great charge of Sebastopol," as it is now called, and so on. My statement in reference to that is this:—The fact is, there were only two constables at Beechworth. I received the information late on the night of the 6th November; telegraphed as soon as I had done speaking with the informant, asking for assistance, within an hour of my first hearing of the affair, and before daylight, the whole party was under way. I think that explains any statements as regards delay 'The mistake in not letting Mr. Nicolson know the full purport of the information was purely accidental because, of the darkness, when I was speaking to Captain Standish, Mr. Nicolson was, I thought, standing beside us. The telegram he had from me was evidently all the information he required, for his instinct showed him perfectly well what was necessary when we sighted the hut. He was the first man into it. The next matter I have is the reported appearance of the Kellys at the One-mile Bridge near Wangaratta in the same month. My own impression is that that has been explained by the statement of the original informant at Wangaratta. If you think so, I will not take up your time with my remarks. You examined the woman at Wangaratta. Is it necessary for me to give any explanation of that?

16662. I think the responsibility rests on Mr. Brooke-Smith in that?—I do not think I am involved in that at all.

16663. It is better to give your version of that affair?—Then I will give my account of it. This is another case in which I acted to some extent on my own responsibility. The first intimation I had of this appears to have been from Sergeant Steele on the Railway station at Benalla and then only in the shape of a rumour. My instructions to him (Steele) were to halt at Wangaratta, make enquiries there, and if report reliable to inform Mr. Brooke-Smith, who was supposed to have a strong party there. Mr. Brooke-Smith reported to me on the subject to the effect that the rumour was not confirmed. The Commission

will remember the original informant, Mrs. Delaney, coming before them at Wangaratta and stating that she could not say the persons seen were the Kellys, nor could she see any arms with them.

*The Chairman.*—There was nothing taken down. She came informally and said she simply knew that four men had passed and she did not know who they were. The Commission did not think it worth while to

take that down, and she said she had no other information to give after.

*The witness.*—I do not think Mr. Lang was justified in putting the evidence on this subject in so strong a light.

16664. *By the Commission.*—How long after this information was given to Mr. Brooke-Smith was action taken; what action did he take at once?—I have looked carefully through the papers and cannot find that.

16665. He concluded the rumour was not confirmed and did not take action at that time?—Yes. The instructions under which I acted in sending Sergeant Steele to Beechworth and Rats' Castle were received from Mr. Nicolson, who was then on the only certain clue of the Kellys. In fact it was absolutely certain that they had been at Margery's, and it was so important that police should be placed so as to intercept their probable route from Margery's back to their old haunts, that unless the information at Wangaratta were of a much more positive character, I should not have felt justified in stopping Sergeant Steele's party. Sergeant Steele, who had the same information about Mr. Nicolson's movements, would have been still less justified.

16666. What do you say about Mr. Brooke-Smith's action in the matter?—I do not know what action he took. I was never aware of what it was except by hearsay. I am inclined to think he had not an effective party at Wangaratta. I am only speaking from memory.

16667. We saw the books showing that he had six men?—Well, I have only a cloudy recollection of it, and I had nothing to do with the matter afterwards. The next point is the second search in the Warby Ranges, on November 12th, 1878. This matter has been connected with the previous one, but my impression is that the two things had very little relation to each other. On the evening of the 11th November I received a message from Mr. Nicolson, who was then at Wangaratta, that he intended next morning to search the Warby Ranges, on some recent information. Mr. Nicolson did not think much of this information, but connected it, I suppose, with the previous searches there. I went to Glenrowan on the morning of the 12th November, and found Senior-Constable Johnston waiting for me. This would be about half-past five o'clock in the morning.

16668. We understand this is the second search?—Yes.

16669. Then you have nothing whatever to say with reference to the first search made by Mr. Brooke-Smith?—I never had any knowledge of it, except from hearsay,—no knowledge personally.

16670. How long was Sergeant Steele coming back from Rat's Castle?—He returned on the 7th November.

16671. Whom would Mr. Brooke-Smith report to what action he had taken with reference to that?—After the fifth he would report probably to Mr. Nicolson who I believe was in Wangaratta that day.

16672. Did Mr. Brook-Smith, at the time you met Mr. Nicolson at Wangaratta, then report to you what he had done in the search—to both of you?—That is what I say. I think Mr. Brooke-Smith had sent a telegram to me at Benalla that the information was not confirmed, and I cannot go beyond that, as I cannot trace anything in the documents. I do not remember his speaking to me on the spot.

16673. Would it be his duty to send in a written report, and to whom?—It would, to Benalla, and I was the officer who would have got that.

16674. You never received any?—I cannot trace it.

16675. Do you know whether Mr. Brooke-Smith reported to Mr. Nicolson every night when he came in,—have you any knowledge of that?—If he found Mr. Nicolson at Wangaratta I have no doubt he would report.

16676. But we have the proof here that Mr. Nicolson was not at Wangaratta; he came to Wangaratta on the 5th?—Yes.

*Mr. Nicolson.*—I came from Wodonga, the banks of the Murray.

*The witness.*—I have a distinct recollection of seeing reports from Mr. Brooke-Smith, at Benalla, on the subject, in that interval between the 3rd and the 6th.

16677. Would those reports be in existence?—Yes.

16678. Do you remember the exact date on which Sergeant Steele went to Rat's Castle?—Yes; the 3rd November.

16679. Then, on the 3rd November, in the evening, Mr. Brooke-Smith would receive the information of the supposed appearance of the Kellys?—Yes, late at night, ten or eleven, I think.

16680. Then, on the 5th, Mr. Nicolson returned from Wodonga to Wangaratta?—Yes.

16681. And the question we want to know is what was Brooke-Smith doing upon those two days—the 4th and the 5th?—I can only speak from recollection, but I think he made those inquiries, first reporting that the matter was not confirmed, and I think he made a further report.

16682. We have it from Senior-constable Johnson that Mr. Brooke-Smith left Wangaratta on the 6th November 1878 with a search party?—He should have, in that case, reported to Mr. Nicolson, and received instructions from him.

16683. You cannot connect anything to show that Mr. Brooke-Smith went out before the 6th?—No, but if you like I will go over the papers with the Secretary and hunt the matter up, I am merely guessing now.

16684. Were you at Wangaratta?—I got up late on the 5th, after Mr. Nicolson arrived. He arrived about four, and I did not arrive till half-past nine.

16685. Then there were three days lost before a start was made?—Certainly there were three days lost, but whether anybody was to blame I cannot say. Those reports and telegrams ought certainly to be found to put that matter right.

16686. Do you know whether Mr. Brooke-Smith went out on the 6th?—No, I left Wangaratta that morning before he started.

16687. Were they preparing to go out?—I think it was understood they were, but that is only a matter of faint recollection.

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*continued,*  
6th Sept. 1881.

16688. You did not consider that information worth anything yourself?—At Wangaratta?

16689. Yes?—I did not know that.

16690. What was the date of your attack upon the hut at Sebastopol, where you expected the Kellys?—On the morning of the 7th. It is a matter I cannot explain to this day why we should have remained in ignorance about all this matter—about the One-mile bridge; I was going on about the second search in Warby Ranges. I understood, when I arrived at Glenrowan (but I may be mistaken after so long a time), that a railway laborer named McEvoy had seen one or more horsemen galloping across the line close to Glenrowan. Senior-Constable Johnson says in his evidence that the tracks were three days old, and that the information amounted only to this, that some person saw three horsemen standing on the road whom no one identified. If I had known this I could easily have foretold that the trip would be a failure. I have already told, and Sergeant Steele and others have given similar evidence, how these Corranderk trackers failed as they did on every occasion, and how Sergeant Steele, by an accident separated from the rest of the party, taking with him Constable Dixon, the only man that could take us through the country we wanted to go to. Before Sergeant Steele left us the tracks we started on had been completely given up, and I am certain that Senior-constable Johnson, in giving his evidence of this affair, has been mixing up matters that were quite separate. The next note in my index is, "Food supposed to be prepared for outlaws by sisters, and step taken by police in the early part of 1878." I have been unable to find anything in the papers or in my own notes to throw any more light on this subject. The only persons that would probably be able to give the Commission information would be Senior-Constable Strahan or perhaps Constables Mullane or Flood. Then I come to another point that I think has been absolutely cleared up—that is the hollow log referred to in prisoner Williamson's information, and steps taken. The search for and discovery of this hog have been fully explained by Senior-Constables Mullane and Flood in their evidence. The log was found. The cobwebs and dust across the opening were the best possible proof that it was not used by the Kelly friends. Senior-Constable Mullane shows that the search was made within a day or two after the 30th October, and certainly within a week. Probably the reason that my memory was at fault (and I stated all through that I was speaking from memory only) was that this information was handed to these constables in Melbourne by Captain Standish himself. My statement that the log was, I thought, not found is explained by this. The search for this log was subsequently renewed, and it was stated it could not then be found, that it was burned by a bush fire. This is only from hearsay, for I can find no reference to it in the records.

16691. Were there search parties in that particular locality at the time?—Yes and we had some men at Greta. The next subject I have to deal with is the information that induced Mr. Nicolson and myself to go to Albury, taken in connection with Mr. Wyatt's report of the telegraph wires being cut on 10th December 1878—the day of the Euroa Bank robbery. This is a matter in which I acted to some extent on my own authority. The fact is that before Mr. Nicolson returned from Fern Hills, where he was when I received the information about the probable crossing of the Kellys near Howlong, I had made up my mind to go to the spot with Sergeant Harkin in daylight and place him there with a party of police. I had arranged all the necessary preliminaries when Mr. Nicolson returned from Fern Hills on the 9th December. He approved of them and said he would go up too to Albury. Arrangements were made with Mr. Medley, the New South Wales police officer at Albury, to meet us on the arrival of the train. This information, though at the time I expressed myself (as will be seen in the correspondence) as not having full confidence in it, seemed very plausible the more one considered it. It was addressed by a member of the criminal class, a needy man, to Jack Quin, an uncle of the Kellys, and the man of all others in the district at whose door most of the crime there was laid. I believe what made me suspicious of the information was the precision with which the localities and some other particulars were given, but then, on the other hand, if the police had omitted to use the information, and that it afterwards turned out to be genuine, a very serious responsibility would have been incurred. It appeared so easy to arrange a plan to intercept the Kellys crossing at this place, the prospect appeared too good to lose, and at the time I speak of the matter was becoming urgent. Mr. Nicolson in his evidence shows that Foote, who was a most intimate friend of the Kellys, and promised to help the police (and had done so in the case of Power), informed him that the Kellys were then at the head of the Wonangatta, one of their known haunts, over eighty miles from Benalla. Besides this, Mr. Nicolson (as he states in his evidence) returned from his last trip fully convinced that the Kellys were nowhere in the neighborhood.

16692. In what neighborhood?—The neighborhood of Benalla. The statement I refer to in Mr. Nicolson's evidence is in Question No. 462. I will go on. Mr. Nicolson says, "It was his intention to return from Albury by first train next morning," and this is no doubt correct as far as he is concerned, for the fact of his appointing to meet Mr. Medley at twelve o'clock at night showed this. My own plans were different. I had to inspect the Wodonga station, which I had not visited for nearly two months, and probably also to go to the intended crossing-place. It will be borne in mind that the telegraph wires were cut at about two o'clock p.m. on this day, that Mr. Nicolson despatched a telegram to Captain Standish at 5.45 p.m. and though we were on

the police station at Benalla, or thereabouts, all the evening, no notice was given of the interruption. The fact is the telegraph master had no suspicion of anything beyond some accidental interruption. I have already described the excited manner of Mr. Wyatt. I saw at once that he had some important news, but, as I have said, he shut me out of the room before I could hear what he had to say, and as soon as I could get from him afterwards any clear notion of what was the matter, I went amongst the passengers and the driver and guard, but they had not a word of information to give as to any alarm along the road. Some of the passengers had seen the police at one station and some at another, but there was nothing to show anything to raise suspicion. The fact is that Mr. Wyatt, by cautioning the railway people not to communicate the information to any one, took away all chance of any corroboration of his statements, and in the few moments there were for decision there appeared no sufficient reason to turn from our plans. Mr. Wyatt, in his evidence, acknowledges that the account I gave in my evidence is more reliable than his own; and Sergeant Whelan, in Questions 6228 *et seq.*, says that even hours after Mr. Wyatt did not leave him to believe the Kellys had anything to do with the breaking of the wires. It did seem simply impossible that such an injury could be done to the telegraph lines without either the railway officers or some of the numerous passengers having some knowledge of it.

16693. In your evidence in chief you stated that after you left Wangaratta you had some misgivings as to the information?—Yes; I was uneasy. My misgiving arose in this way. As we were passing

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Glenrowan in the train, I saw the publican McDonald (who lives opposite to where Jones's house stood, and was always suspected by us) looking out from a deep shadow, in a most curious suspicious manner.

16694. Where was he?—In a recess on the station, and as soon as he found his nose in the light he would pull back like this—[*showing his meaning*]—and I should have spoken to Mr. Nicolson, but he was lying fast asleep. He was very tired with his long journey, as I have said, but we were in the train and could not get back.

16695. Your impression after that, and the information that Mr. Wyatt had given you, made you feel uneasy; that this man might have been after something?—I thought he was looking for news, and I watched the guard of the Post Office in the van to see if this man would ask him questions, and if he had I should have jumped out and asked what they were talking about. I now refer to Captain Standish's report that the police at Benalla had information that a bank in the district was to be stuck up by the Kellys. I have stated, in answer No. 2023, that this part of his evidence was given in error, and I referred to a conversation I had with him immediately after these events. When Captain Standish was writing his report, read before the Commission a few days ago, he stated to me one reason why Mr. Nicolson was to blame was that he knew a bank was likely to be robbed by the Kellys in the district. I replied that this was a mistake, there was no such information. He said, yes there was; he had seen it himself in the newspaper, the Age, I think. I said, "We don't get the Age here." He said, "Then you ought to have seen it," and he seemed still under the impression that Mr. Nicolson did know this particular bank was in danger. To my mind that explains what Captain Standish said the other day, that he still believed that there was information that the bank was to be stuck up.

16696. But he expressed that belief in the face of the strongest evidence to the contrary, and stuck to it?—Well I think that explains his misconception on that.

16697. What number of men had you going to the Murray on that occasion?—There were only ourselves; we had no men. We were going to confer with the New South Wales officers and our own sergeant on the border. The whole of the circumstances are given very fully in the evidence by Mr. Wyatt and myself. I cannot throw any fresh light beyond what has already been given. I returned from Wodonga with Mr. Nicolson on the morning of the 11th December. We started before daylight; I suppose about 2 a.m., as soon as the enginedriver could get up steam. By arrangement with Mr. Nicolson, I took the Wangaratta police to Lake Rowan, *via* Glenrowan, keeping south along the foot of the Warby Ranges. Before leaving Wangaratta messages were sent to Senior-Constable Strahan and party, at Greta, to keep watch and make search in the ranges near the Kellys' and Lloyds', and this party were at this work, I believe, for several days. In going to Lake Rowan with the party I took from Wangaratta, a sharp look out was kept for tracks, and some fresh tracks were found crossing a brush fence immediately under the range, and the tracker was put on these tracks. He followed them only for a very few yards. Close in front of the tracks there was a cross brush fence and some wattle scrub, affording any amount of shelter for an ambush; and I saw it was not fair to ask the tracker to go in first. I dismounted, and, with one or two constables, went into the scrub, and then the tracker came in, but no further trace could be found.

16698. What date is that?—That is the day after the Euroa bank robbery. We searched Kellys' uncle's place at Lake Rowan, but without result, and on the 12th I returned to Benalla for further intelligence. The only other search parties I went out with were to Euroa and Muddy Creek, on some information by a water-police constable, which turned out to be mistaken; two trips with Mr. O'Connor and his trackers and some police, altogether lasting about three weeks, and one night watching at the Ovens crossing with Mr. Hare. I took some other trips, lasting only a day, to examine likely crossing-places on the railway line and elsewhere. Besides these trips, I made it my business in all my journeys in connection with my own ordinary duties to collect information wherever I went from the police and others. The duty of seeing that the bank guards were vigilant fell chiefly on me. Every officer who had charge of the Kelly operations has spoken of the assistance rendered by me. The next question is the information given by Foote,

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of having seen the Kellys on the previous evening, the 28th September 1879. Mr. Nicolson's evidence differs from mine about this matter in some important respects. He says that the informant was on his way to Benalla when I met him. My telegram to Mr. Nicolson written at the time shows that this was not so. I will ask the Commission to refer to that telegram, dated 29th September, and there is a sketch attached to the correspondence. I say there that he was on his way to inform Sergeant Steele at Wangaratta, where I met him.

16699. Was that the time the horses were returned to the stables?—Yes. That telegram is printed in the evidence already. It is true that Mr. Nicolson telegraphed back to bring the informant, but I could not get to speak with him again, and I could not tell whether he was or was not willing to come. Another point is, I did not profess to be able myself to lead the police to the locality I had never been in that particular neighborhood. I trusted to some of the police at Benalla who knew the place well to be able to find the spot from the sketch taken from the informant's statement. There is another reason given by Mr. Nicolson and Mr. O'Connor for not going without the informant, namely, that the trackers could not distinguish between the tracks of the outlaws and those of the friends who were standing with them. If the informant himself was to point out the spot, he could not throw any light on the matter, for the men were all standing near together, both outlaws and friends, when the informant saw them. I do not say that this was a certain chance thrown away, nor do I say that Mr. Nicolson showed a mistaken judgment in the matter, I only wish to point out that the part I took in the affair did not in any way prevent success.

16700. You have previously given in evidence about your being ready to start?—That is all in evidence. I next come to the events of the 28th June 1880, the day on which the Kellys were captured. Having been called out of my sleep, as stated in my evidence, I got out of bed instantly, hurried on my clothes, and in less than ten minutes was on my horse, and rode straight to the Benalla post office, where I found Mr. Hare. This would be between half-past four a.m. and five o'clock. The only information I had from Mr. Hare was that the Kellys were shut up at Mrs. Jones's hotel. Mr. Hare was growing faint from loss of blood, for his arm was not dressed, and I left without speaking further with him. When I left Mr. Hare I was aware of this fact only, that the Kellys were shut up at Mrs. Jones's. I had heard nothing whatever about Constable Bracken escaping, nor of the escape of the other prisoners, so that I had no opportunity of learning from any of them the real state of things inside of Jones's hotel. I met Dr. Nicholson at or near the Benalla railway station, and gave him my horse to take him to the post office to dress Mr. Hare's wound and to hasten back to come on with my party to Glenrowan, as it was reported

there were others also wounded. While waiting for Dr. Nicholson at the railway station I procured a rope from the station master with the view of pulling down the chimneys of the hotel, but when we got to Glenrowan the shooting by the outlaws was too frequent and appeared too accurate to allow me to risk the lives of the police in this way. The hour of our starting from Benalla was about ten minutes after five o'clock. This is given in error by the printer of my report of 2nd July as the time of our arrival at Glenrowan. It was probably half-past five or twenty minutes to six when we got to Glenrowan. It was dark still when we arrived there. Senior-Constable Kelly came to me soon after. I asked him where the guards around the building were weakest, and I then sent Sergeant Whelan, who was the senior sergeant on the ground, to guard that side of the building. He had twelve constables with him for this work. I then asked for Mr. O'Connor, and on Sergeant Kelly leading me to where he was, I called, as that witness states, to Mr. O'Connor to come to me where I was standing in the open ground. Immediately before this time my party were being fired on by the outlaws. I did not observe it until my attention was called to it, and then, instead of taking cover myself, I told the Benalla police to do so and to disperse to their posts under Sergeant Whelan. Mr. O'Connor, when I called to him, asked me to come to him, and as my only object was to find out the position of affairs from him, it did not matter to me where I spoke to him. I remained with Mr. O'Connor for about fifteen or twenty minutes. His information to me was that the hotel was barricaded with furniture and bags of chaff and corn. We debated the question of forcing an entrance, and considered there was no way of doing it. Perhaps this will be the fittest place for me to explain why I sought my information from Mr. O'Connor instead of the senior member of the Victorian force. I think Captain Standish, Mr. Hare, Mr. Nicolson, and Mr. O'Connor himself all show that his position was recognized as that of an officer of police, just as one of ourselves, and this was what I thought of him too, and it was therefore my duty to see him as the responsible officer up to that time. I did not wait to consider whether he were strictly speaking a Victorian or Queensland officer. After talking with Mr. O'Connor for fifteen or perhaps twenty minutes, I went to the south side of Jones's hotel, and came to Constable Gascoigne's post. I spoke for some time with this constable, as shown in the evidence. He told me he had to leave his first position, as the post at which he stood did not afford him sufficient cover. We talked of several matters, and he pointed out the direction of the other police near him. He told me also that he thought the outlaws were in armour, and that the horses were shot some time before. It must have been some time after six a.m. when I left him and returned to Mr. O'Connor. I remained there only a few minutes, when I started to go round by Gascoigne's post again; but I saw that there was no cover on that side near enough to the building, so I returned, and went along the railway line towards the station—[*explaining the position on the map*]. The Commission will see that this was quite open ground, about eighty yards from the front windows of the

hotel. I could not find my way over the open drains. It was too dark to attempt to jump across them; and it was there Constable Dwyer saw me, and my impression always has been that it was here he asked me to let him take my messages round. His words were, "Mr. Sadleir, do not you be running round; let me carry your messages." In my evidence I spoke of the difficulty of going round, owing to the outlaws' fire and the cross-fire from the police. Some of the police stood as far away from the hotel as 100 yards or more. In fact, there was no seeing exactly where they were, except by an occasional flash, and to keep outside this circle would leave me just as ignorant as I was before of the real state of matters. I was desirous, too, of leisure to consider how to do the work that was before us. The only messages I have any recollection of giving Constable Dwyer were to see that the police were posted all around the building and to give the order to fire high. Nearly every witness has sworn to hearing this order; at any rate, after Dwyer left me, I came again to where Mr. O'Connor was. Up to this time, with occasional intervals, there were frequent shots by the outlaws and by the police too. I had fired a few shots myself at one of the outlaws, who appeared at the front, but finding that my bullets struck the fence, I fired no more shots from that position. When I heard the noise of the firing at Ned Kelly, as it turned out to be, and the calls of the police, I remember looking towards the building, thinking there was something up there, but could see nothing. The black boys were also looking out; and if the movements of the police were not observed by them, it is no wonder that I did not observe them. Constable Gascoigne, who was standing on the high ground, saw the police moving about, but did not know what was going on. Constable Canny, who was still nearer, did not recognize it either; and Constable Dwyer, who actually ran among the police who were closing in on Ned Kelly, did not take any notice of the affair until his attention was called to it by the reporters. The witnesses—Mr. Carrington, Dowsett, and some others—describe a fog or mist lying close to the ground, which will account for this and, besides, there was some low scrub between my position and where the capture actually took place. Whether the sun had then risen or not—and I am quite satisfied it had not—the actual spot where the struggle took place would appear in deep shadow to any person looking from the opposite direction. Ned Kelly had scarcely reached the station when Constable Dwyer informed me of the capture, and I instantly went to see the prisoner, and finding the outlaws were firing at the van where we had him at first, I removed him to the station. After going to the station to see Ned Kelly, I never again returned to Mr. O'Connor's position. It is important, I think, that I should trace more particularly the order and times of my movements from my arrival to the time of Kelly's capture. Say I arrived at Glenrowan at 5.30, or perhaps ten minutes later, that is allowing twenty-five minutes to travel the fifteen miles from Benalla. Then say twenty minutes spent speaking with Senior-Constable Kelly and Mr. O'Connor, would bring the time up to six o'clock. Then say twenty minutes' delay in going to Constable Gascoigne's position, speaking with him, and returning, would make the time twenty minutes past six. Say ten minutes then again with Mr. O'Connor, and perhaps ten minutes or more in the open ground when Constable Dwyer addressed me, would bring the time close up to seven a.m., or a very few minutes before the hour of the capture of Ned Kelly as fixed by most of the witnesses. Now I will endeavor to bring before the Commission the difficulties of the business that the police had in hand, and that, excepting perhaps Mr. O'Connor, there was not a single person present who ever before had any experience of an affair of this character. I am not ashamed at all to acknowledge that the more I considered matters the more perplexing they appeared. I arrived at this determination almost immediately—that nothing could be done till daylight, except to keep the house guarded. Then the discovery of Kelly's armour on his arrest, which was about daylight, made matters much more difficult, and we were beside running very short of ammunition. It was then, in conversation with Dr. Nicholson (not the reporters, as I thought at first) and some others on the ground, that the sending for the gun was first mentioned. I would mention here that I saw Dr. Nicholson in town about six weeks

ago, and, asking him about the business, he repeated the statement which I sent in the other day to verify my affidavit. I will see afterwards that an affidavit is handed in from him. It is very easy for people, wise after the affair, to laugh at this as an extravagant notion, but it appeared to be nothing of the sort then. The crowning difficulty of all was the presence of a large number of persons—whether innocent or not we could not tell—shut up in the house with the outlaws. That all reasonable precaution was taken for their safety even before I came on the ground is abundantly proved. But there can be no better proof of it than this—that not one person was hurt, after the very first volleys, by the police, except young Riordan, and he was deliberately shot in the belief that he was an outlaw. The police gave the prisoners plenty of opportunities of coming out up to ten o'clock in the day. The outlaws themselves were frequently called on to surrender, and there is abundant evidence that there was no want of humanity shown by the police as a body. There was no doubt some unnecessary and perhaps some reckless firing, but, under such extraordinary circumstances, no officer could check this completely. Every constable was expected to shoot at the outlaws when a chance offered, unless they surrendered; and no one person could say whether a shot fired at any time before the prisoners came out, and especially during the darkness, was or was not at an outlaw. My express instructions, as stated by Senior-Constable Mullane and Constable Armstrong, who belonged to the same party as Duross and Dowling, were:—"There are a number of innocent people in the house. If you fire at all, fire breast high. Firing is not really necessary at present, except the outlaws come to the doors or windows, and then the men

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can fire at them.” These instructions were given to these two constables, Duross and Dowling, and, if they mistook the plain language of their orders, or—which I believe to be the case—mixed up different occurrences in their evidence before the Commission, it is not my fault. Constable Gascoigne and Mr. Rawlins state that a flag of truce held out by the innocent persons was fired at. They say there was one shot by one of the trackers. This may have been so, but my own impression is altogether different. I was standing at the Wangaratta end of the hotel when word was given by the police in front that the prisoners were surrendering. Every person there, like myself, expected that the whole body, outlaws and all, were coming out, and I have a very distinct recollection that when the word was given there was complete silence for a considerable time. In fact, this occurred only a few minutes before I gave the final call that brought the innocent persons out. I know that some of the trackers were too forward during the day, and I had to check them myself. I shall not attempt to deal particularly with the contradictory evidence about my generalship that day. Mr. Carrington is the only witness who attempts anything like a distinct condemnation, and, if the Commission will scrutinize his evidence, page 362, they will see that it is wholly unreliable. I will ask the Commission to consider this particularly: I had no opportunity of cross-examining Mr. Carrington, although, at an early stage of the proceedings, a promise was made to me of doing so. Mr. Carrington is known to have expressed himself adversely to me. The reason for not relying on his evidence there is his positive assertion, made within a few days of the occurrence, that Mrs. O’Connor and her sister went away in the train with Mr. Hare, although the fact was they remained at the station in the carriage for nearly five hours afterwards. It is something very remarkable that Mr. Carrington should not have seen those two ladies with whom he had travelled from Melbourne, and yet he observed all I had been doing, and was an absolute stranger to me. And to show, further, that this gentleman was laboring under some confusion of mind, or perhaps taken up with his own duties, he says he never saw Mr. O’Connor—in questions 10060 to 10065—from the time Mr. Hare left Glenrowan until the day he saw him before the Commission here. It could not be from not knowing Mr. O’Connor, for he had travelled with him all the way from Melbourne. Again, he says he heard of Joe Byrne’s death, as I understand his evidence, three hours before any other person did. You will find that in his evidence too. Again, in question No. 10094, he says he never saw me in the field; and again, in questions No. 10152 and 10153 he says he heard at Benalla—what no one else heard—that the railway line was torn up, and logs placed across it. He says this came from fifty different persons, and not one of them can be found. Now, in alluding to Mr. Carrington’s evidence, I wish to correct one statement of mine, that I had heard that he had absented himself from the field. I believe the information of which I speak was exaggerated, and I should like to withdraw that remark as regards him. And I would also say, as regards another remark of mine—my complaint about his letter being put in evidence—Mr. Hare has come forward privately, and expressed his regret that that letter was put in through his not observing that it reflected on the character of anyone else,

*Mr. Hare.*—I asked for it to be withdrawn, but it had been published. Had I noticed that it reflected on Mr. Sadleir I would not have put it in.

*The witness.*—Up to the firing of the house I think there is nothing in my conduct requiring explanation. During the interval from Ned Kelly’s capture I was continually in the field, excepting when I required to come to the railway station to receive or send a telegram and to see how Ned Kelly was getting on. The Commission is aware that the station is within a little more than 120 yards from where the outlaws were shut in, so that even there I could have directed matters in the field; but my interest lay altogether in the field, watching for any opportunity against the outlaws that would offer. The public have always considered—if they really did consider the matter at all—the public have always looked at it as strange that four outlaws at first, and then three, and subsequently two only, should keep over forty police at bay during the whole day. The fact is it was I who held back the police, in spite of their own eagerness to rush in and the urging by some foolish people in the crowd. There were some 400 or 500 private persons looking on, and we were under the fire of their criticism. There is nothing in my conduct that day gives me greater satisfaction than that, in spite of their importunity, I would not allow a single policeman to risk his life unnecessarily. I spoke to my friends on the ground. I said it was a very tame business, and I said the same in my report to the Government. We had the Kellys under our hands, and it would be my fault if any constable were disabled without sufficient reason. I had arranged a rush to take place before the day closed, and should the fire fail, and I myself would have been the first man to enter the house. As regards the burning of the house, there is no question, I think, of the propriety of that if you are to be guided by the evidence. I need say no more about that. The giving up the charred remains, too, is a matter of opinion, on which very little depends either way. I think my evidence and my report of 2nd July show that I did not act contrary to instructions. If you will compare my evidence on page 153 with my report, you will see the two are consistent. At this point I will correct two errors in that report in regard to this:—“It was known at this time that Martin Cherry was lying wounded in a detached building, shot by Ned Kelly early in the day—as it has since been ascertained—because he would not hold aside one of

I wrote the report, and there are people yet who say so—a gentleman named to me at Benalla on our last visit that there are three persons that still stick to that; but I will take the police reports as conclusive on the matter that Cherry was not shot by Ned Kelly—that he was one of those wounded in the first volleys by the police. This matter was discovered when I was absent on a few days' leave at Geelong, and I was not aware of it until later. There is another statement upon the next page:—"A man named George Metcalfe has also been forwarded by your instructions to Melbourne, for treatment to an injury received in the eye while the firing was going on." That was the man's own statement to Captain Standish, and myself, but, on further enquiries, I found that the injury was caused by Ned Kelly on the Sunday before the capture, the gun having accidentally gone off in his hands, and shot this man in the eye. The next thing I come to is the entries in Senior-Constable Kelly's record-sheet. The senior-constable himself, says that, considering all the circumstances, the entries, taking good and bad, were reasonable and fair, and I think so too. Still, looking back on the amount of work Senior-Constable Kelly had done in the Kelly business, and the ordeal he had gone through at Glenrowan, I think I should have taken more into account the physical exhaustion and the reaction that followed such a long-continued strain. The Commission have proof that the practice of the department is not to inform members of the force of entries of this sort in their record-sheets, whether good or bad. I venture to think the practice is a sound one, and I am certain I have never abused it. The opposite practice prevailed in the Irish constabulary, and was altered at the request of the police themselves. Mr. Winch says his practice is different. The Commission can easily test this statement; but I think I can say, from my certain knowledge, that Mr. Winch's is not a correct statement. I think Mr. Winch is mistaken in what I meant. I do not mean to say he has wilfully told an untruth, but I think his statement does not represent it fairly to the Commission.

16701. He was very definite in his statement—that, when a record was put on the sheet of any constable, it was read out to the constables together next morning?—That, so far as it goes, is quite correct—that is, if the constable is fined or punished in any way, the record is entered against him; he cannot be fined without it; but in all my experience in the city I have no recollection of seeing those ordinary entries that took place in accordance with the regulations, when a man is leaving his district. This entry would not have been made if he had not been leaving the district; it was my duty then to make it.

16702. At that time you were called upon to give them a character either for good or bad, when they were leaving the district?—I was.

16703. Do you think that, as a matter of justice and practice, it would be good that the record in every case of that sort should be made known to the man?—I think it would lead to no end of inconvenience and unpleasantness. I refer here to similar records being made public to the men in the Irish constabulary, where the men felt it such a grievance to have their character and *faux pas* made known to their comrades that they requested the Royal Commission to alter the plan to the plan adopted in this country.

16704. You think that it would interfere detrimentally to the service?—I think making it public in the way Mr. Winch does—

16705. That is not the point. Would it be fair to the constable if he was personally made acquainted by the officer making a report unfavorable to him that he had done so, so that he might have an opportunity of appealing to his superiors?—I do not see why he should not be made aware of it under those circumstances. I think every constable and every member of the force ought, if he liked to ask for it, to be allowed to see what is said about him.

16706. Would it not be better to make it the invariable rule in every case where a disparaging record is made about a constable that he should receive a written statement of the nature of that record?—I do not like to put my opinion against the practice of the service.

16707. I am merely alluding in general terms to equity?—It seems, no doubt, a man's right, as I have urged here before the Commission in reference to myself, that I should know all against me; but I do not want to give an opinion as to the practice of the department, for the opinion of the head officer of the department is that if the present practice is departed from there will be no end of trouble.

16708. But without making the record public to any other person but the person interested, would it not be desirable that any constable having a record—either being unusually brave or praised for any conduct whatever—should receive information in writing, or, if there was anything to complain of in his conduct, he should be informed?—Well, I would not make objection to that.

16709. Do you think it would have a good or bad effect?—If I were in his position, I should like very much to see it.

16710. Is it not a proof of the desirability of that being adopted—the conclusions you have arrived at?—Perhaps it is. I only want to avoid giving an opinion as to the action deliberately adopted by the head of this and several other departments.

16711. It will be the duty of this Commission to make certain recommendations, so your opinion will be somewhat valuable on the point?—Well, upon my word, I think it might be tried.

16712. With advantage?—Yes, if it were communicated to the man himself (not without his request), and that his comrades on the station should not be made aware of it.

16713. In that case, would not every constable who had a bad record made appeal to his superior officers?—Then the question arises, has he not the right of appeal.

16714. You think that is the best way to settle it?—I am very dubious about it. I am reluctant to give an opinion about that—it would be an experiment any way. The present practice I believe in, and I have said to men, "If you have any desire to see your record-sheet, I will see it is shown to you, I will get the authority of the Chief Commissioner," and the men have said, "No, thank you, sir, I do not want to see and I have never been asked for it by any man; and the men who suffer most, the ill-conducted ones, are the ones who, as

a rule, know all that is in their sheets, because when they are brought up for punishment it is all read out to them—the entries of the various officers are read out to the man, so, in that case he would know his sheet from beginning to end.

16715. According to your own confession, a record was made by yourself on one constable's sheet I that you now see cause to remove?—Yes.

16716. And, therefore, though some little inconvenience might be experienced, it is better than for one individual to suffer?—  
There is no doubt a great deal to be said on both sides. I would ask the

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Commission to remember that it was my duty to make the record on this particular occasion, because Senior-Constable Kelly was leaving the district, so that you may understand that it was not to fix a stigma on him then, but it was *apropos* of his leaving the district, and for no other reason. I will come now to another matter, chiefly personal to myself, and that is the circumstances under which I applied to be removed from the North-Eastern district. Immediately after the Glenrowan business, I set about arranging for the prevention in the future of any further outbreak. At Captain Standish's request, I conferred with Mr. Hare. The result was that stations were to be formed at Wombat, Fern Hills, Greta, or Fifteen-mile Creek, Black Range, and Glenmore. I took a great deal of trouble in making provision for quarters and so on, and when the question was submitted again, the Government would not allow the expense. I almost foresaw this, and turned my attention to utilising the agents formerly employed by Mr. Nicolson. In a short time I felt satisfied that, with their help, I need not put the Government to the expense of more than one or two new stations in the Kelly country, and all that was really necessary beside was to keep the banks for a time safe from attack, and to have the nucleus of a party at Benalla ready to turn out in case of outbreak. The Government would not allow the trifling expense of paying an agent for his work and information, nor would they allow the guards necessary to keep the banks even moderately secure. I still tried to work, through relying on the agents; and I arranged with the Stock Protection Societies, and with private persons, to guarantee rewards up to the first sitting of the Commission. I was receiving such help from these agents that before three months I should, I believe, have put the district out of all danger; and in a year or two I expected to see every dangerous man cleared out of the district or in Pentridge. I am not intending any slight on this Commission; but it was inevitable that the agents should take fright at the disclosures by some of the witnesses. At the last there were two agents left. One of these came to me, rushing away from his farm. He had not a penny of money. There was £20 due to him for a reward, and the money was actually coming by post for him, yet he would not wait for it. The other came to me the following night in very much the same state. Further, the Government, or the Acting Chief Commissioner of Police—I do not know who was responsible—had actually ordered the camping out equipments, pack-saddles, tents, compasses, &c., to be collected, with the view of being sent to the depot. I did then what I think every officer of independent mind should do in the same position—that is, when I was denied the means of carrying on the work, with safety to the public and credit to myself, I threw on the head of the department the responsibility of carrying it on with insufficient means. What was the immediate result? The officer who took my place was given a dozen additional constables, and Mr. O'Connor was appointed also to the district, and to take the management of the black trackers. Now I know it has been asserted out of doors, and in this room, that it was through personal fear I left the district. The statement is absolutely untrue. May I recall your particular attention to page 356 of the evidence. You see there the first letter is from myself, in which I wish to have a change of district, and that is dated the 22nd April 1881. If you look at the letters further down the page, you will see that the danger came to a crisis after I sent in my application for removal. First there is Constable Graham, who reports on the 26th of April—four days after my application was written; for the first time he reports:—"I beg to report, for the information of the Superintendent, that a number of them were here yesterday drinking"—he gives the names of several, and says:—"From their manner, I am led to believe that another outbreak among them is imminent." That could not have influenced my application—that is dated four days afterwards. Then again from Mr. Baber; on the 27th April, he writes:—"Matters are looking serious, and the police are certainly unprepared for another outbreak. It is out of the question to know where to turn for private information." That is his endorsement, I think, of Constable Graham's report, and that is five days after my application. He certainly consulted me about it, and had my opinion about it, as he says this on the 26th April. Senior-Constable Elliott, from another station, writes:—"And I have also very little doubt but that the saws were stolen for the purpose mentioned in Sergeant Steele's telegram of yesterday." This is after I wrote my application for the change. Sergeant Steele's report is given immediately after:—"Stolen, last night, from Acock's, Seven-mile Creek, two large pit saws, supposed taken to construct armour out of." That was two days after—the saws were actually stolen two days after my application went in. Then in the article from the *Benalla Standard*, that is dated the 26th April, it is stated—"There is not the slightest doubt but what the formation of another gang of bushrangers is being meditated in the Greta district," and so on. You see that is four days also after my application. Then Mr. Chomley (question 9873) quotes the conversation he had with Sergeant Whelan; you asked him the question—"Generally was he under the fear of outbreak?" and he says—"I do not think he was under fear of outbreak. Sergeant Whelan stated (I took notes at the time) he had heard it was intended to take the life of Skillian or Williamson, he did not exactly know which." If that is not an outbreak, what is an outbreak—to commit a murder on a man who had been giving

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information to the police? "He said the newspapers which contained the evidence were eagerly looked for, with the view of finding out who had been giving information. He said they were great savages, but he hardly thought they would turn out unless cornered for horsestealing." Now what is more likely than that they would be cornered for horsestealing or something else—what are the police there for but for that? This is the date of Mr. Chomley's visit, a week or ten days after I made my application. I do not see the date given here. He said "they would not hesitate to take the life of one of the informants first, and perhaps of the police afterwards. He thought would be the leader if a party were formed, and then he gave the names of the others who would probably be of the party." Sergeant Whelan says there is no fear of an outbreak, yet what is all this but symptoms of an outbreak. I am only pointing out that this information all came after I had made up my mind that it was time for me to throw the responsibility on to the head of the department. Now Sergeant Steele's statement, question 9875, is "That a man named told Constable Healey that the police would have hotter work than they ever had before with the last mob: and that a man named told a friend of his he believed another mob was getting ready to turn out about Greta. He said that he thought that the saws were taken for the purpose of making armour, and heard that a saw had been taken for the same purpose before, but had been found too light; those saws were pit saws. And then he said he thought, if there was a fresh outbreak, the names he gave me would be in it." I only point out, not that this information was correct, or that it proved other assertions of mine about things being serious, but to prove that my application for the change of district went in ten days before any of these particulars came to hand, so you can establish no connexion whatever between the two things. I have given an honest and perfectly just explanation of the reason of

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my desire for the change, and I must say it was the last thing that decided me, that in spite of the full knowledge of the district, the very equipments for camping out were ordered into the dépôt. I am aware (I believe Mr. Chomley told me) that he did not intend that by the order, but the order reads to me that we were to collect all those equipments and send a catalogue, with a view to their being sent to the dépôt.

16717. About what time would it take to get them up again, in case anything did occur?—The shortest time it could take would be four or five hours.

16718. A day or two?—Yes; but they are things that ought to be on the ground, that the men on the ground should be occasionally exercised in the use of them, such as pitching a tent.

16719. They could have been kept as safely there as in the dépôt?—Certainly. When I found the Government ready to allow sufficient means to carry on the work, I was most anxious to return to the district, and told Mr. Berry so in the presence of Mr. Chomley. If the officers who preceded me in that district had acted in the same resolute and independent manner, and forced the head of the department to face the difficulty of the situation, there would have been no Kelly outbreak. I think the Commission will support me in that, that if there was proper provision insisted on by the officers in charge there would have been no outlawry, and no murder of the police, and no Glenrowan to follow. I hope, after so many years of service, without a single slur being cast on my character, public or private, I can afford to feel, unconcerned about the statements made by Mr. Winch. The Chairman tore up his evidence, after kindly allowing me to read it, but as it has been read by the Commission, I will say this only on the subject: If Mr. Winch can find one respectable person in or out of the police force to corroborate his statements, I am ready to resign my position forthwith. That is all I wish to say, except to answer any questions the Commission may wish to put to me.

16720. *By Mr. Nicolson.*—In your main examination you disputed my being ignorant of what we were going to do when we came to Sherritt's hut in the Sebastopol matter. You alluded to your telegram to me as being sufficient to show that. Do you withdraw that now?—I do not exactly remember what I did say, so I had better look at that.

16721. "Very positive information that Kellys are concealed in range near here. My informant is not quite sober, and has been talking rather openly, but I am convinced his information is genuine; but it may be too late a day or two. I have but two constables here, and the hiding place is most difficult to approach. I have endeavored to communicate with Steele's party of thirteen men, six of which I can be sure of coming, but I think you should send all you can by special to reach here before day; mounted, and of course armed, and bring tracker. Reply." I think you stated in your answer, "Is it a fact that Mr. Nicolson had received no information from you who, he says, was in charge of that particular party, until you arrived in sight of the first hut?—Well, in the first place, Mr Nicolson had received a telegram. That is the foundation, and when explaining matters more fully on their arrival at the platform, I thought Mr. Nicolson was standing by—my impression was that he was standing by, and naturally would catch up what was said, and I took it for granted that he heard, as well as Captain Standish, what I said, which was simply an enlargement of the telegram I sent?"—The facts remain the same as they did then. I only say it was my impression when Captain Standish and I were speaking.

16722. Is there anything in that telegram to show me anything about the Sherritts?—Certainly you could not learn from this telegram, without something further, what was going to be done, and I thought you had that explanation which it appears you had not.

16723. Were you at the interview with Captain Standish—you and Detective Ward—on which occasion he asked you about the fitness of Jack Sherritt for the police force?—Yes.

16724. Will you relate to the Commission what took place on that occasion, and what testimony was given by Captain Standish on that subject?—

*The Commission.*—What time was this?

*Mr. Nicolson.*—Mr. Sadleir will give the date.

*The witness.*—I think the correspondence on that subject ought all to be collected. I think there are letters from me.

16725. *By the Commission.*—That was after the Glenrowan affair altogether?—Yes. Mr. Nicolson asked me latterly if I ever wrote to Captain Standish on the subject, and I said I thought not. Since I find by reference to old letters that there was some communication between me and Captain Standish on the subject. If the Commission has not the letter it must be a private letter, and I do not think I can remember what it was about, and I would not be prepared to answer the question without looking over some files.

16726. Will you tell the Commission what occurred at the interview I have mentioned?—I was with Captain Standish one day in my own office. Detective Ward was called in, and he was asked his opinion about the fitness of one or both of the Sherritts (Jack Sherritt was one certainly) for the police force. Detective Ward, after some little hesitation at first, said that he did not think they should be taken on in the police force. He mentioned some matters, which were in my recollection not long ago but I cannot call them to mind at this moment. Ward did mention about some sheep-killing business which has been mentioned before the Commission. I thought he said it was Constables Falkiner and Canny that saw Sherritt skinning the sheep, and he also mentioned about a saddle-cloth being traceable in some way to his possession.

16727. That was Aaron Sherritt?—No, Jack Sherritt.

16728. With reference to the sheep?—That was in reference to Jack Sherritt, but Ward's principal objection was, on account of their criminal relations and connections, that they were not fit for the police force. I think that is a very serious objection to a man entering the police force.

16729. As an old officer of police, what is your own opinion of the suitability of the two Sherritts for the police force?—One I had never seen, but I should have nothing to do with men connected with the criminal class.

16730. You have seen Jack Sherritt?—Yes; there is nothing physically objectionable in Jack.

16731. I am asking about his suitability for the police force. What is your opinion, as a superintendent of police, of the suitability of a man of Jack Sherritt's bearing and character for the police force?—I do not think he is at all suitable. Any man with criminal connections or under any doubt about character I think ought not to be in the force.

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16732. Did you recommend him?—No. I said to Captain Standish if he was taken on I hoped he would not be sent to my district.

16733. Having been taken on, do you think it was right to dismiss him?—I think I would have asked the sanction of the Government, but I would not have been content with a man like him in the police force; and I am sure that respectable members of the police force would not have liked it if he had been taken on.

16734. *By Mr. Nicolson.*—Do you think it right to have sent him away after if they were innocent?—Yes; I think it was a dishonor to the force to have a man of that type in the force at all, however innocent he may be.

16735. *By the Commission.*—Have not members of the police been guilty of objectionable acts, though not of so serious a matter as robbery?—You would have to mention the offence.

16736. Do you think that frequenters of brothels, members of the force, are desirable men who ought to be retained?—I think it is a very disgraceful thing frequenting brothels.

16737. Are they desirable men to be retained in the police force?—I think they would do better to marry respectable wives, and live chastely.

16738. Would you recommend their continuance in the force?—I have known something of that sort—a case of a man living in concubinage. It was put to the constable in that case either to marry the girl or leave the service. That was a case in point. Of course I think it is very disgraceful conduct on the part of a constable or officer frequenting brothels.

16739. And those are acts they are responsible for?—Yes.

16740. More so than Sherritt would be for the conduct of his father, or mother, or relations?—Yes.

16741. *By Mr. Nicolson.*—Will you look at this paragraph in Mr. Hare's report of 2nd July 1880, *re the Kelly gang*:—"I received orders from you at the end of May that I was to proceed at once to Benalla to relieve Mr. Nicolson. I accordingly, on the 2nd June, went up there. I arrived at Benalla at about 11 o'clock that day. I saw Messrs. Nicolson, Sadleir, and O'Connor in the office. After some conversation on general subjects, Mr. Nicolson produced a letter he had received from you, directing him to give me all the information he had obtained concerning the Kelly gang during his stay at Benalla. He showed me the state of his financial account with one of his agents, and said there was nothing owing to any of the others. He opened a drawer and showed me a number of papers and the correspondence which had taken place during his stay at Benalla, and said, 'You can get all the information from these papers.' He gave me no verbal information whatever, but said, 'Mr. Sadleir can tell you all I know concerning the movements of the outlaws.' He left the office, and I never spoke to him again, and he went to Melbourne by the evening train.

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The principal agent employed by Mr. Nicolson I had appointed to meet me that evening. He was one who was considered the best man they had. After talking with him a few minutes, he positively refused to work for me or have anything to do with me, although he had accompanied the police from Beechworth the previous day for the purpose of having an interview with me.” Is that statement he gave no verbal information whatever true and correct?—No, I do not consider that correct. I have already been examined very fully on that subject.

16742. This statement, “He left the office, and I never spoke to him again, and he went to Melbourne by the evening train.” Is it implied by that that I left the office leaving him behind; that I went to Melbourne without any further communication?—If that is implied, it is wrong. Mr. Hare left the office before you did.

16743. Whom did Mr. Hare leave behind in the office?—He left you and me.

16744. Did I see Mr. Hare again in the course of that day?—Yes; I think it was brought to my mind that you came to the door to ask him to come to dinner, but that was all that passed.

16745. *By the Commission.*—What was Mr. Hare’s reply?—That he would go; but that was in the afternoon, and nothing to do with the period when they were explaining matters.

16746. *By Mr. Nicolson.*—I wish you to go over the question of time occupied by myself and Mr. Hare in the office?—I must only judge by comparing other times. I do not know that I looked at the clock when Mr. Hare came. I take it he arrived by the train at a quarter past eleven. I am judging that he would take fifteen minutes coming up from the railway station to my office, where the interview took place. That would bring the time up to half-past eleven. There were a few minutes taken up in preliminary conversation, about things indifferent, and then the business of the interview was commenced, I think by Mr. Hare stating what we all knew he came for. I have, under pressure, fixed what I think the minimum time taken in explaining matters, and I would rather trust to my evidence on circumstantial matters then, because I have read and spoken so much about it since, and my recollection then was better than my recollection now—that is as regards time; but to go on with the events of that interview, the subject of the Kelly business was spoken of by you both. I think what Mr. Hare alludes to is the statement of the claims of the different agents, that was all ready on paper.

16747. Was much time taken about that?—No, I do not think so; just a little time to look it over. You then, both of you, addressed yourselves to the Kelly business. I think I have stated in my evidence before, that, after some explanation had been begun by you, it was interjected, I think by Mr. Hare, that you should come to the latest events, or the latest information that was received.

16748. How do you say it was, you think, suggested by Mr. Hare—was there any other person present?—I am satisfied it was by Mr. Hare, and I presume you did so—I know you did—and the conversation until the party broke up continued on those subjects alone.

16749. *By the Commission.*—Did Mr. Hare seem satisfied with the explanation?—Yes, he seemed perfectly satisfied, and Mr. Nicolson appealed to me (I was partly occupied at a side seat), asking me if in what he was stating he was omitting anything, and on that appeal I replied—”No, I can see nothing that you are omitting.”

16750. Were you possessed of all the information Mr. Nicolson had?—Yes. He began by being diffuse, by enlarging on the business of the past and his experience, and he was brought to this point by Mr. Hare’s interjection—”Give me the latest dates.”

16751. *By Mr. Nicolson.*—”What was the last you heard?”—Yes, that was it, and the last we heard of them was news perhaps of only a week or ten days before.

16752. What news was that—do you remember anything about the appearance at Chiltern, at Byron’s?—Yes, I remember you mentioning it as Lord Byron’s.—[*The evidence at Questions 2614-5 was read to the witness.*]

16753. You say Mr. Hare left the office leaving you and me together?—Yes.

16754. Do you recollect the next thing?—You asked me, “Did I leave anything out?” or words to that effect, and my answer was that there was nothing I knew of that you had left out, and that is my honest opinion, the fairest evidence that I can give at this period of time, and I remember distinctly at the time not knowing anything within the limits you fixed of recent information that you omitted to give Mr. Hare.

16755. *By the Commission.*—Had you arranged with Mr. Nicolson, previous to this, to dispense with the services of those agents at Beechworth?—No, there was no arrangement to dispense with any agents; but in keeping them on, those who did not know Mr. Hare I was to see and consult them as to their willingness to work with him. We had not the power of transferring one man from another in that way.

16756. *By Mr. Nicolson.*—Mr. Hare left the room before me?—Yes.

16757. Do you know what hour it was?—No, I could not tell you.

16758. You know the hour when people generally take their lunch up there is one o’clock?—Yes, five or ten minutes to one you generally leave.

16759. Do you remember at what hour you reached your house?—I think I was quite late for lunch, but I do not know whether I remained behind you.

16760. After I left, did Mr. Hare, on any occasion whatever for the rest of the time he was there (upwards of three weeks), make any complaint or allusion to my not having given him information?—No, not

that I can call to mind.

16761. *By the Commission.*—Did he not complain about those agents being discharged?—If you can call it a complaint—he asked an explanation of the telegram sent by Mr. Nicolson to Mullane on the evening he left; he asked me about that the next day, and I could tell him nothing about it.

16762. Were you astonished when you found that Mr. Nicolson had done that?—I did not know the import or meaning of it at all, therefore I did not feel astonished. I was simply asked if I knew anything about a telegram of that sort that was sent to Beechworth.

16763. If you or Mr. Hare had wanted to see that telegram, would you have had any difficulty to obtain it?—No; there were means to get it at Beechworth.

16764. You have seen the telegram since?—Yes.

16765. Does the telegram convey any orders about paying off agents?—I think I explained that it was misunderstood by Mr. Hare, in my opinion.

16766. *By the Commission.*—The question really is: what did Mr. Hare say to you after he received information from Detective Ward?—That was the only part of Mr. Nicolson's conduct that Mr. Hare called in question.

16767. Can you remember what Mr. Hare said?—He told me to the effect that he heard about the telegram, and asked if I could tell him anything about it.

16768. Did he express his surprise that Mr. Nicolson took such a course?—I do not remember; probably he would.

16769. Was not Mr. Hare considerably annoyed at the telegram being sent, then being under the impression that it was to discharge all the agents?—I could hardly tell you. No doubt Mr. Hare felt that there was something there that required explanation.

16770. Did he ever refer to it again after that night?—I could not possibly say; my answer would probably have prevented him, seeing I knew nothing at all about it.

16771. *By Mr. Nicolson.*—Will you look at that telegram?—[*The witness did so.*] (Question 1465.)

16772. Is that an order for the discharge of paid agents?—I can only say what I said before, that it withdrew your responsibility for any further payment to Tommy or his friends, and that if those were to be continued he must look to whoever succeeded you.

16773. Do you know what the watch party was sent for?—I did not then. I know now it was a watch party put in that part of the country where you were making that last search on Renwick's information.

16774. *By the Commission.*—Which watch party was it?

*Mr. Nicolson.*—I had put a watch party for four days in the hut of Aaron Sherritt. That was a temporary watch party, on account of the appearance of the outlaws the previous week, and I took up a party of police with me from Benalla to scour the country, placing a watch party there.

16775. *By Mr. Nicolson (to the witness).*—You remember the day the Queensland trackers were sent away, on the Tuesday, from Benalla?—I remember their going.

16776. Were they sent away by Mr. Hare as part of a ruse, or did they go away by orders?—They went away by orders.

16777. Is this correct (*Mr. Hare's report*):—"The trackers were removed on the 25th June; the outlaws, believing they had left for Queensland, showed out on the 26th. On the 28th the gang was destroyed, and its leader captured"?—I could not tell what the outlaws believed I do not know who could.

16778. Are you aware that the outlaws had laid that trap for the trackers as well as for the police?—So they said; but you cannot believe a word they said. I believe they did say so to Bracken, that they meant to have the trackers and Mr. Hare and Mr. O'Connor.

16779. *By the Commission.*—Then that statement of theirs would contradict Mr. Hare's statement?—I think it was a hasty assumption of Mr. Hare's.

16780. Did you not form the impression that the outlaws were afraid of the trackers during the time they were there?—There is no question about that.

16781. Then that bears out what Mr. Hare said?—They left on the 24th, and they could not get to Queensland on the 26th. It is only guess-work.

*Mr. Hare* asked permission to read the whole of the paragraph in his report, and did so. (*Inserted above.*)

16782. *By Mr. Nicolson (to the witness).*—That account you spoke of about all the agents—was not that shelved in anticipation of Mr. Hare taking charge?—Yes.

16783. Were you and I not at least an hour in the office before Mr. Hare came, preparing for him?—Yes, all the morning.

16784. Did I show any disposition in the least about that time, and previous to that time, to do anything in the way of keeping back information?—No, I am quite certain you did not.

16785. If you felt surprised about that telegram, would you not have sent to Beechworth for a copy of it if you thought it of importance?—I suppose so.

16786. *By the Commission.*—What steps did Mr. Hare take immediately about that?—I do not know; he asked me about it.

16787. Did Mr. Hare go to Beechworth at all?—He was there afterwards.

*Mr. Nicolson.*—Mr. Hare stated in explanation that he was up in Beechworth, and did not ask about that, or make any attempt to see it.

*Mr. Hare.*—A week after I was in Beechworth.

16788. *By Mr. Hare (to the witness).*—What were you preparing all the morning before I arrived?—Mr. Nicolson was.

16789. What was it?—I think he was preparing and putting the business together.

16790. What was it—the statement of the accounts?—Really I could not tell you the particulars.

16791. *By the Commission.*—Was Mr. Nicolson in the office preparing for Mr. Hare?—Yes, I think he was preparing—he was busy that morning in the office.

16792. Did he tell you it was with the view of having things ready for Mr. Hare?—I think that was distinctly understood.

16793. *By Mr. Hare.*—Those were principally the accounts?—I could not tell.

16794. What else could he be preparing?—I could not tell you.

16795. In your evidence in chief, you said that it was from fifteen to twenty minutes that Mr. Nicolson was talking to me?—I meant by that that he was talking business, giving you the information about the Kelly business in those fifteen or twenty minutes, and that is the very least I could swear to; it was possibly very much more.

16796. Look at that entry I made on that day—[*showing a diary he kept*]:—“I left Melbourne by the early train; found Nicolson, Sadleir, and O’Connor in the office. Nicolson gave me the names of special men engaged by him, letters from them, and said Sadleir would tell me everything. He told me all in ten minutes.” You see the date of that?—I see it is the 2nd June 1880.

16797. Would that not be probably more correct than any opinion given from recollection six months after?—Every statement here, except the time, is unquestionable. That he told you all in ten minutes I do not think can be correct. I am sure the time you were conferring and discoursing together about the Kelly business must have been longer than that.

16798. You said fifteen or twenty minutes?—I was under great pressure at the time, and speaking so long after I can only stick to my evidence in chief.

16799. *By the Commission (to Mr. Hare).*—Do you assert that it did not take more than ten minutes?—I do assert it positively.

16800. What means have you of testing that; did you look at your watch?—No, from the time I was engaged at it, and I wrote that at the time, never thinking of anything turning on it afterwards, or that I should be called on to give evidence about it. I wrote it just the same as other portions of my diary.

16801. It might be fifteen minutes?—Yes, but I have entered it here as ten minutes.

16802. *By Mr. Hare (to the witness).*—Will you refer to Mr. Nicolson’s evidence at question 890—“You wish us to understand in your opinion you had the Kellys almost completely under your control at the time you were withdrawn?—I do; and I say it not only on behalf of myself but on behalf of my assistants and agents.” Were you aware of that when I relieved Mr. Nicolson, that he had the Kellys under his control?—No, I do not think such an expression as that was used.

16803. Whether it was used or not, do you think it was the case?—I think it is an assumption.

16804. Were you of the same opinion?—I was under the impression that we were getting very near the Kellys, no doubt of it; and, I think, I wrote to you to say so.

16805. Do you remember me having a conversation with you on that very subject, and saying, “Now, Sadleir, what nearer are you in catching the Kellys now to what we were eleven months previously?”—No, I do not remember that.

16806. Do you know anything that pointed, say a week after Mr. Nicolson left, to the fact that we were about to catch the Kellys?—I would sooner speak of what is before.

16807. Whilst you were giving me all the information, do you remember giving any information that would lead me to believe that you thought that you had surrounded the Kellys by agents?—No, I do not think so, not in that sense. If I did speak in that strain, I must have told you we were nearer to the Kellys, and knew more of their movements than we ever did before.

16808. Do you remember telling me that?—No; but if we had turned on that, it would have been the way I would have expressed myself.

16809. Do you think that Mr. Nicolson could have given me all the information that was necessary for one officer relieving another in twenty minutes, with what he had done during the time he had been there?—Well, as you had brought him down to this narrow point that he was to speak of only the latest information then, I think he could.

16810. If I said, “Tell me the last time you saw them,” was that telling him I did not wish any other information?—I should have dropped all introductory matter and have come to that.

16811. Do you mean to say that you could have given me, in twenty minutes, all the information as to what had occurred that I would require on taking charge of a business of that kind?—You must remember that also, while we were talking, there appeared to me that there was nothing I could suggest.

16812. That was with regard to the agents?—No, it was not; it was with regard to all the Kelly information, because as regards the agents I could not tell anything.

16813. Do you remember him saying anything about the watch party in Aaron Sherritt’s house?—No, I do not think it was mentioned.

16814. Did you know it yourself?—No.

16815. You had never been to the ground?—No. I knew nothing at all about it.  
 16816. “Send Constable Armstrong back to his station.” Did you know the Beechworth station was to be reduced?—No, I was not aware he was to be sent away.  
 16817. Was anything said to me about that by Mr. Nicolson?—No.

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16818. You did not know about that?—No.  
 16819. Mr. Nicolson said in his evidence, “I used to meet the agent known as ‘Diseased stock,’ and I would take down the information he gave me in my pocket-book.” Had you access to his pocket book?—Whenever I required information from it.  
 16820. But none of that information was left for me?—No, he took his pocket-book.  
 16821. Do you remember anything being said about the armour on that day that Mr. Nicolson handed over to me. You said that Mr. Nicolson was the only one that really believed in the armour?—I think that must have been talked of. It was in the paper he handed to you—the three “diseased stock” papers.  
 16822. Did he say anything about the papers?—I do not see how it could escape mention, but I could not be positive about it. Of course you know you and I talked of it afterwards.  
 16823. I know that. You know that some two or three days before Mr. O’Connor left with his blacks, was it not notified in the papers that he was going?—The papers took notice of it.  
 16824. And did they not write a leading article on the subject?—I could not say; I knew they noticed the departure.  
 16825. It was the Tuesday before they left?—Yes.  
 16826. And was it not stated in the papers that others were coming from Queensland?—I could not tell you that. I know that Mr. O’Connor’s blacks were spoken of as going. You can find the papers.  
 16827. You say you do not think this young Sherritt suitable for the force?—I do not think any persons connected with criminals fit.  
 16828. Supposing you had been in the position that Mr. Nicolson was, would you have discharged him from the force?—I would have been very uncomfortable about men like that in the force.  
 16829. Would you have discharged them?—I think so.  
 16830. Would you have recommended them to Mr. Fosberry, to take them on in the New South Wales police, having discharged them here?—Not without telling all the circumstances.  
 16831. Would you recommend him to take them on?—I do not think I should.  
 16832. Or would you have given a recommendation to the Queensland force?—Not to the police force; not without explaining all the circumstances.  
 16833. *By the Commission.*—As a matter of fact, according to your statement, you had a very large district to attend to, and you were called upon at times to assist with information that came to your knowledge, so that you would not be in a position to give all the information which Mr. Nicolson would have been able to give to Mr. Hare?—I think there was nothing important that I would not know.  
 16834. This question of the armour—you are not clear whether it was or was not spoken of?—I did not see how it could have been avoided.  
 16835. Did it take Mr. Nicolson as long to make the statement as it does now?—Mr. Nicolson was not interrupted. He went straight on to the end, until Mr. Hare spoke. Mr. Nicolson is not a rapid speaker.  
 16836. They could not say a great deal in twenty minutes?—I cannot get away from the fact that when we were all present, Mr. Nicolson appealed to me, more than once, as to whether it was possible to give further information, and I could suggest nothing further. I know I was aware of everything that was going on.  
 16837. The question is simply this: that Mr. Hare has complained that Mr. Nicolson did not give him all the information that he ought to have done at the time?—He complained that he gave him none.  
 16838. When Mr. Nicolson relieved Mr. Hare before (in July 1880), were you present?—No.  
 16839. Have you any idea whether there was any jealousy between the superior officers of police?—That is a very general question.  
 16840. I mean between any of the superintendents in the police force?—Between the superintendents, I know of no ill-feeling, no unworthy feeling of any sort or description, as between superintendents and other officers.  
 16841. Did it not come before you at any time, such a feeling?—No, certainly not. We choose, as we do outside, our particular friends. Some in the service I may be more friendly with than others, but we are so scattered that we hardly know each other. I know of no ill-feeling between officers in the service, until between Captain Standish and Mr. Nicolson this business began.  
 16842. There has been a statement made here by Mr. Winch, that Mr. Hare was unfairly favored by Captain Standish—was that the general feeling among the officers of the police?—No, it never was a feeling of mine.  
 16843. Did you hear of it?—I think I heard of it, more latterly than before.  
 16844. I mean before this inquiry, was it current conversation among the men and officers?—No, I hardly think it—perhaps it used to be said that Mr. Hare had a comfortable district, but that did not amount to jealousy. I was conscious of no feeling to hinder the execution of the officers’ duty in any way.  
 16845. During the time that Mr. Hare was with you in the North-Eastern district, did he conduct

himself in any other way than an ordinary officer who had not been specially favored?—He was not in the least overbearing, and if he had favors from Captain Standish he never showed it in that way—he never exercised any improper authority over me, or attempted to. I never saw any assumption of any authority on his part.

16846. Apparently if he had been favored by his superior officer he never displayed it in the conduct of his business as police officer?—No, I cannot say he did. I was going to explain the difficulty I felt in giving my evidence about this interview between Messrs. Hare and Nicolson. I have been asked in the first place as to detailed matters and papers to give minutes and duration of time for the interview. Those are things that are non-essential, but I wish to put myself perfectly clear before the Commission, I do not care who is right or wrong—the impression I went away with from that interview was that Mr. Hare had all the information he desired, and if there was anything hidden from him it was entirely without the intention of Mr. Nicolson, and if there was anything hidden it escaped my notice. It was a short interview, shortened by Mr. Hare's interjection, as I have stated.

16847. According to your own statement before, there was a very strong feeling in the mind of Mr. Nicolson about his removal at that time?—Yes, he was very indignant about it.

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16848. To such an extent that you wrote a private letter to Mr. Hare on the subject?—That had nothing to do with it at all.

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16849. Did you write a letter to Mr. Hare in consequence of a conversation between you and Mr. Nicolson, or from your own feeling in the matter?—I wrote it believing when I wrote it that Mr. Hare was pushing himself into this business, and as a friend I saw it was one in which there was no honor to be gained—it was too difficult, too hazardous and mysterious a work, not like one that a man could do satisfactorily to himself, because in it he could not know what would happen. Mr. Hare wrote to say he was not pushing himself forward—he could not help himself. That is the whole history of the business. I did not let Mr. Nicolson know that I wrote that letter for some time afterwards—he had nothing to do with it in any way whatever—I saw there was a breach likely to follow, I felt there was mischief impending, and I wished to prevent it.

16850. You wished to guard Mr. Hare against it?—I wished to prevent him from doing what I, as a friend, thought was a mistake.

16851. Then your anticipations, to some extent, have been fulfilled?—Yes. I have always sought for peace between officers. You must remember that men in earnest about their work are really the most apt to feel touchy—they feel more strongly than anybody else.

16852. *By Mr. Nicolson.*—Do you not recollect my receiving a letter from Mr. Hare, in which he repudiated having forced himself in any way on this business?—Yes.

16853. Do you recollect my writing back to him?—Yes, you did.

16854. Was my letter friendly or unfriendly?—I take it that it was a friendly one.

16855. *By the Commission.*—You were in charge of the district, in full charge of the North-Eastern District, when Constable Fitzpatrick was shot?—No, he was shot in April 1878, and I did not take charge till some time in July.

16856. Can you give the Commission any reason why the Kellys were at large from April to October of that year?—Of course I can only speak of my own period, and my efforts to trace them will be the best explanation, and you have all that in what I said to-day as to after I met that gentleman and his servant at Greta. The servant is a peculiar old bushman, with connections among the criminals. The gentleman, I think, was getting a little tipsy at the time, though I did not notice it, and told me he knew all about the Kellys, in a mysterious way, and this man said, “Yes, they are in hiding from ———.” Parliament was beginning to move in the matter, and I was getting uneasy lest I should be asked why I did not make search for them, and I actually began the search before I had finished the business of the district, and we searched fairly and honestly, and to the best of our ability, and could get no information. They are a very mysterious race of criminals, and can hide in a manner we do not yet at all understand. The same question might apply as to why they were at large till June 1880, with thousands of pounds and hundreds of police after them. It is a mystery to me always, and one I cannot explain.

16857. Are you of opinion that political influence has a prejudicial effect on the discipline of the force in any way?—Nothing can be worse, if it is exercised.

16858. Do you believe in the past it has worked that way?—There are some men who are reputed to exercise political influence—more amongst the constables and sergeants. I have never had occasion to do it myself, and I never would do it, I think.

16859. Have you ever seen much of it in the records of the department?—No, I have not. My own district was particularly free from it, and I think that was because the men were contented with the administration.

16860. Would it be better that the police force should be altogether independent of political influence, even to the Ministerial head of the department?—No, I do not think so; we all need looking after. If the men feel that their superiors are treating them fairly, they are not concerned about political influence.

*The witness withdrew.*

*Adjourned to to-morrow at Eleven o'clock.*

WEDNESDAY, 7TH SEPTEMBER 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;  
W. Anderson, Esq., M.L.A., | E. J. Dixon, Esq., J.P.,  
G. R. Fincham, Esq., M.L.A.

Charles Hope Nicolson further examined.

16861. *By the Commission.*—We are ready to hear anything you wish to say now?—I anticipated at the commencement of this enquiry that a series of charges, both direct and implied, would be brought against me. The result has proved my expectations to be correct. I desire to review some of the evidence which has been tendered, and in so doing will deal with matters demanding attention in their proper sequence, taking first Mr. Hare's report, dated 2nd July 1880. I have only brought in names of officers where absolutely necessary to refute the charges brought against me. I will begin with the first statement to which I take exception. Mr. Hare has stated that he was directed to organize the whole pursuit of the bushranger Power. This assertion I never heard of, nor can I learn that other officers of police did, until it was made in that report, 2nd July 1880. Mr. Hare's duty as officer in charge of dépôt was to forward men and material to whatever district authority was issued to him to supply. But that is not organization. In April I was down from Kyneton on sick leave, and heard of a reported appearance of Power, near Lauriston. I immediately gave up my leave and went back to my district, about 28th April, and in company with Inspector Disney I was in search of Power, with the assistance and co-operation of inhabitants of the district, particularly from Trentham, for over a week. We ascertained that Power had passed through the north part of the district. He returned by McIvor to his old hands (North-Eastern District). If Mr. Hare, then a junior superintendent, had been directed to organize the

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whole pursuit, what steps did he take upon that occasion? I volunteered to Captain Standish to go up in pursuit of him. He accepted my offer most gladly, and upon this, or perhaps a subsequent occasion, he said, "Nicolson, as you are not strong yet, I will send Hare to drive you up instead of allowing you to travel by coach, and he, perhaps, may be of use to you." I most readily agreed. We drove up together, and upon arriving we met the gentleman who had given information of Power's appearance, as obtained from an informer. While talking to this gentleman Mr. Hare went on to speak to this informer, who was then in sight. He returned, saying, "The man knows nothing; why, he is a Pentridge man," and more to that effect. I will hand in this affidavit from the gentleman referred to, the president of the shire there, on the subject. [*The same was handed in, and is as follows:*—) "I, Robert McBean, of Benalla, in the colony of Victoria, auctioneer, and president of the shire of Benalla make oath and say:—1. That, in or about the month of April 1870, I sent Captain Standish information that I knew of a man who would be likely to give valuable assistance to the police sent in pursuit of the celebrated bushranger Power. 2. That Messrs. Nicolson and Hare came up to my station to meet the informer, who arrived about dusk in the evening; and I went forward to meet him. Mr. Hare accompanied me, Mr. Nicolson remaining behind. I introduced Mr. Hare to the informer, and they entered into conversation; and I retired, and rejoined Mr. Nicolson. In about ten minutes Mr. Hare returned to us, and said he did not think the informer would do, as he was an old Pentridge man, and that he refused to give any information, and in any case could not be trusted. I was very much disgusted, and said to Mr. Hare, 'If that be the case, what risk do I run now, having trusted and arranged with this man to take the reward.' 3. Mr. Nicolson then went forward and spoke to the informer, Mr. Hare and I remaining out of hearing. After about ten or fifteen minutes Mr. Nicolson returned to Mr. Hare and myself; and informed us that it was all right, and that the informer would let me know within a month, when he ascertained exactly where Power was concealed; and I promised to send to Captain Standish when I received the information. 4. I had several consultations with the informer, and ultimately sent word to Captain Standish that the informer would be able to point out the exact hiding place of Power. 5. That soon afterwards Messrs. Nicolson and Hare arrived at my station, where they met the informer, and started on their memorable pursuit, which ended in the capture of Power. 6. That during both the interviews I had with Messrs. Nicolson and Hare, I understood that Mr. Nicolson was in command of the party, nothing transpired, to my knowledge, which could convey any other impression.—ROBT. MCBEAN. Sworn at Benalla, in the colony of Victoria, this fifth day of September, One thousand eight hundred and eighty-one, before me— F. McDONNELL, a Commissioner of the Supreme Court of the colony of Victoria for taking affidavits." To avoid making our business known we returned to Melbourne, I resuming my duty at Kyneton. About a fortnight afterwards I received letters from Captain Standish and Mr. Hare. The former said:—"My dear Nicolson,—I cannot think of allowing you to go back to this duty in your present delicate state of health; Dr. Ford says it would be injurious to you;" or words to that effect. Mr. Hare wrote:—"My dear fellow, I am so sorry to be off without

you,” &c. I was taken aback about those letters, and at once went to Melbourne by that evening’s train, and saw Dr. Ford, who said it would do me no harm, rather good, if I felt equal to the fatigue. (I may here state that I had had an attack of fever for three weeks in the end of February.) I then insisted upon going, and went up, Mr. Hare driving me as before, met the informer, and after three or four days reached the hiding place which he indicated. Certainly on this occasion I said to Mr. Hare, “Remember I am in command of this party.” I did so because of the attempt to prevent me going up on this second occasion after I had arranged all matters on my first visit. When smoke was pointed out to me, at a time and in a manner already made known, I ran up, leading the way, and signing to Messrs. Hare and Montfort to go to the back of the gunyah to prevent the man escaping. I ran in at the entrance, saw Power lying there, threw myself on him, seizing both of his wrists and rendering him powerless to escape. Mr. Hare and Mr. Montfort then came upon the scene and pulled Power out by his legs, as described in the *Argus* of 9th June 1870. I did not take the credit of arresting this man myself at all. I say that I did not make any invidious distinctions, and I did not go into these details in my report to the Chief Commissioner. We were all equally running danger, and I thought it mean to make any invidious distinction, and allowed Mr. Hare to sign the report, and I would have allowed Mr. Montfort to sign it, had he been an officer. We returned to town, Mr. Hare the invalid this time, and I stronger than ever. The Chief Secretary promised promotion. I have never attached or claimed credit for the capture of Power, as Mr. Winch has stated. We obtained certain information, and, in acting upon it, overcoming some difficulty and hardship, merely did our duty. Probably there was as much credit due to yourself, Mr. Chairman. Personally, I am as tired of this Power affair as every one else must be; but, as so much has been made out of this, I must now show who really captured him. I must particularly call your attention to the fact that Captain Standish and Mr. Hare have, in their statements, mentioned this last pursuit of Power, but they both omitted to refer to the previous visit, which gives point to the whole story, viz., that Captain Standish endeavored to keep me out of it after I had previously arranged the whole matter. I may state that I would not have had such suspicious as to Captain Standish’s motives in this matter, but for his attempt to place Mr. Winch over me in the list of officers in 1870. That is the meaning of Mr. Winch being over my name in 1870 that has been spoken of. Upon my writing to him on the subject he replied that there was no record of my ever having been a superintendent, and it was only after sending him my appointment, and after some delay, that the matter was rectified. This shows that, even ten years ago, Captain Standish endeavored to promote some one over me. Mr. Hare has said that I and Mr. Montfort received promotion. Certainly Mr. Montfort did, as he tells you, by a “fluke.” He has turned out a valuable officer; but it was unfair to all the sergeants and men in the North-Eastern District that, after their two years’ hard work, Mr. Hare’s clerk should have been sent up, to reap the benefit which ought to have been theirs. The ostensible reason for sending him was that he knew the district; but, although that knowledge was useful to us, it was unnecessary, as we had a guide who led us almost to the spot. Chances of this kind should not be given at the expense of the local police, if any of them were deservedly efficient. It is appearances of favoritism like the above which cause dissatisfaction and disorganization among members of the force. Again, if Mr. Hare had been directed to organize the Power pursuit over the heads of at least eleven senior officers, would there not be some record in the department of so important an event, and would not protests have been made by the senior officers, as was done by one of the juniors, viz., Mr. Nicolas? Of course

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Mr. Hare had much to do with the men, being Dépôt Officer, and therefore had to select and despatch the men, as in the Kelly business, and as many of the men selected were his own Bourke district men, it created considerable jealousy amongst the local police. As to the promotion which Mr. Hare says I have received since Power’s capture, I may state that I was removed from Kyneton because the police in Melbourne were thought to be in a state of considerable disorganization, and there had been difficulty in filling the post of Chief of Detectives on my giving it up and going to Kyneton. Captain Standish desired me to again undertake the duties of that position, together with those of the city. I did so, doing thereby the duties of the two offices, either of which is enough work for any man, for an extra £100 per annum, thereby saving the country at least £200 per annum. I was then actuated, as I have been since, not by any feeling for myself, but from a desire to promote the good of the force. My predecessors in the city had never been in charge of detectives, while I had been for thirteen years, and that was the reason I was specially asked to undertake that arduous duty again. I became Inspecting Superintendent simply because that post came to me by right of seniority, and on taking it I undertook duties which had previously been performed by two officers, viz., Messrs. Lyttleton and Bookey, thus again saving something to the Government. I may here state that Captain Standish endeavored to induce me to remain in the city and allow Mr. Hare to be Inspecting Superintendent, pointing out that I would lose the extra £100 per annum and only gain £50 per annum by promotion. He so impressed me that I consulted an old and intimate friend, whose advice was “to remember that Johnny should always keep marching on.” In a short time after I heard that Mr. Winch and Mr. Hare had applied for an extra £100 per annum each. I then pointed out to Captain Standish that if they received this increase, one would get £25 more than I did and the other exactly what I received, besides allowances for horse, groom, &c., which I did not have. I therefore applied for an extra £100 per annum, and received £75 extra, making my salary £500 per annum. My title of Inspecting Superintendent was altered to that of Assistant Commissioner simply to compel Captain Standish to recognize my true position, which he had not done. It

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must not be forgotten that Mr. Hare, a junior officer, had for fourteen years been Superintendent of the Depôt, the prize post, and next in importance to that of City Officer, and which had been previously filled by military men, with one exception. Even Captain Standish has acknowledged to the Commission that I obtained my present position by seniority only, and therefore Mr. Hare's assertions to the contrary fall to the ground. If Mr. Hare had claims to promotion, why did Captain Standish refuse to promote him? Manifestly because he dare not do so. Was Mr. Hare a man who would stand any refusal, if promotion was his right and he could prove it? The next incident to which I will refer is the interview between Mr. Hare and myself, on the 2nd June 1880, when I handed over charge of the pursuit to him. Mr. Hare, I am sorry to say, has grossly misrepresented what occurred at that interview; and I will now detail my recollection of the facts of it, as they occurred. I had previously received notice that Mr. Hare would relieve me on the 2nd June; and as I had prepared a statement showing the financial accounts of the agents employed by me in the pursuit of the Kellys, that account gave the names of all my agents, and that they had been paid to date. I arrived at the office at an early hour that morning. Mr. Hare arrived at the office about half-past eleven, where Mr. Sadleir, Mr. O'Connor, and myself were waiting for him. The loose papers, such as telegrams, and so on, which I had myself read all over, were placed in heaps on the left. A few important papers I had filed, and put up, and docketed, and put in a drawer. There were only three or four packets of them. As the Commission is aware, I had previously written Mr. Hare in a kindly spirit on the subject of his taking charge of the pursuit. I have asked for that letter to be shown to the Commission, but Mr. Hare does not seem inclined to do so. We all met cordially. I got up and shook hands cordially. Mr. Sadleir was behind the door, and then he shook hands with Mr. Sadleir, and then with Mr. O'Connor. The room is a very small one, not much larger than this table. We had a little conversation before proceeding to business. A considerable time before twelve o'clock, Mr. Hare and I sat down to our desk, like this, Mr. Sadleir and Mr. O'Connor remaining in the room. [*The witness explained the positions of the various persons in the room.*] We sat down to business at once, and never moved from our seats until we left that room; there was no going out and in. After we had been sitting together for about twenty minutes to half an hour, Mr. O'Connor went out, being tired of the long story which he had heard so often before, and smoked outside the door, and Mr. Hare and I continued intently on our work till it was finished. I showed him the account I have mentioned. I also told him of Renwick, that I had brought Renwick down myself, the previous night, from the neighborhood of Sheep Station Creek, Crawford's Paddock, and that Renwick was to meet him in the evening. I told him also of "Diseased Stock," handing him the papers, and, I believe, three letters—those were all I had. Mr. Hare, in his examination, spoke about six—there were only three, and they were in a foolscap envelope, with the envelopes pinned to each letter. I also told him of those men, and mentioned, no doubt, the particulars about the armour, and about its being bullet-proof.

16862. You cannot swear that you did so?—After the contradiction and doubt I would not like to swear to it, but I have no doubt about it in my own mind. I also told him of the other agents, and what had been done by me in the pursuit, up to date, and particularly described to him the position Aaron Sherritt was in. I will mention the circumstance that brought the thing most clearly to my mind. Before Mr. Hare came up, I determined not to introduce Captain Standish's name in our interview, lest I should say something in the presence of junior officers that would be unbecoming. I made that resolution to myself, and the only time I broke it was in speaking about Aaron Sherritt, and explaining about his position. I said, "Captain Standish has laid down the idea that he (in Melbourne) knows better than I whom to employ in this part of the world, and has forbidden me to employ Sherritt, and I have consequently been obliged to continue him on my own responsibility and at my own cost"; and I told Mr. Hare that, when I went away, he would have to make the necessary arrangements; and afterwards I remember being annoyed that I had mentioned Captain Standish's name, because I had resolved not to mention it. I was also going on at the same time to tell him what I had prepared in my own mind before he came about the matter, and I told him if he wished to continue to employ Aaron Sherritt, he would have to do so at his own cost and take his chance of being repaid by the department. Then he got up on the side of the table, I think, and said, in reply to this about Sherritt, interrupting me in an impatient manner, "Yes, yes, yes; when did you last hear of them" (meaning the outlaws), almost implying that he agreed with me when I mentioned Captain Standish's name and Sherritt; and I told him of the visit of two to ——'s, near Chiltern, of their subsequent appearance at Mrs. Byrne's, of the interview between Mrs. Sherritt and Joe Byrne at Murphy's hut, Sheep Station Creek, and what steps I had taken on this information and other particulars

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joined Mr. O'Connor outside the door, and there they were talking together, and I knew what they were talking about. I remained a minute or two, and I turned to Mr. Sadleir and said to him, "Is there anything at all that I have overlooked?" He replied, patting me on the shoulder, "No, old fellow, you have not omitted anything." I then went out and joined Mr. Hare and Mr. O'Connor (they were talking about a dog they had there), and we all then walked down to the hotel (which is under half-a mile from the office) to lunch. We found we were at least ten minutes late for lunch which was set every day punctually at one o'clock, and the bell rings and is heard all over the town; therefore, my interview with Mr. Hare could not have been over before one o'clock, and must have lasted at least an hour. I again saw Mr. Hare in the afternoon and invited him to dine with me that evening, and he accepted my invitation; but finding that it would suit me better to go to Melbourne that night than next day, I wrote an apology to Mr. Hare and went down by the evening train. I would now remind the Commission, that I am upon my oath, and being so, that I solemnly declare the foregoing account of the interview to be correct in every particular, and I absolutely deny the assertion of Mr. Hare (which he has written in his report of the 2nd July 1880 and subsequently reiterated in his evidence before you), that I gave him no verbal information whatever, and that the interview only lasted ten minutes. I will ask the Commission to say whether Mr. Hare would be likely to allow me to go away without asking for information, if I did not volunteer it. Mr. Hare's next charge is that the principal agent employed "by me, and who was considered the best man I had," came from Beechworth to see him, and then refused to work for him, implying that I influenced the man against working for Mr. Hare. I brought that man from near Beechworth to see Mr. Hare, and, in Mr. O'Connor's presence, persuaded him to work for him, stating that he would "find Mr. Hare an exceedingly nice man to work with." The man's reasons for refusing were no doubt these, viz., that the Police Department, during Captain Standish's term in Benalla, owed him over £20 which they refused to pay. Upon my first seeing this informant, he also refused to work for me unless this sum was paid; and it was only after several interviews I induced him, on the second day, to do so.

16863. Was that Renwick?—Yes, Renwick, and yet Mr. Hare has implied in his letter that it was I who prevented this man from speaking to him. I now wish to hand in an affidavit from this man. [*The same was read, and is as follows:*—"I, Lawrence Kirwan, of Carboar, near Oxley, farmer, make oath and say:—1. That in April 1879 I was employed by Mr. Hare as a scout and guide to assist the police in the pursuit of the Kellys, at the rate of one pound per day. 2. That I acted as scout or guide for different parties of police for thirteen days, and received in payment therefor the sum of thirteen pounds. 3. That I was then instructed by Mr. Sadleir to go out and seek information of the gang, and acting on those instructions I went from Benalla round Mount Emu and Dondongadale River, where I met Mr. Furnell and party; thence back to Carboar, and then up the Mitta River to Beechworth, where I met Detective Ward, who approved of what I was doing. I went next to the Little River, and then on to the Upper Murray by way of Cotton-tree Hill, but found no traces, and returned to Benalla and reported where I had been, and that I had found no traces of the gang. 4. That when I sent in a claim for payment for the time I was out seeking information, Mr. Sadleir declined to pay me, as he said he did not know I was out; and I was left by this decision without a shilling, and had to borrow ten shillings to take me home. 5. In September or October 1879 I got a written message from Mr. Assistant Commissioner Nicolson to meet him at Wangaratta. I went in on a Monday to Wangaratta and saw Mr. Nicolson, who asked me to go out and seek traces of the gang. I refused to go on the ground that I had a claim against Mr. Hare and Mr. Sadleir for services which they declined to recognise. Mr. Nicolson pressed me to go out, but I several times refused to go. I explained to Mr. Nicolson my claim, and he said he would do his best to get the amount for me. Mr. Nicolson said he had heard of the disputed claim at Benalla, and that he knew he would be handicapped over it. I understood that Mr. Nicolson meant that this disputed claim would prevent my working for him. I afterwards saw Mr. Nicolson; three days after I agreed to go out under him. I went out alone on the following day. I was out four days on the King River. I went out with specific instructions to see if there were camps or traces of camps in certain localities on the river. I found no traces. I found an old saddle which afterwards proved to be one of the saddles belonging to the police murdered on the Wombat. There were floods in the King River which interfered with the search I was directed to make. I returned to Wangaratta and saw Mr. Nicolson and reported to him. 6. That I remained in Mr. Nicolson's service until the first day of June 1880. That I was paid for all the time I was working for him; I was paid all the time I was out, whether I got information or not. I never had any dispute with Mr. Nicolson. I was paid by Mr. Nicolson the sum of twenty-six pounds fifteen shillings. When not employed by Mr. Nicolson I was idle, so that I received only twenty-six pounds fifteen shillings for twenty-seven weeks. 7. That when Mr. Nicolson was leaving the district I saw him near Beechworth; he told me he was about to leave and paid me three pounds which was due to me. He told me that Mr. Hare was coming to take charge and that he (Mr. Nicolson) would like me to go on working for him. I told Mr. Nicolson I did not think I would, and added that if he was going to leave I would knock off working. Mr. Nicolson pressed me to stay on; and I at last said I would go down to Benalla and see Mr. Hare on the subject. 8. That what I said might have led Mr. Nicolson to believe that I intended to go on working for Mr. Hare. 9. That Mr. Nicolson could not have said more than he did to induce me to remain working for Mr. Hare. I did not mention my claim to Mr. Nicolson on this occasion. 10. I never spoke to Mr. Nicolson again until August 1880. 11. I went to Benalla and saw Mr. Hare. He asked me to work for him. He said, 'I want you to keep on working for me the same as you have been doing for Mr. Nicolson, as you know the locality and the whole affair.' I said I wanted my disputed claim paid before I will do any more work. He said, 'I can't help that; it has nothing to do with me.' I said that 'I have asked Mr. Sadleir and he gives me the same reply, and if that was the way of it I was quite full of it, and that I would work no more I went

home by train. 12. That I met Detective Ward afterwards, and he told me that when Mr. Hare complained to him of my refusal to work that he (Ward) said I had a disputed claim with the department for work performed, and that Mr. Hare had said in reply, 'If Kirwan had told me that I would have made it all right.'

13. That from the information I was supplying and from the movements of the gang and police I am sure that Mr. Nicolson and his party must have encountered the gang within a few days of the time Mr. Nicolson was removed; an encounter could not have been postponed for ten days, and might have occurred in four or five.—Lawrence Kirwan. Sworn at Wangaratta, in the colony of Victoria, this fifth day of September, One thousand eight hundred and eighty-one, before me, Fred. J. M. Marsden, a Commissioner of the Supreme Court of the Colony of Victoria for taking affidavits." As to the telegram dated the 2nd day of June 1880, which I sent to Senior-Constable Mullane, and to which so much importance has been attached, my explanation is very simple. I will first read the telegram itself, and then the evidence given by Senior-Constable Mullane with respect to it to this Commission at Beechworth, on the 20th day of July 1881. The telegram is as follows:—"Send Constable Armstrong back to his station, withdraw the watch party, send them back to duty. No more money for 'Tommy' and his friends." [*The witness then read Senior-Constable Mullane's evidence from question No. 13677 to question No. 13694.*] It will be seen that the telegram is only a repetition of the orders I sent Mullane by Aaron Sherritt on the day before, and which I delivered personally to Ward on the 28th or 29th day of May previously. On perusal of the telegram it will be seen that it contains no word about discharge, and was sent merely as an excess of caution to see that the necessary orders which I had previously given some days before, were carried out. I must repeat that, days before this, on the Monday night previous to Mr. Hare arriving, I sent in Ward to withdraw that search party. That search party had only been placed there, while I brought the trackers up to Beechworth, simply to watch Mrs. Byrne's, to ascertain if the report of the outlaw Byrne and the dog having been seen behind a rock near Mrs. Byrne's house was true or not; and then when this duty was performed the necessity for those men being there ceased, and I sent word to them to withdraw.

16864. Then did you withdraw those men before you received notice that Mr. Hare was coming to supersede you?—I had received notice before of that—a month before.

16865. Those men were only placed there while you were scouring that part of the district?—Yes; this was on Monday I sent word—they had only been sent there the Saturday before.

16866. If you had remained in that position in charge of the district, would you have continued those men there?—No, I would never have thought of it. I am very glad you asked the question. I merely sent them temporarily.

16867. Then the notice was not in any way in consequence of the altered state of things—Mr. Hare taking command?—Not at all. I would select the old cave for the police. It was only just in the extremity, I was compelled to send the men there; there were reasons at that time which I need not mention for not using that place permanently. I heard that it had been used for a day or two by my cave party before they were withdrawn; and I heard it for the first time from Constable Barry, and I was very much annoyed to hear they had gone there instead of remaining in the cave till they were withdrawn from it. I had also bade Ward and Mullane good-bye, and told them I was leaving the district, and Mr. Hare was coming up, and I had explained to Ward the position. I told him that I had been keeping "Tommy" on. He was not aware of it at first; he was not aware of any correspondence between the Chief Commissioner and myself; I was keeping him on at my own expense and on my own authority, but he would have to get the authority of my successor to pay him; and therefore that telegram was a simple repetition of the orders I had previously given. It was in my anxiety in rushing away from the place I repeated the orders. As I have already stated, I explained the position of those people to Mr. Hare. Jack Sherritt was not receiving pay at this time, and I may allude to a remark of Mr. Hare's as to why he was not informed about Jack Sherritt being so good a man. The reason was simply that he was not in my employment at that time. I did not see him, and had very little to do with him afterwards.

16868. Had he been previously in your employment?—Yes.

16869. When had you dispensed with him?—I could not exactly say. I left word at the Detective Office for Ward to look up the vouchers and ascertain the time.

16870. Can you tell about how long?—I have a recollection of having little or nothing to do with him after the new year.

16871. Would the list of appearances be any guide?—Yes, they would—[*looking at the printed list*—]but I would rather wait for the return I have asked for before answering that question. Mr. Hare never complained to Mr. Sadleir or Mr. O'Connor on any of the above subjects. If any of these charges could have been proved, there is not the slightest doubt that Mr. Hare would have reported at once with regard to them. Mr. Hare has since stated that to report the foregoing charges would have raised ill-blood, and have increased his difficulties in catching the Kellys. How should that be, seeing that I had left the district? What ill-feeling would it cause? If he feared this ill-will, was it not at least his duty to report the charges, with perhaps a request that they should be kept from my knowledge until the capture of the outlaws? When it is considered that Mr. Hare went up to Benalla with a distinct promise of promotion—

16872. Is that really the case, that he undertook this command with the distinct promise of

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promotion?—I refer to Mr. Ramsay's evidence before the Board. Such being the case, is it not absurd to think that he would not have at once reported, and so placed on record serious charges of this nature. Mr. Hare on going up made his own terms. He went up with every advantage, untrammelled by any restrictions in any way, while in my case I was sent up under very different circumstances. Captain Standish has given it in evidence that he had no confidence in me; yet, in the face of that, he sends me up to find the extra men withdrawn, and the supply of money for secret agents reduced. I had no *carte blanche* given me.

16873. Had you to give notice of everything you intended to do?—I would not say that.

16874. I can scarcely understand that. Were you not free, from the position you held, to undertake any course of procedure you thought proper which was calculated to effect the capture of those men, without reference to your superior officer?—Certainly I was.

16875. Do not you see the contradiction which is manifest in such a statement as that being made, when you say you were sent without *carte blanche*?—Nothing very radical could be done without consulting.

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16876. It strikes me there is a charge there you cannot sustain, as you were at liberty to use any means you liked?—There was no such expression used to me that I had to act on *carte blanche*. Any expenses I incurred, I did so on my own authority, and recovered them afterwards.

16877. You say you had the force reduced, and the money for agents reduced?—Yes.

16878. And that you engaged the agents on your own responsibility?—Yes.

16879. And paid them out of your own pocket till you could recover the money from the Government?—Yes.

16880. The point is this if an officer was sent up there, who, in the discharge of his duties, was subject to a restraining influence as to money or men, then I think you would be perfectly correct in making that statement; but it appears you were manifestly free in regard to both to attain the end in view; if so, your statement is not borne out, and it is important that in that you should be very particular?—At one period, for instance, there was a sum mentioned—that the expenses were to be limited to £40 a month. That was the amount; but supposing any voucher was sent in within that, it might be disallowed; it never happened.

16881. Were you in the position that it could happen?—Yes.

16882. It is no use complaining of a thing that could happen?—There was the case of Sherritt.

16883. Had you written instructions to the effect that you were not to exceed £40?—I think they were verbal, but I am sure I had the instructions.

16884. When you did exceed the amount you had to do it altogether on your own responsibility?—Yes.

16885. Was that state of things in existence before you went there the second time?—No, not at all. When Mr. Hare and Captain Standish were there, Captain Standish, as head of the department, always had what he and Mr. Hare thought proper; and I understand the expenditure was very lavish. In the latter portion of Mr. Hare's letter he refers to the black trackers, and expresses his opinion that they should be removed. The fact is, when he went up, other trackers had been sent for, and there was no wish on Mr. Hare's part to lose Mr. O'Connor's men until the others arrived. It has, moreover, been proved that, so far from the outlaws believing that the trackers had left the district, as asserted by Mr. Hare, it was the presence of these men that prevented outrages, and it was to destroy them, particularly, that the rails were torn up.

16886. You ought to have some proof of that?—There is Mr. Hare's own evidence, in which he states he was told by Bracken and others that the outlaws, when in Mrs. Jones' house, were saying they were to get that Inspector O'Connor and the black trackers; and I believe Bracken proved that; but I understand that he, having been transferred afterwards to Mr. Hare's district, would have been produced here to have given evidence on the subject. The letter of Mr. Hare containing these damnable charges against me was sent to the Chief Commissioner, and without any explanation being asked of me in the usual way (it is always usual to refer such a letter as that to any one), and was sent on to the Chief Secretary, and published in every paper in Victoria, and the charges have been hanging over my head ever since. Mr. Graves' accusations that I was the cause of the Kelly outbreak, &c., sinks into mere insignificance compared with the above charges. There is no newspaper in the colony that has not been ringing with disapproval of my conduct as reported by Mr. Hare in his letter of July 2nd, 1880, although I was never allowed an opportunity of explanation.

16887. You say you were never allowed an opportunity of explaining the charges?—Yes.

16888. You would see the daily journals in which those appeared?—Yes.

16889. Did you ever make complaint then to the head of your department?—I at once wrote to him asking him to repeat my request to the Honorable the Chief Secretary for a board on account of these charges. It is not only my position as an officer of police that has been assailed, but my character as a man of honor. If it is possible that, for mere petty spite, I tampered with agents and withheld information that might not only have been Mr. Hare's destruction, but that of Mr. Sadleir, my brother-in-law Mr. O'Connor, and every policeman in the district, I am unfit for the service and even worse than the Kellys. The non-success and other accusations are as nothing to the above base charges which have rested upon me now more than a year. I can appeal to my brother officers, and to all whom I have been in contact with for nearly thirty years, as to whether I am capable of such conduct—dare Mr. Hare do the same? I think he would get a very different reply, thought he is said to

be such a popular man, and I so very unpopular. On my second stay at Benalla, I, unlike Mr. Hare during his stay with Capt. Standish, had the whole responsibility of the work; and upon returning from any expedition was unable to take necessary recreation as other officers did, in coursing, &c. I was obliged to be in the office, going through everything that had been done in my absence. When we camped out at night we had to lie on the ground with oilskins around us. Upon my going back the second time, however, I had a comfortable hammock, made after the pattern of one Mr. Hare had in use part of the time of these great hardships he mentions. The last eleven months of my stay in Benalla was, as I wrote to a friend, simply a "hell," which I could not have endured but for a strong sense of duty, and confident hopes of ultimate success. I had to keep so quiet and appear as if so little was doing that I imagined that every person in the place was supposing we were doing nothing, and I was amazed, after my recall, at the kind spirit shown by all the people I had come in contact with in the North-Eastern District, and this satisfaction they expressed at my conduct there, and my management of the police there. I do not deny that Mr. Hare suffered greatly, as did Mr. Sadleir, every officer and constable connected with the affair, it having aged them all considerably. I now come to the charge with regard to the Euroa robbery. Captain Standish has stated that I received information that a bank in the North-Eastern District was to be stuck up. This is not the case, and there are no grounds for the assertion excepting the information of prisoner Williamson, dated 15th November 1878, about a likelihood of Seymour bank being attacked. I would like to refer to the papers, because I think the Commission will see that no action was taken upon that information (which was sent direct to Captain Standish by Mr. Winch, and not forwarded to me for some time) until after I telegraphed from Benalla to increase the strength at Seymour. If those telegrams are looked at, the dates will show there was a considerable delay.

16890. Williamson's report is dated the 15th; you received it on the 28th. It was posted to you that day, and you telegraphed a reply on the 29th?—Yes, that I what I mean; it was not sent to me till the 28th. It was this information, no doubt, that confused Captain Standish, and led to making the charge against me. Mr. Hare states that Captain Standish told him that I had received information as to an

intended sticking up, and that Seymour bank was specially mentioned. This coupling of the two things gives color to my explanation of Captain Standish's mistake. I considered, if I thought it connected with the Kellys at all, Mr. Wyatt's news of the cutting of the telegraph wires, as a ruse to draw us off more important information that we had received, and only a blind to take us off the scene of action.

16891. This paper of the 26th of November shows that information was in Mr. Hare's possession, and he had acted upon it on the 26th?—That information was sent to Mr. Hare at the dépôt before it was sent to me. I have now no doubt that it would have been wiser for one of us—either Mr. Sadleir or myself—to have remained at Benalla, although the men at Euroa could do nothing until daylight.

16892. What do you mean by saying, just previous to that, that you looked upon the cutting of the wires as a ruse?—That it was done by some of the sympathizers, with the view of distracting attention. After that was done in the dark, no pursuit could be instituted until daylight next morning. It has been stated that I ordered the men at Euroa to do nothing until my arrival there. I am not aware that there is any truth in that charge. It has also been affirmed that I allowed the men to go to sleep after only a few hours' work. The fact is, most of these men had only just come in from an expedition, and were worn out with fatigue. We were following the track, and thought it would lead to the fastness where they were concealed, and it led us back to this very spot, the old hut near where they committed the murders. The weather was excessively hot, the work was hopeless, the ground was so excessively dry. That was the year when there was a great drought and a great deal of rust through excessive heat in that country. This was the height of summer, and we were quite unable to make any headway at all. We simply, without the assistance of good trackers, could not do anything, and the same would occur again to-morrow under similar circumstances, unless we had skilled Queensland trackers, not such men as we had, or else that the police had exact information where to go to. I received the information that the Euroa bank had been robbed on the 10th December 1878, as already stated. I left Benalla for Albury in company with Mr. Sadleir. When we arrived at Albury we received notice by telegram of the robbery of the Euroa bank, and immediately returned by express train from Wodonga. I was delayed a short time at Wangaratta, as I had to go to the hospital to try and get a black tracker there; but he was too ill to be of service, and I left him at the hospital. On arrival at Benalla I had to go on foot to the police station, a distance of about a mile, to see Sergeant Whelan who was in charge, and the clerk, Constable Maude. The only telegram I believe I sent on that occasion from Benalla to Mansfield was for two trackers to be sent by the Broken River, and Benalla to Euroa, to watch on that road.

16893. Did you sign any telegram?—I do not think I did, except the first one which I have no hesitation in admitting is mine.

16894. The first was before you went out?—The first I sent before I went. [*A number of telegrams referring to the matter in question were read over by the Commission, and a plan was exhibited and explained, to show the successive steps taken.*] Further telegraphic correspondence between those places was conducted, I believe, after I left by the clerk, Senior-Constable Maude, and Sub Inspector Pewtress. The senior-constable in my absence acted to the best of his ability, and I attach no blame to him at all, and I assume the responsibility of what he did. I do not see anything to blame in him in the least; but what I wish to point out to the Commission is this, that the officer in charge at Mansfield, when ascertaining

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that I had gone by those telegrams, and that the clerk only was repeating my original instructions, should have acted on his own better and later information, there being no instructions from me to the contrary. I do not by this statement mean to throw any reflection whatever upon Sub-Inspector Pewtress; but it was an instance of mismanagement to station members of the force who had spent the best parts of their lives in Melbourne, in outlying bush stations, without due consideration for their suitability. As the Commission is aware, Mr. Pewtress was sent to Mansfield a short time previously upon well-earned promotion, after a service of 20 years' foot duty in Melbourne. Now had there been instead of Mr. Pewtress an experienced old officer or sub-officer of mounted police, and he found I had gone by the telegrams, and that he was merely corresponding with a boy, he would have known what to have done, and, instead of making a grievance of it, he would, if he thought it necessary, put his best foot forward, and have acted on any better information or better judgment if he thought fit. I believed that the gang neither came from nor returned to the Strathbogie Ranges, and such belief has since turned out to be correct; two of them were back in the neighborhood of Greta before morning of the 11th, and I have heard, on good authority, that the other two were within a few miles of Yarrawonga, in Devereux's paddock, on the night of the 11th. I also have learned that the police pursuit of them without skilled trackers was vain. We had one tracker who was notorious for his uselessness—a man who had been dismissed by Senior-Constable James, he was perfectly useless; that was the only man available for me that morning. On my return to that district, in June 1879, I did not discourage the popular fiction that the Strathbogie Ranges were favorite haunts of the outlaws, as I desired to draw public attention from their real haunts, and also to flatter the gang that the police were as ignorant of the public. It was the policy of Mr. Sadleir and myself to keep up this idea of the Strathbogie Ranges, so as to draw them away, but we knew perfectly well they could not make that their haunt—it is not country fit for it. They never came out of Strathbogie to attack Faithfull's Creek, nor did they return there, but they skirted them in each case. The gang got away from Faithfull's station about 8.30 p.m. on the night of the 10th, and the police could not track them until daylight next morning. I was on the ground about eight o'clock next morning. There was no time lost, especially as before I arrived the police had endeavored to follow the tracks of the outlaws but without success, as, owing to the extreme dryness of the ground, tracking was an impossibility except to such skilled trackers as the Queensland blacks, who were then not in the colony. Before I arrived at Euroa I had sent from Wangaratta a party of police, under either Sergeant Steele or Senior-Constable Strachan, to intercept the outlaws in the Greta country. I had also sent Mr. Sadleir with a party from Wangaratta towards Lake Rowan and the adjoining country. Mr. Sadleir, as the Commission is aware, has stated, what I believe to be the fact, that he got on to the tracks of two of the outlaws, but, owing to the incapacity of the trackers he, also had with him, he lost the tracks and had to give up the pursuit. As to the charge made that I neglected the information given by Jack Sherritt, on the 13th day of November 1879, I will inform the Commission of the facts as they occurred. About nine o'clock in the evening I was informed that Jack Sherritt was in the office, and wished to see me—I can not tell who came for me, whether it was Ward or Mullane, or who it was; but I remember finding myself in the office, and Jack Sherritt sitting on a small safe in the room. I went at once, and Jack told me that

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on that afternoon, late, his sister came to Crawford's paddock, where he was working, and told him that Dan Kelly had called at the Sherritts' house, inquiring for him. Dan was told that he was out; but, not being satisfied, he insisted on searching the rooms with a revolver in his hand. Jack Sherritt was afraid that Dan had come to take him away with the gang as their scout, and he (Jack Sherritt) hid himself until dark, when he caught his horse, which was grazing near, and came in to tell the police. Jack Sherritt remained in the office until eleven o'clock, when (in order to account for his absence from home) I sent him down to Julien's with 10s. to spend, in order that the gang might hear of it and so acquit him of hiding from them. That was what I was afraid about, his timidity as to meeting them, and I wished to remove any risk of their thinking that he was intentionally avoiding them. Jack Sherritt did not then say that Dan Kelly said he would return at eight o'clock, or any other particular time. He now says that the whole gang called at his mother's at eight o'clock that evening. And, although he remained in my employment for a considerable time afterwards, he never reported to the police that the gang or any one of them had called at his mother's on the night in question. To my knowledge I never heard of any such thing before. In his declaration of the 22nd day of October 1880, in referring to this matter, he states that—"Dan Kelly did come at the hour appointed and went away again;" but he makes no mention of the whole gang having called. As I before stated, I did not get Jack Sherritt's information until nine o'clock, and I then considered that the only result of sending police down there that night would be to create a disturbance, which would reach the ears of the gang and cause them to abandon that part of the country in which they appeared to be settling, and to take signal vengeance on the Sherritts. The gang were never known to make and keep an appointment during the whole time they were out, as if they had they must have been captured long before they were destroyed. They were too knowing for any such thing. Both Senior-Constable Mullane and Detective Ward have but a faint recollection of what occurred that evening, but if we had been informed that the gang, or any one of them, had made an appointment, that would have been an occurrence which certainly would not have escaped their memory. You know what sort of a man Mullane is, as well as Ward, and I am sure you can hardly imagine, if such a thing occurred, that Mullane could have

forgotten it. I therefore think that the Commission will have little difficulty in coming to the conclusion that Jack Sherritt's declaration and evidence are concocted to injure me, in revenge for my having recommended his discharge from the police force.

16895. Is it possible that Sherritt could have been confusing the two occurrences of the 13th November and the 23rd, as noted on the printed list of appearances?—From the copy I gave you from my memorandum-book we believed at the time that that other visit was to tell Sherritt not to meet Joe Byrne, as appointed, at Evans's Gap. It had nothing to do with the banks. By the printed paper you will see that, on the 27th, Joe Byrne himself visits the Sherritts' hut, and tells them that, and tells Sherritt not to meet him, and explains the cause of Dan Kelly's previous visit on the 13th. He said that he sent Dan for that purpose—to tell him not to meet them at Evans's Gap. I saw that Jack Sherritt was very timid, and that it would not do for him to come in contact with those men. He was utterly wanting in sufficient nerve for that. He was very much afraid of their coming and carrying him off as a scout, and I always took every care of the people I employed, so I arranged, for his protection against that, that he should sleep in their garden. As I have already stated, he said in his evidence the outlaws proposed to attack Beechworth, and that I prevented that. Some of my instructions here to him explain the meaning of that. They wanted Jack to join them; but it was quite out of the question to think of Jack pretending to agree to join them in such an exploit. I therefore told him to convey through his agent, Patsy Byrne, or himself, that he was afraid to attack Beechworth. I particularly enjoined him to say it was not for fear of the police, but just to express a general fear that it was too big a place to go into. From the information that I got through this man I ascertained the designs of the outlaws upon many other places, and I was able to take various precautions against them. I had no idea of encouraging them to attack a bank. I knew their intention was to go into the bank, and enter the manager's room, and cover him with a pistol, even if he was a married man with his family, and to shoot him if he would not give up the keys; and if he had one key, and the accountant or clerk living in another house had another, two of them were to remain with him, and the other two to go to where this accountant or clerk lived, and shoot him if he did not give up the key. They were not to stick at bloodshed in the least; and then they were to come and rob the bank, and carry off the spoil. That was the agreement. They were all most bloodthirsty characters. I had no objection to their taking Aaron on a ride into New South Wales, I arranging that he would send back a telegram, stating where he was going to, but I never encouraged them to attack a bank. I knew what the circumstances would be—that there would be bloodshed; and I knew it was quite contrary to our principles, and to law, and would lay an officer who agreed to such a proposal open to a charge of wilful murder.

16896. What was the object of your getting Sherritt's portrait taken?—Inst to satisfy his mind. I could hardly convey to you what a coward this Sherritt is. He was in such a state of trepidation that lest he should be carried off we got the portraits taken, and told him if they ever got him and he was missed we would circulate those pictures round the country, telling the police about him, and warning them not to injure him; it was just to satisfy him. While on this subject, I may as well here state my reasons for refusing to have this man in the force. While Captain Standish was in Beechworth, at Kelly's trial, the two Sherritts were brought to the office to be sworn in. This was the first I had heard of their even trying to get into the force. I refused to have them sworn, and sent them back to the depôt. I wrote a memo. to Captain Standish on the subject, and he then told me he would think over the matter. I heard nothing more from him, and soon afterwards learned the men were constables, notwithstanding my protest and that of Detective Ward. I may mention that you have the file of papers before you, in which you will find the reasons I gave at the time for acting as I did. On the 9th of August 1880, I say, "As I have declined to sign or to pass on this file, I beg to make the following explanation with reference to the attached memo. of the Chief Commissioner of Police, Z.1269, 4.8.80, attached. The Chief Commissioner is well aware that I have had peculiar opportunities of learning the character of the Sherritt family for ten months preceding the beginning of June last, and I have the strongest doubts of the suitability for the police force of the two sons referred to. The elder, John, was suspected of thwarting, if not betraying to the friends of the outlaws, the efforts of his since murdered brother Aaron to aid the police. I am not aware of any claim the Sherritt family can have upon the Government for the loss of their son Aaron, because long previous to his death he had left his father's house, taken to himself a wife with whom he lived apart from his parents, and was earning his

own living, and I fail to see that the admission of these two young men into the police force will settle any difficulty in a claim which apparently also is groundless. I again take this opportunity of remonstrating with the Chief Commissioner against ignoring me, and especially the knowledge I possess in the matters concerning the Kelly gang, and the claims now being made upon the Government in connection therewith." When this file was sought for to hand to the Commission, this document could not be found, and it turned up amongst Captain Standish's private papers; it had been suppressed, if I may use such an expression. I did not interfere with these men as long as Captain Standish was connected with the service, but directly after he left I made my recommendation to the Chief Secretary. On the 4th October 1880, I said, "With reference to the attached file, I beg to refer to the document Z.1269, Chief Commissioner of Police, 4 August 1880, addressed to the Honorable the Chief Secretary, and requesting his sanction to appointing two brothers named Sherritt to the police force. The document referred has the required authority endorsed upon it. The two brothers were admitted to the police force accordingly, and are now at the depôt, Richmond. Previous to that last step, the

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matter came accidentally under my notice, and I wrote warning the Chief Commissioner against such a course, as I knew the Sherritts' character and their unfitness for admission to a police force. I also beg to refer to Detective Ward's attached report, in which he guardedly states that they are hardly persons he could recommend for the police. The Superintendent of the North-Eastern district has also informed me that he also objected to their admission. With reference to the character of those two young men, I am not aware that they have ever been convicted of felony, but they are notorious as the associates of criminals, particularly of the late outlaw Byrne and the Kelly sympathizers. In fact, that was the reason they were useful to the police as spies. In fairness I must make a distinction between the younger brother, William, and the elder, John. The latter is the most objectionable man. If they are sent to any part of the colony where they are known, their fellow constables would not rely upon them. The public might even resist their authority, and magistrates could not rely upon their testimony. I beg to recommend that they be discharged and furnished with a small sum of money, sufficient to transport them to some distant place, as suggested by the detective." Upon that the Chief Secretary approved of that course, and they were discharged. I knew that Sherritt was not honest, that he had stolen a saddle from his sister-in-law, and, as I have since learned, planted it in Byrne's farm; and young Byrne and his mother were arrested for the theft, and in my interviews with him it was apparent that he was quite unsuitable. Is this the kind of man to whom to entrust the protection of life and property, and whose word might any day take one's life away? As to his younger brother, I certainly know nothing tangible against him, except that he comes of the same family, and I considered neither of them fit for the service. On my becoming Acting Chief Commissioner of Police, I represented this to the Chief Secretary, and I should do precisely the same again. In a force in which men have so much power as in ours, particular care should be exercised as to the character of men taken on. If, as Sherritt and Captain Standish wish to represent that, I was afraid of the former, I would surely have placated him, whereas now I have made him and all his family my enemies for life. Mr. Hare has since stated that two constables saw the Sherritts killing a sheep, and that he made no enquiry as to whose it was. As to his discharge, Mr. Hare should have communicated it to him. Was I to retain him until his criminal instincts were proved. I may add to what I have said that I remonstrated also verbally with Captain Standish. I said to him—"You can see now I am telling you this sincerely, that I can have no motive whatever in it; on the contrary, I am turning these men against me. There will be an enquiry into this Kelly business, and these men, whom I have always treated kindly, and who have had a good feeling towards me, will turn round on me. I am making enemies to myself for the sake of the service." Captain Standish seemed rather moved at the time, but I never heard anything more after that. I was never unfeeling or hard, or anything but kind to those men, and I did all I could to render their removal from the force as gentle as possible. It was a matter of the utmost pain and regret to me that I had to perform this duty. As to writing to Mr. Fosbery, I had known him for many years, and he was in Melbourne at the time, and when in my office I told him the story of those men. One of them had just left the room when Mr. Fosbery came in, and I asked him if he could find them employment in New South Wales, and he said no, that the objection was just as strong there as here. As to Mr. Seymour (the Chief Commissioner of Police of Queensland), I wrote to him and explained the whole matter only about the younger Sherritt, to whom I gave a letter of introduction to Mr. Seymour. He replied to this that he could not, under the circumstances, employ him. The charge made against me by Senior-Constable Johnston (questions 9608 *et seq.*) took me completely by surprise. As the Commission is aware, I left Wodonga from the Murray Flats on Tuesday the 5th of November 1878, and stopped at Wangaratta that night, and met Messrs. Sadleir and Smith there. Next morning, early, I proceeded to Oxley, and returned to Benalla *via* Wangaratta, and at midnight proceeded to Beechworth, in company with Captain Standish, to go to Sebastopol. On the 7th I was engaged at Sebastopol from daylight in the morning, and returned to Benalla that night. On the 8th I was detained at Benalla by correspondence. On the 9th I went to Wangaratta, and during the evening I heard from a most reliable source that the outlaws had abandoned the police horses on their way back from the Murray. The same evening I heard that the police had recovered one of the horses (B 87). I sent orders to keep the recovery of the horse quiet. Instead of that, I was very much annoyed at a later hour in the evening to see a party of police with a led horse come down the main street with much noise. On examining the horse I could see he had been abandoned for several days, perhaps a week. Next morning I went to Foote's, on special duty, with Sergeant Steele and Senior-Constable Strachan, and did not return until 12 p.m. On the 11th I was engaged corresponding and considering reports of returned search parties, and as I then could plainly see that the men who had been out with Mr. Smith were very much dissatisfied, and that he was quite unfit for that work, as he had abandoned the pursuit while on what he believed to be a genuine track.

16897. What do you mean by that he was unfit?—I had heard that he had kept the men waiting that morning, and on that very morning I was up myself, and had to go and rouse him up out of bed, and I found the men waiting for him.

16898. Have you never had official complaints made of this man?—Not until then.

16899. You have not heard rumors of misconduct in any way?—No. Mr. Smith was one of those men whom one often meets with—at one time, natty in his person and temperate in his habits, and one of the last men one would suspect that way, but in later life becoming careless in his habits. It was a thing

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I would never have suspected at that time. I then determined to let the men go out the following day with trackers and every advantage, and see what they could do themselves. The reason I did so was I expected we would have found the horses or got some new traces, but my impression was that the outlaws were 100 miles away at the time, and my great object was to soothe the men, and clear up what they were engaged on. I telegraphed to Mr. Sadleir to meet me at Glenrowan early the following morning. On the 12th, I took Mr. Smith, Sergeant Steele and his party, and Senior-Constable Johnston and his party, and two black trackers. We picked up Mr. Sadleir at Glenrowan, and went to work, leaving the matter in the hands of Johnston and his party. The track was made out, and followed for some distance until it led us to a dry swamp with low tussocks of grass and a few swamp trees with clear stems for 5 feet of their height. There was no scrub or other cover whatever. And it is perfectly untrue, as asserted by Johnston, that there was scrub in front of us. The trackers (one was a man called Doctor—a very good man—and the other Jimmy—who was a perfectly useless man—I had had at Benalla) could make nothing further of the tracks as they were very old. Up to this time I had made no move, and had given no orders whatsoever, as I wished to see what Johnston and his party could do, and did not interfere until he gave up the job. When they could do nothing further, I turned back along with them. Sergeant Steele suggested that the only thing which remained to be done was for him to take his party, as he knew the country well, and scour the Warby Ranges to the end, including Hell's Hole and other localities mentioned by Johnston in his evidence. I assented, and intended to go with Steele, but he did not understand my intention, and got his men together and went without me. We camped by a spring, and had some lunch which we had brought out, and waited for Steele and his party, but finding that they did not arrive for some time we returned to Wangaratta without them. Next morning, I ordered Mr. Smith to return to Beechworth, and not to interfere with the Kelly business again while I was in charge of the district. And as Johnston and his party were not required at Wangaratta, I sent them down to Benalla. There is an affidavit I wish to put in now:—"In the Supreme Court of the Colony of Victoria.—I, William Keigwin Nicolas, Superintendent of Police in the colony of Victoria, make oath and say, referring to the attached correspondence marked A and B, *re* pursuit of Power the bushranger, I beg to state that I saw Mr. Nicolson, then superintendent of police, also Superintendent Hare, at my quarters on their arrival at Benalla. I was not asked by them to render any assistance in the arrest of the above-named offender. In a conversation with Superintendent Hare (in the absence of Mr. Nicolson), he informed me 'that he had been sent by the Chief Commissioner, in consequence of the bad state of health of Superintendent Nicolson.' I felt very much hurt after having recently arrested Edward Kelly, then Power's mate, at not being included by the Chief Commissioner in the party of officers sent specially to the Benalla district to arrest Power. I considered selecting Superintendent Hare, who is my junior in the police force, although senior on the list of officers, most unfair to me as an officer in the Victorian police force.—W. KEIGWIN NICOLAS. Sworn before me at Stawell, in the colony of Victoria, this fifth day of September A.D. 1881—S. Tournay, a Commissioner of the Supreme Court of the Colony of Victoria for taking affidavits." I have served with distinction in every branch of the force, and I will now proceed to show that I was not only competent to cope with the pursuit of the Kellys, but that from the very beginning, and even before the outbreak, I took (whenever I was allowed) the proper steps to break up the gang, and after the outrages to capture the outlaws. Some time after I was appointed Inspecting Superintendent, I inspected the North-Eastern district, and reported that the police protection was insufficient and inefficient. You are already aware from the evidence I have given of the arrangements which were made at my instigation to break up the gang of cattle and horse stealers, which resulted in the arrest and conviction of the Baumgarten gang, to whom the Kellys had brought the stolen horses. I requested Captain Standish to allow me to return to the district, as I was by no means satisfied with the state of affairs, but he pooh-poohed the idea. This I did not mention before. On my return to Melbourne, after finishing my reports, I went into the Chief Commissioner's room to confer with him as to the state of the district I had just visited. I repeated a good deal of what I had seen, and told him I was by no means satisfied with it—that the tone that the men in the lower part of the district had spoken to me about horses being stolen, and the offenders escaping detection, was rather jarring to me and very alarming.

16900. They spoke, you mean, lightly about it?—Yes. I am not reflecting on the men, but it seemed to be the custom there.

16901. Of the residents there?—Yes, and that it would be as well for me to be sent up again. Captain Standish did not send me back; he took no notice and made no remarks on the subject. You are also aware that I organized and formed the Glenmore station (I went up and selected the spot myself), which, if it had been kept up, would have checked if not prevented the Kelly outbreak. After the murder of Sergeant Kennedy and his party I was sent up to take charge of the pursuit of the Kellys, and I organized and sent out search parties to scour the country. In justice to Captain Standish, I must say that what I did then was done entirely on my own responsibility, as he gave me full charge of the pursuit and told me he would hold me accountable. At the time of the Euroa robbery I had worked so hard, being in want of leaders—in fact, there was hardly a man there that could take us through the country, so that I had myself to go out and take a very active part in riding about with the men and camping out with them, instead of remaining at the principal points to wait for information and act upon it. Of course I had Mr. Sadleir at head-quarters, he not being able to go out through being a convalescent at that time. I had been exposed so much during the previous six weeks that I became quite worn out with fatigue, and my eyes became so bad that I could hardly see, indeed for a time I was perfectly blind in one eye. When I came to town I went straight to Dr. Gillbee, my medical man, and he took me at once over to consult Dr. Gray, who after that attended me. I paid my own medical expenses. In fact, I was so eager in the matter that I never thought of sending my bill to the Government. The

state of my health was no exception, as many of the men who had been engaged in the pursuit were knocked up from the effects of it and several had to go into hospital. As the Commission is aware, I was relieved by Captain Standish and Mr. Hare on the 13th December 1878; they greatly reinforced the police in the district, and took, in addition, seventy of the artillerymen to guard the townships, and also had the services of the black trackers from Queensland. The system of search parties scouring the country was continued by Captain Standish and Mr. Hare until the 3rd July 1879, when I was ordered to again take charge of the Kelly pursuit. When I arrived at Benalla to relieve Mr. Hare (Captain Standish having previously left the district), a coursing match was going on in which Mr. Hare was interested (Mr. Hare was then on leave of absence). The consequence was that I saw little

or nothing of him during the day, and it was only in the evening after dinner that I could get any conversation with him. I then found he had no news of the Kellys to give me beyond accounts of various search parties, they having gone out on slight or no information, which were in all cases fruitless. I found Mr. Hare had no information to give me, and I came to the conclusion that he did not then know if the outlaws were in Victoria or not, as Mr. Sadleir can tell you. Finding that the system of galloping after the outlaws was thoroughly exhausted, had entirely failed, and that the police were daily falling in public estimation, and were becoming disheartened, as the whole colony were sneering at their efforts, and that they were unable to obtain information themselves, I determined to endeavor to regain the confidence of the inhabitants, and to employ secret agents to get information upon which the police could act. The people were afraid to trust the police with information lest it should be acted on in such a way that the outlaws could discover from whom it came, which is a common thing in police experience. My first efforts were directed to find if the outlaws were in the colony at all, and then to find their haunts and associates. The force of police at my disposal was greatly reduced and the artillery corps removed entirely, so that I determined not to remove the police until I had definite information, so as to make the most of the men I had and lull the gang into a false sense of security. The printed list of appearances shows how I gradually got to know of the movements of the gang, also the difficulties I had to surmount (owing to the extreme suspicion, bush knowledge, and wariness of these men) to bring about an encounter with the police; and I saw I had a task before me which would probably take as much time as had already been spent in the pursuit of the gang. I enjoined the police to avoid any appearance of Kelly hunting, to go about their ordinary police duties—serving summonses, warrants, &c.—but I kept my subordinate officers well posted in all information which was requisite for them to know. I sent out picked men as watch parties where it could be done without the knowledge of the gang. By this system I got the gang so terrified that they did not know what I was doing or how much I knew, that they dare not break out, and were reduced to the greatest straits, so much so that latterly they were obliged to go and rob workmen's tents on the roads and in the bush for the necessities of life; and I was convinced, from the frequent and reliable information I was obtaining towards the end, that I would have the opportunity to encounter the gang within a few days at the longest. Very much against my inclination, and when I was certain that success was within my grasp, I was relieved by Mr. Hare on the 2nd June 1880. 1st. As to the relations which had existed between Captain Standish and myself for some time, I say that those relations were the effect of his jealousy of everything I did. The Commission had an opportunity of seeing the malice which Captain Standish bore me when he was examined; but I say, without fear of contradiction, that on no occasion did I allow my private feelings in this matter to interfere with my duty as an officer of police, and that I served Captain Standish as loyally as if he and I had never had a difference of opinion. In 1863 Captain Standish told Mr. Hare not to leave the colony, as if anything happened him he should have his place. This no doubt, was the motive of his conduct, not only to me but to almost every other inspecting superintendent before me. 2nd. Captain Standish was on bad terms with the first inspecting superintendent in the force, Mr. Peter Henry Smith; and Mr. Littleton, independent of other reasons for leaving the force, had a most violent quarrel with Captain Standish before he left. It is true that when I succeeded Captain Standish and Mr. Hare in the North-Eastern district I had to feign a want of energy, as part of my system was to lull the gang into the belief that nothing was being done or known about the gang; but my evidence shows that even at that time I was almost continually on the move, but that I had to spend a good deal of my time in Benalla, as it was there the information used to be brought to me. The men felt the inaction of this period I have no doubt, as they had just been returned to ordinary duty from search parties in the bush, well equipped and provided, and having generally a very good time of it, in addition to free rations and extra pay. Theirs was a life of enjoyment while they were on the search part and, of course, under the system that I considered necessary for the service of time country they would feel the difference, living in the barracks on ordinary pay. I think that, from the account of my career in the force which I have been obliged to give to-day, that want of energy is not a trait in my character, although my detractors have thought fit to try and turn the caution and discretion I endeavored to use into a charge of inertness. As to the charge that my management was expensive, the return I have handed in, and which is printed at page 31 of the evidence, shows the expenditure incurred by Captain Standish and Mr. Hare, as well as when I had charge, and as the figures speak for themselves, I will not trouble the Commission on that head further. It was apparent to me that the duty would probably occupy some time, which was another motive I had for reducing expenses. I got them as low as could be. My reason being not only general economy, but also that I knew that the case was one that would require considerable time to conclude.

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There are some incidents which have been referred to in the course of this enquiry which I think it my duty to explain. Unfortunately Mr. Hare and I have been, as it were, pitted against each other in this Kelly business, and a certain amount of bitterness has been caused thereby. Whether we are to blame for this or not remains with the Commission to say; but in my own defence I would point out that owing, no doubt, to some extent to Mr. Hare's plausible manner and glib tongue, he succeeded in ingratiating himself so thoroughly with Captain Standish, and through Captain Standish with Mr. Ramsay, that he was afforded means of taking the Kellys which I never had. What use he made of those opportunities the Commission is aware of. He tells you himself, when he was sent up to relieve me in June 1880, Mr. Ramsay gave him *carte blanche* to do as he pleased, while it will be remembered that when I took charge, in July 1879, large bodies of police and the whole of the artillery force was withdrawn from the district, and I was stinted in funds and hampered with orders from head-quarters in Melbourne, all of which caused me vexation and hindered my operations. Now I ask the Commission what Mr. Hare has done to deserve special advantages over other police officers. If it is admitted that it was necessary to allow him more men and more money to give him a chance of taking the Kellys, I am content. But when he (with the assistance of Captain Standish) spent eight months in pursuit of the Kellys with the largest body of police that ever was in the districts and with the artillery force at his command to watch the townships, so that he had the full benefit of the services of all his police, and when he spent more money per month than was spent in the pursuit at any other time; and with all these advantages, when I relieved him, in July 1879, he did not know if the Kellys were in Victoria. I do not see what he has done to justify Mr. Ramsay in saying that the Government of that day had unbounded confidence in him, and that if he would take charge he should have *carte blanche*. In addition to this, I would point out some admissions made by him as to his career in the police force and the conduct of his pursuit of the Kellys. Although by no means inclined to hide his light under a bushel, the only memorable incidents in his career (putting aside his share in the capture of Power) to

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which he can point with pride are the arrest of a burglar who was armed and the intention to throw a man into the Murray who never turned up to be thrown in. Are either of these circumstances such as should inspire "unbounded confidence"? Under these circumstances, is it not to be wondered at that, having been "in" the capture of Power, Mr. Hare should claim all the credit of that capture? I would also point out to the Commission that Mr. Hare sometimes allows his tongue to run away with him, and attempts to garnish his case by loose statements and indiscreet admissions. As an instance of what I allude to, I would point out to the Commission the statement made by Mr. Hare that when he relieved me in June 1880, no more was known of the Kellys or their movements than was known when I relieved him in July 1879. After the patient hearing which the Commission has given to the evidence, such a statement as this requires no further comment from me. One of my agents came in and told him that the outlaws had gone out, and blood was to be shed. No notice was taken of it, and no warning was sent out, so that the table might be turned on the outlaws; and yet he says we knew nothing more about them when we left than ten months previous. Again, Mr. Hare in his report plainly suggests that the removal of the black trackers was a ruse to get the outlaws to break cover, and that it had the desired effect. But when cross-examined on this point he is obliged to admit that the removal of the trackers was no ruse, and that the taking of Ned Kelly and the destruction of the gang was mainly due to accident. Mr. Hare told you that as a peace officer he thought he was justified in inducing the gang to make a raid on a bank, and perhaps commit murder, in order that he might obtain information of their whereabouts. Is this one of the reasons for the unbounded confidence which was placed in him? I have made no attack upon Mr. Hare, but simply refuted his accusations against me. In his last statement he claims having done all the hard work, and got nothing for it. This is absurd, as he has been enjoying the best position in the force for the last fourteen years. As to the hard work, compare it with that of any other officer of the force. The *dépôt* had always been held by a military man, one specially qualified to take charge of the nursery of the force.

16902. What are the advantages of the *dépôt*?—There are not many now.

16903. What were they?—The *dépôt* was a very nice establishment, free house, and gas, and wood and water, and everything that was wanted. There were men stationed there, and horses and stabling, and a pair of blood horses for the officer to drive about the country with, and the services of a man. I do not say Mr. Hare used the men, but they could always be used by the officer in charge. It was the resort of the Chief Commissioner, who was always in communication with him, which, if he was a plausible man, gave him an opportunity of gaining favor; and he had the advantage also of living at the capital. Officers up country live as other people do up the country; but they have to travel through dreary rides year after year, in all sorts of weather—a very different life, indeed. There is not an officer who would not give up £100 a year of his pay to take charge of the *dépôt*; it was a relic of the old escort system before the railways were opened, and is not necessary now; and was kept up as a place of amusement for the head of the department, and the officers with him. I refrained from any quarrel with Captain Standish, and it may appear as pusillanimity my putting up with so much; but when I was up I always showed the officers and men an example of respect to the head of the department. When I was superseded—when Captain Standish complained of my conduct afterwards, and I considered things were going to wreck; but I was relieved from responsibility, and the case was different. In my interview with Mr. Ramsay, when he happened to be in Benalla in April 1880, returning

from the unveiling of the police monument at Mansfield, in company with Captain Standish, Mr. Graves, and other gentlemen, he expressed the greatest pleasure and confidence when I told him how things were going on. That was upon the 22nd April 1880. Upon the 26th April, I received Mr. Graves's document from the Chief Commissioner, an anonymous letter, and it was on the 3rd May I was sent for to town by Captain Standish. I had no conversation with him about a man named Foote, and he made the announcement that I was to be superseded; and I had an interview with Mr. Ramsay on account of that. Captain Standish denies that he had anything to do with my removal, but when I had that conversation with Mr. Ramsay he joined in the conversation, saying, "But you are always saying you are going to arrest them," as if he had been the instigator of my removal, and I am of opinion yet that Mr. Ramsay was grossly misled in the matter by the head of my department. Captain Standish had shown himself incapable of devising any scheme whereby he or Superintendent Hare could catch the outlaws. He was incapable of explaining the prospects of their arrest, and he grossly misled Mr. Ramsay even in my presence before I was relieved; and Mr. Ramsay has been misled since, as see his evidence before the Police Reward Board, question No. 7 especially, which is nearly altogether the reverse of the fact. From such a person as Captain Standish has shown himself to be, could you expect a proper and fair action in such a case? In reference to Gascoigne's evidence, I would have been glad to have sent parties of four men had they been properly trained and knew the country, but they had not those essentials. Nearly all the local men were deficient in proper knowledge of the bush, and the reinforcements, though generally consisting of picked men, were more deficient in knowledge of the country. All that takes time to acquire, and I doubt, if an outbreak occurred now, if the police are yet sufficiently prepared to cope properly with them. As to the secret service, how was Power arrested after being out two years, and costing the country £30,000, but by informers; and most of the notorious criminals have been arrested in this way. I must object to the way Mr. Graves endeavored to get evidence against this system. (See Gascoigne's evidence.) I did not inform Mr. Hare about J. Sherritt, because I had ceased to employ him for some time before the 2nd June, and his brother Aaron was continually cautioning us about him. I maintain that my removal from the North-Eastern District after eleven months' intense anxiety, when matters were drawing to a close, was simply a second attempt (which unfortunately succeeded) at endeavoring to deprive me of the credit of the work. Why did I wish to remain, excepting to bring things to a creditable close? Was I not asking what might have been, in case of failure, my loss of office and ruin, and, even in case of success, my death? And I now assert that, had I remained in Benalla, the Kellys would have been taken without loss of life. It has been given in Mr. Hare's evidence that D. T. came in on Thursday night before the murder, and said the outlaws "were going to do something at once." No action was taken on this important information, although Mr. Hare has stated he had the utmost confidence in this man. I considered then, and still do, that my removal then was a great shame, not to use a stronger expression. I think I need not take more time in explaining what my system was with reference to those men. I was hearing of them very frequently. When Mr. Hare left I had just heard of them the week before, which was never done when I was up there previously; and when I was superseded I had heard of them three or four days before, authentic witnesses; and I was informed of their places where they had resorted to in the past, and where they had lived but recently. And the last information I had got from

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one of the agents was about their having been in a paddock for a certain time, and having abandoned it through accident. But this person, a mild, sensible, steady looking person, assured me that he was certain he would bring me to the gully where they were sleeping. I am certain—from what he told me, and my own experience—that we would have caught those men without any blood being shed, and there would have been no such shame as happened to the police force throughout this matter, and the murder of Sherritt. As to the secret system, there was no secret system versus the police—the police were simply unable to obtain certain information. In the case of Power that took place. Evidence was given by one mounted constable and another constable (Gascoigne) that the best system, he thought, would have been sending out parties of four men through the country; but he added, further down in his evidence, if they had been experienced men, and had a knowledge of the country. I would have been very glad to have adopted that, but the men in the district were all local men, and their knowledge of the country was too limited, and that of the other men, though the picked men of the colony, was more limited still.

16904. They had no knowledge at all of it?—No. The men there now I hope will become sufficiently efficient for the work, but it will take a considerable time to do it. If they were called on at the present moment, I doubt whether they would be efficient enough to accomplish the work without the assistance of the inhabitants. The fact is, in two words, unless the police have the confidence of the inhabitants of any district or any township, they will never become efficient, and the police lost the confidence of the people, good, bad, and indifferent, and until they regain it in that district (and that can only be by efficiency and good conduct), they will not be fully effective. Mr. Hare used the word "thwarted"—that I had accused him of doing so. I did not use that word. I said he was put up in opposition to me. Take the correspondence about Constable Redding; part of that report did not strike the Commission. I stated in that report that this man required more supervision than was given by merely visiting him. On three different occasions there was a lapse. One time he was only visited once in the year, and yet my report pointing that out met with indifference at the hands of the Chief Commissioner. On another occasion I visited the dépôt, and made a

C. H. Nicolson,  
*continued,*  
7th Sept. 1881.

report which is here. I will read the part I am alluding to.—[*From Report Book, 8th May 1876.*]—“14. At evening stables I observed several of the men at work wearing their uniform caps, some with chin-strap down, their pants and napoleon boots. 15. A man cannot groom his horse, clean his kit and arms in such a dress. It is too tight for such work; his breeches are apt to get too much soiled with dandruff to be fit for next day’s parade, and his expensive boots get stained and rotted with the stable manure, &c. 16. I submit that the men should be taught to do the above, or any other work of the kind, in ‘fatigue dress,’ not necessarily a uniform dress, but in any loose clothes they may possess. 17. I would permit any mounted man on arriving at his barracks, at the dépôt, or elsewhere (after removing the bridle and securing his horse in the stall with the head stall), to go immediately to his quarters, throw off his uniform, and return in fatigue dress to his horse; then, a trooper might be seen extending himself properly while grooming his horse, and no constraint in his motions through fear of soiling his clothes. 18. Two of the men stated in my presence that they required a clean pair of pants nearly every day. One of them had five pairs of pants; the other had four pairs. 19. The recruits cannot be too clean on parade, or at any other time in uniform. But to make them wear uniform at stables, morning or evening, is not calculated to teach them the above habit.” I must tell you I have been through all the curriculum of the mounted police duty and the foot too, and I have learned stable duty from the very first, and I am familiar with it all, and therefore I was amazed to see this state of things in the nursery of the force. I reported it, you see, in this letter. I called two of those recruits up, and those men generally have to get their uniform on credit, and they are in debt for it several months after they join the force. I asked those men how many pair of pants they had. One man said “Four, if not five,” and the other said “Four.” I do not know how much they cost—perhaps about 50s. a pair—but they said they could not do with less, having to clean the stables and appear clean, and the same with their uniforms. I called the sergeant in charge, the Mounted Drill Instructor, and asked what was the meaning of this, and he told me, “Well, those were the orders;” and I asked him if he had ever seen men at stables in any cavalry regiment in the British army compelled to appear in uniform, and he said, “No, certainly not.” He had also been in the Irish Constabulary, and he replied, as to that, “Certainly not, but those were his orders.” I made this report to the Chief Commissioner, and not the slightest notice was taken of it. When I was appointed Acting Commissioner, a year ago, I at once issued an order that the men should be allowed to attend at stables in any clothes they chose, and put a stop to that altogether. That will show how my reports were treated sometimes.

16905. Was the special advantage to be gained to the men the only consideration, not putting them to the necessity of getting so many suits?—Yes, and a man could not clean a horse in such a dress, and his dress would get so filthy and shabby that he would not be smart in his appearance.

16906. What about the costliness to the men themselves?—That was excessive.

16907. That was one of the strong objections?—Yes, and the unsuitableness altogether. A stable with mounted men, is expected to be kept the picture of cleanliness, and this was kept in the most slovenly manner, and it was teaching the young men who were going out into the country very bad habits. This is a declaration on the subject:—“I, John Fegan, of the Police Dépôt, St. Kilda road, sergeant and instructor of mounted police, make oath and say:—In the year One thousand eight hundred and seventy-six, I was sergeant and mounted drill instructor in the Police Dépôt at Richmond. Mr. Assistant Commissioner Nicolson (who was then inspecting superintendent) made an inspection of the dépôt in or about April, One thousand eight hundred and seventy-six. In going through the stables, Mr. Nicolson drew my attention to the men doing stable duty (cleaning horses, &c.) in uniform, and asked me for an explanation. I said I could not explain the origin of it, but it was according to order. Mr. Nicolson asked me if I had seen the men in any cavalry regiment I had been in, or any other mounted service I was acquainted with, attend stables in uniform. I replied no. Mr. Nicolson then called two troopers and enquired about their uniforms. I do not remember exactly what passed between them, but I believe it was to the effect that troopers could not do with less than three or four pair of pants each under the then arrangements. I know, of my own knowledge at that time, that it was necessary for a recruit on joining to have three pair of pants, and, as he could have no old uniform, to use his military boots (which cost three pounds a pair) in stables. No alteration was made with respect to this matter until November, One thousand eight hundred and eighty, when the Acting Chief Commissioner ordered that the men should be permitted to attend stables for the future in fatigue dress, which means any half-worn plain clothes they may have. I have served in Her Majesty’s Life Guards and in the Irish Constabulary, where I had an opportunity of seeing the manner in

and amongst others he stated that the Harts' house, near Wangaratta, was one. Here is an affidavit on that subject:—"Wangaratta, 6th September 1881. I, Arthur Loftus Maule Steele, of Wangaratta, sergeant of police, make oath and say:—1st. That during the month of May 1880, I received instructions from Charles Hope Nicolson, Esq., Assistant Commissioner of Police, to place a party of police at Three-mile Creek, to watch the residence of Richard Hart, senior. 2nd. That, in accordance with such instructions, I placed a party of police at the Three-mile Creek, and had the house occupied by Richard Hart, senior, watched. 3rd. At the time Superintendent Hare took charge of the pursuit of the Kelly gang, during the month of June 1880, Hart's house was being watched by a party of police from Wangaratta between the hours of 9 p.m. and 4 a.m. every night. 4th. When Superintendent Hare came to Wangaratta, a few days before the capture of the gang, and during the month of June 1880, he asked me what duty my party was doing in connection with the pursuit of the Kellys, and I informed him that we were watching Hart's and Byrne's alternately. 5th. He said I had better continue this duty, as he considered it was the best we could be employed at.—A. L. M. STEELE. Sworn at Wangaratta, in the colony of Victoria, this 6th day of September A.D. 1881, before me—Fred. J. M. Marsden, a Commissioner of the Supreme Court of the Colony of Victoria for taking affidavits." Up to the time I left the place was watched. Captain Standish, being asked about the cause of the outbreak, has alluded to the manner in which that district had been officered for a number of years back. You can see that officers were not more than six years in the district, and some not more than six months; and that I give as one great reason of the outbreak, want of knowledge of the district owing to the frequent removals. This return will, I think, show that—[*Handing in a return, which is as follows:*]

LIST OF OFFICERS in North-Eastern District from 1854.

Officer.	Approximate Date of—		—
	Arrival.	Departure	

OVENS DISTRICT.—Officers in charge of district.

Senior-Inspector R. O'H. Burke.	— 1854	— 1856	Apparently temporarily in charge. In charge over 4 years. " 2 years 10 months. " 4 years 7 months. " 2 years 2 months. " 6 months temporarily. " 3 months., " 1 year 9 months. " 5 years 2 months. " 2 years. " 4 months.
Inspector Joseph Mason	July 1856	— 1856	
Senior-Inspector R. O'H. Burke.	January 1857	December 1858	
Superintendent P. Le P. Bookey.	January 1859	October 1861	
Superintendent F. A. Winch.	November 1861	May 1866	
Superintendent T. E. Langley.	June 1866	August 1868	
Inspector Leopold Kabat.	August 1868	January 1869	
Sub-Inspector J. Dobson.	February 1869	April 1869	
Superintendent B. T. Wilson.	April 1869	December 1870	
Superintendent H. R. Barclay.	January 1871	February 1876	
Inspector A. Brooke Smith.	February 1876	February 1878	
Superintendent H. M. Chomley.	February 1878	June 1878	
Superintendent John Sadleir.	July 1878		

Ovens District embodied in North-Eastern District, July 1878.—Junior officers in Ovens District.

Sub Inspector Kossack.	— 1861.	— (?) 1862	In charge Ovens escort.
Sub-Inspector J. W. Orridge.	— 1861.	February 1863	" Chiltern.
Sub-Inspector A. B. Smith.	February 1863.	March 1864	" " vice Orridge.
Inspector D. Purcell.	March 1864.	—1864...	" " Smith.
Sub-Inspector John Dobson.	November 1864	November 1865	" Ovens escort.
Sub-Inspector H. Downing.	April 1867	August 1868	At Beechworth.
Sub-Inspector John Dobson.	February 1869	July 1870.	
Inspector Robt. Disney.	September 1869.	— 1870.	
Inspector A. B. Smith.	July 1870.	June 1874	Vice Dobson at Wangaratta.
Inspector F. A. S. Reid.	July 1874	August 1875	" Smith "
Inspector A. B. Smith.	August 1875	February 1880	" Reid " and Beechworth.
Sub-Inspector H. Baber.	July 1877.	February 1878	At Beechworth previously as sergeant.
Sub-Inspector H. Pewtress.	September 1878.		At Mansfield.
Sub-Inspector H. Baher	July 1880.		

BENALLA DISTRICT.—Officers in charge of district.

Superintendent F. M. Cobham	July 1858	September 1862.	In temporary charge. In charge 7 years 6 months. " 2 years 11 months. " 6 months, Supt. Nicolas on leave. " 1 year 5 months.
Inspector H. M. Chomley	September 1862	December 1862	
Superintendent F. M. Cobham	December 1862	March 1866	
Superintendent Robt. McCulloch	March 1866	February 1869	
Superintendent W. K. Nicolas	February 1869	April 1869.	
Inspector Robert Disney	April 1869	September 1869	
Superintendent W. K. Nicolas	September 1869	December 1870	

District again included in Ovens District at end of 1870.—Junior officers.

Sub-Inspector A. B. Smith	... — 1861	February 1863	At Wangaratta.
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Ditto	February 1864	September 1866	At Wood's Point.
Sub-Inspector W. B. Montfort	June 1870	March 1872	At Wangaratta.
Sub-Inspector Culkin		July 1867	At Wood's Point.

UPPER GOULBURN DISTRICT.—Officers in charge of district.

Sub-Inspector John Culkin.	July 1867	April 1868	In temporary charge.
Superintendent S. S. Furnell.	April 1868	December 1870	In charge 2 years 8 months.
Superintendent W. K. Nicolas.	January 1871	June 1871	" 6 months, from Benalla district.
Superintendent F. A. S. Reid.	June 1871	May 1874	" 2 years 11 months.
Inspector John Culkin.	May 1874	January 1875.	
Superintendent John Sadleir.	January 1875	July 1878.	

District included in North-Eastern District, July 1878.—Junior officer.

Sub-Inspector John Culkin	April 1868	August 1875	At Wood's Point.
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LIST OF OFFICERS IN THE NORTH-EASTERN DISTRICT FROM 1854.

*Ovens District.*

Senior-Inspector R. O'H. Burke was in charge of district in July 1854, and Inspector Joseph Mason was in charge (apparently temporarily) in July 1856, as Senior-Inspector R. O'H. Burke in charge again in January 1857; Superintendent P. Le P. Bookey in charge in January 1859 *vice* Burke; Superintendent F. A. Winch took charge November 1861, *vice* Bookey, and there were two junior officers then, Sub-Inspector Kossack, in charge of Ovens escort, and Sub-Inspector J. W. Orridge, at Chiltern; Sub-Inspector A. B. Smith replaced Orridge, at Chiltern, in February 1863, and Inspector Dillon Purcell replaced Smith in March 1864; Sub-Inspector Dobson took charge of Ovens escort in November 1864, and left in November 1865. Superintendent T. E. Langley took charge of Ovens district in June 1866, *vice* Winch. Sub-Inspector Downing going as his junior officer at Beechworth in April 1867; both were dismissed in 1868, Inspector Kabat taking temporary charge of district in August 1868 till January 1869, Sub-Inspector Dobson replacing him. Superintendent B. T. Wilson took charge of the district in April 1869, Inspector Disney going up as junior officer in September 1869, from Benalla district; Inspector Smith replaced Sub-Inspector Dobson in July 1870, Inspector Disney also leaving the district. Superintendent H. R. Barclay took charge from B. T. Wilson, on his retirement at end of 1870; Inspector Smith leaving in June 1874, Inspector Reid, from the Upper Goulburn district, taking his place; Inspector Smith returned in August 1875, replacing Reid, who retired. Inspector Smith had charge of the district from Superintendent Barclay's leaving in February 1876 till February 1878, when Superintendent Chomley took charge; Sub-Inspector Baber, on his promotion, in July 1877, was junior officer at Beechworth, till February 1878. Superintendent Chomley left in June 1878, when Superintendent Sadleir took charge of the North-Eastern District, of which the Ovens District is part, the junior officers being Inspector A. B. Smith, at Beechworth, and Sub-Inspector Pewtress, who arrived in September 1878 at Mansfield. Inspector Smith left in February 1880, and Sub-Inspector Baber went to Benalla in July 1880.

*Benalla District.*

The Benalla District was formed by the subdivision of the Ovens District in July 1858, when Superintendent Cobham took charge of the district, Inspector Smith being junior officer at Wangaratta in July 1861. Inspector Chomley went as junior officer in September 1862, he taking temporary charge of district in Cobham's absence, and leaving at the end of 1862. Inspector Smith went to the Ovens District in February 1863, returned February 1864, going to Wood's Point, and left again September 1866. Superintendent R. McCulloch took charge from Superintendent Cobham in March 1866; and Superintendent W. K. Nicolas took charge from McCulloch in February 1869, Inspector Disney having charge during Superintendent Nicolas' absence on leave from April to September 1869. Sub-Inspector Montfort went to Wangaratta in June 1870, and the district was again included in the Ovens District from the beginning of 1871.

*Upper Goulburn District.*

The Upper Goulburn District was a subdivision of the Benalla District, made in July 1867, when Sub-Inspector Culkin took charge of the district, Superintendent Furnell taking over charge from him in April 1868, Mr. Culkin going to Wood's Point in the district. Superintendent Nicolas took charge of the district from Superintendent Furnell, on the abolition of the Benalla District, at the beginning of 1871. Superintendent Reid replaced Mr. Nicolas in June 1871 and left in May 1874, on reduction, going to the Ovens District, Inspector Culkin being left in charge of the district. Inspector Culkin left the district August 1875. Superintendent Sadleir took charge of the district in January 1875, and when this district was included with the Ovens District in one called the North-Eastern District, he took charge of that district.

LIST OF TRANSFERS TO NORTH-EASTERN DISTRICT, FROM JULY 1879 TO MAY 1880.

Const. John Montiford (2697), 25th July 1879.	Const. Patk. Herbert (2687), 20th January 1880.
Sen.-Const. R. A. Smyth (2271), 28th July 1879.	P. McDonald.(3072), 16th January 1880.
Const. Michael Lynch (3053), 28th August 1879.	Joseph Stallard (3073), 16th January 1880.
Joseph McCracken (1722), 14th August 1879.	J. A. Meagher (2777), 3rd January 1880.
Alexr. Gray (1999), 22nd August 1879.	Richd. Glenny (2612), 9th January 1880.
Sergt. R. P. Wigmore (1316), 2nd September 1879.	James Loftus (2879), 28th January 1880.
Const. W. J. R. Wallace (3059), 12th September 1879.	T. McCarthy (2962), 20th January 1880.
Robert Keegan (2396), 1st September 1879.	E. J. Jones (3054), 12th January 1880.
Robert King (3055), 2nd October 1879.	J. B. Hartshorn (3048), 18th January 1880.
D. J. Mullins (3063), 31st October 1879.	J. W. Hartshorn (2959), 15th January 1880.
James Elliott (2297), 23rd October 1879.	Sub-Insp. Henry Baber (temporarily), 9th March 1880.

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J. P. Leahy (3005), 2nd October 1879.  
 D. Williamson (2850), 1st November 1879.  
 M. E. McCarthy (2844), 27th November 1879.  
 A. M. Hadfield (3058), 20th December 1879.  
 L. J. Keegan (3011), 10th December 1879.  
 Wm. Brownlee (2659), 20th January 1880.  
 Robert Cawsey (3046), 20th January 1880.  
 F. G. Harris (3074), 16th January 1880.

Const. Timothy Keane (2772), 9th March 1880.  
 Jas. McNamara (2953), 15th March 1880.  
 J. W. Lambden (3091), 17th April 1880.  
 Sen.-Const. H. J. Runting (temporarily, 720), 2nd April 1880.  
 Const. C. G. Bower (3096), 15th April 1880.  
 R. W. McHenry (3086), 13th May 1880.  
 E. F. Britt (3089), 13th May 1880.

I have another affidavit from Mr. O'Connor, as follows:—"I, Stanhope O'Connor, of Flemington, in the colony of Victoria, woolbroker, &c., make oath and say: 1. That I was during the years One thousand eight hundred and seventy-nine and One thousand eight hundred and eighty in charge of the black trackers sent from Queensland to assist in the pursuit of the Kellys. 2. That on the second day of June, One thousand eight hundred and eighty, I was present at the interview between Mr. Hare and Mr. Nicolson held at Mr. Sadleir's office, Benalla, when Mr. Hare relieved Mr. Nicolson; Mr. Sadleir was also present. Mr. Hare arrived at about half-past eleven o'clock, and, after some general conversation occupying only a few minutes, Mr. Nicolson said, 'Now, Hare, we will proceed to business.' They both sat down, and Mr. Nicolson proceeded to give Mr. Hare an account of the documents he held relating to the pursuit, and to describe minutely the movements of the police for almost a month previously. Mr. Hare interrupted him, and said, 'I don't want to know anything about that. When was the last information of their (meaning the Kellys) being seen?' Mr. Nicolson then told him exactly the latest information he had, and also gave him full particulars at length, and referred to Mr. Sadleir as to whether he (Mr. Nicolson) had forgotten anything. Mr. Hare appeared satisfied. 3. I left the office at about ten minutes to one, and stood outside the door; in about five or six minutes, Mr. Hare came out, and stood with me, talking on general subjects. He asked me if the lunch at the hotel was at the old time, one o'clock. I replied that it was, and, pulling out my watch, I said, 'Hang it, Nicolson is late again, it is five minutes past one.' Just then Mr. Nicolson came out and joined us, and we proceeded to the hotel, talking to each other on general topics, and went to lunch. 4. In the afternoon, Mr. Nicolson asked my wife and myself to dine with him and meet Mr. Hare, as he said Mr. Hare and I were going to work together, and he thought we ought to be on the best terms. 5. Mr. Hare never mentioned to me from the time he relieved Mr. Nicolson to the time I left Benalla that he had received scanty information from Mr. Nicolson, or that Mr. Nicolson had appeared reticent, and seemed to me to have been quite satisfied with the information he had received.—STANHOPE O'CONNOR. Sworn at Melbourne, in the colony of Victoria, this seventh day of September, One thousand eight hundred and eighty-one, before me—John Madden, a Commissioner of the Supreme Court for taking affidavits."

There is another affidavit I wish to put in, which is as follows:—"I, Edward Gorman, of Geelong, fruiterer,

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C. H. Nicolson,  
*continued,*  
 7th Sept. 1881.

make oath and say: In or about the end of the year One thousand eight hundred and seventy-five I was a sergeant in the Victorian police force, and was stationed at Ballarat. I was transferred to Ararat. I did no duty there, as my eyes failed, and I had to go into the hospital at Richmond depôt. While in the hospital I wrote an application to the Chief Commissioner requesting that I might not be sent to any station where horses were kept, as I knew nothing about horses or the system of keeping forage accounts, and stating that I was quite willing to go to any station where there were only foot police. No notice was taken of my application, and I was sent to Stawell, the head-quarters station of the Wimmera district. I remained there five months, and, finding that I was not equal to keeping the accounts and writing that was necessary, I applied to be transferred, and was transferred to Russell street, in this city. I was then sent to Geelong, where I remained until I resigned from the force in November last. All these changes were a source of considerable expense and loss to me.—EDWARD GORMAN. Sworn at Melbourne, in the colony of Victoria, this sixth day of September, One thousand eight hundred and eighty-one, before me—Frank Madden, a Commissioner of the Supreme Court of the colony of Victoria for taking affidavits." The object of my bringing this in is this. I knew this man Gorman when he first joined the force in 1856, and I knew him then as a very fine, smart, active constable. I lost sight of him for a great many years. I met him one day in Collins street, and he told me that he was about to be sent to Ararat or Stawell, I forget which, but both very important districts, with a large establishment of mounted men, and he thought it would be his ruin, as he had only been accustomed to foot duty and foot men, and could not manage horses. I went to the Chief Commissioner, and spoke to him about the matter. I found Mr. Hare in his office, and I said, "I see that Sergeant Gorman is about to be sent, he tells me, up-country to Ararat or Stawell. From my own knowledge—I am not speaking on behalf of this man—but, from my own knowledge of him, he is quite unfit to be sent up there to any of those places; he has not got the education and experience sufficient for the duty, and I would strongly suggest that you send him to some other more suitable station, but not send him there." The Chief Commissioner decided he would send him there—I have nothing to say against that—but, in the course of my speaking, Mr. Hare joined in and opposed me; and Captain Standish also got red in the face, and treated me as if I was interfering with him. My tone was simply a business like tone, and I was simply doing my duty; and it looked as if he was showing Mr. Hare how he could snub the Inspecting Superintendent, as much as to say he would show how he would make me mind my own business, and I left the room, determined I would never speak about such a thing again, and that was the indifference I complained of having received from the Chief Commissioner, and, to a certain

extent, from Mr. Hare too. It was merely for the public interest I spoke. Gorman was sent and had to be returned to Melbourne, but not after considerable expense to himself and the Government had been incurred.

16908. *By Mr. Hare.*—You asked me in my cross-examination whether I kept a sentry upon Aaron Sherritt's hut?—Yes, I believe I did.

16909. Was a sentry kept over your cave party?—I gave orders to that effect.

16910. Was a sentry kept?—I believe so.

16911. How long was the cave party there?—From the 2nd of December until the beginning of April.

16912. About five months?—Yes.

16913. Did you, during the time that you had your cave party there, ever visit them?—No, I allowed no one to visit it, and I did not visit it myself for fear of exposure of any kind.

16914. Could not you have gone of a dark night to visit it?—Yes, I might have done so.

16915. You did not do so?—In the dark I would have found them away from the place.

16916. In the dusk of the evening you would not have found them away?—I might not.

16917. Had you ever visited that spot where you kept your cave party for five months until you went with Mr. Graves and Mr. Anderson—had you ever seen it before that day?—No, I had been there, but had not seen it—not exactly to the cave until that day. I knew the station from my being in the locality and from the description of the place. I had been all about those ranges.

16918. How often were you round them?—Two or three times.

16919. You went at the time of the Sebastopol charge?—And other times too.

16920. Have you ever been since?—Yes.

16921. Have you ever been to old Sherritt's house except that once?—No, I have not been to old Sherritt's house.

16922. Whose house did you visit when you were out in those ranges?—I did not visit any house. I used to keep my arrival at Beechworth and my departure unknown to anybody if possible.

16923. When did you go to those ranges?—With Mullane and Ward.

16924. How often—when was it?—It was previous to the cave party.

16925. You heard Mullane in his evidence say (question 13547) "I did not know of it," in answer to the question whether there was a sentry kept?—Yes. I take it that he did not remember it, but I know perfectly that orders were given that a sentry was to be kept.

16926. You do not know whether it was or not?—I was led to understand it was.

16927. Mullane was present during the time you issued your instructions to the men?—Yes.

16928. For two hours you were in the office?—Yes.

16929. He says he did not know of it?—He says he did not hear it, and I am not surprised.

16930. You do not know whether a sentry was kept during that time?—I asked Ward several times about that, whether they did so, and was informed they did.

16931. Ward was your medium through all this?—No.

16932. Through whom you sent the messages?—Ward, and Mullane, and I were in the habit of seeing the men when they came into Beechworth, and speaking about what was going on.

16933. You did not think it necessary to go personally to see what they were doing at the cave?—No; I thought it very unwise to do so.

16934. Do you remember moving a man named Canny from the cave to Wangaratta during the existence of the cave party?—No.

16935. Do you not remember an enquiry being held because it was supposed he had divulged about the cave party?—I think that was one of the things circulated at that time, perhaps for the purpose of mischief.

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16936. He was removed to Wangaratta?—I think not.

16937. Not during the existence of the cave party?—I do not know of it. It may have been so, but I do not recollect it.

16938. Do you think I was perfectly right in telling Captain Standish that I had heard of the existence of your cave party when it came to my knowledge?—I do, most certainly.

16939. You do not blame me for that?—No.

16940. You do not call that any interference on my part?—Not the mere telling Captain Standish what you had heard.

16941. I thought you had complained of that through all the proceedings?—I complain of the fact that, at the depôt under your command, you yourself were in the habit of "pumping" men, and talking to men, trying to draw secrets out of the men connected with the business they were engaged on in other districts, about which you had nothing to do at the depôt, and in so doing were showing them a bad example.

16942. You say here (question 845), "What was known?—About this secret cave party. I replied, remonstrating against doing so, and assuring him of the perfect safety of the arrangement, and that it was a perfect secret up there. I also added that I was very sorry that the depôt was such a place which received information of that kind so rapidly in such a manner where such matters were concerned, the secret move ments of the police?"—Yes.

16943. You do complain that I told Captain Standish?—No, I do not complain of your telling

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Captain Standish, but of the dépôt being the place where the system practised with the men was a system of demoralization, where men coming down from a district like the North-Eastern district, from specially private duty, should be pumped by the officers about it.

16944. Was the fact of this man telling me “pumping”?—I do not know.

16945. You said in your evidence that you did everything in your power to prevent expense in the district on the second occasion of going up?—Yes.

16946. You said in your evidence in chief, on page 31, that you effected a saving: you found police horses in the stable turned into the paddocks. Have you found out now that you made a mistake in giving that statement?—I turned all the horses out of the stable into the paddocks, with the exception of a few working horses left; such as Bell, the mounted man’s horse, who served the summonses, and, perhaps, Mr. Sadleir’s horse, sometimes there was a horse for myself.

16947. Was not that done two months before you came up there?—I am not aware of it. When I came up the second time the stable was full of horses.

16948. Are you sure of that?—That is my distinct impression.

16949. Do you not remember the little paddock in the township where the horses ran by day, and were fed at night with hay?—That might have been; there were no doubt horses in the paddock. I do say most undoubtedly that I wish to correct that; that in my evidence in the first instance as to the economies I effected about the stabling, I rather exaggerated that to a certain extent.

16950. With respect to the horses?—Yes.

16951. And that the men were riding private horses?—That is what I exaggerated in.

16952. You made a mistake that they were riding private horses?—There were private horses. I remember distinctly the correspondence about it, and the hiring of buggies.

16953. You say you made a mistake about that, the second occasion, about private horses being ridden by constables then?—I cannot remember it.

16954. There was a great decrease in the expenditure, and all the men had their travelling allowance knocked off?—Not for some time after.

16955. How long after Captain Standish writes did the men knock off the travelling allowance?—The date can be got.

16956. Was it two months after?—I should think about that. I have always stated that was done by Captain Standish I do not take credit for it. I say he did that about the travelling allowances.

16957. What travelling allowance did the men get a day?—I cannot tell you.

16958. Five shillings a day?—Yes, I said that Captain Standish effected that economy.

16959. Did that affect your own travelling allowance?—No, it did not.

16960. How much did you get a day?—My travelling allowance, the first time, was 15s. a day.

16961. What was it on the second occasion?—After I was made Assistant Commissioner, the only difference made when I got that appointment was that I was entitled to £1 a day travelling expenses.

16962. You got the £1 a day for the eleven months you were up there?—Yes.

16963. What was your salary then?—£500 a year.

16964. And you received £100 a year house allowance, and £365 a year for travelling allowance?—Yes.

16965. And the men’s allowance was knocked off entirely?—Yes.

16966. Did Mr. O’Connor get his travelling allowance?—He got what was arranged between Captain Standish and the Government of Queensland. I do not know what he got.

16967. Do you not know he got 12s. a day besides his pay?—I know nothing about what he got.

16968. *By the Commission (to Mr. Hare).*—Did you get travelling expenses in the same way?—I got 12s. a day, according to my position. The arrangement about Mr. O’Connor was a mystery, and is so still, to me. I know that when Mr. O’Connor heard that Captain Standish was urging his removal on account of economy, he stated he had never been consulted on the subject, and he would have been glad in order to remain to enter into any change as regards economy—that he never made the demand himself.

16969. *By Mr. Hare (to the witness).*—This man “Renwick” put in an application before the Reward Board which you sent to me to report on as Acting Commissioner?—Yes. They all passed through my hands.

16970. He says in his application—“On the 17th May 1880, I was out looking for the Kelly gang, at Lake Rowan, when I saw Ned Kelly and Joe Byrne riding from Ryan’s paddock.” Did he ever report that to you?—Yes.

16971. Have you got that amongst the reported appearances?—It was after the destruction of the gang at Glenrowan he told me that.

16972. And this was a man you employed and paid so much money to?—That is merely his opinion. He said, like many other people, “Well, I am sure that one day I saw those two men at such and such a place.”

16974. He did not tell you that at the time?—No.

16975. This man was in your employment?—Yes.

16976. And you had great confidence in him?—Yes.

16977. He had received great sums of money from the Government?—He had not.

16978. Mr. Sadleir says so here, in his report—"The following statements by this claimant are, I think incorrect, viz.:—The finding of a police saddle in paddock near the King River, and seeing Ned Kelly and Joe Byrne near Lake Rowan on 19th May 1880. At any rate, I have no recollection of the claimant reporting any such circumstance, neither has Sergeant Whelan, who would most likely have also been informed. In other respects, this man's services were somewhat of the same nature as those of—(Claim No. 33). He was exposed to great personal risk and hardship, but I believe he received a considerable amount of money from this department in return. There is no question that, up to Mr. Hare's arrival here, in June 1880, his information was often of much value in showing that the outlaws were near. The claimant is the agent alluded to by Mr. Hare as refusing to work for him?"—That is a mere assumption of Mr. Sadleir's. Mr. Sadleir does not say it positively. Mr. Sadleir was under that impression.

16979. You said he knew as much as you about what was going on in the district?—I never said that.

16980. You left him to tell me the rest of the information after you left the office?—The man made out that he had not received more than a pound a week during the time. He was only paid when he did anything.

16981. There was a claim of £20 that this man made while Captain Standish and myself were in the district?—Yes.

16982. For expenses incurred at that time?—Yes.

16983. It was opposed by Captain Standish, was it not?—Yes.

16984. At the express desire of Mr. Sadleir, or advice of Mr. Sadleir?—I am not aware of that.

16985. You know it was refused by him. Did you make a subsequent application to Captain Standish, when you were up there, to pay this money to "Renwick"?—I have no recollection of it; possibly I did. I satisfied myself the man's claim was a good one.

16986. But you were not up there?—But I made enquiries from all concerned—a systematic enquiry.

16987. By what means was it paid?—You had better enquire at the Treasury.

16988. Did you certify to it?—No doubt of that. The whole circumstances of the case were laid before the Government. Mr. Sadleir, Sergeant Steele, Detective Ward, and all who had seen this man in his travels at different angles of the country—all corroborated his statement, and satisfied the Government that the claim was genuine.

16989. This man "Renwick" is the man that gave the information about having seen Joe Byrne and his dog behind a stone?—Yes, it was.

16990. Upon his information you brought up a large party of police on the Sunday?—Yes; I did not say a large party.

16991. Fourteen or fifteen, with blackfellows?—Five or six blackfellows, and the rest white men.

16992. Where did you meet this man when you came up with your party?—At Everton.

16993. Was his face blackened?—No; no such absurdity.

16994. Who did you take with you that time, Aaron Sherritt?—Yes.

16995. Why did you take Sherritt on that occasion?—To help to scour the country.

16996. What time did you leave Everton?—As soon as we reached it—the first train in the morning.

16997. That is about eleven o'clock?—The early morning train. We left Benalla at five o'clock. We had a special train. We left soon after sunrise.

16998. And you left with a party of police with Sherritt, leaving Everton, to go to Sebastopol?—Yes.

16999. Why would not Ward or Mullane have done to show you across the country, who were quite as well acquainted with it as Sherritt?—I considered that Sherritt was very much better.

17000. Did you not see the danger of exposing the man with all those police through that country?—I took every precaution.

17001. But he was seen, you know?—I do not know anything of the kind.

17002. Do you not know when one of the black trackers saw —, Joe Byrne's friend, and took deliberate aim at him?—I did not see him, I heard of it.

17003. And he had an opportunity of seeing Aaron Sherritt with you?—That is another assumption. Sherritt was a long way in front, in a gully.

17004. You met two or three people on the road?—Never saw a soul.

17005. Mr. O'Connor said so. Previous to coming to Byrne's house there was a lad on a black horse, and Aaron Sherritt was quite aware of the man at Byrne's house having seen the blacks?—I never heard of it. Here is "Renwick's" application for the reward—[*handing in a paper*].

17006. *By the Commission.*—Was it necessary to take Aaron?—Yes.

17007. Why?—Because there were places of concealment in that rocky country that Aaron knew of.

17008. Did you expose any other private agent in broad daylight the same as Aaron was that day?—Yes, this man "Renwick." He was with the party that day.

17009. *By Mr. Hare.*—He was not known in the district?—Not so much as Aaron; but he was known very well in the district. Aaron was up on the hill when we arrived at this railway station, at Everton, contrary to my instructions. I whispered to that man "Renwick" to go and tell the man (he did not know who it was) to go away, and watch where he could meet us, and he went away. We got our horses out, and went to the bush, and Aaron then joined a portion of us, and he was the guide through the thickest part of the country, so as not

to be seen, and we were not seen by a soul from the time we started till we got to Crawford's paddock.

17010. By the Commission.—How did Aaron get to Everton station?—By appointment; but he ought not to have shown himself there.

17011. He was there to help to search the country?—Yes; but he did not go to the particular spot; the man "Renwick" took us to that.

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17012. By Mr. Hare.—Sherritt went through the country?—Yes.

17013. With a party of police?—No; he led them principally, and went through the bush in front. We were desirous of going through the bush so as not to touch a habitation of any kind.

17014. Do you say you never met a person on the way between Everton and Mrs. Byrne's?—Not till Crawford's paddock.

17015. Whom did you meet then?—Aaron kept away round the corner, and the police rode on to Crawford's paddock, to the man who had charge of it.

17016. Will you listen to this—"Renwick's" application for portion of the reward:—"I joined the party. We then started for Sebastopol. Aaron Sherritt also joined us, and I suggested to Superintendent Nicolson that Aaron Sherritt had better guide the party to Crawford's paddock, and he knew the bush better than I did. We then went to Crawford's paddock, and from there to where I saw the man behind the rocks, but we did not get any trace of the outlaws. I am of opinion that the outlaws thought that Aaron Sherritt was the cause of this party going after them to Sebastopol, and they afterwards went to his hut and shot him, which was finally the cause of the outlaws being exterminated"?—I cannot help "Renwick" giving that opinion. I do not care whether he forms an opinion.

17017. Would not anybody else form the opinion that this man seen with a body of police, accompanying them through this bush, would be the means of the outlaws shooting him, and he was shot within a little time of that?—It was about a month after. Aaron was quite willing to come; and on any occasion, when he made the slightest objection, it was always considered. It was quite of his own accord.

17018. What did you join as?—Cadet.

17019. At what rate of pay?—I think 8s. a day.

17020. What was your rank when Power was arrested in 1870?—I was senior superintendent.

17021. At what salary?—£375, and house allowances.

17022. Mr. Winch was above you on the list?—Accidentally he was. Only on the list.

17023. By the Commission.—Was he, as a matter of fact, your senior or not?—No, there is a file of correspondence between myself and Captain Standish on the point. I found that Mr. Winch was placed on the list wrongly, and it was corrected by Captain Standish.

17024. By Mr. Hare.—You were removed from Kyneton to Melbourne?—I was.

17025. What rate of salary did you get the first year you were in Melbourne?—£375, and £100 a year from the Detective Department, and quarters and wood and water.

17026. What did your predecessor get in charge of the city?—He would receive £375.

17027. And what did your successor, Mr. Winch, get?—£375.

17028. At all events you got £100 a year more than any other officer in charge of the Melbourne district?—No, I got the £100 a year for charge of the detectives—for my experience of fourteen years before. I took charge of the detective force, for which I had a special qualification.

17029. You had charge of the city of Melbourne, Collingwood, and Richmond?—All on this side of the Yarra.

17030. Irrespective of Brunswick, that now belongs to Mr. Winch?—Yes.

17031. You had no stations on the other side of the Yarra?—No.

17032. I had all this side?—Those were given to you.

17033. Then you were promoted to the rank of inspecting superintendent?—Yes.

17034. At what salary?—My pay was £425.

17035. That was what your predecessor got, Mr. Bookey?—I believe he did.

17036. Shortly after that you got an increase of your salary, did you not, of £75 a year?—Yes. That was on account of some particular representation. It was on the occasion of your having received another hundred a year, you and Mr. Winch.

17037. And you retained that up to the present?—I did.

17038. When were you made Assistant Commissioner?—On the 1st of October 1880.

17039. Was that through an application of yours?—No.

17040. Was it an application of Captain Standish's?—I do not think so.

17041. How was it done?—Perhaps I am leading the Commission to think I had it done, but it was really done without my knowledge in the first instance.

17042. By whom?—I know perfectly well.

17043. Tell the Commission how?—I have no objection, if the Commission wish it.

17044. By the Commission.—It is just as well?—My father-in-law, the late Hon. John Thomas Smith, had received some applications from Mr. Hare and Mr. Winch to help them in getting this £100 a year each; so it was remarked by some of his family that he was always ready to help other people, but he

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never helped any of his own family, which was the case. As for myself, I had never asked for it, and never had his influence, or asked that he should do that for me. So he was rather annoyed about the matter; and one of his sons went to him one day, and suggested to him that I was in a very unpleasant position with the Chief Commissioner of Police and with another officer at least, or something of the kind, some unpleasantness going on about the endeavor to raise two officers up to the same level as myself and to keep me down, and he was requested to get that done, which was not asking any favor of the Government.

17045. *By Mr. Hare.*—What did Mr. Smith do?—I do not know.

17046. Mr. Smith could not have given it?—No; I presume he applied to the Government. I know nothing about what he did.

17047. At all events, without any application from yourself, you were made Assistant Commissioner?—Yes.

17048. And without any consultation with Captain Standish, or recommendation going through Captain Standish?—I do not know about that. I do not know that he did.

17049. You do not think so?—No.

17050. When you were made the Acting Chief Commissioner you received another £150 a year?—Yes; it is on the Estimates £150 a year to the Acting Chief Commissioner. So long as I was Acting Chief Commissioner I was entitled to that.

17051. That brought your salary to the rate of £650 a year?—Yes.

17052. You commenced at 8s. a day in 1852, and you got up to, in 1881, £650 a year?—I am very proud to say I have.

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17053. You know what my salary was when I joined the force—£300 a year?—Yes.

17054. That was in 1854, and you know what I am getting now—£375, first-class superintendent?—Yes, and in the depôt you are getting £375, and house and gas.

17055. And so did you?—No, I paid for my gas.

17056. And you got the allowances?—Yes, £2 a year, I think. I just cost the Government about nearly half what you do.

17057. You get £100 a year for house rent?—Yes.

17058. What do you get for fuel, light, and water?—I do not get £20 a year for that.

17059. Then I commenced in 1854 with £300 a year, and after 28 years' service I get £375, without the allowances I then had. You see I cannot have been much of a favorite officer, under these circumstances, as far as promotion is concerned—can I?—You have received your promotion. You were seventh on the list of second-class superintendents when Power was taken. You have been promoted over the heads of others.

17060. That was only in one case—over Nicolas; with that exception, have I?—You have tried very hard to get promotion over others.

17061. You asked me what information I gave you when you relieved me?—Yes.

17062. Did I not tell you that positively I had information that just a week or fortnight before I left, those outlaws were camping in Wilson's paddock?—No; I have no recollection of your saying anything of the kind.

17063. Surely you remember that date?—Cannot you mention any one who was present?

17064. There was no one present but ourselves?—I can only say I had never heard, to my knowledge, of Wilson's paddock, until I heard of it some months after, in the course of conversation, I think through Mr. Sadleir.

17065. Did not I tell you about the "diseased stock" man?—No, I will explain. You know his real name?

17066. Yes?—When I was up there before I heard of this man by his real name, as a person who could if he wanted give very good information; but as a man who could not be approached, who would not allow any of the police to speak to him on the subject. When I came up and relieved Mr. Hare, I believe there was some conversation and his real name mentioned in passing, and there was no information obtained from him; but, as to Mr. Hare introducing him to me, or telling me about his usefulness, that is absurd. I was introduced to him first by Sergeant Whelan through Mr. Sadleir, months after I arrived in the district.

17067. Do you not remember me telling you the circumstances that made me discover his relationship with one of the sympathizers—I know all about his connections. I heard of that in the first visit up there. I have no doubt of it at all.

17068. Do you remember, when you were Acting Chief Commissioner, my coming to you and telling you I wanted to take Jack Sherritt to my district?—I remember your coming. I think I was out.

17069. And that I had a very strict sub-officer I wanted to put him under?—Yes, I think that was it.

17070. You then told me you were going to dismiss them?—Yes; to get his discharge.

17071. You heard Mr. Sadleir say that he asked Captain Standish not to send him to him, that he did not want a man of that sort?—Yes.

17072. And I offered to relieve you and take the man into my own district?—I do not remember the two things being connected in that way.

17073. Will you tell me why you recommended this man to Mr. Fosbery, having got rid of him out of your own force?—Mr. Fosbery was in my own office that very forenoon, and came in just as they were going out, and I told the whole story about him and asked him for his opinion, if he thought I had acted right in the matter, and I said I was very sorry for them under the circumstances, and I really was. I thought it was a very cruel and painful ordeal they had gone through, and asked if he would take them, and if in some distant part of his country he could employ them, particularly the younger. He just laughed and said he could not do anything of the kind.

17074. You got rid of them out of your force and you asked the Chief Commissioner of New South Wales to take them into his?—Yes; but he knew all about them.

17075. You subsequently gave an introduction to Sherritt to Queensland?—Yes, I asked if they could take him into their force.

17076. Having got rid of him from our force?—I told him all the circumstances, and Mr. Seymour replied to me fully, saying that under the circumstances he could not do it.

17077. With reference to the telegram you sent when you went away to town that night, did you on that day at all tell me that you had stopped supplies to the Sherritts?—Yes, I explained to you this much, I told you that the Chief Commissioner in Melbourne had decided that he knew better whom to employ, and whom not to employ, as scouts in this district than I did, and that he had sent orders against the employment of Aaron Sherritt, and that notwithstanding I had kept Aaron on at my own cost—was paying him at my own cost—and that now you were relieving me you would have to see to it.

17078. Did you tell me you had written to or directed Ward or Mullane to stop supplies?—I did not, because I did not write till after.

17079. Then all supplies were stopped without my knowing anything about that?—There were no supplies.

17080. Did you not stop supplies for all the agents?—You are exaggerating the thing. The payment only consisted of Aaron Sherritt's payment; the rest of the family, as I understood, received a little tea and sugar.

17081. All that was stopped?—Yes.

17082. Did you tell me that when you left?—I do not believe I did say anything about tea and sugar.

17083. What was the urgency of sending a telegram that night when you got on to the station?—I was a little nervous when I was going away, and I thought I had forgotten about those men in that hut, and I rushed to the telegraph table and telegraphed.

17084. Then you had the men in that hut?—No, I had ordered the men away before that, but I had forgotten the fact.

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17085. Did you tell me when you left you had ordered them away?—No, the necessity for their being there had ceased. I, who placed them there, thought so.

17086. Did you know they were in the hut?—I had sent word the day before about them, but I forgot it at that moment, and therefore I made sure by telegraphing.

17087. Why did not you send a copy to me?—I never thought of it, and as I say I never thought of the thing at all till the train was just starting.

17088. Had you ever been down there to Sherritt's hut before the morning you went there with the Commission?—I had seen the hut in the distance.

17089. Had you ever been there?—I had never been to the hut.

17090. Had you been down the road past Sherritt's hut?—I had, and in sight of Mrs. Byrne's.

17091. When?—On one occasion when I was up at Beechworth.

17092. The Sebastopol charge occasion?—No, one other occasion.

17093. Then these three men were in the hut and you knew nothing at all about it?—Not at the time I was there.

17094. But those four men when I came up there were removed out of Aaron Sherritt's hut?—They ought to have been according to the orders.

17095. You say you were on the eve of capturing the Kellys when I relieved you?—Yes; not the slightest doubt.

17096. Were you ever before as near capturing the Kellys?—No.

17097. Do you remember the telegram Ward read here that the important time appeared to be near at hand, when you wrote to Ward to be cautious, that the important time appeared to be at hand in December 1879?—Yes.

17098. You thought the important moment then was near at hand?—I was very sanguine then, is when we first began establishing the cave party.

17099. In August 1879 Mr. O'Connor writes to his Commissioner, "We expect to hear any moment about the outlaws"—had you surrounded them then?—I never said I "surrounded"; that was a fiction of yours saying so. I never said I surrounded. I never said I had drawn a cordon round them.

17100. Can you remember how many agents you gave me over that day?—I mentioned about four or five.

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17101. Stevens was one?—Yes.  
 17102. “Diseased stock” was two?—Yes.  
 17103. Who else?—“Renwick,” and there was Aaron Sherritt.  
 17104. You had discharged him?—I did not consider him discharged. It was merely the change that you would be responsible. I had never more than three or four agents at a time. I dropped them when I had done with them.  
 17105. Did you tell me when you relieved me?—Those were the men, and that the matter was going well at the time.  
 17106. Did you tell me when you relieved me that you had the outlaws very near you—that you could lay your hands upon them?—I did not use that expression.  
 17107. Did you give me to understand that you were nearly catching them, or that you knew exactly their movements, and everything concerning them?—I told you of hearing of them the previous week.  
 17108. That would not bring them nearer?—Would it not?  
 17109. You have heard that Jack Sherritt said, in November, they were within two miles of you?—I was hearing of them frequently then, but that was a different kind of tale altogether at that time.  
 17110. When you went up on the first and second occasion, had you not power to expend any money you chose upon agents?—No, I had not.  
 17111. Had you to apply to town before you employed an agent?—No.  
 17112. You employed any agent you thought fit?—I employed any agents I thought fit.  
 17113. You said in your evidence to-day that I had advantages that other officers had not—will you explain to the Commission what those advantages were at the depôt?—There is every advantage, it is a pleasanter life, one of the most pleasant of lives. I do not know any position more enjoyable than in charge of the depôt and the county of Bourke district.  
 17114. What advantages pecuniary or otherwise?—There were a great many advantages, such as go to make life more enjoyable. I do not suppose it was a place to make a fortune in.  
 17115. *By the Commission.*—It is a position that would be sought for by the officers?—Most certainly. It is the position next to the city officer; in fact there are many officers who would take it in preference to that.  
 17116. *By Mr. Hare.*—Had I not charge of the Kyneton district included in mine?—No doubt you had too large a district, but I believe you got stations added to your district in order to increase its importance, and to the detriment of the service, because you could not go to them all.  
 17117. *By the Commission.*—Was it at Mr. Hare’s instigation that those stations were added?—I know he was often very glad to take stations from others, without a murmur. Sandhurst, for instance. In fact, he was ready to take any station.  
 17118. *By Mr. Hare.*—Was not the Kyneton district broken up and put into the Bourke district?—A portion of it.  
 17119. Was not Kilmore added also?—Yes.  
 17120. Was not my district enlarged at the time that Mr. Sadleir complained of his being enlarged?—Yes.  
 17121. Had I anything to do with the enlargement of my district?—I think you had. I think you wanted to make yours the largest in the colony, so as to make it appear you had more duty and your position more important than any other officer’s. That is my candid opinion, as you have asked me.  
 17122. Was not all the south of the Yarra taken from me and given to Mr. Winch?—Yes; I think so.  
 17123. You think I did all that for my own advantage, although increasing my travelling every month?—No; I say you could not do it; but you took a number of stations on you that you could not properly supervise.

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17124. Did Mr. Sadleir take those on him?—No; I do not say so.  
 17125. Did I?—Yes, I think you did; there were several stations that you could have declined.  
 17126. How could I, after Captain Standish told me to take them?—By mentioning it to Captain Standish and remonstrating.  
 17127. What station do you allude to?—Not any in particular. There were several in the Sandhurst district.

*The witness withdrew.*  
*Adjourned to to-morrow at Eleven o’clock.*

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THURSDAY, 8<sup>TH</sup> SEPTEMBER 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;	
J. Gibb, Esq., M.L.A.,	W. Anderson, Esq., M.L.A.,
G. R. Fincham, Esq., M.L.A.,	E. J. Dixon, Esq., J.P.

C. H. Nicolson further examined.

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*The witness.*—Before resuming cross-examination, may I be allowed to read a short record of my services, as was done in the case of others?

17128. *By the Commission.*—Is it in addition to what has been put in already. What is that—[referring to a paper]?—A list of my services and promotions.

17129. That information is already before us?—Then I will read only one part of it:—“After the Ballarat riots, the Government, considering it advisable to replace the officials there by strangers for the police force, the late Arthur Kirke was selected as inspector in charge of that district, and I as sub-inspector. Great disorder then prevailed at Ballarat, the criminal and convict classes having been drawn there in great numbers. The Chief Commissioner of Police, Captain MacMahon, replaced, as quickly as possible, the most of the foot police there with a superior class of men, principally from the Irish Constabulary, and in a short time the police gained the confidence of the public at Ballarat by earnest and energetic efforts to protect life and property and to suppress crime.” This is a letter addressed to me by Mr. Kirke—[reading the same]:—“Ballarat, 9th June 1855. Sir,—As I am about to leave Ballarat to take charge of the police district of Castlemaine, I have much pleasure in acknowledging the valuable assistance I have received from you in the discharge of the police duties whilst I have been in charge of this district. Qualified as I consider you to be for the position which you occupy, I cannot speak too highly of the zeal and vigilance which you have always devoted to the performance of your duties, nor can I over-look your successful capture of the bushranger at Bullarook and the numerous other instances of your having brought to justice criminals charged with offences of the most serious nature. In this I trust you will still continue to be successful, and that eventually you may gain those honors to which you will be so deservedly entitled by such a course. I again thank you for your assistance, and beg to assure you that I shall always be happy to hear of your welfare, and, so far as I am able, to promote it. I have the honor to be, sir, your most obedient servant, ARTHUR KIRKE, Inspector of Police. To Charles H. Nicolson, Esq., Sub-inspector of Police, Ballarat.” There is an instance of the duty we had to perform there which I wish to relate. An order came up from the Government to carry out that obnoxious law, the license law, which still existed, and which we had to put in force. Mr. Templeton, who was then a Commissioner of the Goldfields, was selected to perform the disagreeable duty there, and you may know how they were carried out in other districts, and with what result; but in Ballarat Mr. Templeton was chosen as warden, and I was chosen as police officer. I selected fifteen or twenty men, and the men were paraded without arms—I think, without even batons. I dressed myself, avoiding any appearance of fighting, putting on clean gloves, and carrying a light switch. When we came to the Red Hills, where the diggers were in thousands, we turned in amongst them, and sat down in their midst. They were expecting a number of men with bayonets fixed. They came around us, and Mr. Templeton and myself sat down with the men crowding round us, and Mr. Templeton addressed them in a few words, saying we had this duty to carry out, and there was no intention to annoy or oppress them in any way; if any man had not his license, he knew what the law was—it must be obeyed. He expressed himself so appropriately that they all agreed with him, though many, perhaps, had come to kick up a row. The police were then told to go about the duty. They found several men without licenses. Mr. Templeton or I told them merely to take one constable, go up with those men, and tell them to get their friends to bail them out. They went up, and their friends bailed them out, and there was no inconvenience. They were back at their work in a few minutes, and this process was carried on till we had 30 or 40 prisoners; and next day they were before the court in the usual way, and went through all the forms of the law, and the law was carried out; and that was the last collecting of license fees at Ballarat.

17130. At that time, is it not a fact that the officer in charge of the Ballarat district was requested, by the Government, to adopt milder means than before?—Probably he was; but I know it was a matter of anxiety at the time as to what should be done. There is one remark more I have to make—that is, with reference to my duties. A remark made by Mr. Graves, as to the duties of the Inspecting Superintendent, that I was responsible for the arming of men. I draw attention to the 38th clause in the Police Regulations, which says—“When inspecting a district or station, it will be more particularly his duty to see that the officers and men are properly dressed, and that their general appearance and demeanor are such as they should be, that their arms are kept in good and serviceable order, and that the men are supplied with a suitable supply of ammunition.” That is what I always did. It would be inferred, from what Mr. Graves said, that I had to do with the supply of arms to the men. I had nothing to do with that whatever. I have merely to see what they have are kept in good order.

17131. If they were insufficiently supplied, or inefficiently armed, was it not within your power to report?—Certainly.

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17132. And to recommend a fresh supply?—I did so. I had a revolver the men were carrying when I went there first reported as inefficient—old Colt’s revolvers converted into breech-loaders; and on that report they were changed to Webley revolvers.

17133. They were well enough armed up to the time of the Kelly outbreak for all ordinary purposes?—Yes.

17134. After the capture of Power, did it never strike you as being necessary to supply men with arms which should be more effective in range and so on, for the capture of that sort of offender, than those

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that had been in use up to that time?—No, I do not think so. Power was only one man at that time, and there was no occasion, in my opinion, to fear any one else or any outbreak in the district. It was only necessary to keep the police up to the mark and improve them.

17135. But now, after the experience you have had in this last unfortunate affair, do you not think it would be a very necessary procedure on the part of the Government to recommend that arms fit for that service should be supplied, and the police exercised in the use of them?—Certainly I do; and I always considered for many years that the mounted men were not sufficiently exercised in the use of their arms, and when I visited stations I used to order their practising and getting a supply of ammunition for the purpose.

17136. Up to the time of the Kelly business you did not think they should have been supplied with rifles?—Yes, but I think now all mounted and foot men should be trained to the use of the rifle, although it may not be necessary to arm the foot men with the rifle; but there should be a sufficient number of arms available for any service they may be required when sent into the country on a sudden emergency. In every barracks there should be one or two rifles, and, if the country could afford it, I would give every man a rifle.

17137. And you think a periodical opportunity should be given for every member of the force to become established in the use of them?—Yes. If he is taught properly at the beginning he will not forget it, and a little practice will keep him right.

17138. Can you give any further information as to how this jealousy arose between the officers?—I am not aware of any jealousy amongst the officers. Do you mean the department generally?

17139. As between yourself and Mr. Hare and Captain Standish, for instance?—I consider that for some years back Captain Standish has shown a disposition to keep me down, and to raise two of the senior officers up to the same level with me as much as possible in official matters.

17140. Can you give any particular instance?—I have handed in an affidavit, given by Gorman, as to Captain Standish's treatment of my reports. For instance, I mentioned one in Mr. Hare's district. It was that constable I spoke of in the early part of the enquiry. This was a man who had served under me in the Kyneton district, and I had several times found him careless, though a clever and good constable. I would find him in bed as late as eight o'clock. On visiting my rounds I found him in Mr. Hare's district, and I had reason to report unfavorably about the police and the station. Mr. Hare made use of a remark, amongst other things, to the effect—What grounds had I for making such a report about the man? questioning me on that point, which I thought was wrong on the part of the Chief Commissioner to let pass without letting me know. It was my duty to call attention to such a thing, and that station I observed and reported that it had been visited on one occasion, only once, for nearly a whole year, and I considered that, under those circumstances, Mr. Hare's remark was uncalled for, and that the Chief Commissioner should have told him so. If I had mentioned any other officer almost, very serious notice would have been taken of it by the Chief Commissioner.

17141. Then you complain that the same notice was not taken in Mr. Hare's case that there would have been in other cases?—Yes.

17142. Have you any reason to believe that the service has suffered in any way by partiality to Mr. Hare?—It could not but suffer. It was degrading me to a certain extent in the eyes of the force.

17143. Did your appointment as Inspecting-Superintendent affect your relations with Captain Standish or Mr. Hare?—Captain Standish advised me not to accept it, pointing out I would lose pecuniarily by it; but I told him I did not care for that—my only object was that I did not want the officers to be placed over my head, and I should not object if Mr. Hare could accept the appointment without being placed over my head.

17144. Did Captain Standish desire to give that position to Mr. Hare; did he say so?—He spoke to me about the state the city district was in, that it was all in order, and it seemed to agree with me and suit me very well, and that I would be away from my family for so many months in the year with the other position, that I would not like it so well. Besides it would be a pecuniary loss to me.

17145. That instance you spoke of was the instance of Constable Redding?—Yes.

17146. Did Mr. Hare interfere with you in any other cases in the same way in the district?—There was something about my visiting the district that occurred at the depôt.

17147. What was it?—I did remember the circumstance myself, but I have been reminded of it, and I would rather not speak of it. It was about the indignation Mr. Hare showed at my visiting the depôt particularly. Captain Standish told me when he instructed me to visit the County Bourke district that I need not visit the stud at Dandenong, and that was quite enough for me, as I understood that Captain Standish and Mr. Hare looked after the stud. I visited the men and stations, and Richmond depôt. When I came in I sent in my report about the depôt, and Captain Standish found fault with me for visiting the depôt. I could not understand it, and he said he told me not to visit the depôt. I said he told me not to visit the stud depôt, and those remarks were not made till I sent in that report, a portion of which I sent in yesterday. Captain Standish is a man, I may tell you, of no military instincts, although he is styled "Captain." He has no idea of the management of stables and mounted men, or barracks, or anything of the kind—not to my knowledge. I never saw a symptom of it; and my report was contrary to the system carried on in the stables and so on, and he was very much annoyed. There was an instance of it in saying I used bad language to a man when the man was bringing his horse to the stable. The fact was simply this: Captain Standish went into the stables, and there were two or three men present, and he called to a very awkward man (since discharged the service) to bring a horse out of the stable. This man was bringing the horse out in a careless slovenly manner, hauling the brute about, and consequently I spoke to him. I had taught him and the others how to do it, and I told him to bring his horse out properly. The way

is when the horse's bridle is on to take the end of the bridle like this, and run your hand up under

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his throat and lead him gently out; and if the door is narrow, all mounted men turn facing the horse like that, holding with both hands—[*illustrating by gesture*]. If you like, I can produce the Instruction-book. Not one of those men knew that, and that is what I did before Captain Standish. I did not lose my temper or use any strong language to the men, and there were members of the force present then that saw it.

17148. Do you know who the man was that was ordered?—I think it was Meahan, since discharged, and I think Senior-Constable Irving was present. As to using bad language, I am not in the habit of doing so. I never did such a thing. I may have called him stupid.

17149. When you found fault with this Constable Redding, he being in Mr. Hare's district, was he not justified in asking why you found fault with him if he believed in the man?—I gave my reason in my report.

17150. That is a matter that would occur under any management, such small things as that—that was not a matter of jealousy?—No, I merely mean to say that what was stated there was not received properly by the Chief Commissioner, and Mr. Hare made remarks on the matter which Captain Standish should not have permitted; it was my duty to point out everything I saw.

17151. This is with reference to the fault found in the bookkeeping with reference to the receipt—"With reference to the receipt for prisoner Murdoch, the W. house book at Hotham will show the prisoner was lodged there. I consider that in a place like Donnybrook, where the C. P. Sessions only visits twice a month, and the clerk requests that the proceeds of distress warrants may be paid over to the plaintiffs, there is no objection to the constable doing so, providing he holds a receipt from the person to whom he paid the money, which was done in these cases. I am not aware how Mr. Nicolson became aware that Constable Redding is wanting in discretion and requires looking after. He has been a long time under me, and I have not discovered it; on the contrary, I have found him a most zealous man, and most anxious to do his work, and a man in whom I can place the greatest reliance.—FRANCIS HARE, Superintendent. 3/5/76." That is what you object to?—Well, see what I stated in that report.

17152. You say—"At other stations within the district the police do not adopt the irregular and objectionable course above mentioned. It is more like a loose practice adopted or fallen into by the constable himself. I am not aware whether he obtained the approval of his superintendent first. I doubt it, although his station was visited by that officer on 14/9/74, 4/1/75, 14/6/75, and February 76?"—The word "although" is a mistake.

17153. What do you complain of in that—that Captain Standish supported Mr. Hare in that?—Mr. Hare remarks that he does not know what knowledge I have of this man. It was not Mr. Hare's duty to know what knowledge I had, or to put such a question, and I make the reply that it might have intimidated the Inspecting Superintendent from noting matters considered necessary.

17154. Was the matter about this man—is it an irregularity in practice, as far as the force was concerned?—All through the force, and whenever I met with such an irregularity I always corrected it. It was for the safety of the force generally that we came to the conclusion that men in executing warrants, receiving a warrant from the bench, should return the money to the bench.

17155. This is your minute on it in 1876—"In my endeavors to introduce a uniformity of system and practice, so far as circumstances will permit, among the police throughout the colony, in matters of the kind within referred to, the only opposition I am aware of having met has been in the Bourke district." That is May 1876?—Yes. I found the same thing in a station not very far away—at Sunbury, Constable Walters. I pointed out the same thing there.

17156. It is recognized as an official irregularity?—Yes.

17157. And your duty as Inspecting Superintendent was to report any irregularity?—Yes.

17158. If you conceived it to come within that class?—Yes.

17159. And you reported it?—Yes.

17160. In doing that, had you any desire to reflect injuriously on the men or on Mr. Hare?—Not the slightest. In all my reports my study was to give a photographic picture of every station I visited, without reference to individuals at all.

17161. Had you personally any antipathy or dislike to this man?—No, not at all. I knew him well before. I knew he was a very smart man in the Ballarat district. I found him when I went to Kyneton the same man, except that he had fallen off a good deal in Kyneton. He required looking after. He was a first-rate man if looked after, and was a man who would go to the dogs if not looked after.

17162. The object of official inspection is that any irregularity of any kind shall be reported—there is no option?—There is no option whatever. I do not think that was received in a proper spirit.

17163. That is the whole charge?—Yes.

17164. Was it the duty of Mr. Hare, as officer in charge of the district at that time, to have reported the act of this man that you officially complained of?—Mr. Hare had a perfect right or any other officer to meet any objection that I made as inspector.

17165. That is not the point. My question is—was it right or proper for either the constable to carry

out this course, or subsequently for the officer to allow this course, which was in violation of the recognized practice of the force—that is the charge you imply. If it was wrong of a man to carry out this proceeding of which you specially complained, was it equally wrong on the part of the officer in charge to permit it?—Yes, but the officer might have a different opinion, and, if he had, he had a perfect right to express it; but what I object to is the manner in which he gave his opinion about it, because the matter was a matter of practice throughout the force, and he was the only one different. I think there was a disposition to overlook things in the district.

17166. It was your duty, as inspecting officer, to report on them?—Yes.

17167. Any violation of the recognized practice, an officer under you would be equally responsible for as the man himself who had committed it?—Yes.

17168. If he had officially passed it over?—Yes.

17169. I want to know if there were special circumstances on that occasion that rendered it necessary for Mr. Hare to permit this violation of that duty?

*Mr. Hare.*—Yes.

*The witness.*—I do not think so.

*The Chairman.*—Yes, but Mr. Nicolson knew the constable required particular supervision, and one morning soon after the constable was found dead on the road with his neck broken, after having been drinking at several places the night previous.

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17170. *By the Commission (to the witness).*—When you were inspecting, you felt it necessary to send in a report of any particular constable, would that report necessarily or in the ordinary course be forwarded to the superintendent of the district under whom that constable was placed?—Yes, after being sent to the Chief Commissioner—always.

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17171. Then, if that was sent to any superintendent in any particular district that you inspected, the superintendent in charge of the men would be at liberty to express his opinion?—Most decidedly, to the Chief Commissioner.

17172. Then has Mr. Hare done otherwise in this case than what was usual in other cases?—Yes.

17173. Have you received reports from the superintendents, when you have made reports reflecting on a sub-officer, disagreeing with you?—Explanations.

17174. What is the exception you took in this particular instance?—This practice that I found fault with was an irregularity, contrary to the practice of the service. The man, I also stated, was a man that required supervision, which he was not getting; and in Mr. Hare's reply, he says—"I am not aware how Mr. Nicolson became aware that Constable Redding was wanting in discretion and required looking after."

17175. The charge you made against the officer was that he did not keep his accounts in the way he ought to have done?—Yes.

17176. Will you read Mr. Hare's minute—why he did it?—"With reference to the receipt from prisoner Murdoch, the W. House book at Hotham will show the prisoner was lodged there. I consider that, in a place like Donnybrook, where the C. P. Sessions only visits twice a month, and the clerk requests that the proceeds of distress warrants may be paid over to the plaintiffs, there is no objection to the constable doing so, providing he holds a receipt from the person to whom he paid the money, which was done in these cases."

17177. Up to that point was there anything in that report that you as an inspector could object to?—Not if it were absolutely necessary. To all rules there are exceptions, and when it is necessary of course I would never think of it.

17178. Would you consider, if it ended there, that that explanation would be satisfactory?—If the Chief Commissioner did not object, I would think nothing more of it; but this says "I am not aware how Mr. Nicolson became aware that Constable Redding is wanting in discretion and requires looking after." That is what I object to, considering the nature of my report. Then Mr. Hare goes on—"He has been a long time under me, and I have not discovered it; on the contrary, I have found him a most zealous man and most anxious to do his work, and a man in whom I can place the greatest reliance." I object to his saying that, because I am not bound to make my source of information known to anyone, and I never received a question of that sort, nor is it the habit of superintendents to make any question as to the source of information of the inspecting superintendent.

17179. The words you object to are where he says "I am not aware"?—Not only that, but other comments I make with regard to this man.

17180. Mr. Hare says there he is not aware how you became possessed of the information?—Yes.

17181. Is not that a matter of opinion about the efficiency of this man, as between you, as inspector, and the superintendent, who had a personal knowledge of him for many years?—No, I had a personal knowledge also.

17182. You had only seen him there for a short time, and he had been under Mr. Hare for some time?—For a short time too.

17183. You were only there for a few hours?—Yes, but I knew the man before. I was acquainted with this man; but whether I was or not, I, being the inspecting officer of the force for many years, no officer

in the service, without reference to me, would make such a remark as that, in that tone, in reference to any superior officer inspecting the district, making little of what I had written in that way.

17184. Was the inference from that remark that malice was implied?—Yes, an opposition to me which I felt in other quarters.

17185. *By Mr. Hare.*—Do you not think I would be neglecting my duty if I had not given my opinion to Captain Standish of a man that I had for some years?—I think it was quite right to do so.

17186. And that I said I did not know how you became aware of it?—It was not necessary for you to say so.

17187. And that he had been under me for some years and I had not discovered it—here was a man I thought an excellent one reported against by you, and I merely reported to Captain Standish?—As far as I can conceive, you had a notion that I knew nothing about the man, and represented me to that effect, and you showed such a spirit to your superior officer.

17188. I just gave my opinion of the man?—I did not object to that.

17189. Surely in the case of men serving under an officer, if the officer does not give his opinion when they are found fault with, to whom are they to look for support?—That is a plausible way of putting it.

17190. Here I have 150 men under me; a man is reported against, and the Chief Commissioner calls for my report, and I give my opinion of the man; was I wrong in that?—No, I do not say so. You were wrong in commenting on me.

17191. *By the Commission (to Mr. Hare).*—Had you a better opportunity of knowing him than Mr. Nicolson?—Most undoubtedly. Have I not the correspondence daily and weekly of this man, and the record of the duty he performed every day? I must have known whether the man was a good man or bad man.

17192. *To Mr. Nicolson.*—You asked Mr. Hare a question when he was under cross-examination—the Commission want to know what you meant by it. He returned from the North-Eastern district invalided, as I understand?—Yes.

17193. You asked him was he at a hunt the next day?—I did.

17194. Were you aware whether that was the case?—Yes, there was a coursing meeting going on for four days, or for several days, and during that time the weather was exceedingly bad, pouring with rain, and Mr. Hare was at the coursing meeting. That was the reason I say I did not wish to speak about anything of the kind, but I had no opportunity at that time of seeing Mr. Hare except in the evening.

17195. Was it customary with Mr. Hare to attend coursing meetings?—Up in the North-Eastern district?

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17196. At other times?—At other times. It was, very frequently.

17197. Where was that?—At Benalla, close to the township.

17198. As a matter of fact, did he keep greyhounds?—I believe he did. I do not reflect upon him for that. I might have kept them myself. I am very fond of sport and shooting, but I have never found leisure in the colony to do so. I do not think an officer of police has the time to do so, more particularly a superintendent of police. I do not know any superintendent of police about the country who has leisure for indulging in that pleasure. They have not the leisure for it.

17199. When you relieved Mr. Hare, did he show every disposition to give you every assistance?—Yes.

17200. There was no jealousy displayed till the second withdrawal—it did not show itself till then?—No; as you see from that. I have had my opinion of Mr. Hare, and so they all had.

17201. But you assisted one another?—Certainly. Up to the very last I assisted him, and when I met him I always met him courteously; but I was not intimate with Mr. Hare, and have not been for years. I was very often in the habit of meeting him. I avoided his society a good deal, I must admit that.

17202. Were you in the habit of visiting Mr. Hare's district to report, up to the time of the Kelly capture?—I have not visited there since the period of the Redding matter. That is a matter I merely happened to come upon accidentally.

17203. Did you complain, when you went up a second time to the north-east, that you had not sufficient men in the district?—I did, in this way: Soon after I went up, the Chief Commissioner followed me up—the first visit he made to that district; when I went up he came up with a proposal to reduce the district still further, and I had a consultation with Mr. Sadleir on the subject, and we formed a resolution that we would not submit to it.

17204. But you were aware he was acting under instructions from the Government to reduce the expense?—Yes, as much as he possibly could; and, after enquiring into the matter, and seeing what we could do about concessions, and what reductions we could make, and, acting under the system I had decided upon, I resolved that I would rather withdraw from the district—that I would decline to reduce the force; but I think we did spare him one or two foot constables.

17205. And what you did complain of was that the seventy artillerymen were taken away and about twenty constables;—Yes; I do not complain about the twenty constables, because they were gone before I went there. I expect that is one of the necessities of the case; but subsequently to that he wanted to take more away, and we had the consultation I have spoken of, and I remember Captain Standish replying sharply.

17206. I see by this paper that in December 1878 they had 107 mounted troopers in that district and 74 foot constables?—Yes.

17207. That is 181 altogether?—Yes.

17208. In July your highest was, mounted constables 78, and foot constables 51; but they were higher in July when you took charge. They were then 76 mounted constables and 54 foot constables?— Yes.

17209. That is 130 as against 181?—Yes.

17210. Besides the loss of the artillery?—Yes I believe there were about 50 or 70 artillery, not 30 as stated.

17211. That was 120 taken away, and you had 130 left?—That was all.

17212. They added half the number again while Captain Standish and Mr. Hare were there?—Yes. I may say also that, with reference to the men, that even with a hundred men there are always a few men off duty through sickness. At one time we were short of six or eight, and these men left the district, and were replaced by cripples. They sent me up one man with an unset leg, a cripple for life, and two men dying from consumption, and one did die there.

17213. Sent for that special duty?—Yes.

17214. Who had the selection of those men?—They were sent up from the Richmond dépôt under Mr. Hare. I do not know what explanation Mr. Hare makes about the matter—perhaps he can explain— but that is the fact that on that day I left there were about six men short, on the sick list.

17215. Who was responsible for the expenditure in the district during the time the search was going on?—I consider the officer in charge was.

17216. It appears that this Kelly business cost the country something like £50,000?—I have not seen that.

17217. There is only £1,226 secret-service money, and I should like to have the particulars of that?— I would draw your attention to the return in the evidence furnished by the Accountant of the Police Department. I think a reduction was made in every outlay during the time I was there.

17218. You heard a good deal of the evidence given here about Detective Ward; do you still hold the same opinion of his efficiency in the force?—There are some things I cannot understand in the evidence with reference to Detective Ward. They have taken me considerably by surprise.

17219. What case do you specially allude to?—There was a circumstance that occurred the other day. For instance, that very matter about that telegram given in evidence yesterday, the telegram I was charged with despatching to Beechworth when I was relieving Mr. Hare. I cannot understand Detective Ward conveying the impression that the men were paid off. That telegram was addressed by me to Senior-Constable Mullane. Mullane was in charge of the police there, not Ward. Ward has expressed himself several times as wondering why that telegram was not addressed to him instead of Senior-Constable Mullane, and he did not take the trouble, he says, to see it—he did not see the telegram himself. I do not know why not, and it seemed to me he made a little mischief—that he was a little annoyed about this telegram when he came down, that it was not addressed to him on account of his having to do with the cave party. When I telegraphed to Mullane about the men in the hut, he was the proper one, and I thought Ward was actuated by a little momentary jealousy.

17220. Is there any other circumstance that you allude to as to Detective Ward?—I am not satisfied with his evidence about the hut.

17221. In what respect?—I cannot understand the evidence given about the contradiction between him and the constables, as to his having told them to state what was untrue to Mr. Hare.

17222. What was your object in relieving the men from your hut?—I put the men there only on the Saturday previous until I could bring up the black trackers and a few mounted men to act upon the

information that Mrs. Sherritt had given me the day before, she having seen Byrne, and I ordered Mullane to station the men there in the meantime. I came back on the Monday morning, and searched along the side of the hill, and we found out that it was Joe Byrne's young brother and a cow. I sent word to send the men back by Aaron Sherritt.

17223. Did you give Mr. Hare this information?—No; I did not see him until the following Tuesday.

17224. There is that portion of the constable's evidence about the cave party; there is the evidence of several constables that those reports were written at the dictation of Detective Ward in that matter; do you remember the instructions you gave?—My instructions are in writing, and were simple. I saw them amongst the papers some time ago in writing—[*examining some papers*]. Any verbal instructions I gave to him were simply this, that I would desire a report. This is my letter, dated 31st March 1880:—"The special watch party which have been doing duty in the neighborhood of Beechworth for some months past will be carefully and secretly withdrawn, leaving no traces behind them, if possible, and will be disposed of as follow for the present:—Mounted-Constable Alexander, 1649 (sr.), will do duty in Beechworth. 2. Mounted-Constables Barry, Hagger, Faulkner, and Guide Canny will be forwarded to Benalla singly, their arms accompanying one of them as luggage; Mounted-Constable Dixon to Wangaratta; Foot-Constable Armstrong to Wahgunyah. 3. I will be glad to have reports from Detective Ward and Senior-Constable Mullane as to the

spirit or disposition displayed by the above-named constables in the performance of the important duty referred to.—C. H. NICOLSON, A.C.P.” “Since writing the within, intelligence has been received of Mounted-Constable Blade’s accident. Constable Barry, within-mentioned, will proceed to Myrtleford for the present, but if he prefers Benalla, I will soon be prepared to transfer him here. The secrecy about the duty at Sebastopol will still be preserved, especially as it may have to be renewed again.—C. H. NICOLSON, A.C.P., 31/3/80. To Senior-Constable Mullane, in charge, Beechworth.”

17225. Did Ward lead you to believe, up to the time of your withdrawing that party, that it was a profound secret to anyone?—Yes.

17226. You remember the evidence of Falkiner and Barry, who swear they sent in a report in the first instance to Detective Ward, stating that they believed their presence was known long before?—Yes, I remember that.

17227. Do you remember that they brought evidence to prove that they had sent in that report that Detective Ward instructed them to send to you?—Yes.

17228. Were they asked to report about the secrecy of the party?—No.

17229. Would it be right or wrong for a man in the position of Detective Ward, after receiving that report from those constables, to order them to take them back?—It depends. A non-commissioned officer has very often to return reports if they are not to the point; the men are sometimes obtuse, and do not understand what he wants; in that case he has to do so.

17230. He did not ask for a report about the secrecy of the cave at all?—Yes.

17231. Do you think he was justified in sending that report back about the secrecy of the cave business at all?—I do not know that. I think that he was wrong in what he did, but he should have sent forward the reports to give me some intimation.

17232. There was no justification for his returning them without your knowledge?—No.

17233. If he, after receiving those reports and sending them back for amendment, sent the amended reports to you, in which it was carefully excluded that it was known in the cave, and if he reported after that that it was not known in the cave, what do you say to such conduct?—Decidedly, if any man stated falsely he would be to blame. My impression still about the constables is that they were mistaken.

17234. That they gave it as an opinion?—Yes.

17235. You have read Detective Ward’s report of the 3rd April—*[inserted above]*?—Yes.

17236. And he had their reports in his hands on the 2nd April, stating that they believed it was well known they were in the cave; what do you think of that?—I think he was very wrong in not sending me those reports. He might have sent me the amended reports too. I dare say he had a good deal of trouble up there with the men latterly, having been so long up there; and perhaps they were a little fanciful, and imagined that the place was known when they were mistaken. For instance, they stated they had seen girls going from the Sherritta’ house to Byrne’s. Now, the fact is, the people were sent by my knowledge, and therefore Detective Ward believed the men were wrong.

17237. But here is the point. Here is Mullane’s memorandum—”I have called on Constable Falkiner for a report whether it has come to his knowledge that the outlaws’ friends are aware of this party of police camped in the Strathbogie ranges.” On the 2nd April Constable Falkiner says, “I respectfully report, for the information of the Assistant Commissioner of Police, that it would be impossible to say that this secret duty has been carried out unknown to the outlaws’ friends, as persons who are well aware of this party of police camped in the bush are continually visiting Mrs. Byrne’s place, and sleeping there; and, from what has come under my notice, this duty must be well known to the outlaws’ friends”?—Those were the Sherritts, and they were sent there by Detective Ward.

17238. You thought it wise to express your opinion on some of the evidence given by Detective Ward, and you are now asked on this particular matter—do you think it was right of Detective Ward to suppress that first report from Constable Falkiner, and not make you aware of it?—No. I think it would have been very much better for him to have done so, and it was necessary for myself to know anything of the kind.

17239. As a matter of fact was it not previous to that that you had received information from Captain Standish that the presence of the cave party was known at the dépôt?—No, that was at the withdrawal of the cave party. I heard from Captain Standish within a week after the cave party was established.

17240. Then was it right on Detective Ward’s part, on the 2nd of April, to withhold from you the report of the constable who believed their presence was known?—I say it was wrong.

17241. Was not it misleading to you in the impression you had then formed?—It was. But then, in justice to Detective Ward, I feel bound to say that he may have considered that those men were mistaken under the circumstances.

17242. As a matter of fact, did Detective Ward ever acquaint you of those constables ever having sent in those first reports?—No, never; I was taken by surprise when the reports came in.

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report?—No, none.

17244. Then Detective Ward was guilty of an absolute violation of duty in preventing those reports being forwarded?—He was; but it is very frequently the case, in the city and elsewhere, that if a constable is ordered to make a report, and he misunderstands and writes what is not wanted, the officer gives it him back and lets him make another, and does not make the first known; but, of course, that is not with the view of suppressing anything.

17245. On Detective Ward's general character one witness spoke—did you have any complaints made to you as to any misconduct on his part in that way?—No, I think not. I think that was Wallace's attack on Detective Ward, and I know he was always speaking against Detective Ward. I knew what kind of man Wallace was. I can read all those men, and I knew what he meant by his attacks on Detective Ward.

17246. As far as you know, there was no justification for it?—No. Detective Ward was a most hard-working sober steady man, and he was a most valuable man in this way, that he could find any person I wanted in that part of the country of whatever description. He would bring him on the very shortest notice.

17247. You remember the statement made by John Sherritt, that Mrs. Nicolson had gone up to Beechworth with a view of injuring his character; and you interjected that Mrs. Nicolson had been in Beechworth, but not for that purpose, and that it was not true?—Yes.

17248. Since then we have received these letters from John Sherritt, senior:—"September 3rd 1881; Sheep Station Creek. Mr. Longmore, Chairman and gentleman of the Royal Commission of the Police Enquiry Board. Sir,—After reading in one of the Melbourne papers, Mr. Nicolson's statement that it was not true that his wife (Mrs. Nicolson) came to Beechworth to blast my son, John Sherritt's character. When my son was before the Commission, giving evidence, I went to Beechworth to get a few gentlemen to sign a petition in favor of my son, which I forwarded to Melbourne. On the day that I went to Beechworth there was an election of shire councillors. Some of the gentlemen that I wanted to see were at the elections. The first gentleman that I went to was a J.P. I asked him to sign for my son John, He replied by saying, 'Why, I am just after refusing to sign a paper for Mrs. Nicolson; I told her that I had nothing to say against any of the Sherritt family, and I won't interfere on either side.' He told me this in confidence. I promised not to mention his name; at the same time, if Mr. Nicolson insists in the lie, I shall tell the gentleman's name, he told me that he and her son came up from Melbourne to him, and he would have nothing to do in the matter. On the same day I went to Mr. Dodd, of Beechworth, another J.P. He brought me into his office, and told me that there was a man came to him and wanted him to sign that my son was a rogue; he said he would not sign. I asked Mr. Dodd the person's name; he did not tell me. He said he lived outside of Beechworth. I believe if the gentlemen of the Commission took the trouble to write to Mr. Dodd, I think that he would tell them his name, as I think, to the best of my belief he was acting for Mr. Nicolson.—John Sherritt, senr. I solemnly swear, before any magistrate or J.P., that the contents of this is true.—John Sherritt, senr. In my presence John Sherritt has sworn to the truth of the statements made in this document, that the above is his signature.—Henry T. Fox, J.P. Beechworth, Sept. 23rd 1881."—There is also the following letter from John Sherritt, junior:—"Melbourne, Sep. 6th 1881. To the Honorable Francis Longmore, M.P., Chairman Police Royal Commission. Honorable sir, —I see in the paper at your last sittings that Mr. Nicolson denied that his wife had anything to do with regard to my character in Beechworth. I am prepared to bring evidence forward that she did her best to damage my character. I was told in Melbourne, by one of the gentlemen that she went to to enquire what kind of a character I was. He says he told her that he knew nothing against me and also that he would have nothing to do on either side. His name is Mr. Crawford, J.P. Your most obedient servant, John Sherritt."—Do you still adhere to that statement?—Yes, decidedly. Mrs. Nicolson, after that statement of Sherritt's, insisted upon going up to a lady friend of hers up there, the wife of the person named in that letter, to see if there was any truth in it—if there were any grounds for such a thing; and she stayed there until she returned the following day; and her enquiry was on that point, to ascertain if Sherritt's statement, about my not taking action on his giving information, and any other information, was true.

17249. What could Mrs. Crawford tell on that subject?—She did not expect her to tell anything about that, but others could. Mrs. Nicolson is not far off, and can come in and explain the whole without reserve.

17250. That is the declaration from old Sherritt?—I do not care for twenty declarations from him. There is no truth in the statement about the petition.

17251. Do you know the Mr. Dodd, J.P., mentioned here?—No, not personally.

*The Chairman* stated that the Commission would require a declaration from Mrs. Nicolson and from the gentleman mentioned in the Sherritts' letters.

17252. *By Mr. Hare (to Mr. Nicolson).*—My going out coursing was referred to. Was I not on leave for three or four days?—Yes.

17253. I was on leave at the time?—Yes.

17254. And I had been up there seven months doing work, and was entitled to leave?—Yes.

17255. Do you think there was any harm my going to the coursing meeting?—No.

17256. Was there any regulation in the force about keeping dogs?—I am not aware if there was, but I thought it was high time there was. I know a constable in your district, stationed in Melbourne, was secretary to a coursing club.

17257. Not when he was under me?—You yourself related it to me.

17258. He was not under me. But do you think there is any harm in a constable or an officer keeping a dog any more than keeping a cat?—No.

17259. *By the Commission (to Mr. Hare).*—There have been enquiries about the police force several times, and the great charges brought against them were that they were cock-fighters and rat-pitters and all

such like, and that the force was demoralized through the superintendents being engaged in those pursuits?—But there is nothing to show I had been. Surely attending a coursing meeting and keeping a hound does not make me a courser.

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17260. *By Mr. Hare (to Mr. Nicolson).*—You have referred to a report on the inspection of my district, and you complained about the tone in which I replied to it?—Yes.

17261. You inspected Mr. Winch's district in July 1876, did you not?—I inspected his district about that time, no doubt.

17262. Is that your report upon Mr. Winch's district—[*handing a paper to the witness*]?—[*Examining the same*]?—Yes, that is my report.

17263. It has been forwarded to Captain Standish, and you see it is referred to Mr. Winch?—Yes.

17264. Can you see any remarks of Mr. Winch's; has he taken the slightest notice of your report there, or made any expression whatever upon a single remark you have made upon his district?—No, there is none here.

17265. *To the Commission.*—Mr. Winch told me Mr. Nicolson's report was such infernal bosh that Captain Standish told him there was no necessity to report upon it.

17266. *To the witness.*—Do you see any remark upon that file there that shows Mr. Winch took the slightest notice of your report?—I do not see any.

17267. Here is some correspondence attached to it?—I never saw this before.

17268. Will you read that?—My report is dated 22nd July 1876.

17269. Read that telegram?—“Sept. 2, 1881—Mr. Nicolson inspected Melbourne district in 1876. Have you any papers; if not, please give reference to their return here. This is urgent.”

17270. The papers were forwarded on that, and Mr. Chomley says, “The files referred to were referred to Mr. Winch for report. May I ask why he did not report on them; and will he be so good as to say if there are in his office any other such files that should be returned to this office.” To that Mr. Winch replies: (3.9.81.) “I was directed verbally by the late Chief Commissioner (Capt. Standish) not to report upon the files referred to. He said he did not think it necessary. I then put the papers into my office press, and thought nothing about them since. I should certainly have returned them to the Chief Commissioner's office. I do not think there are any other such files in my office. I will have a search, and if there are will return them.” Perhaps Captain Standish can explain.

17271. *By the Commission (to Mr. Hare).*—Mr. Nicolson cannot say anything about that?—I am only pointing out to you that there is no notice taken of his report, whatever, in that case.

17272. *By Mr. Nicolson.*—There are various ways of dealing with the reports. (*To Mr. Hare*)—What does that prove?—That Mr. Winch took not the slightest notice of your report. In my case, I answered it, and made use of an expression that has been called by you a point of insubordination.

17273. *By the Commission (to Mr. Hare).*—This shows simply that Captain Standish told him not to report?—Mr. Winch was told to report, and he takes no notice of it.

17274. On this being referred to, after the lapse of a considerable time, Mr. Winch, in writing, states that he was instructed verbally by the Chief Commissioner not to do it. That is a most extraordinary proceeding, certainly, when he had instructions in writing to report, that he should permit a verbal instruction to override the other?—Well, there it is, that is the evidence of his neglect. I mention that to show that I am not singular. But you merely show a case of neglect on the part of another officer. In order to make that statement of any value, we would require to bring Captain Standish here, to say whether he did verbally instruct Mr. Winch in that way.

*Mr. Nicolson.*—As to Mr. Hare's insinuation that Captain Standish did it with contempt, he may or may not have done so. I can only say this, that I was in charge of the city police, and in charge of the whole department frequently.

*Mr. Nicolson.*—There is one other thing, I wish to do justice to Detective Ward to point out that he was a very hard working and very invaluable man in that district, and worked very hard during the Kelly business, Of course, if he is guilty of prevarication or falsehood that is another matter.

*The witness withdrew.*

Brooke Smith examined.

17275. *By the Commission.*—What position do you hold in the police force?—I am a first-class inspector, stationed now at Horsham as the sub-officer of the Wimmera district.

17276. Where were you stationed during the Kelly pursuit?—In half-a-dozen places.

17277. Were you stationed at Wangaratta at the time of the outbreak?—No; I was not in charge of a district at all.

17278. What were you doing in October 1878?—I was occupying the same position in that North Eastern district that I do now in the Horsham district; that is, inspecting officer.

17279. How long had you been stationed in the North-Eastern district before that?—On and off for about the last twenty-four years.

17280. Have you read Senior-Constable Johnson's evidence?—I have.

17281. If you have a reply to make as to the statements concerning yourself you had better do so now in your

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own way?—The reflections appear to amount to this, as far as I can judge—that I was not there immediately when I was required; that is what they state. Now I had been so much worked for several days before that that I was simply overdone.

17282. How “overdone”?—Overworked.

17283. Exhausted from fatigue?—I was utterly fatigued; I had crossed the Buffalo twice in high flood, and I cannot swim, and I had to go across on a horse with a sergeant and six men. On a certain date (I cannot state exactly when, because I did not keep any books at all at the time—I thought it was too dangerous). I was directed by the Assistant Commissioner, Mr. Nicolson, to proceed to Yarrowonga, and from thence to proceed to make further enquiries; in fact it was what was called a search party, only we were not prepared with things to assist us in the way of food; we had nothing of that sort, we had to stay where we could get it, hotels or anywhere else. I went there with a party in which Senior-Constable Johnson was next to me; he was a senior constable then. I put him in charge of the party, and from there on the following day I went to Lake Rowan. There I met the party that Mr. Nicolson had despatched, under charge of first-class Detective Kennedy, now sub-inspector at Ballarat. After speaking with him I directed that he should take one side of the Glenrowan ranges and I should take the other.

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On taking the left-hand side of the Glenrowan ranges the men acting under me—that was Johnson’s party—came across the tracks of four horses.

17284. What date was that?—I cannot give the exact dates. We went on then towards the direction, apparently making for Wangaratta. We lost the tracks a little, and I went into Wangaratta to inform the acting officers there.

17285. How far were you from Wangaratta at that time?—Six or seven miles. I saw Mr. Nicolson on that evening, and he directed that a party should go out the following day. The party did go out without myself, and I believe found a horse, one of the horses stolen from the police in the Mansfield district. I have not got the dates with me, but I believe it was on the following day that I again joined the party. I was shown by Constable Johnson a certain place on the top of the Glenrowan ranges, near where they had discovered the horse. I went on with the party to a station called Taminick, Newcomen’s. The tracks were traced within about a mile, or perhaps less than about a mile of that place, and then they turned to the left, and ceased four tracks, and got into two. I then, on the following morning, with the party, went to Glenrowan, and endeavored to follow up those tracks. That was the most likely way of getting hold of the persons who were being followed. I am not sure who they were. I cannot tell that. We did not know who they were.

17286. Had you reason to doubt that they were the outlaws?—I am perfectly certain they were, but I did not know it; I could not swear it; and then, after following the tracks to the neighbourhood of Glenrowan (we had got hold of them again a bit through some black trackers), I went back to Wangaratta and reported what had been done to Mr. Nicolson. Mr. Nicolson was very anxious I should go out again almost immediately, but I was very tired, and he was good enough to wait on me himself, and we started a morning or two after. I have not got the dates.

17287. Who?—Mr. Nicolson, Superintendent Sadleir, and one or two men whose names I do not remember—about nineteen of us in the party altogether, as far as I recollect. We went back to this spot with the black trackers.

17288. Then that would be about the third day?—The fourth day—that was in the hands of Mr. Nicolson; I had no command then, my command ceased.

17289. Senior-Constable Johnson was examined here, and he said he was one of your party?—That was one party.

17290. One that he was with from Wangaratta to Yarrowonga, on the 6th November 1878?—I will admit the date; I do not remember dates.

17291. And he says, “We heard nothing till the morning of the 8th.” When did you get notice that the supposed band of outlaws had passed under the bridge; how long before that?—There was a constable named Walsh—I have heard it stated by Steele that he had sent a message to me, but what I recollect of this is that Constable Patrick Walsh came to me, and informed me that they had been heard crossing the bridge—four persons on horseback; he did not say who they were.

17292. How long was that before you went out?—The same morning, I think; but I did not put any trust in the matter at all.

17293. Did you go out the same day?—Oh, no; there were no police at Wangaratta at that time. There was one, I think, that was all.

17294. How long did you hear of the supposed outlaws before you went out?—Only a very short time.

17295. How long?—I cannot tell exactly, it is two years and a half ago.

17296. Was it more than a day?—No.

17297. Do you remember Sergeant Steele being in Wangaratta, on his way to Rats’ Castle?—Steele was in charge at Wangaratta at this time.

17298. Do you remember his being in Wangaratta under orders to go to Rats’ Castle with a number

of men?—I never heard of it.

17299. Did you receive information from Steele of the appearance of four men?—I have no recollection of that.

17300. Before you went with Johnson had you information that a party had crossed under the bridge, supposed to be the outlaws?—No.

17301. You have accepted the 6th as the date. Had you any information from any source that a number of men, supposed to be the outlaws, had passed under the railway bridge prior to that morning?—The only person I ever received a information about it from was Constable Walsh, and he said he believed they had gone across; and from enquiries I made I did not believe they had.

17302. If Steele says he sent you information on the 3rd or 4th November that a party of men supposed to be the outlaws had passed under the bridge, would his statement be correct or otherwise?—How could he send me information?

17303. If he states so, would it be correct or otherwise?—All I can say is that this is the first time I ever heard of it, except when I saw it in print. I was not in charge of Wangaratta at that time.

17304. Was Steele in Wangaratta that day?—I cannot tell.

17305. How long were you in Wangaratta before you went out on that search party?—I think would be three or four days.

17306. Did Steele give you any information upon the supposed appearance of the outlaws near Wangaratta on the 3rd or 4th November?—I have not the slightest recollection of it. I never received any communication of the sort from him, either written or verbal.

17307. Do you think the statement is correct?—I do not think so. I have no reason to think it is. I especially wish to mention about Constable Patrick Walsh, to give him the credit for what he did. He came to my rooms and told me what he had heard. He came and said that he had learned from an old woman, living near the bridge that four mounted men had crossed, and he thought it was the outlaws; and when I sent him back I said, "Go and find out who it is and what it is," and they could not tell which way they went over the bridge.

17308. Did you go afterwards to see this old woman?—No, indeed I did not; I should want something more than that to go.

17309. This is a telegram from you, on the 4th November 1878, to Superintendent Sadleir, from Wangaratta, "I can neither verify nor controvert Delany's statement (that is the old woman) after further

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enquiry. They are respectable people, easily frightened. Have ascertained from a friend, who crossed Mulwalla punt yesterday to Yarrawonga, that four New South Wales constables are actively patrolling banks of Murray, near punt; also, that although crossings might be made higher up by fishermen's boats, lagoons and creeks on other side so bad, no escape could be made that way, so that Warby ranges could be the only resort for hiding, perhaps on to Ryan's at Lake Rowan," [*The Witness*—It has come true.] "No horses reported missing. Constables Hayes and Twomey on Thom's horse are awaiting duty with me when ordered; but such party is too small, and is not well armed, the sight off only Spencer rifle. Constables Davison and Healy misconducted themselves so much on my search party I would never take either again, as it would be risking other men's lives. Send rifles and ammunition, if you can spare such. Weather increasingly worse. Floods rising." That is the 4th, at 5.40 p.m.?—I have not got a copy of the telegram, and have not seen it since it was sent.

17310. Then at 10.50 p.m. the same day, "A youth, Delany, states his mother called him up at 4 a.m. yesterday morning to see if his horse was being taken away. He looked out and saw four mounted men with hobbles, one saddler driving several horses at a rapid pace through One-mile Creek, towards Peechelba road. No description can be given; may have gone to Warby ranges"?—That finishes up that no description could be given. It was a very unsatisfactory enquiry that was, and I do not believe it was the people at all. The telegram you read there, addressed to Mr. Sadleir, is as true from start to finish as it possibly can be, and I had had a very painful and arduous journey. Twice we crossed the river, and had to get a man who knew it well to tell us whether we dare cross it or not. I remember also that, on the same occasion, one of the constables went a little over the mark and had to be dealt with.

17311. We want you to notice that on the 4th you had ample information with reference to that party, do you remember what you did the day after you sent that telegram?—I remained at home, as far as I remember.

17312. Johnson says a party was sent out after the supposed outlaws, in charge of Mr. Brooke Smith:—"Do you remember the time when it was supposed the Kellys had passed Wangaratta, and a party was sent out after them in charge of Mr. Brooke Smith?—I do." Where did Walsh come from to give you that information?—He walked across from the police station to where I slept.

17313. Did he tell you who gave him the information?—Yes; he said a person living near the bridge.

17314. What was the name of that person?—That I could not tell—I do not know. When I sent back

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to enquire as to who the person was, the reply was that they could not tell whether they crossed this way or that way, and when I made an examination about those four mounted men passing this hut (I cannot remember the name of the person, but I could point out the very spot) they could not tell how or who it was, and the outlaws were all known to the persons living in that very house.

17315. Suppose they passed during the night?—During the morning was what was said.

17316. During daylight?—I went down and looked at the place, and they never passed there at all.

17317. Were there no marks visible?—Not the slightest sign.

17318. Did you search for them?—I did. I went to the spot—it was almost swimable.

17319. Was the ledge under the bridge they were supposed to have gone across under water?—It was swimable.

17320. That is the river under the bridge?—There was no river—it was a creek; there was not a mark of any kind.

17321. Could a party cross that without having to swim? We have it in evidence that there was a ledge on one side, known apparently to a few, which, by careful walking, they could get along without swimming—do you know anything of that?—I must say I do not know that—it is the first time I ever heard of it.

17322. I may inform you that in the matter—hunting for such desperate characters as those outlaws—there are charges of great remissness laid against you by Senior-Constable Johnson and Sergeant Steele; did Walsh give the information from Steele?—I do not know that. The only thing I remember was Walsh came to me on this particular occasion, and that was the only occasion I received any information, and at that time there was one single constable on the station.

17323. Did a constable named Twomey give you any information?—I have not the least recollection of it; he might bring it to my recollection. I do not think it. That is all I can say.

17324. At question No. 12404 Johnson says, “We found the pack-horse B87?”—Yes. Was it Kennedy’s pack-horse?—It was. Was he the one with the white legs?—No. What did you do with the horse?—Left him there until it was dark and took him down. My intention was to put him in the paddock, and leave him there until I sent one of the men in for provisions to Wangaratta, so if we went further on we could remain at night. To keep on the tracks?—Yes, at the foot of the range, to pick up the tracks immediately the next morning. Did you do that?—No, we met Mr. Brooko Smith. It was just getting dusk. Was this the first time you saw him after seven o’clock, when he ordered you to take the men?—Yes. What did he do?—He rode up and gave the order—‘Halt; form up. Any applications or complaint?’ Did you form up in line?—Yes. Were there any?—I said there were none that I was aware of. I said we had got one of the horses that were taken from the police. He said, ‘Who found it?’ I said, ‘The party was all together when we got the horse in the ranges.’ He said, ‘Right; proceed to Wangaratta.’”

17325. And you went to Wangaratta that night?—That afternoon. There was nothing of that kind about drawing up in line, or about applications or complaints; that only relates to stations and not to active service; that is never done; that is a mistake, a mis-recollection.

17326. He says, “We had the trackers then; we got the trackers the previous day. Is that all Mr. Nicolson said?—He had some conversation with Mr. Smith. Did you hear it?—Some of it. I heard Mr. Smith say to him, ‘If we get on to the outlaws what are we to do?’ He said, ‘My men will shoot them.’ Mr. Nicolson told him to obey the orders he had given him to proceed the first thing in the morning and follow the tracks on?”—He did. I was not aware of it; I heard afterwards he did.

17327. Then he says, “We did not leave Wangaratta till after nine. What was the reason of the delay?—Waiting for Mr. Brooke Smith. Where was he?—He was in bed. Do you mean to say he would not get up?—I called him at four. Did you call him again?—I called him about six. Did you call him again?—No. Was he ill?—I am not aware of it. Was he fit for duty?—I do not know. What do you

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Brooke Smith,  
*continued,*  
8th Sept. 1881.

think?—It is hard to form an opinion. He was in bed. Did he get up at nine?—I saw him about half-past eight.” Is that so, that the party were detained so long, although they were on the tracks, before they could get out from Wangaratta that morning?—I do not think that Johnson’s recollection is very good, but I must give him the greatest credit from the time he followed those tracks after he struck them; he and a young man named Dixon, who I joined on to the party—those two ran those tracks splendidly; no black trackers could beat it. They ran them right away close on to the Orangery there and round the ranges, until they lost them in a large sheep-fold and could not trace them again, and even the following day they picked them up. I cannot speak about the date, the books are not here.

17328. “How far did you get on the tracks that night beyond where you had been on them the night before?—On the Taminick station—about 15 or 20 miles.” Before we go any further, we want to know if you can remember what was the cause of your delay in Wangaratta till nine o’clock?—Simply being utterly tired and wet—wet through that day that I came back (if you refer to that telegram). I had been wet through for nearly forty-eight hours before I wrote that. I came in and I had to start off that very Yarrowonga journey you are speaking of.

17329. But this was written on the 4th?—On the 4th I started to Yarrowonga. It must have been

before I got dry I started.

17330. It cannot be so according to Mr. Nicolson's statement?—I have not seen that.

17331. And Johnson says you started on the 6th?—That is another one altogether—a different trip altogether—that is after I came back from Yarrawonga, after I had come through Lake Rowan; after I had despatched Kennedy from Lake Rowan I came back, and then I had to go out again. I left my station, Beechworth, on the last day of October, and got a party together without permission (Mr. Nicolson had not then arrived), and I started up to Merriang, and then from there went across the Black Hill, and from there came down to Yarrawonga. It cannot be as you state.

17332. You remember the constable telling you that this woman had made a statement to him about the people upon the bridge?—Yes.

17333. You sent a telegram on the 4th to Mr. Sadleir stating you could verify that information?—That is another matter altogether.

17334. It is the same woman's name, Delaney; was not that the name of the woman living at the bridge?—No, another party altogether.

17335. The constable did come to you?—I admit Walsh came to me.

17336. Did Twomey come to you?—I do not remember that. He might be able to bring it to my mind.

17337. What were you doing on the day before. You went out with Johnson on the 6th?—Staying at home.

17338. But the day before that. You must have been there on the 4th?—The books will tell. I cannot tell. We had no police there, I believe.

17339. There is a long telegram from you on the 4th, so you must have been in Wangaratta on the 4th?—I would like to see the question as to how this arose.

17340. I want to know what you were doing all those days. You were so hard pushed before the 6th—*[reading the telegram again]*?—That is very straightforward.

17341. The point is where you were the day before?—I cannot remember that. I know I had not a party on that occasion.

17342. If it was proved that you were in Wangaratta on the 3rd, and not out on a search party, would that show that your memory is defective?—My memory is not defective. The occurrence book would show. I do not think my memory is defective. The object of the occurrence book is to prevent persons being defective, and if you send for that book you will find whether I was there or not.

17343. You had this evidence sent to you?—Yes.

17344. You have had time to digest it, and all the incidents referred to in it you could have compared with the occurrence book?—No, I would not dare to send for the occurrence book. It would take you to send for that.

17345. Where is it?—Up in Wangaratta.

17346. The book would be available?—Yes, but I do not think there is anything the matter. I tell you exactly what I know, and that is very little, and I do not believe I was there three days or two days before.

17347. You said you were so much knocked up in consequence of great fatigue; now the gravamen of the charge is that on the 6th you went out with a search party with Johnson, and you came on tracks, and at the very moment, in the opinion of those who looked at the tracks, instead of going out, you returned to Wangaratta; and the party were ready the next morning, and you delayed them till very late?—And Johnson recovered the horse.

17348. We want you to answer those charges. Did you, as the officer in charge of that party, show negligence in not availing yourself of the information you had on that occasion. You have had the evidence before you, and you came prepared to answer the charge?—I deny the matter altogether—I deny the greater portion.

17349. Do you deny that you ordered the party to be ready at four o'clock in the morning after you returned?—I cannot tell you what occurred at that time. All I can say is this, that, as a matter of fact, I put persons on those tracks, and they went and followed them.

17350. We know that, but the charge is this: that you were in charge of this party, and they discovered the tracks?—I was not in charge of that party.

17351. Who was in charge of Johnson's party?—There was no special officer appointed to any party whatever. You appear to know more than I do. There were two parties had charge of that party besides myself. There were Kennedy and Johnson, and I got instructions to divide them, and I did so.

17352. When you started from Wangaratta who was the senior officer in that party?—I was, by instructions.

17353. Were not Johnson and Dixon amenable to your instructions?—As long as Johnson and Dixon and those other persons remained they were under my instructions.

17354. You were the senior officer in charge of the party leaving Wangaratta on the 6th—is that so or not?—I cannot tell you for a certainty.

17355. Who was senior to you in that party at Wangaratta?—Mr. Nicolson.

17356. He was not there. You went out on the 6th with a number of men—who was the senior officer?—I do not understand your question.

17357. Now say there were ten or fourteen men went out on the 6th?—Twenty-two.

17358. Out of that number who was the senior officer?—I was the man who left the station.

17359. If any of those men had disobeyed any instructions you gave, would you have considered it in contravention of the rules of the police service. If you had told Johnson to do something, and he said he would not, would it have been a disobedience on the part of a subordinate to a superior?—Yes.

17360. Can you account for the delay in returning to Wangaratta next morning when you instructed Johnson to have his men ready at four o'clock in the morning?—I do not remember it.

17361. Do you deny it?—I will not deny anything at all that I cannot remember till I get the books.

17362. When you returned from the journey were you ordered back to Beechworth by Mr. Nicolson?—I heard that statement. The orders I got were from Mr. Sadleir to go back and prosecute three cases at Beechworth, and I went back and prosecuted. Unfortunately for me, any evidence I want to bring forward has departed. Mr. Hunt, of the *Argus*, came out that time with me, and he has gone away.

17363. Did you keep a note-book?—No, I objected. I said to Mr. Nicolson I wished he would not do it, because I said the outlaws might get hold of it.

17364. Were the particulars of that search party published in the *Argus* at the time?—Really I do not remember. I knew Mr. Hunt was with me all the time. I have no object in recollecting anything of that kind.

17365. If you get the occurrence book you will have no difficulty in being able to account for your proceedings?—I cannot say for a positive fact—I am on oath—that it is in there; it should be there.

17366. If it is not there it is a neglect of duty?—Yes, and not on my part either.

17367. *Mr. Hare.*—The entries referred to will be found on the sheets which are periodically sent to the office.—[*The same were sent for and handed to the witness.*]

17368. *By the Commission (to the witness).*—You have seen the sheets; now can you say how many days you were in Wangaratta?—Two days and a half, the week ending 9th November 1878.

17369. By the sheet where were you on the 1st?—I see it is marked here that I was at Wangaratta on the 1st and 2nd.

17370. Look at that sheet; where were you on the 3rd November?—The 3rd is Sunday. I was at home.

17371. The 4th?—Wangaratta on the 4th and 5th, and left Wangaratta on the 6th at mid-day.

17372. Can you remember where you were on the 28th and 29th of October?—Travelling between Merriang, across the Buffalo, over Black Hill, and down through the King River. I cannot swear to this statement, as I kept no record of them except what I just remember.

17373. Do you remember when you first heard of the police murders at the Wombat?—A man named Senior-Constable James brought a telegram down to my rooms that I lived in, in Beechworth, and gave the particulars of them—that I can recollect distinctly.

17374. As the murders took place on the 26th October, and you were at that place on the 28th and 29th, and you were in Wangaratta from the 1st to the 6th, you could not have been prior to the 6th on any search party in the direction of Yarrawonga. Is it possible for you to have been there between those dates?—Certainly. I was continually on search parties.

17375. How could you be on a search party when you were every day in Wangaratta?—All that I can say is that I went down to Wangaratta then, and I gathered a party then and there and started. I think I telegraphed to Mr. Sadleir from there and started to Merriang that night, and from there across the Black Hill. When I got to Merriang I received a communication from Mr. Nicolson, saying he was in charge of the district.

17376. Was it possible for you to have been with any search party beyond what you have described on the 28th and 29th, between that time and the 6th?—Yes, certainly.

17377. Where?—On the road to Yarrawonga, I believe.

17378. Did you go to Yarrawonga before the 6th of November?—I cannot say that.

17379. Was it possible for you to have gone before the 6th when you were every day in Wangaratta according to the record sheets?—I did not see that in the record sheets at all.

17380. You admitted you were there on the 1st, 2nd, 3rd, 4th, and 5th, and left on the 6th?—I do not think so; they speak for themselves.

17381. That is what the sheets show. You have seen them, and admitted that on certain days you must have been in Wangaratta—now was it not on or after the 6th that you went with the search party to Yarrawonga?—As far as I recollect it was not, it was earlier. As soon as ever I returned from Oxley, wet through, I was going to my room, and I stopped in my room, but I was sent for, and was sent to Yarrawonga.

17382. The evidence of Johnson is that on the 6th November you started in charge of a party from Wangaratta to go to Yarrawonga stated also that the reason you did not resume duty earlier in the morning after you returned to Wangaratta was in consequence of the very severe fatigue you had suffered for a few days prior?—Yes.

17383. Was it possible you were suffering from severe fatigue when you had been in Wangaratta five days and a half doing ordinary duty?—I was not.

17384. You have admitted it?—I do not admit anything. The documents are there. You must remember all this time there was a superior officer over me.

17385. That is not the point. You excuse yourself in consequence of severe fatigue?—I do not think I have to excuse myself in the least degree.

17386. You said the reason you did not start with your party at four o'clock in the morning was in consequence of your being knocked up because you had undergone severe fatigue just before?—That is quite true.

17387. Then I ask whether that is likely, seeing you were in Wangaratta for five days and a half before you started with Johnson?—It was not five days and a half before.

17388. How many days were you?—Two days and a half.

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17389. Look at the record sheets?—I cannot help that. I did not sign it. I simply tell you a positive fact—that my evidence is as straightforward as it possibly can be.

17390. You said the sheets would show. Are you prepared to say you were not there those days?—I am not prepared to say that, and I do not think it is a fair question to ask me.

17391. Not after seeing the record sheets?—No.

17392. We want you to give the reason how this fatigue was a justifiable excuse. Have you any reason to doubt the correctness of the records that have been produced?—I have not seen them before. I think it is improbable that there would be anything incorrect.

17393. Might they not be taken as infallible evidence?—I believe they are perfectly true.

17394. You said if you had the record sheet that you could tell exactly where you were on certain days?—I believe it would.

17395. Now the record sheets point to the fact that you were five days in Wangaratta before the 6th?—Yes.

17396. That being so, do we understand that those record sheets are true?—I have no reason to doubt them, but I am perfectly certain I was not five days in Wangaratta.

17397. In the record it says your horse was kept in the stable on those five days. Do you say you will be bound by the occurrence book kept at Wangaratta?—I have not the least objection to do that.

17398. Do you believe these are correct copies of the book kept at Wangaratta?—I do, indeed, believe it. I cannot conceive it possible that the men could make a mistake.

17399. You will accept them then?—I cannot say that. I will find out where I was on those days.

17400. How can you find out?—Only by endeavoring to recollect. I think I could almost draw out the whole. It will be well for you to look over this statement of Johnson's, and be well prepared with replies to-morrow morning. We will postpone your examination till eleven o'clock to-morrow morning.

*The witness withdrew.*

Michael Twomey sworn and examined.

Michael Twomey,  
8th Sept. 1881.

17401. *By the Commission.*—What are you?—Constable.

17402. Do you remember Sergeant Steele passing through Wangaratta in the beginning of September 1878?—Yes, on the night of the 3rd November 1878.

17403. Did he make any statement to you with reference to the Kellys?—On the arrival of the special train at Wangaratta I called Sergeant Steele out of the van, where he was in company with other mounted men. I told him I had reliable information that the Kelly gang had passed—that is, four young men riding four horses, two pack-horses in front with two heavy packs on each horse, and four others running bare-back in front of them; but the informant could not state whether the four horses running in front belonged to the party, as there had been horses running on the common there.

17404. You informed him about that?—Yes, I gave the information as I received it.

17405. What did he do on that?—He referred me to Inspector Smith, who was in charge at Wangaratta, and Sergeant Steele said he was instructed to proceed to Beechworth.

17406. Did you inform Mr. Smith on that occasion?—Yes. And previous to that I went into the van, seeing Constable James and about fourteen constables in the van at the time, and I informed James and the party of men before I went to Mr. Brooke Smith, after telling Sergeant Steele on the platform when he was inclined to take no steps, thinking they would take some steps.

17407. What time was that?—About a quarter past twelve on the morning of the 4th November 1878, a little after midnight—no, a quarter to one.

17408. What time did you inform Mr. Brooke Smith?—About two o'clock on the morning of the 4th.

17409. Where did you inform him?—He was in bed.

17410. Did he seem fully to realize the information you gave him?—He instructed me to go and get Constable Hayes, who was at the police-station, to go in company with me and see the party who actually saw those men and horses pass the morning previous—that was Mrs. Delaney and her sons.

17411. Upon that you went?—Yes.

17412. What time did you return?—About a quarter to six in the morning.

17413. Did you see him after you returned?—Yes.

17414. At what time?—About a quarter to six. I went to him directly after I returned.

17415. What information did you give him then?—Mrs. Delaney was rather reticent in giving

information. I had been stationed there previously, and could rely upon what she said; so I told her I would never divulge her name. She then stated that about four o'clock yesterday morning—that is on the 3rd, Sunday—she heard horses galloping and chains rattling, coming towards the house. She said, “We had horses running on the flat, and we thought some one wanted to ‘plant’ them. I got up to the window to see who they were, and saw four young men riding four horses, two horses with two packs on each horse in front, and four other horses.” I think she said “running in front of them bare-back,” and could not say whether they belonged to them or not. The horses seemed exhausted, and the men were forcing the horses from the township before daylight as well as they could, but they did not seem to get away very well from the town.

17416. When you reported this to Mr. Brooke Smith, what did he do after that?—I also stated that I traced the horses down the creek where she stated before I returned.

17417. Which way were the horses going?—In the direction of the Warby Ranges. They came underneath the One-mile railway bridge. The creek was bank high. They broke the bank the other side getting over going towards Yarrawonga, at the back of the Wangaratta Hospital. The son also stated he heard them pass over the wooden bridge, which was the shortest way to the Warby Ranges. He stopped outside the house, and he heard the horses galloping over this bridge.

17418. When you came back with all this information to Mr. Inspector Smith, what did he do next?—He said something about sending a telegram about half-past eight, about the office being open then.

17419. What men were there in Wangaratta at that time?—Three foot men, and three mounted men, besides Mr. Smith.

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17420. Did anything occur with reference to that on the 4th?—Constable Walsh, who was the senior constable on the station, told me and Constable Hayes to go down there after breakfast, about half-past nine, and to see if we could ascertain any more. We went down, and learned and told him there was nothing more reliable than that they passed there; that they believed that no other persons would have passed there and evade the railway crossing who cared for their lives, for the railway crossing was quite convenient.

17421. They could have crossed the railway at some other point without running the risk of going through the creek?—Yes, there was the railway crossing.

17422. That confirmed in your mind that those were some persons endeavoring to evade the public eye?—Yes.

17423. Were you aware whether any of the Kelly gang knew of that crossing—the difficulty of getting along it?—I did not know at the time that Steve Hart was a member of the gang. If I had, I would have known he was a resident of the place, and would have known on that account.

17424. When you returned did you hear of anything further having taken place?—I made enquiries of a woman on the way to this bridge, and she told me she heard the dogs bark about half-past two in the morning; and I could see I was only making things worse by making any further enquiries, and as I could do nothing alone, I returned back, and stated there was nothing more connected, but that they had passed there.

17425. What did Mr. Brooke Smith do then?—Informed Walsh the second time. He was senior to me.

17426. What did he say?—I cannot say whether he went to Mr. Smith or not.

17427. What did Walsh say?—I cannot say what he said at the time.

17428. Did he agree with you it was likely to be the outlaws?—I could not say at what time.

17429. Were you in Wangaratta on the 5th?—I was.

17430. Was there any talk about the pursuit on the 5th?—There were no steps taken on the 5th.

17431. When were the first steps taken?—The party left about 12.30 p.m. on the 6th, under the command of Inspector Smith, about mid-day.

17432. In what direction?—In the direction of Peechelba, towards the Warby Ranges. The party was divided into two when we went there. I was one of the party.

17433. Which way did you go?—Detective Kennedy was appointed in charge of one half of the party, and I went with him, to Lake Rowan; and the other party went to Yarrawonga.

17434. You were with the party that got the tracks to follow them up?—No.

17435. Do you remember the names of the party that went to Yarrawonga?—Senior-Constable Johnson was one, and the other Dixon.

17436. And Mr. Brooke Smith took charge of that?—Yes.

17437. Who was the senior officer in charge at Wangaratta on the 4th?—Inspector Smith.

17438. Any constable would have to take orders from him during the time of his presence in Wangaratta?—Yes.

17439. Come back to the message you brought from Senior-Constable Steele—did he express a strong opinion that that was the outlaws?—To the best of my belief he did. I would not swear it.

17440. Senior-Constable Steele did not go to the spot?—No, he did not leave the train.

17441. After you had seen the tracks, was it your impression those were the outlaws?—It was.

17442. Did you express your surprise at no action being taken in pursuing them?—I did.

Michael Twomey,  
*continued,*  
8th Sept. 1881.

17443. To whom?—To my comrades on the station. In fact, I was disgusted after my night's work. I was wet to the skin, and no steps taken after that.

17444. What was Mr. Smith's reply on your return?—He spoke something about the telegraph office at half-past eight to send a message.

17445. He did not then indicate any action to be taken beyond that?—No.

17446. Can you tell us of your own memory where Mr. Smith was on the 3rd?—He came into Wangaratta on the 1st November 1878.

17447. Was he there on the 2nd and 3rd, and until the 6th?—Yes, he was. On his arrival at Wangaratta, I informed him that there was information that the gang were on the Wodonga flats, so he asked me to go to the railway station to get a truck ready to convey the horses by the next train the nearest way to the flats. We boxed the horses and went by the next train as far as Chiltern. There was a telegram there awaiting him—and it instructed Mr. Smith and his men to remain at Wangaratta, and that Sergeant Harkin and Constable Twomey were to proceed to the Wodonga flats and to assist Kennedy and his party there.

17448. You are quite certain on that point, that between the 1st and the 6th of the month the Inspector was in Wangaratta, and did not leave it on any special duty?—No; he did not go outside the precincts of the town except to Chiltern. He went on the 1st, and returned then after two hours and a half.

17449. With that exception, was he away from Wangaratta from the 1st to the 6th?—No.

17450. We have it in Sergeant Steele's evidence (question No. 8863)—"I sent up word by a constable to tell him that it was undoubtedly the outlaws, that Steve Hart had piloted them over the bridge; and I added, 'Start at four in the morning, and you are bound to catch them on the Warby Ranges'"—did Steele send that message?—No; I think it would be a very strange thing for him to say such a thing. If he thought they were the gang, why did not he follow them?

17451. What did he say when you said they were the gang?—He referred me to Mr. Brooke Smith.

17452. Did he say anything about Steve Hart?—I do not remember his saying a word about those parties.

17453. *By the Commission (to Mr. Brooke Smith).*—Do you desire to put any questions to the witness?—No, I believe he is a perfectly straightforward man, and knows what he did.

*The witness withdrew.*

*Adjourned to to-morrow at Eleven o'clock.*

POLICE.

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FRIDAY, 9TH SEPTEMBER 1881.

*Present:*

G. R. FINCHAM, Esq., M.L.A., in the Chair;

J. Gibb, Esq., M.L.A.,

E. J. Dixon, Esq., J.P.

The Hon. F. Longmore, M.L.A.

Brooke Smith further examined.

Brooke Smith,  
9th Sept. 1881.

*The Witness.*—I am suffering so severely from inflamed eyes that I can positively hardly see; and wish to ask for an adjournment of my examination. I will get a certificate from Dr. Bowen to-day. Since I came to Melbourne, the suffering has greatly increased.

*The Chairman* mentioned that Mr. Smith had had long notice of the intention of the Commission to examine him.

17454. *By the Commission.*—And to-day was fixed specially, in order to have the opportunity of taking your evidence and then considering the mass of evidence which has been given up to the present time. Therefore, you will see, it is extremely inconvenient?—I am very sorry for that; but I am in actual pain, and can produce a certificate to show I am not fit to give evidence.

17455. The adjournment yesterday was to give you an opportunity of clearing up the points referred to yesterday.

*The Witness.*—Then I will withdraw my application, in deference to the wish of the Commission. Will you allow me to look at that return, quoted from yesterday, of the 9th November—Wangaratta.—[*same was handed to the witness.*]—I am not able to controvert that return.

17456. *By the Commission.*—You accept that return as true?—Yes, I do.

17457. Then the statement you made last night—that the reason the party did not start in pursuit of the Keilys before the middle of the day was in consequence of your exhaustion and fatigue, caused by forty-eight hours' work—must have been a statement that was untrue?—No; I do not say that at all. The exact date of this occurrence was on the 27th, when I got the news; and I went down to Wangaratta, as I mentioned.

17458. Do you adhere to the statement you made, last night, to the Commission—that the reason you did not start at an earlier hour was in consequence of your inability through the exhaustion of forty-eight hours previous?—That is my recollection. I can say no more than that.

17459. Now you say you accept those sheets as the correct report of the occupation of those days?—

For the simple reason that I know the persons who signed them; and, I presume, they must be straight forward. Part of this one is written by Mullane. How he got writing Wangaratta sheets from Beechworth I cannot make out.

17460. Do you take exception to the return?—No. My evidence to the Commission is as far as my recollection goes.

17461. As a matter of fact those records prove that you were in Wangaratta four or five consecutive days, and had not been subject to any special fatigue, and apparently there was no excuse for not starting at the earliest moment?—I believe the exact time I lost was one whole day.

17462. How can you reconcile that with the statement that those records are true—which prove you were there for the five days?—I have not the book, and I know I went up once as far as Chiltern.

17463. That is admitted, that on the first of those days you went as far as Chiltern and back?—Yes, I was ordered back.

17464. Irrespective of that there are four other days that you can give no account of how they were occupied?—I confess I do not remember.

17465. Then the only inference the Commission can derive is that you, from circumstances best known to yourself, neglected to proceed with that despatch which you as an officer should have displayed?—I am under a very unfortunate position with regard to one thing—the time I said I was so knocked up. The gentleman I consulted was Di. Hutton, and he is in England now. His instructions to me were to lie down and keep still. Those were his very instructions.

17466. You made the statement yesterday that you yourself went down to the bridge, and that you could not discover any traces of the tracks?—I went down to both bridges and could not see any sign of the tracks, and I did not believe they went under there.

17467. I will just read you a little bit of Sergeant Steele's evidence—"Mr. Sadleir told me that Mr. Brooke Smith was at Wangaratta with a party of men, and that if there was anything in it I could send word to him and then go on. I arrived at Wangaratta at one a.m. In the morning I saw Constable Twomey; he met me at the railway platform at Wangaratta. I asked him if this rumour was true that I heard about the men passing through. He said that they had seen the tracks; he had just been down at the back of the hospital to the One-mile bridge, and there were the tracks of the horses right enough there, and that the boy saw the men driving pack-horses at four o'clock in the morning—just at grey in the morning." You see that Sergeant Steele here gives the impression to the Commission that you had a conversation with him on this particular subject, and your information was that you had been down and seen the tracks?—That must have been subsequent to anything at the time, but I do not remember what occurred to me in the middle of the night. If Twomey came to me then I can only say I do not remember it. I see here Mr. Nicolson authorizes me on 9th November by instructions to proceed—

17468. In question No. 8863—"Had there not been a party of police at Wangaratta I would have taken the responsibility on myself, but Mr. Smith was there with a large party of men at the time, and I sent up word by a constable to tell him that it was undoubtedly the outlaws, that Steve Hart had piloted them over the bridge, and I added, 'Start at four in the morning and you are bound to catch them on the Warby Ranges'?—All I can say is I never heard a word of it, and those are things a man could not forget, he would be too anxious.

17469. Do you positively assert now that you have no recollection of having yourself gone down to the bridge and seen no traces of those men?—I am perfectly certain that there were no traces of any kind or sort, and I went to both bridges, and I think the person I took with me is still alive and up there.

17470. You were here when Constable Twomey gave his evidence last night?—Yes.

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17471. You stated at the conclusion of his evidence that he was a man thoroughly reliable and whose word might be believed?—That is true.

17472. His statement was most emphatic on that particular that he himself went down, discovered the traces there, reported the matter to you, and that 210 action was taken. How can you reconcile that statement with the one just made?—I do not know whether he knows that action was taken or not. At the time I was informed of this affair by, I think, Constable Walsh, I had no party.

17473. Those sheets show otherwise?—I was not in command of that party; the party was taken away from me.

17474. The sheets show those men were at Wangaratta?—But I had no control; I could not take parties out like that.

17475. Why?—Because Mr. Nicolson was in charge.

17476. Did not your superior officer expect you, being the officer there, to pursue the gang in such a case?—I say most distinctly I know I would not take a party out without leave.

17477. Even though you knew the desperadoes had just passed there?—I cannot help that, I could not do it, I would if I was in my own district.

17478. Do you remember Constable Twomey's statement about the tracks?—I cannot, but I did not see the tracks when I went there.

Brooke Smith,  
*continued,*  
9th Sept. 1881.

17479. Under whose instructions did you go in the search party on the 6th?—Mr. Nicolson's.

17480. By verbal instructions?—Yes, this is the first written order I received dated the 9th.

17481. By whose instructions did you start on the 6th?—To Yarrawonga, by Mr. Nicolson's.

17482. By written instructions?—Verbal instructions.

17483. Then the statements made by Constable Twomey and by Sergeant Steele that those tracks were seen by several persons you do not believe—are we to understand that?—The person may be a very much superior tracker to myself. I was travelling along with Senior-Constable Johnson and Dixon, and they saw tracks that I could not see at all, I could see no marks whatever.

17484. Did you see Mrs. Delaney yourself?—No.

17485. Did you see the boy?—I did not.

17486. Did you treat the information so coolly as not yourself to make enquiry of the persons who had given it?—I did not believe it, I cannot say any more than that. It might have been an error and it might not, but I do not believe it now.

17487. You have read the evidence of Sergeant Steele on this matter?—No, I have not, I have only seen Senior-Constable Johnson's.

17488. Sergeant Steele makes a statement to this effect, that on his way to Rat's Castle Twomey saw him at the station, told him that four men had crossed under the bridge some short time before, and that he told Twomey to inform Mr. Brooke Smith and for him to take action. Do you think that Sergeant Steele's instructions were so imperative but that he ought to have taken action in the matter rather than leave it to you, who had three foot police and three mounted men?—Certainly. If he was aware of it he ought to have gone himself.

17489. He was in a better position to follow those men than you were?—Unquestionably he was.

17490. Although Walsh informed you of this statement made by the woman and her son that the men had crossed under the bridge. Were you aware that Twomey was strongly impressed that they were the outlaws?—I was not; I did not know about Delaney and son. I was told by Walsh about a person living in a brick house by the bridge.

17491. Did you at any time send for Twomey, who had received the information, to obtain his impression on the matter?—I might have done so. I cannot remember it.

17492. At any rate you treated the information as being unreliable?—I did.

17493. And you took no action?—Only to see if I could see the tracks.

17494. How long have you been in the service?—Since the 5th November 1852.

17495. As what did you join?—As cadet.

17496. At what salary?—I think 10s. a day.

17497. What are you receiving now?—I receive inspector's salary, £300, less £10, knocked off for guarantee.

17498. Do you receive anything else?—Quarters and groom allowance.

17499. What does that amount to?—£70 for quarters, and £40 for groom allowance.

17500. Are you married?—No, a single man.

17501. With the £10 knocked off, it makes your salary now £400 a year?—Yes.

17502. What age are you?—Forty-nine next April. I joined when I was a little over seventeen. I was appointed by Mr. Latrobe under Mr. Sturt.

17503. What retiring allowance would you be able to demand of the State?—I will be entitled to a pension in six years.

17504. And then how much would you be entitled to?—I must tell you I left the department in 1857 after an accident I had and came back in 1858—was re-appointed after eighteen months out. I am not certain, but I believe my allowance would date from the time I was re-appointed. I am not sure.

17505. Had your service been continuous, and you had now arrived at the age of fifty-five, what amount would be the retiring allowance?—About £200.

17506. Is there any special provision made for an officer when called upon to retire before that age in consequence of ill-health?—There is a gratuity, not a pension.

17507. A lump sum?—Yes, a very small sum—a month for every year's service. I might remind you that it was proposed that fifty years should be the retiring time, but it is not so, and I have done thirty years' service now.

17508. You have been suffering for some time?—I have a broken collar-bone now.

17509. If you were compelled now from this incapacity to retire from the service, would the gratuity enable you to spend your days with ease and comfort?—I cannot say that; I have means of my own, but they have only recently come. If the Government could see its way to give me a pension, I would very willingly accept it.

17510. Will you state frankly—you say if the Government were to do that: would you be kind enough to tell us, as you have not arrived at the age you are entitled to a pension, what amount you should receive if you went now?—I would leave that to an actuary, and take it according to age.

Brooke Smith,  
*continued,*  
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17511. I refer to a gratuity?—I think it is nearly £600.

17512. In lieu of that what amount would be satisfactory to you?—I would take £180 a year, what I began with.

17513. Taking everything into consideration, and seeing you cannot claim a pension for six years if £100 was offered you would you not accept it?—I would rather have £150.

17514. You said just now you did not apply to the Delaneys yourself with regard to the information?—I do not remember the name of Delaney at all in the matter. I will tell the whole thing if you like.

17515. Here is an official document of yours, in which you say, “A youth (Delaney) states his mother called him up at 4 a.m. yesterday morning to see if his horse was being taken away. He looked out and saw four mounted men, with hobbles on saddles, driving several horses at a rapid pace through One-mile Creek towards Peechelba road; no description can be given; may have gone to Warby Ranges.—4th November 1878”?—I now remember. The reason why I did not put any faith in that boy’s statement was that, if anybody knew those four outlaws well, he did, and he could not tell me who they were.

17516. I understood you to say just now you did not consult with him?—I did not consult Mrs. Delaney, but I had a conversation with the lad, and Twomey, and Walsh; in fact I sent Walsh down to make a special enquiry as to who they were. I asked of the lad who they were—if he knew them, and he said he did not know them; and I happened to know he knew all the outlaws well.

17517. You inferred from that they could not be the outlaws?—I did. In fact I did not believe four men crossed there at all.

17518. If they did, why should they cross under there?—I did not see why they should have gone through the town at all; they could have gone to another bridge without being seen at all, and in fact they could have gone under that other bridge.

17519. You did not leave in consequence of not having received instructions?—Yes, I had no party.

17520. You admit there were three mounted men there?—Not under me—they were not mine.

17521. Would those men have been justified in acting without instructions from you?—If they had seen the persons of that description they would have been perfectly justified to have gone on at once.

17522. If your superior officer were not there, and you had information which led you to suppose that they were the outlaws or men bearing their description, do you mean the Commission to understand that you would not have been justified in going in pursuit without orders from your superior?—I certainly would not have left the station without that.

17523. Both Sergeant Steele and Constable Johnson, in speaking of the tracks, observed that the ground was so very soft that it was not easy for the marks to be obliterated. Is it not strange that all those men concur in their testimony as to the condition of the ground, and you yet could not discover the marks?—I never knew that Constable Johnson or Sergeant Steele were down there examining the tracks.

17524. It is proved that the tracks were seen days after—the hoofs of horses?—I did not see it. The tracks spread nearly the width of this room on that occasion—from Lake Rowan to the Warby Ranges. I thought there were five horses, shortly before the Mansfield murders, when I was in charge of the Beechworth district. The tracks subsequently joined together. I came down to Wangaratta, and took out this party. The reason why I stated to you I would not take a party out without leave was simply that Mr. Nicolson arrived in the district. And here is a letter that will show what I mean, but I do not know whether it should be read.

17525. You had better read it?—”30th October 1878, Myrtleford. My dear Brooke Smith,—I arrived at Wangaratta yesterday evening, and was surprised to find you gone. I followed you here to learn your object and plans, because I have been placed in charge of this case, and have been made responsible for all steps taken and result. I must return to Wangaratta and to Benalla, if possible, to-night. I cannot ascertain your object and plans, excepting that I find your men are not supplied with hobbles, billy cans, &c., which show that you do not anticipate camping out. Take care of your men, don’t expose them without all due precaution. I am sorry you have not more rifles. If ill-prepared for a mountain scouring expedition, rather return soon quietly than proceed beyond reach of supplies, and re-organize again when your party may have something tangible to work upon, which I humbly trust to be able to obtain for them. I intended you, when I was prepared, to despatch a party to scour between the North-Eastern road and the Murray River. Three parties besides yours are now out under my knowledge. Communicate with me by telegraph at every opportunity. Don’t waste your strength fruitlessly until you get further orders. Ever yours, C. H. NICOLSON. Benalla my head-quarters. When you return to Wangaratta don’t dismiss men to their stations without consulting me. C. H. N.”

17526. Is there anything in that document to prevent your starting on information such as that which has been given?—I think so.

17527. Which part of the letter?—Particularly the last part. I could not take a party out under those instructions.

17528. Does not he say there that he hopes that you may have something tangible on which you may work?—Yes.

17529. Do you think the information we have referred to to-day was not a sufficiently tangible thing to start on?—I told you before that I did not believe the information.

17530. Was it in consequence of the written instructions that you received from Mr. Nicolson that you have now referred to, or your unbelief in the information supplied to you, that you did not proceed on

those tracks?—I did not positively put any faith in the statements.

17531. Then it was not in consequence of your being restricted by instructions from Mr. Nicolson?—No, certainly not.

17532. Suppose the information had been conveyed to you, beyond a question of doubt, that those four men were the outlaws, would you have been prevented from starting by the instructions in that letter?—I think I would have been running a considerable risk, but I should have done so.

17533. If you had been so impressed that those four men were the outlaws, would you have been justified in going out with the men under your charge in pursuit, having those instructions before you?—I should have done so, I do not know whether I should have been justified.

17534. Then the instructions of Mr. Nicolson were not of such a character that you were not called upon to move in pursuit if you had reliable information?—I do not think so, I should have done so. Here is another communication from Mr. Nicolson:—"Wangaratta, Saturday, 11 p.m., 9 Nov. 1878.—Memo.—Inspector Smith and party will proceed tracking to-morrow no further than '*Eleven Mile creek*,' should the

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tracks lead in that direction. He may then go quietly to Greta to feed horses, &c., first sending here to me for further orders.—C. H. NICOLSON Inspctg. Supt. Look out by the way for the Government horses.—C. H. N."

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*continued.*  
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17535. Do you wish to make any other statement at all?—No. I could speak of the earlier search for the Kellys before they shot Fitzpatrick. I have all the papers here, but the enquiry is not turning on that point.

17536. After you finally returned with the search party with Johnson and others, where were you stationed after that?—I went back to Beechworth.

17537. Can you remember the date you left Wangaratta for Beechworth, about?—I should think it must be about the 12th November.

17538. Under whose instructions did you return to Beechworth?—Superintendent Sadleir's.

17539. Had you a written letter?—No, Mr. Sadleir's verbal instruction to go up and prosecute. I had lived in Beechworth till I left it on the 22nd of February 1880.

17540. What was your position in Beechworth when you resumed duty there?—Inspector of the district, not the officer in charge, but travelling inspector—the same as I am now.

17541. And then you were removed to Horsham?—Yes.

17542. And what are you there?—The inspector of the district.

17543. What sized district have you to inspect now?—I commence at a place called Murtoa. One journey alone is 70 miles, and another—Donald—is 100 miles, beyond Gnill; and I go right away to Bordertown. My head-quarters are at Horsham.

17544. How frequently do you visit your outlying districts?—A little while ago I used to do it monthly, but it was considered too short; and some places I go to once in two months, and two places once in three months, and other places once a month.

17545. Do you enter in a book your departure and arrival and duty?—Yes, and that is supplied to Mr. Nicholas at Stawell.

17546. A copy of that is kept in the department?—Yes.

17547. That is to say, taking January—say on the 5th January you leave Horsham, and it takes you how long after you have inspected before you return?—About ten days.

17548. What do you do then?—I write my reports from the stations I visit generally, and, if not, when I return.

17549. Then the only thing that will be in existence afterwards will be the report?—Yes, and my entry in the occurrence-book of the station.

17550. Suppose it takes you ten days for the first visit, how long do you remain in Horsham before you visit again?—that depends. There may be some crime break out, and I have to go and enquire into that.

17551. How long would you ordinarily remain in Horsham?—I would start again the following month.

17552. What duties would you be performing between the time of your return and starting again?—"General supervision" is what the regulations tell us on the station in which we reside, and in the town you have to wear your uniform and go about amongst the people and gain as much information as you can, without annoying people.

17553. How many visits would you have to take in the twelve months?—I have nine stations, and I visit six of them every month, and two of them every two months, and one every three months—Donald, which is going to be taken away.

17554. The Horsham district is looked upon as a quiet settled district?—It is very quiet, very little crime.

17555. Not a district like the North-Eastern?—Nothing like that. The North-Eastern is the hardest district I was ever in. Horsham is one of the quietest in the colony.

17556. Can you account for the fact of its being so quiet—is it in consequence of the vigilance of the officers?—There is a very good body of police there, but I think there is no criminality amongst the population. The criminality in the North-Eastern district has been notorious the last thirty years while I have been in the department.

17557. You were a member of the Victorian Police Force before Mr. Nicolson?—I joined on the 5th November 1872, and he in December.

17558. You are senior to Mr. Nicolson?—Yes.

17559. Can you account for the fact that you are only inspector and Mr. Nicolson in a much higher grade?—I do not grudge it to him at all, I think he deserves it. I can tell you something. I have been appointed acting superintendent four times over, and never got the district afterwards. Captain Standish appointed me.

17560. Mr. Nicolson is very much above you in position in the force, and you joined before him. How can you account for that sort of thing?—Mr. Nicolson accepted a position which I was not suited for, which brought him very much to the fore—officer in charge of detectives. I was in that force a short time, and it did not suit me, and it was there he gained his advantage, and I am very glad to think he did do so. Mr. Hare is much junior to me as far as service goes.

17561. Do you remember starting out on the 6th?—Yes.

17562. Did you receive any positive instructions then from Mr. Nicolson as to the course you were to take?—Yes.

17563. What were those instructions?—As far as I remember, there was a party of about twenty-two, and we were to go to Peechelba, thirty-two miles from Wangaratta, and we were to divide there into two parties, and I was to go back and meet the other party at Lake Rowan, and I did so.

17564. Did he instruct you to return to Wangaratta?—I do not remember that. We had no food.

17565. Did he instruct you to remain at the place where the tracks were?—I got within six miles of Wangaratta, and I came in to get food and to report.

17566. In question No. 412, Mr. Nicolson says, “The next thing that occurred was about the 12th of November. I had come down from Beechworth to Wangaratta, and a messenger came in at night to tell me that a party of police under Sub-Inspector Brook Smith had traced the outlaws from Lake Rowan and Ryan’s from along the Wallaby ranges, and had tracked them with blackfellows, and had recovered one of

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the police horses, which had been taken from the murdered police by the outlaws. I sent back word to them (they were undecided whether to come into Wangaratta or to remain where they were) to remain where they were, and by all means to keep the fact of their finding the horse secret. An hour or two afterwards I heard a party of horsemen riding into Wangaratta in the dark, about eight o’clock in the evening, and leading a horse.” Having had your memory refreshed, do you remember receiving positive instructions from Mr. Nicolson to remain at this point?—I do not.

17567. Do you remember returning to Wangaratta?—I do.

17568. Were you ordered to Beechworth immediately after this?—I think I was. The following day, or the day after, I was.

17569. Do you know what the reason was?—No; nothing was ever said to me. I was always on good terms with all the officers up there.

17570. Are you sure your removal was not an expression of dissatisfaction on the part of your superior officer, in taking the course you did in disobeying his orders?—He never informed me I disobeyed his orders.

17571. Did any constables object to return to Wangaratta when you gave the orders?—No. If I remember right, I was asked to go into Wangaratta by Constable Johnson.

17572. Did the men, knowing the instructions you had received from Mr. Nicolson, to remain at this position, manifest or express dissatisfaction at their return?—Not at their return. Some of them expressed some dissatisfaction at something on the 9th. I had occasion to remain behind a little while; and I could not find the party that had gone up the ranges; and, to let them know my whereabouts, I fired a shot, and they got very excited. The firing a shot was what led to the murders at the Wombat, and, no doubt, they were a little alarmed.

17573. But Johnson led the Commission to believe that he strongly objected to your returning to Wangaratta on the night of the 8th?—He never said anything to me about it. He is a very excitable man, though a very good man.

17574. He obeyed your orders on that occasion, to return; and he said that he regretted he had obeyed the orders, he was so impressed they were then on the tracks of the outlaws, and, had they been in the charge of an officer who would have pursued them, they must have come up to them in a very short time. That is the impression from his evidence?—I can only say this—that I came into Wangaratta with the desire of meeting Mr. Nicolson and telling him the position we were in, as I considered that another party should have gone in a

different direction to meet us.

17575. Mr. Nicolson says (question No. 419), “What was the nature of the dissatisfaction?—The men were dissatisfied that they had not stayed there all night, and followed up those traces in the morning; they were very sanguine about the gang. They had found what appeared to be a ramrod made from the branch of a tree, and whittled; they picked this up—a very good substitute for a ramrod; they had very great confidence that they could follow it up and find something.” Do you remember that circumstance?— I do not. I remember finding some hobbles and a bit of stick; but I cannot say it was a ramrod.

17576. Do you not remember the men remonstrating against going back?—No, I do not. They did object when I stopped, on the morning of the 9th, at a certain place called the Orangery. I do not want to mention names.

17577. Was the reason you stopped of any importance?—That was the only time the men made remonstrance to me. I stopped behind with one constable, and, in following them up, I was conversing with Brien, to get some information; and I did not see the tracks. And I told the constable to fire a shot; and they, all of a sudden, got nervous and frightened; and I told them how the thing happened, and they seemed perfectly satisfied.

17578. Was this a matter of importance at the time?—I was just going up with Johnson to be shown by the man a supposed place where they had been hiding. He was going to show me that. I thought it so significant, the place being so close to Brien’s, that I stayed to have a conversation with Brien; and he told me the outlaws used to come to his house and get tea and orano

17579. How recently had they been there?—He did not tell me. I could not get that out of him. He was too experienced a man of that kind.

17580. Then what was the importance of the information?—Learning they had been down there. That was something to me I presume; either they had been in the habit of frequenting that place—

17581. Did you know before that he was a sympathizer of the Kellys?—I suspected him; I knew he was a friend of the Kellys.

17582. That information did not lead up to anything?—No; I think it did afterwards. I think a party of police went and stayed there some days.

17583. Was the remonstrance to you then that you delayed to stay with Brien?—No, about the shot. They thought we might have been so near the outlaws that that very thing might have brought them upon us. The delay was not more than fifteen minutes. The only other time they remonstrated with me was between Yarrawonga and Lake Rowan. I received certain information at Yarrawonga which caused me to travel very slow indeed to wait to meet the party under Kennedy, and the men thought I rode too slowly. Generally speaking, I do travel my horses very slowly.

17584. Your object was to gain time?—My object was simply to meet Kennedy as he came across the ranges from Peechelba to Lake Rowan.

17585. To strengthen the party in case you came on the Kellys?—No; I did think there was the least chance of that. The Murray was in a flood at the time, and that is what prevented them getting across.

17586. Had you any men fit to cope with the Kelly gang if you met them. What force would you have considered sufficient to go out with to attack the Kellys?—Not less than five.

17587. How many men had you?—In my first party six, and in my second nine and myself.

17588. Is there any other statement you wish to make?—No, I have no further statement to make.

17589. *By the Chairman (to Constable Twomey).*—Do you wish to ask Inspector Smith any questions?—No.

17590. Do any of the officers present wish to ask any questions?—[ the officers said “No.”]

*The witness withdrew.*

*Adjourned to Tuesday next at Two o’clock.*

TUESDAY, 20TH SEPTEMBER 1881.

*Present:*

The Hon. F. LONGMORE, M.L.A., in the Chair;

G. R. Fincham, Esq., M.L.A.,

G. W. Hall, Esq., M.L.A.,

J. Gibb, Esq., M.L.A.,

W. Anderson, Esq., M.L.A.,

E. J. Dixon, Esq., J.P.,

G. C. Levey, Esq., M.L.A.

*The Chairman* read a letter from Mrs. Nicolson, as follows:—“Kew, September 13th 1881. Gentlemen,—In reply to the Secretary’s letter of the 10th instant, I will state that I went to Beechworth on a visit, and while there naturally made some enquiries about the character of Sherritt, who was doing all he could to injure my husband. But, beyond a few enquiries, I did nothing else. I never got up a petition, or asked any person to sign one. I never saw Mr. Dodd, or authorized any person to see him, either on behalf of Mr.

Nicolson or myself. I have the honor to be, gentlemen, yours very truly—(signed)—L. NICOLSON. To the Chairman of the Royal Commission on Police.”

*The Chairman* also read the following affidavit from Mr. Dodd, J.P.:—“I, Matthew Dodd, of Beechworth, in the colony of Victoria, tanner and currier, do solemnly and sincerely declare that, referring to extract from John Sherritt’s letter, dated 3rd September 1881, John Sherritt called on me on the day mentioned and asked me to sign a petition in favor of his son. I told him that I heard there was a counter petition being got up against his son, and I stated I would not sign either. I may also state that no person called on me to sign the other. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury—(signed)—MATTHEW DODD. Declared at Beechworth, in the colony of Victoria, this fourteenth day of September, One thousand eight hundred and eighty-one, before me—(signed)—George Gammon, J.P.”

*The Chairman* also read the following affidavit from the elder Sherritt:—“I, John Sherritt, farmer, of Sheep Station Creek, Beechworth, in the colony of Victoria, do solemnly and sincerely declare that, on Thursday the 11th day of August 1881, I called on Mr. Matthew Dodd, J.P., and requested him to sign a character in favor of my son. He told me that he had been asked by a man to sign a counter petition. In answer to questions from me, he said the man that asked him lived outside the town, and that he was not a Government servant. I also asked H. A. Crawford to sign a character for my son, and he told me that he did not like to interfere in it. During the day I saw him again, and he drew my attention to Mr. Nicolson’s son, who was then passing, and said him and his mother had come up from Melbourne, and Mrs. Nicolson asked me to sign a paper against your son. He said he found no fault with the Sherritt family, and he would not sign for her. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury —JOHN SHERRITT Declared at Beechworth, in the colony of Victoria, this fourteenth day of September, One thousand eight hundred and eighty-one, before me—Jno. Turner, J.P.”

Thomas Curnow sworn and examined.

17591. *By the Commission.*—What are you?—State school teacher.

17592. Where?—Ballarat.

17593. Were you stationed at Glenrowan, as teacher, in 1880?—I was.

17594. You remember the circumstance of the Kellys shutting up the prisoners in Mrs. Jones’s hotel?—I do.

17595. You were one of them?—I was.

17596. If you have any statement to make with reference to that we will be glad to hear it?—Several months ago I wrote a narrative of the part I took in the Glenrowan tragedy, as closely as I could then recollect it, and I would desire now to read that to the Commission.

17597. Will you do so?—[*The witness read the same, as follows:*]—“On Sunday morning, 27th June 1880, I determined to take my wife, sister, and child out for a drive along the road from Glenrowan to Greta. We left the school in a buggy at about eleven o’clock in the morning, accompanied by David Mortimer, my brother-in-law, who rode on horseback. When we got in sight of Mrs. Jones’s hotel, and opposite the railway crossing, through which we intended to pass, we noticed a number of people about Jones’s hotel, and at the crossing. I said, ‘Mrs. Jones must be dead; she has been very ill.’ As we got near the hotel, a man ran out of it towards Mrs. Jones’s stable, distant about twenty yards from the hotel. I drove past the hotel to the crossing, and, seeing Mr. Stanistreet, asked him, ‘What’s the matter?’ He replied, ‘The Kellys are here; you can’t go through.’ I thought he was joking, and made a motion to drive through the gates, when a man on horseback, who blocked up the crossing and was talking to a young man whom I knew to be named Delaney, wheeled round his horse and said to me, ‘Who are you?’ I saw then that he had revolvers in his belt, and was convinced of the truth of Mr. Stanistreet’s statement that the Kellys were there. I replied that I was the teacher at Glenrowan. He said, ‘Oh! you are the schoolmaster here, are you, and who are those?’ pointing to my wife, sister, and brother-in-law. I told him. He then said, ‘Where are you going?’ I answered, ‘Out for a drive.’ He then said, ‘I am sorry, but I must detain you,’ and directed us to get out of the buggy, which we did. He then turned again to Delaney and resumed his conversation with him. I afterwards found that the man who had addressed me was Ned Kelly, the outlaw. I noticed another armed man near Ned Kelly, and I afterwards found that he was Byrne. When we got out of the buggy I led the horse off from the crossing and tied him to the railway fence alongside, directing Mrs. and Miss Curnow to go into Mr. Stanistreet’s house, which they did. As soon as I had fastened the horse, I joined Mr. and Mrs. Stanistreet and others, who I was told had been taken prisoners by the gang, and was informed by them that Glenrowan had been stuck up since three o’clock that morning, and that the gang had forced Reardon and others to tear up part of the railway line beyond the station, with the purpose of wrecking a special train of police and black trackers, which the outlaws said would pass through Glenrowan. Some person then—I believe it was one of the boys who had been bailed up by the gang—told me that the Kellys had been at Beechworth during the previous night, and had shot several police. After some further

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conversation, we all listened to what Ned Kelly was saying to Delaney. The outlaw was accusing Delaney of having some short time previous ridden a horse from near Greta into Wangaratta to oblige a policeman, and of having sought admission into the police force. He threatened to shoot Delaney for this, and pointed a revolver at him several times. Ned Kelly declared to all of us who were listening to him that he would have the life of any one who aided the police in any way, or who even showed a friendly feeling for them, and declared that he could and would find them out. He said that a law was made rendering it a crime for any one to help them (the outlaws), and that he would make it a crime against the Kelly gang for any one to aid the police. The women, who were listening to what Kelly was saying, asked him to let Delaney off. After keeping Delaney in a state of extreme terror for about half an hour the outlaw made him promise never again to seek admission into the police force, and finally said, 'I forgive you this time; but mind you be careful for the future.' Byrne then produced a bottle of brandy, and offered some in a tumbler to all adults there. Some accepted it. Byrne drank some himself, and gave Delaney two-thirds of a tumbler, which he drank. Ned Kelly refused to take any, and directed some of his boy prisoners to take my horse and buggy into Mrs. Jones's yard, which they did. Ned Kelly and Byrne then went from the railway crossing to Mrs. Jones's hotel, preceded by the majority of their male prisoners, and I was with them. When we reached Mrs. Jones's there were, including those who had just been taken over, about fifty persons in and about the hotel, all of whom appeared to be prisoners of the gang. We were allowed to go about in the hotel, excepting one room, which the outlaws used, and of which they kept the key, and we were allowed outside, but were forbidden to leave the premises. Dan Kelly, a short time after I entered the hotel, asked me to have a drink, and I drank with him at the bar. I said to him that I had been told that they had been at Beechworth during the previous night, and had shot several police. I asked him whether it was true. He replied that they had been near Beechworth last night, and had done 'some shooting,' and that they had burned the 'b——s out,' alluding to police. Byrne came in the bar, and, looking at Dan Kelly's glass, said, 'Be careful, old man.' Dan Kelly replied, 'All right,' and poured water into his brandy. While talking with Byrne and Dan Kelly, I expressed surprise at Glenrowan being stuck up by them, and they said that they had come to Glenrowan in order to wreck a special train of inspectors, police, and black trackers, which would pass through Glenrowan for Beechworth, to take up their trail from there. They said that they had ridden hard across country, often being up to the saddle-girths in water, to get to Glenrowan, and that they had had the line torn up at a dangerous part, and were going to send the train and its occupants to h—l. About one o'clock I was standing in the yard of Jones' hotel, thinking of the intentions of the gang, and I keenly felt that it was my duty to do anything that I could to prevent the outrage which the outlaws had planned from being accomplished, and I determined that I would try to do so. While standing in the yard Dan Kelly came out of the hotel and asked me to go inside and have a dance. I said that I could not dance in the boots which I had on. Ned Kelly then came out of the hotel, and hearing me object to dance because of my boots, said, 'Come on; never mind your boots.' I said to him that it was awkward to me to dance in those boots, as I was lame, but that I would dance with pleasure if he would go to the school with me to get a pair of dancing boots. It flashed across my mind that, in passing the Glenrowan police barracks to reach my house, Bracken, the trooper stationed there, might see us and would be able to give an alarm. I knew that Bracken had been stationed at Greta, and felt sure that he would recognize Ned Kelly. He (Ned Kelly) said he would go, and we were getting ready, when Dan Kelly interfered, and said that Ned had better stay behind, and let him or Byrne go with me. Some one else also urged Ned Kelly not to go away, and said that my house was near the police barracks. Ned Kelly turned to me, and asked if it was. I said, 'Yes; we shall have to pass the barracks. I had forgotten that.' He then said that we would not go, and I went into the hotel, and danced with Dan Kelly. After we had finished dancing, Ned Kelly said that he would go down to the police barracks and bring Bracken and Reynolds, the postmaster, up to Jones's. I laughed and said to him that I would rather than a hundred pounds that he would, and asked to be allowed to accompany him when he went, and to take home my wife, sister, and child. He gave me no reply. The intention to do something to baffle the murderous designs of the gang grew on me, and I resolved to do my utmost to gain the confidence of the outlaws, and to make them believe me to be a sympathizer with them. I saw clearly that unless I succeeded in doing this I should not be able to get their permission to go home with my wife, child, and sister, and consequently should not be able to do anything to prevent the destruction of the special train and its occupants by giving information to the police in Benalla, which I purposed doing if I could induce the outlaws to allow me and mine to go home. The outlaws kept a very sharp watch on their prisoners without seeming to do so. About three o'clock in the afternoon Ned and Dan Kelly caused several of their prisoners to engage in jumping, and in the hop, step, and jump. Ned Kelly joined with them, and used a revolver in each hand as weights. After the jumping was concluded, I left Jones's and went to Mr. Stanistreet's house to see my wife and sister. They came out to meet me, and noticing the red lama scarf wrapped round my sister caused me to think, 'What a splendid danger signal that would make.' The idea of stopping the train by means of it then entered my mind, and made me still more anxious for liberty. I went with my wife and sister into Mr. Stanistreet's house, and saw Hart lying down on a sofa. He had three loaded guns by his side. He complained to me of having swollen and painful feet, caused, he said, by not having had his boots off for several days and nights. I advised him to bathe them in hot water, and requested it for him. It was brought, and he did so. Shortly after Mr. Stanistreet and I were walking about at the back of his house, and Mr. Stanistreet expressed a wish that an alarm could be given. Mrs. Stanistreet came out to us, and I asked them if they thought it would be wrong to break a promise given to the outlaws. They said that it would not. I then asked Mr. Stanistreet had the outlaws taken his revolver from him. He said they had not. I saw what use this fact could, be made of by me in my efforts to gain the confidence of the outlaws, and to make them believe that they could safely allow me to go home. I said to Mr. and Mrs. Stanistreet that we had better go inside, for I

was afraid of being suspected by the gang if they saw us in private conversation, and we did so. I do not know whether Mr. or Mrs. Stanistreet suspected the use I intended making of my liberty if I got it; but afterwards I heard Mrs. Stanistreet saying to Ned Kelly that he ought to allow me to take my sister, who was in delicate health, home. I was sitting in Mr. Stanistreet's when Dan Kelly came in enquiring for a parcel in a small bag which he had lost. He seemed very anxious about it, and examined the house throughout in search of it. He could not find it, and went to McDonald's hotel to see if it was there. He came back unsuccessful, and I went to Jones's with him, and he searched there, but failed to find it. When he gave up searching

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for it, I requested him to tell Ned that I wanted to speak to him. I was near the door of Jones's kitchen then. He went into the hotel and brought Ned Kelly out, and I told him that Mr. Stanistreet possessed a loaded revolver from the Railway department and advised them for their safety to obtain it, as some one might get it and do them an injury. They thanked me, and I perceived that I had in a great measure obtained their confidence by telling them this. About dusk I heard Ned Kelly saying to Mrs. Jones (they were standing between the hotel and the kitchen, which was a detached building) that he was going down soon to the police barracks to capture Bracken, and that he was going to take her daughter down to call Bracken out. Mrs. Jones asked him not to take her. Ned Kelly said that he did not intend to shoot Bracken, and that her daughter must go. I advanced to them, and said to Ned Kelly that I thought it would be better for him to take Dave Mortimer, my brother-in-law, to call Bracken out, because Bracken knew his voice well, and by hearing it would suspect nothing. Ned Kelly, after a pause, said that he would do so. He then went to Mrs. Jones's stable, and I followed him, and asked would he allow me to take my party home when he went down for Bracken; and I assured him that he had no cause for fearing me, as I was with him heart and soul. He replied, 'I know that, and can see it,' and he acceded to my request. I went over to Mrs. Stanistreet's and brought my wife and sister to Mrs. Jones's, and took them into the kitchen. Ned Kelly said that we must wait till he was ready to go. I found, on going back to Jones's, that a log fire had been made on the Wangaratta side of the hotel yard, and that many of the prisoners of the gang were standing around it. It was then dark. Other prisoners were in the hotel, and the outlaws encouraged them to amuse themselves by playing cards. I waited with my wife and sister in Jones's kitchen for, I believe, two or three hours before Ned Kelly directed me to put my horse into the buggy. He and Byrne then went into the room which they had reserved for their own use. I drove to the front of Jones's hotel, and put my wife and sister and Alec Reynolds, who was about seven years of age, the son of the postmaster at Glenrowan, into the buggy. Ned Kelly directed me to take the little boy with us. We were kept waiting in front of the hotel about an hour. Ned Kelly then came to us on horseback, and told me to drive on. It was then, I believe, about ten o'clock. As we got into the road, I found that we were accompanied by Ned Kelly, Byrne, and my brother-in-law, each on horseback, and by a Mr. E. Reynolds and R. Gibbins on foot, both of whom resided with Mr. Reynolds, the Glenrowan postmaster. On the road down, Ned Kelly said that he was going to fill the ruts around with the fat carcasses of the police. The outlaws each had a light-colored overcoat on, and I was amazed at the bulky appearance which they presented. I had then no knowledge that the outlaws possessed iron armour. Each one carried a bundle in front of him, and in one hand a gun or a rifle. We reached the barracks, and were directed by Ned Kelly to halt about twenty yards distant from the front door of the barracks. Ned Kelly got off his horse and fastened him to a fence near, ordering my brother-in-law to do the same, and he did so. Kelly then ordered him to advance to the barracks door and knock, which he did. Ned Kelly got behind an angle of the walls, and levelled his rifle either at Dave Mortimer or at the door. No reply came to the knocking or calling, though they were often and loudly repeated at Ned Kelly's whispered command. When I saw Kelly level his rifle, I told my party to get out of the buggy, which they did, and I advanced to my horse's head, for I thought Kelly might fire. I was then about seven or eight yards from Kelly. No result being produced by either knocking or calling, Ned Kelly left his position and advanced to Byrne, directing me, in an undertone, to call Mortimer away, which I did, and he came Byrne, who had remained near us, and Ned Kelly then spoke to one another, and Kelly took Alec Reynolds, the postmaster's son, and Mr. E. Reynolds, and passed with them into Reynolds's yard. We neither saw nor heard anything for, I think, more than an hour, when Ned Kelly appeared, having Bracken, E. Reynolds, and Bracken's horse with him. Kelly stopped when he reached us, and ordered Bracken to mount the horse brought round, and Bracken did so. Ned Kelly put a halter on the horse, which he kept hold of, saying—'I can't trust you with the bridle, Bracken.' Bracken said to Ned Kelly that had he not been ill in bed all day he (Kelly) would not have taken him easily, and that if the horse he was on was what it used to be it would take more than Ned Kelly to keep him a prisoner. Ned Kelly and Byrne mounted their horses, and I and my party got into the buggy. It was then, I believe, between eleven and twelve o'clock. Ned Kelly then said that I could go home and take my party with me. He directed us to 'go quietly to bed, and not to dream too loud,' and intimated that if I acted otherwise we would get shot, as one of them would be down to our place during the night to see that we were all right. I then left them and drove home, distant from the barracks one or two hundred yards, leaving the outlaws and their captives ready to start back to the railway station. As soon as we were out of hearing of the outlaws, I announced to my wife and sister my intention to go to Benalla and give information as to the intentions and whereabouts of the

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outlaws. They both anxiously and earnestly opposed my purpose, saying that it was not at all likely that we should be allowed to come home unless some of the agents of the gang were watching; that I should not be able to reach Benalla, as I should be shot on the road by spies, and that, even if I succeeded, we should be hunted out and shot. While the discussion was going on, and supper was being got ready, I quietly prepared everything, including the red lama scarf, candle, and matches, to go to Benalla, intending to keep as close to the railway line as I could, in case of the special coming before I could reach there. I declared to my wife that I did not intend to go by the road—that I meant to keep as close to the line as possible in order to be safer. At last, my sister gave way, but my wife worked herself into such an excited and hysterical state that she declared that she would not leave the house—that if I would go she would stay there, and she, baby, and my sister would be murdered. I wanted to take them to my mother-in-law's farm, about one-third of a mile from our place, for safety while I was away. At length, Mrs. Curnow consented to go to her mother's to obtain advice, and, as we were momentarily expecting the promised visit from one of the gang, I left the doors unlocked, and wrote a note, leaving it on the table, stating that we were gone to Mrs. Mortimer's to obtain medicine, as Miss Curnow was taken ill. My sister wore her red lama scarf, at my request. When we got there Mrs. Curnow was exceedingly anxious to get home again and would not stay there, and we went back. I succeeded in persuading Mrs. Curnow to go to bed; and my sister and I told her I had given up my project. My sister engaged my wife's attention while I went out to harness my horse to go, for I could not rest, and felt that I must perform what was clearly my duty. I heard the train coming in the distance as I was harnessing the horse, and I immediately caught up the candle, scarf, and matches, and ran down the line to meet the train. I ran on until I got to where I could see straight before me along the line, and where those in the train would be able to see the danger signal for some distance. I then lit the candle

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and held it behind the red scarf. As the guard's van got opposite me I caught sight of the guard, who shouted 'What's the matter?' I yelled 'The Kellys,' and the pilot engine then stopped a little past me, and the guard jumped down. I told the guard of the line being torn up just beyond the station, and of the Kelly gang lying in wait at the station for the special train of police. He said a special train was behind him, and he would go on to the station and then pull up. I cried, 'No, no! don't you do that, or you will get shot.' He then said that he would go back and stop the special which was coming on. He asked me who I was, and I told him I was the school teacher there, and requested him not to divulge who it was that stopped and warned him, as I was doing it at the risk of my life. He promised to keep my name secret. He asked me to jump in the van, but I declined, as my wife and sister were without protection. The pilot engine whistled several times while I was talking with the guard. The pilot went back, and I hastened home and found Mrs. Curnow had been almost insane while I was stopping the train, and had been made worse by the whistling of the pilot engine. She would not leave the house after I had stopped the train, and we blew out the lights to seem to be in bed. My sister hid the red scarf and my wet clothes, and we were going to deny that it was I who had stopped the train, if one of the outlaws came down to us. After the first volleys had been fired, I, with an old man who lived opposite me, went up to Jones's to ascertain who were victorious; but we were ordered back by the police, and we returned home. While I was away my sister and wife had a terrible fright through Mr. Rawlins, who had accompanied the police, coming down to the school. They thought that he was Ned Kelly when he asked for the door to be opened. When I reached home I found Mr. Rawlins there. He asked me to draw a plan of Mrs. Jones's house, which I partly did; but, on hearing the train returning from Benalla, he hurried out, and stopping it, he got into it. During the Sunday afternoon I heard Mr. Stanistreet ask Ned Kelly to allow the rails torn up to be replaced, and he pointed out to Ned Kelly the sacrifice of innocent lives which would ensue if the Monday morning's passenger train were wrecked. The outlaw refused to allow it to be done. In speaking of and to one another the outlaws had assumed names. In the Argus report, May 16th, of James Reardon's evidence, given before the Police Commission at Glenrowan, it is stated that James Reardon said he told me that 'the line was broken,' and that he told me 'how the train could be stopped.' Mr. Reardon is laboring under a wrong impression. I am positive that he did not tell me how the train could be stopped. Stopping the train, nor how to stop it, was not mentioned to me by any one. Of this I am absolutely certain. I have been informed that an impression prevails that it was in my power, before the outlaws stuck up Glenrowan, to have furnished information to the authorities relating to the Kelly gang or their friends. Others assert that I was employed by the authorities to obtain information. I desire to emphatically state that this impression and assertion are both false."

17598. Did you notice whether the outlaws were perfectly sober?—They were. One of them, I think Byrne, lay down on the bed about twelve o'clock in the day, and had a sleep, but the others were quite sober.

17599. Was Byrne drunk then?—I think he was under the influence of liquor. I thought so. After sleeping he was quite straight again.

17600. Of course you did not see much of what was done at Mrs. Jones's afterwards?—No, after we left I saw nothing.

17601. What was the name of the guard that you first spoke to?—I have ascertained since that his name was McPhee.

17602. Did you know anything about Reardon before?—I had known him through living there, about four years.

17603. Did you know anything of whether he sympathized with the Kellys or not?—No. Well, every one in Glenrowan was extremely guarded except to their own immediate friends in speaking on the subject. I never spoke candidly to any one, except my own relations and immediate friends, about Kelly matters. I never spoke out my mind on the subject, and others acted in the same manner.

17604. Was it Reardon that told you the line was taken up?—I cannot say that Reardon did not, for everybody spoke of it, and it was a fact known to all. It was known to several I know, and it was the topic of conversation that the line was torn up, and they were going to wreck the train.

17605. How far from Glenrowan station did you place the signal?—From my place I think I ran about 200 or 300 yards down the line from the school.

17606. Did you run into the cutting?—No. I stopped I think about halfway between the school house and the cutting.

17607. Where you put the signal?—Yes.

17608. You knew the Kellys were close behind at the time?—Every second I stood there I expected a bullet.

17609. You were almost within sight?—It was spies I dreaded, and the probability of one of them coming down. They said one of them would come down. I dreaded he would come while I was stopping it or that spies were about.

17610. Did you get to know any of their sympathizers?—Well, many of the people were suspected round there, but to know for certain I never did, and we simply judged from the papers.

17611. What was your idea of Mrs. Jones's conduct towards the outlaws at the time?—Well, I thought Mrs. Jones and her daughter were acting foolishly, but did not think their actions were the result of criminal sympathy with the outlaws.

17612. That was not your impression?—No. I thought they were acting under the influence of fear, keeping their real sentiments concealed, as the outlaws were masters, and everybody would please them if they could. My impression regarding Mrs. Jones is that she was in favor of the police.

17613. Did you labor under the impression at any time that there were any other people there sympathizing with them?—The one that we thought to be a sympathizer was McDonnell, on the other side of the line, that was the impression of the people round.

17614. Do you know if they were seen at that place at any time—any of the outlaws?—No.

17615. Were they very observant during the whole period of confinement of the actions of all the men?—They were. There was always one on the watch, and no person could even go to the stable or privy without being seen by one of the outlaws; you could not go anywhere. There was always one of them outside.

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17616. There was no desire manifested to get away by those imprisoned?—No; I think they all regarded it as useless making any attempt to get away.

17617. Did Ned Kelly or any of the gang state what their intentions were after they would have wrecked the train?—Well, I conceived it from the conversation of the outlaws that they were going to Benalla to rob the banks. That was my impression during the day, and it was received not direct, but from innuendo in speaking one to another. I remember hearing one of the outlaws express regret to another that there were no banks in Glenrowan, and saying that they would make up for it after they finished the train.

17618. Was it your impression, from conversation that took place, that the plan they had arranged was, first of all, to wreck the train, and then proceed immediately to Benalla, to rob the banks?—That was my impression.

17619. Did you hear of any ammunition being planted at McDonnell's for the purpose?—No. There was a parcel Dan Kelly was searching for very anxiously; that was the only thing.

17620. Did you know this Delaney you spoke of?—Not intimately, but through seeing him at the post-office and going round different places.

17621. Did you gather anything from him as to whether there were any other makers of the armour?—I had no idea about the armour. My wife told me, after I had stopped the train, they had armour. She had heard it at the station during the day.

17622. I suppose the real fact was you did not know, when you were cooped up in the public-house, who were sympathizers or not?—I did not.

17623. And were afraid to speak to anybody?—Yes, I was afraid to speak even to my wife about anything I was going to do, fearing to be noticed.

17624. You could not tell that anyone you spoke to might not be an agent of the gang?—No, I could not. I was not afraid to speak to Mr. Stanistreet or Mrs. Stanistreet, but I was afraid to speak about my

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intention to get away and give an alarm, for fear of being observed and suspected.

17625. You did not feel certain of anybody?—No, I would not really trust anyone but Mr. and Mrs. Stanistreet and my wife, sister, and brother-in-law.

17626. By *Mr. Sadleir*.—Were there any other armed men about besides the Kellys?—I heard from my brother-in-law that Tom Cameron had told him that during the early morning there was constant galloping between the station and the ranges on the right hand side; that is towards Kelly's residence.

17627. Towards Greta?—Yes, as we were on the road up, I heard a horse walking on the other side of the line, on the right hand side going to Wangaratta, and we stopped and listened, and then we heard it start into a trot, then a canter, and then a gallop. That was when I was going up to see who was victorious after the first volleys were fired.

17628. Were you on the platform later in the day?—I was there about three o'clock.

17629. Did you see Wild Wright then?—No.

17630. Do you know Tom Lloyd?—Yes.

17631. Did you see him earlier in that day?—No, and I do not know whether I saw him at all.

17632. That young Delaney has been convicted of some offences; did he appear to be a sympathizer?—He was as white as a sheet. He was really frightened; he could not make himself so white and trembling as he was.

17633. He has been sentenced for some offence?—Yes.

17634. Is that the boy you referred to as applying for admission to the police?—Yes, that is what Ned Kelly said.

17635. You do not think it a ruse of Ned Kelly's?—I did afterwards. I did not at the time, but after I did think it was a ruse on Ned Kelly's part, though not on Delaney's. Delaney, I think, really thought Ned Kelly in earnest.

17636. Did you see any loiterers outside the crowd any time during the day?—Yes, while the firing was going on.

17637. There is a mystery about certain alleged armed men standing about?—I heard that from some of the onlookers that men had been down in that gully—not police—watching.

17638. By *Mr. Hare*.—Did anyone call at your house that morning after the special train passed?—Mr. Rawlins.

17639. And mentioned my name?—Not whilst I was at home.

17640. Did your wife tell you that anyone called while you were away giving that signal, and mentioned my name?—No; when I came down from the station I called at a house to tell the people the outlaws were surrounded, and that it was all right.

17641. This was before the special came up, whilst you were away with the flag; had anybody been there during your absence?—No.

17642. Is there anything else you desire to tell the Commission?—Just now I do not think of anything.

*The witness withdrew.*

Thomas Meehan sworn and examined.

17643. By *the Commission*.—What are you?—I am breaking in horses now.

17644. What were you formerly?—Formerly in the Victorian police force.

17645. You have written to the Commission asking to be called?—Yes.

17646. Have you any statement you would like to make now?—I have.

17647. You can do so?—I was in charge of the Mansfield station when Sergeant Kennedy went out to arrest Ned Kelly. I must, as a preliminary to that, State that I joined the police force in July 1873. I was left in charge at Mansfield, and Kennedy, Scanlan, Lonegan, and McIntyre went out. On the Sunday afternoon, about four o'clock (they were shot on the Saturday previous), McIntyre came into Mansfield. He said to me, "This is hell." I said, "What is up, McIntyre?" He said, "Poor Scanlan is shot, Lonegan is shot, and I believe Sergeant Kennedy is shot." Then I went to look for Sub Inspector Pewtress to tell him about the occurrence. I had an interview with him, and said, "I know all about it, sir. The best thing I can do is to start for Benalla directly." He was excited at the time.

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20th Sept. 1881. Sent me up with my horse from the police station to get horses from the paddock to make up a search party to go out to look for the constables that were shot. I must say McIntyre, when he came in, took my revolver from me. There were no firearms in the police station at all. He took it, he said, because Dan Kelly swore at the Wombat that he would come in and roast him in Mansfield.

17648. Had you not each a revolver?—I had none, I gave mine to McIntyre. He was in the tent when Ned Kelly came on them at the Wombat.

17649. You said there were no firearms on the station?—None, only mine. I was despatched to Benalla to give word of the murders. I went as far as Barjarg—a station—and saw two suspicious looking men on the road, and I could not go past them because I had no arms at all, and I was in uniform. I said to myself, "Those men have euchered everything—they have shot the police—and what am I to do. I have no firearms, and I have

been despatched on this message.” Then I returned back to Joe Allen’s (a farmer that lives about a mile back from Barjarg), going back towards Mansfield again. I went back with the object of getting firearms. Allen was not at home. Then I asked Mrs. Allen how far was it back to Hickson’s. I went to Hickson’s. He was out, and there was nobody there at all. I must explain that Hickson’s place is about a hundred yards off the road, and when I was coming out on to the road again two horsemen were on the road, and I said to myself, “I must do something. I must use my head as I have no firearms,” and I took the mare I was riding back and took the bridle off her, and took the boots off that pinched me. I took them off in the excitement of the moment, and made the best of my way to Broken River, my station. I travelled all night and got there the next day. I did not know the country at the time—I was a stranger.

17650. Did you let the horse go?—I let the horse go.

17651. Were they the same two men you saw before?—That I could not say, because it was dark. Then I came into Benalla, gave information to Mr. Sadleir after that. Mr. Nicolson was in Benalla at the time, and there were five of us despatched to catch the Kellys. Senior-Constable James, O’Connor, Bray, who is dead now, and Senior-Constable Kelly. We had one rifle and four revolvers. We went up towards the King River, and we kept the main road all the time—never went into the bush at all, and on the Friday following we started for Bungamera, on the King. I came in to Mansfield. Then we had a consultation to know what was to be done. Sergeant Steele was there. We had no firearms at all, and we dare not make a move. Telegraphed to Benalla, then all were to go to Benalla, and Sub-Inspector Pewtress interviewed me, and said, “Meehan, I will never forget you as long as you are in my district for making such a fool of your self as you did that night when you went out.”

17652. That is in leaving your horse behind?—Yes.

17653. Did you get the horse again?—The next morning Mr. Hickson came out and saw the horse in the paddock, and took it back to Mansfield, and the report was that I was shot, and there was a search party went out after me, and I was in Benalla at the time.

17654. Did they take any arms?—I could not say, but I heard afterwards there were about ten of them came out of Mansfield to search for me. When I came into Benalla and reported the affair to Mr. Sadleir, he was away somewhere inspecting the stations. And there was the great Sebastopol raid. He chose to interview me about this night, and said to me, “Meehan, would not it be better for you then, that you were shot, than to be out all night in the bush?” Of course I differed with him in that. Then he asked me, why did not I challenge those two men, and I told him I had nothing to challenge them with. It is ridiculous now, but my word, at the time it was serious.

17655. Did either of those men, in either case, attempt to interfere with you to cause you to have such a desperate fright?—No, but they had dogged me—they had come back to Joe Allen’s and then back to Hickson’s.

17656. You stated that you could not tell whether they were the same two men?—I could not say.

17657. Then how did they “dog you”?—I could see the two horsemen were at Hickson’s when I came out.

17658. The first men you saw were by the side of the road, not on horseback?—They had their horses with them; that I can swear.

17659. Were they saddled and ready for mounting?—That I could not say.

17660. Did you not take a fright at something imaginary?—No.

17661. What was there desperate in their appearance?—When McIntyre said Ned Kelly would come into Mansfield and roast him after taking his revolver.

17662. It was the image of something that frightened you?—It may be an image, but it was some thing more substantial than an image, I can assure you of that.

17663. You were under the impression that those men were a portion of the gang?—I had reasons to doubt about it, but still I had my ideas, and I believe they were correct. I would not say positively.

17664. What did you do all night with yourself; did you get as far away as you could from them?—I took it very quietly, I can assure you, under the circumstances; so much so, that when I came I told Mr. Sadleir about it. Then the Sebastopol affair was after that. Then things went on swimmingly.

17665. How far was it from where you left the horse that night to where you reached in the morning?—It would be about three miles.

17666. What were you doing all the night?—I have stated before I did not know the country; I went at the back of the ranges. They were different to what I thought they were. When I got into the bush it seemed different to me altogether.

17667. Do you mean to imply that you got “bushed”?—I did.

17668. In what way?—I was a stranger in that part of the country.

17669. Were you walking all the time?—I was walking till I got tired to get to the Broken River, that was my station.

17670. Did you not find any house when you were out that night?—No, there are no houses there.

17671. You know when you are dealing with a case of life and death—shooting three or four constables—it is hardly the thing to say you spent the whole night in going three miles. However, you got to the station in the morning?—I did.

17672. What further happened when you were sent out with the search party?—What I have stated about Mr. Sadleir. Then after that, I was sent to the Wombat, to Monk’s place; I was there for some time. Then I was ordered back to my station again, at the Broken River. Then search parties were

the order of the day at the time; they went out fourteen or fifteen at a time—things that I knew was a farce. I came into Benalla one time, there was a telegram sent up to Mansfield for the black tracker Spider and Constable Allwood to proceed to Benalla, take up Constable Meehan, at the Broken River. I went down with them to Benalla. There was no purpose for that, as far as I was cognizant. The next day we were ordered back to our stations. Captain Standish was in the yard at the time, and Mr. Nicolson was in the yard. Mr. Nicolson came over to me at the stable and read me a very wholesome lecture about how I could take a horse out of the stable. I did not do it according to his ideas, and I led the horse out of the stable, and it did not please Mr. Nicolson. This was the time when there was supposed to be no discipline at all. He must have me back into the stable again to take the bridle off the mare, and to lead her out according to his ideas. I had, of course, to submit. Then we went back to our stations. On another occasion, Constable Allwood and the black tracker again—Spider and myself came to Benalla. This was for the agricultural show. I got information in Benalla from Tom Reading, an ex-sergeant of police, and I believed him, about the Kellys being out on the Puzzle Range. He told me what to do, and how he got the information. I came into the office; Mr. Sadleir and Mr. Nicolson were in the office at the time. Mr. Sadleir never spoke to me on that occasion. I saluted Mr. Nicolson; it was not according to his ideas. Then he stood up from the table, and told me how I should salute him. I told him I was in the depôt in 1873, and that I was in the ranges all the time since, and I saluted him to the best of my ability. Mind you, this was when I brought information. After he thought he had instructed me, he said, “Now, what do you want?” I told him I wanted nothing. He said, “How much drink had you this morning?” I told him I had two brandies. He said, “Was the man drunk that gave you the intelligence, Meehan?” I said, “No, sir, he was not.” He said, “I shall make enquiries.”

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17673. You have asked to be examined by the Commission?—Excuse me, there is something more I have got to say to the Commission.

17674. Did Mr. Nicolson, or any other officer tell you that discipline was relaxed at the time you brought out the horse out of the stable?—In the correspondence book it is there.

17675. What do you mean by that—what is in the book?—Particular orders that emanated from head quarters, and copied at all the stations.

17676. What was the nature of the entry?—That uniform was dispensed with.

17677. That is not that discipline was dispensed with?—Uniform being dispensed with, discipline was dispensed with.

17678. That was not the instruction?—Where could I take my instruction from?

17679. Did you imagine that uniform was the foundation of all discipline?—Not necessarily.

17680. You said you had something of importance you wanted to tell the Commission?—Yes; I should wish the Commission should give me an impartial hearing.

17681. We only want anything of importance. I may as well tell you at once that the record we have shows that you were discharged from the police for drunkenness?—I will come to that.

17682. There are some entries on your sheet by a gentleman not here at all that you were intemperate. Come to that at once, or anything of importance?—We shall come to that directly. On another occasion I came into Benalla about Jim Quin, who told me about the Kellys. He said, “Your guns cannot hurt.” To put it in plain phraseology, he said, “You —, you cannot hurt.”

17683. Was he drinking at that time?—He was, and I was too. Jim Quin said, “The lads (meaning the outlaws) will drink out of one of those bottles,” the one we were drinking out of.

17684. What object had you in writing to the Commission so frequently to call you?—About the Kellys being at Mother Farrell’s place; and when I gave that information to Mr. Nicolson, and he would not act upon it, when I had to salute him and everything.

17685. Were you sober at the time?—Yes.

17686. Was that the time you had been drinking with Jim Quin?—Yes. I could always drink. This was a man that could get information about the Kellys for the police; a man with polished boots in the township could not.

17687. There was no action taken on your information then?—I do not know whether there was or not.

*The witness withdrew.*

Patrick Quin sworn and examined.

17688. *By the Commission*.—What is your occupation?—Farmer.

17689. Where do you live?—South Hanson, seven miles beyond Greta.

17690. You have expressed a desire several times to give evidence before the Commission?—Yes.

17691. If there is anything you desire to tell, just do so in your own way?—This affair of the Kellys commenced out of horse stealing first. I am the first man that gave the information about those horses. I met a man who is now in Wangaratta named Cook, alias Lowry, and he thought to screen himself from me on the road and pulled a comforter on him so I did not know him, and I found out on the same evening who

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he was. A young fellow, Mark Whitty, had missed a horse a day or two after, and was looking for this horse when he met me, and asked me if I had seen anything of a bay cob of his; and I said I had seen it at the bottom of Fitzsimmons and Hughes's paddock. He said he could not find him; so I said, "If you do not get him in a day or two, let me know." So his father was talking to me some time after, and told me his son could not find the horse, and I said, "There is a fellow called Billy Cook, who goes by the name of Lowry, about here, and I have heard he has taken it, and he is up about the Murray somewhere about Howlong." I was in Wangaratta after that, talking to Inspector Brooke Smith, and told him there was a cove hanging about there, and that I heard he was going to take some horses, and had already taken one, and the sooner he was caught the better. After this, there were some horses belonging to James Whitty, Robert Jeffery, and John Farrell taken, and this man Jeffery came to me, and asked me to find out where the mare was taken he had lost. During the time this other horse was taken I saw those horses of Jeffery's and James Whitty's passing up to the waterhole with some horses of my own, so I made enquiries and found out that those horses were taken up to the Murray and that this man Cook was connected in the taking of them. Robert Jeffery met me in Greta, and he told me that he saw my horse in the Street. Well, I went in to tell Constable Thom. I saw him after in a few days, and asked Thom if he had got those horses, and he said

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"No," and I said, "It is strange that this man can be about and take people's horses—that such work could not be carried on"; and he said, "I aint my own boss, I cannot do as I like." A second mob of horses was taken after this. There was a man called Isaiah Wright. I met him at a ploughing match at Greta, and he asked to buy two colts from me, and I brought them up the same night, and some other horses were taken away. I heard in two days after that Wright had taken the horses, and that Pat Quin had known something about it. It appears there was a man in Smith's yard said that if Wright had taken the horses, and Pat Quin knew about it, he (Quin) would not allow it. And he said he did not believe Wright had anything to do with taking the horses.

17692. What does this lead up to?—It leads up to this that there are people who have mentioned my name that I had been connected with those fellows, but I had not been in any way. I did my best to stop this.

17693. Then you gave information to enable those people to get their horses again?—Yes; those men came to me themselves personally.

17694. Is there anything further in connection with the outbreak?—Then this affair of Fitzpatrick occurred, and I met Kelly on or about the road. I could not be positive whether it was a few days before or after; and I asked him if he had anything to do with the stolen horses, and he denied it; and I said I believed he had. He said, "No." And I said the best thing he could do was to give himself up to the police, and he said, "No; if any man interferes with me I will shoot him." I advised him to give himself up, and said, "If any one is advising you otherwise, it is for your bad and not for your good."

17695. Were those horses recovered?—Whitty's and Jeffery's mare, and the second or third lot that was taken, I believe their throats were cut, and they were pitched into waterholes.

17696. You have no proof of that?—No, only my own belief.

17697. Is there anything further you want to say?—This Fitzpatrick affair. I believe myself, Fitzpatrick, from what I have heard and can make out, was shot by Ned Kelly. I met Ned Kelly after some time, in company with another man. There were three of them together—Ned, and Dan, and another. I did not know either Hart or Byrne. This was after the Fitzpatrick affair, before the murders.

17698. What were they doing then?—Crossing the road in front of me.

17699. Was it about that time you told them they ought to deliver themselves up?—No; that was after that.

17700. Did you know anything of their movements at the time the police were out after them, after they shot the constables?—I knew they were in the bush, and it would be a hard job to get them out.

17701. Did they appear any time where the people knew they were?—Unless they passed now and again. Oh, yes, I had seen them after.

17702. You saw them after the murders?—Yes.

17703. I suppose they passed to and fro very often?—Yes.

17704. You did not feel disposed to give any information to the police?—I did.

17705. Did they act upon it?—I gave information to Mr. Sadleir. But one thing I want to mention before that. About a week before the Euroa bank robbery, there was a woman came to my place who wanted to find out from my wife if she could get some rations for the Kellys. My wife told me on Sunday. This woman came back on Monday, and I came on the following day to Mr. Nicolson and Mr. Sadleir, in Benalla, and I told them what I had seen. I had seen a man too at the same time meeting this woman at the corner of the lane, as she was leaving my place, and he had a pack on his horse.

17706. Did you know the woman?—Yes, it was Mrs. Skillian, sister of Ned Kelly.

17707. What happened when you told Mr. Sadleir that?—I told him and Mr. Nicolson I should like he should come, or some of his men come, and I would go with them up the King.

17708. Did they take any notice of that?—Yes. Mr. Sadleir asked me to stop and to see Mr. Nicolson,

and I did so. Mr. Nicolson made an excuse. He said, "This woman might be only leading you astray." "Well," I said, "it might be possible, but I do not think it, because I saw the man with her after she left my place starting away, and I ask you to come now, and if not to telegraph to Mansfield or Wangaratta, and I will lead the men any way you think best."

17709. Was there any action taken upon that at all?—Mr. Nicolson said he was after coming in from a long ride and the horses were tired, and made an excuse, and asked me if Thursday would do.

17710. What did you say?—I said, "If those men are short of rations they will not stop there. They are not going to wait on your pleasure or anybody else's, and I would like you to come at the present time."

17711. He did not come at that time?—No; he said he would come on Thursday.

17712. He did not telegraph to any men for you to meet them?—No.

17713. Was there any other occasion?—On Thursday Constable Strahan came to me and, said that Mr. Nicolson could not come. On the same day I went out for a load of rails, and a man called Tom Roach came to me at the dray, and said he was out all night; that he had pitched a billy of water on his fire that night because Kelly had come to his camp and four more. He said he left part of his things after him. So I said I supposed he had no supper or breakfast, and he said, "No," and I invited him to come along with me and have some. So he got on the dray, and I told him, "My wife is sister to Ned's mother, and you will not let her know anything," and he jumped off the dray and said he would not go in, and I said he need not be frightened, I would not say anything about it, and he came in and had some breakfast. He asked me after if there was a police camp at Greta, and I said there were police there; and he said "I will not go there, for I was talking with Ned, and he said if I gave information to the police he would shoot me." Then the man said he was going away to New South Wales.

17714. Did you give this information to Strahan when he came?—Well, no, I did not, because he told me at the time that he had seen police upon the King, and he believed they were after them.

17715. You did not give any information at that time to the police?—No, I could not.

17716. Did you at any time after do so, or did you know of any of the movements of the gang?—After the police being shot, Detective Ward and Constable Strahan came to me, and they asked me to go down to see Mr. Nicolson, and I did so; and he asked me if I would assist him in getting the gang, and I said those men would keep out of my road—they had already done so, especially after their shooting the police. So Mr. Nicolson said he would pay me, and I said I would take no payment, and advised him to be very

cautious whom he did pay. I said, "If you do not mind, those men will have a long reign, because

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they are good bushmen and good horsemen, and they do not care about grog, and it will be very hard to entrap them into any place."

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17717. Did they come to your place at any time after that?—I believe there was one of them at my place after that.

17718. You did not see him yourself?—I did not, but a little boy of mine told me there was one talking to a girl at my place. I saw the five men at my place once together—Ned Kelly and Dan and three other men—I suppose Byrne and Hart, but the other I was not certain of.

17719. Did you know it was Byrne and Hart?—Well, only just from seeing them with the Kellys.

17720. Where did you see them?—On the Gap over Greta.

17721. Do you remember anything about the fight?—No, but I told Mr. Sadleir on the next day.

17722. What did he say to you?—He said he would go and see Mr. Nicolson, and tell him of it, and would go and have a try. At the time I saw them there were two young fellows coming along the road about that spot—at the place—and they spoke to me. They asked me if I had a match on me, and I was pulling out the matches, when I thought if I lit those matches they would see who I was. It was just after dark, and I did not give them the matches. So I got off my horse, and there was a bough standing on the road; I broke that, and turned on the road, and we talked a bit; and after that I saw two of them running back from the road in the same direction they were coming from; so I got on horse and came away.

17723. Did you give that information?—I went in the next day to Wangaratta, and met Mr. Sadleir, and told him.

17724. What did he do then?—He said he would go and tell Mr. Nicolson, and that they would go.

17725. Did you see them upon any other occasion after that?—Yes, I saw them sometime after. There were only three of them together. I did not give any information then, because, after what Mr. Sadleir said, that they had the saddles on the horses, and Mr. Nicolson would not go the other time, I said to myself; "There is no good; if I see them a hundred times, I will never say anything more about them—I will mind myself."

17726. You made up your mind not to give any further information?—Yes.

17727. What occasion was that you refer to about Mr. Sadleir saying that—can you fix the date?—No, I cannot; I think Mr. Sadleir can.

*Mr. Sadleir.*—He refers to the 28th of September.

*The Witness.*—I was going to Benalla the same night, only there was a man on horseback came after me, and I made to go into Benalla, and this man got beside me and pulled up and stood up under a bush. So I thought it was someone watching me and following me, so I went home, and this man kept in sight of me all the way home. After I got in I let the horse go and went into the house, and this man came into the slip-panel to see whether I let my horse go, and then went out. The next morning I tracked his horse along the same road going back to where he was when I first saw him.

17728. Have you anything more particular to say?—No, I think not.

17729. *By Mr. Nicolson.*—You remember, you say, my coming over the first time I saw you, with Detective Ward and Senior-Constable Strahan, one Sunday evening?—Yes.

17730. Do you remember it was a Sunday evening?—Yes.

17731. Sergeant Steele also?—Yes.

17732. Do you remember afterwards telling me of the appearance of one of the outlaws, or a young man on the cross-road on the ranges?—Yes; I was carting rails.

17733. Do you know who that man was—was it Byrne?—No, I think it was Hart.

17734. You made a promise that you would come and go out with us?—Yes.

17735. I do not know what prevented you, but I sent Senior-Constable Strahan to see why you did not come. You were engaged harvesting—that was the message that came back. Do you remember sending a message back by Strahan?—That was a message you got a long time after, because I heard that I was blamed for putting those men away, and if I did not mind myself I would get shot, and I think I said to you after, that unless I went with you altogether and cleared out of there, that those fellows had their liberty and would shoot me.

17736. Do you remember my seeing you after the return from Melbourne, on Wednesday, towards the end of November 1878, just before the Euroa Bank robbery?—No, it was either Monday or Tuesday I went in to Benalla, and I saw you before the Euroa Bank robbery.

17737. Then this thing occurred you spoke of—you saw Mr. Sadleir and myself?—Yes, and I asked to see you, and I saw you that evening.

17738. What did you propose to me?—I asked for you to send someone or come with me up the King, about twenty-five miles above Glenmore Station, and you said that you were after coming in from a long ride and the horses were tired.

17739. Did you see men and horses about the yard at the time. Do you remember my pointing them out at the time?—No.

17740. Were you not in the yard?—Not with you. It was late in the evening when you were talking to me. I had waited till you came.

17741. Were the horses and men pointed out to you. Did you see them that afternoon?—I do not think it. I remember your making a remark to me about the horses. I do not recollect your showing them to me—still you might have done so. I remember your saying after, you would send to Sergeant Steele, at Wangaratta, and someone else, that they would meet me.

17742. What statement did you make to me—You mentioned about the woman?—Yes.

17743. Did you tell us about Mrs. Skillian?—Yes, certainly.

17744. Where did you say those men were?—Up the King.

17745. Did you describe the sort of place?—Yes, the place where Jim Quin had been at the time he was away from the police. I described it as a basin.

17746. The Euroa Bank robbery occurred on the 10th, what day of the week did you say this was you saw me?—It was either a Monday or Tuesday, eight or nine days before.

17747. Was it Sunday or Monday?—It was either Monday or Tuesday. It was not Sunday, I know.

17748. Do you not remember any appointment you had with us, just immediately before that?—No. You said before I left you on that day, you promised to come on Thursday, and I said it would be too late.

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Strahan came to me on the Thursday and said you could not come. I said I thought it was too late then. This was the time that this man Roach came to me after I was loading the rails, and he was very excited.

17749. Do you deny that I saw you in Benalla on Wednesday the 27th of November?—It was not on Wednesday; it was either Monday or Tuesday.

17750. Do you say that on that occasion I did not make an appointment with you for a party to go out with you on Friday the 29th?—It was not on Wednesday you saw me. You said you would not come, but would get a party to meet me at the King station; and Constable Strachan came to me on Thursday, and said you could not come and could not send the men.

17751. Do you not remember receiving a message from me, more than once, complaining at your not coming?—No, I never did. I was ready with my horse.

17752. Do you remember seeing me at Fitzsymons's, the man who had the store at the corner of the barracks, opposite the hotel?—I never recollect meeting you there. I recollect meeting you on the footpath near, but I do not remember your speaking to me there.

17753. And it was in the evening, you say, you had this interview?—Yes.

17754. I will show what occurred on that Monday and Tuesday referred to—[*reading from his diary*]. On Monday the 2nd, a week previous to the Euroa Bank robbery, I left Benalla for Wangaratta. On the Tuesday I went to Hedi and beyond, to Upper King, and took a party of men I did not return to Wangaratta until the 4th. I came in from Fern Hill, and Benalla, and German's Creek, where the Kellys used to live, on Monday the 9th, that is the week following, the day before the Euroa robbery, and on Tuesday the 10th I was in Benalla all day, and then went up to Albury. On those days there were men and horses really fatigued, having returned from this journey I spoke of. There was nothing of the kind on the previous week. On Wednesday the 27th I returned to Benalla; saw P. Quin, Thursday, 28th. On Friday, 29th, party was in readiness waiting for Patrick Quin, who did not come. On Saturday, 30th, I went to Wangaratta; and on Sunday, December 1st, was there.

17755. *By the Commission (to Mr. Nicolson).*—Then your statement is that Quin did not keep the appointment he made?—He did not keep the appointment made a week before, but he came in on the following week—the day of the bank robbery. On Monday the 9th he came in. On that occasion there was nothing about Mrs. Skillian ever mentioned. He was mysterious, and told us he could take us away up to this basin. I saw the man was deceiving me, and one of the common sense reasons before him for not going at that moment was that the horses and men were fatigued and unfit for such a journey, having just come in; he could see them in the yard, and he never mentioned to me anything about Mrs. Skillian.

17756. *By the Witness (to Mr. Nicolson).*—Did you not ask me, when I mentioned about Mrs. Skillian, if she was not in the habit of coming to my place, and I told you she was not?—On every occasion I saw you I asked you about the Kellys.

17757. On this particular time?—No.

17758. *By Mr. Nicolson (to the witness).*—You have stated that you also met Mr. Sadleir and gave him some information about having seen someone in the bush?—I saw them the night before.

17759. You saw whom?—Ned Kelly and his brother, and three other people I believed was Byrne and Hart, and the third I could not tell who it was.

17760. You have been down in Melbourne several times?—Once or twice lately.

17761. At whose instance are you down here now?—I came down of myself. I asked to come down, and paid my own expenses, and came just in the matter of fair play and justice.

*The Chairman.*—The witness has written several times to ask to be examined.

17762. *By Mr. Nicolson (to the witness).*—What was your object particularly in being examined—at whose instigation?—My own.

17763. Why?—Because I think there has been blundering about this affair from the first commencement, and I think, after you came up to the district, you commenced blundering too. In the first place, when you said that you would pay me, I said I would take no money—I would be at liberty to speak over this affair. I told you I would keep a horse in the paddock, and I said, “You can rely upon me that I will neither give them rations from my place or anyone connected with me.” I said they intended to rob banks, and this is what they had taken the bush for. I told you that in the lane at the time, and you asked me what bank, and I said there was a bank at Bright and there is a bank at Avenel and Euroa. I had heard those banks talked of before the men were shot. I mentioned that to you when I saw you.

17764. I should have been much obliged to you if you had. I do not remember it. Did I offer you money?—No; you said you would pay me, and you asked me if I could write, and I said, “Before I write a letter to you, and you get it, where are those men—they are a hundred miles away.”

17765. Is this correct; did I send to you, on more than one occasion, a message according to agreement, and you declined to come?—No; I always had a horse there.

17766. Did you ever make an appointment with me to turn up a certain day and you did not do so?—Never.

17767. You induced me to keep a party of men, as mentioned in the evidence, for more than a week in Benalla?—No. I asked you to come—to proceed, and you made excuses; and you ought to be able to find out by this time whether I had anything to do with the Kellys or with the money from the banks. I thought you would use better judgment than to send men to my place on that Sunday, when my wife was sick, and a lot of people there, for it to get about that I was working with you, and I be likely to be shot.

*Mr. Nicolson.*—I never heard of all this before.

17768. *By Mr. Hare (to the witness).*—Did you ever see me at Benalla?—Yes.

17769. Do you remember coming to Benalla one day and giving me the same information as you say you gave to Mr. Nicolson about the men being up at the head of the King?—Yes.

17770. What was done on that occasion?—I said to you about the men being in there at the time. I told Mr. Nicolson, and you asked me if I would show you this place. I said I would, and you asked me, I think, which was Bright or Mansfield the nearest to the King. I said I thought Mansfield, and you said, “Then I will telegraph and send a party of men to meet you.”

17771. Did I do so?—Yes.

17772. Did you meet them?—Yes.

17773. Did you go and show them the place?—Yes, and there was a fire there, and we could not pass because of the fire; the trees were falling.

17774. Do you remember the Commission sitting at Benalla?—Yes.

17775. Do you remember seeing me that day?—Yes.

17776. Do you remember a conversation you had with me that day?—Yes; that Mr. Nicolson was the cause of those men having so long a run.

17777. I do not refer to that. With regard to the information that you gave him concerning the bank—do you remember saying, “I see by Mr. Nicolson’s evidence that a bank was going to be stuck up”?—Yes.

17778. What did you say to that?—I said I told him myself the banks were going to be stuck up.

17779. When?—The first time I was talking to him—on the Sunday evening. I mentioned four banks Seymour, Avenel, and Euroa.

17780. Have I had any conversation with you since that day?—No.

17781. Have I in any way, or anybody from me, communicated with you?—No.

17782. By Mr. Sadleir.—The night you saw those five men on the hill-top you said you intended going to Benalla, only that man following you prevented?—Yes.

17783. When you met me you were going to see Sergeant Steele?—Yes, I met him in the street just before you; I was just going around to see him.

17784. You were not then on your way to Benalla?—I was going to go to Benalla, only I thought from the place I saw this man that they might watch me.

17785. You know the place I met you in front of the hotel?—Yes.

17786. You were not on your way to Benalla then?—No I was in Wangaratta, and was going to go to Benalla the previous night, but I thought those men might follow me.

*The witness withdrew.*

Mr. Sadleir.—I have the amended affidavit of Dr. Nicholson, and I now hand it in to be placed in the evidence—[*handing the same, which is as follows*]:—“I, John Nicholson, doctor of medicine and a legally qualified medical practitioner in Victoria, make oath and say:—I arrived at Glenrowan before day light on the morning of the twenty-eighth day of June 1880, in company with Superintendent Sadleir and a party of police from Benalla. Three shots were fired from Mrs. Jones’s hotel in one volley on Mr. Sadleir’s party, and immediately afterwards a volley of four. After Ned Kelly was arrested, Mr. Sadleir asked him if he could get the other outlaws to give in, but he (Kelly) said it was no use trying, as they were now quite desperate. After dressing Kelly’s wounds, Mr. Sadleir asked me whether I thought he was justified in making a rush upon the house; I said that to do so against men in armour, such as we saw, was certain to result in several men being severely, if not mortally wounded; and, as the day was young, it would be best to wait some time before attempting anything, as there was no possibility of their escape. I then said it is a pity we have not got a small gun with us, as their armour would be no protection to them, and the chimney would be knocked about their ears. Mr. Sadleir said that Captain Standish was starting from Melbourne, and would be up a little after mid-day, and he would immediately telegraph to him and mention the matter, but as no time could be lost, he would send a telegram at once. The telegram was sent about five minutes after the gun was first mentioned; possibly, if there was time for mature deliberation, it would not have been sent at all. Mr. Sadleir was particularly cool and collected all the time I saw him, but events were not under his control; the crowd which had collected made anything like order utterly impracticable—the position was one of great difficulty—and I do not think that any one would have managed much better. The place might have been rushed, but to unnecessarily risk men’s lives would have been foolhardy, however brilliant it would have looked. I have known Mr. Sadleir for several years as a painstaking, trustworthy, and capable officer. I may add that a great deal of my knowledge of his character has been obtained in my capacity of justice of the peace. And I make this declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.—JN0. NICHOLSON. Declared before me at Benalla, on the 16th day of September, One thousand eight hundred and eighty-one—Robt. McBean, J.P.” There are three things indicated in that:—First, that three, if not four of the outlaws were in full vigor at the time my party arrived. Second, that there were only a few minutes left for reflection when the gun was first spoken of up to the time the message was sent, and, though I was incorrect in my supposition that the reporters suggested it, it appears it was Mr. Nicholson, and one of the reporters, Mr. Melvin, has said I spoke to him about it shortly after. Third, you will see by my expression to Mr. Nicholson that I did have a rush in view, when the time arrived, from the earliest part of that day. There is a second affidavit from Edwin Rodda, clergyman, in which he says:—“I, Edward Rodda, clergyman, of Benalla, in the colony of Victoria, make oath and say as follows:—That I was a spectator of what transpired at Glenrowan, at the capture of the Kelly gang, from about twelve o’clock till half-past four p.m. Knowing Superintendent Sadleir well by sight, I made enquiries where he was, and he was pointed out to me standing with Mr. O’Connor about one hundred yards on the north-east side of Jones’s hotel. I saw Dean Gibney get out of the train, and in about twenty minutes he was alone with Ned Kelly. About one o’clock, I met him at McDonald’s hotel where he was taking some refreshment. Then he, I, and Dr. Henry, and another walked up the line to see the place where the rails were torn up. We stayed there some minutes and returned. It would be about two o’clock when we got back. Observing Mrs. Skillian coming, I suggested to Father Gibney that the police might allow her to go to the house. He spoke to her, and they moved away to the south end of the platform. I did

not hear the priest enquire for the officer in charge. Had he done so there would be no difficulty in finding him. I heard no orders to fire into the building; but observed the police to fire when they thought they saw a form at the window. I saw the house fired and the woman ordered back. The priest alone went through the house, and came out proclaiming all dead. Then the place was rushed. I was with the priest about one hour and a half, and was under the impression that he knew Mr. Sadleir was at his post, as any one else could see. And I make this declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.—EDWIN RODDA. Declared before me at Benalla, on the 29th day of August, One thousand eight hundred and eighty—Geo. Sharpe, J.P.” I had that document for some time by me and did not think it POLICE. 4 Q

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necessary to trouble the Commission with it; but in reading Dean Gibney’s evidence, he is very emphatic about the bad generalship, and I wish that to be compared with Mr. Rodda’s statement.

*Mr. Hare.*—On the subject of the Glenrowan business, I have a declaration to hand in from Constable Phillips, which is as follows:—”Police Station, Goornong, 16th September 1881. I, William Phillips, constable, of Goornong, in the colony of Victoria, do solemnly and sincerely declare that I heard the following conversation pass between Ned Kelly and Joe Byrne, at the rear of Mrs. Jones’s hotel, Glenrowan, about (10) ten minutes after the first encounter at 3 a.m. First, my attention was drawn to a voice asking, ‘Is that you, Joe?’ ‘Yes. Is that you, Ned? Come here.’ ‘Come here be d—d. What are you doing there; come with me and load my rifle. I am cooked.’ ‘So am I. I think my leg is broke.’ ‘Leg be d—d; you got the use of your arms. Come on; load for me. I’ll pink the buggars.’ ‘Don’t be so excited; the boys will hear us, and it will dishearten them. I am afraid it’s a case with us this time.’ ‘Well, it’s your fault; I always said this bloody armour would bring us to grief.’ ‘Don’t you believe it; old Hare is cooked, and we will soon finish the rest.’ They went then towards the Wangaratta end. Secondly, that I informed Senior-Constable Kelly about an hour afterwards that two of the outlaws were cooked. Thirdly, that to satisfy myself that it was them I heard talking, I examined Joe Byrnes body at the watchhouse, Benalla, on the 29th June 1881, in the presence of Constable Falkiner and Dr. Nicholson, of Benalla, and found a bullet hole clean through the sinews of the calf of the right leg, and his boot when I pulled it off, was full of blood. And I make this solemn declaration conscientiously believing that same to be true, and by virtue of the provisions of an Act of Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.—WM. PHILLIPS. Signed and declared before me this 16th day of September 1881, at Campaspe—Thos. Robertson, J.P. The Honorable Francis Longmore, Chairman of the Police Commission.” Wallace spoke as to who he believed was the writer of the anonymous letter, in which are stated certain things about Mr. Nicolson, and that they wanted to get rid of Mr. Nicolson from the district. Upon that I hand in now two declarations, one from Mr. Webster, and one from a constable there:—”I, James Daniel Webster, of Yea, in the colony of Victoria, grazier, do solemnly and sincerely declare that previous to Superintendent Hare giving evidence before the Police Commission, as follows, viz.:—”That a schoolmaster in the North-Eastern district had been acting as an agent for the police, and identifying him as a school-fellow of Joe Byrne,’ I had several conversations with ‘Wallace’ at Yea (where he is now stationed) on the subject of the Kelly business, and he frequently stated that the outlaw’s were much harassed by the tactics adopted by Mr. Hare, and were afraid of him, as he constantly kept them on the move. He further stated that they (the outlaws) had great contempt for Mr. Nicolson for the mode he used for capturing them. He (Wallace) not only made this statement to me, but I am informed he has also made the same statement to other persons residing at Yea. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.—J. D. WEBSTER. Declared before me, at Melbourne, in the colony aforesaid, this 18th day of September, in the year of our Lord One thousand eight hundred and eighty-one—J. B. Motherwell, J.P.” The other is from Constable Fitzgerald:—”Yea, 19th September 1881.—I, James Fitzgerald, of Yea, make affidavit that soon after the destruction of the Kelly gang of bushrangers at Glenrowan, James Wallace, State school teacher, stated to me that the gang were in terror of the means of pursuit adopted by Mr. Hare—that he always kept them moving about, whereas under Mr. Nicolson’s mode of pursuit they felt content and safer. Wallace also stated that the hired agents worked better and were more faithful to Mr. Hare than any other of the police officers, and that was an additional reason the outlaws had of fearing Mr. Hare.—J. FITZGERALD. Signed and swore before me at Yea this 19th September 1881—J. D. Webster, a Commissioner of the Supreme Court of Victoria for taking affidavits.” I wish also to make an affidavit myself on a letter that was laid before the Commission:—”I, Francis Augustus Hare, of East Melbourne, in the colony of Victoria, superintendent of police, do solemnly and sincerely declare that the statement made by the person known as the diseased stock agent, in his letter to the chairman of this Commission, and particularly referred to by Mr. Nicolson in his evidence, to the effect that he (the diseased stock agent) gave Mr. Sadleir and myself reliable information, a few days before Aaron Sherritt was shot, that the outlaws were out and intended making a raid, is untrue. I most positively declare such statement is false; the only information furnished to me was simply that the outlaws would soon make a raid on some bank, as they were short of

money. Mr. Sadleir at the time stated to me, in the presence of the informant, that he (the agent) had constantly been giving similar information for many months past. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.—FRANCIS HARE. Declared before me, at Melbourne, in the colony aforesaid, this 16th day of September, in the year of our Lord One thousand eight hundred and eighty-one—Charles B. Payne, J.P.”

C. H. Nicolson,  
20th Sept. 1881.

Charles Hope Nicolson further examined.

*The Witness.*—May I make a few remarks with reference to the evidence of Quinn?

17787. *By the Commission.*—I think you have mentioned all about Quinn in your evidence?—It is only about things he has uttered here that I never heard before. His statement as to telling me about the banks is an absurdity. He never mentioned such a thing as that. He promised to come out with the police and “ride the outlaws down.” That was his expression, and he was a very capable man to do it, but he never kept one of those promises; and he had plenty of police that he could have obtained, but he never did. I sent more than once to him asking him why he did not. On one occasion I was out on Monday, the 25th November, with some constables—[*looking at his diary*]. That was the last search party just before the outbreak at Euroa, except the party the day before the outbreak. Two days after this party came in that I was out with, I saw Quinn; met him on the Wednesday. I believe it was about Fitzsymons’s store; and I spoke to him about his not keeping his promises and humbugging us; and we had come to the conclusion—not only the officers, but the few men who knew him, Senior-Constable Strachan and Sergeant Steele, and others—that there was no reliance to be placed in him. He promised then and there to start with us, to meet us, that he would run them down any time, and he

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would come on Friday, the 29th November, and the entry in my diary at the time shows that I had a party in readiness, waiting for him, and that he never came. On Saturday, 30th November, I was at Wangaratta, and had given it up; but still I left the party in reserve in the barracks, with Mr. Sadleir, for this work, in case Quinn should still come. And I went to Wangaratta and other places, and on 1st December I had got back to Wangaratta; was there all day—that was on the Sunday—and I have shown already by my diary where I was on the other days. On the Thursday I was at Hedi and the Upper King, where I saw the elder Jack Quinn.

C. H. Nicolson,  
*continued,*  
20th Sept. 1881.

17788. Brother of this man?—No, brother-in-law, and I got back to Wangaratta on Wednesday the 4th. I despatched Constable Flood with a party to Greta. They did not get back till Thursday the 5th to Benalla, and then started off to German Creek, getting back on Monday the 9th.

17789. That was the day before the Euroa bank robbery?—Yes. Then it was on this day that this man came in, and it was in the afternoon, as he says, and the place we were standing in was screened from the road behind the watchhouse, out of sight. The men were bringing out their horses and washing them at the water trough, and then he made this monstrous proposition that I should start up there at once, though, from his knowledge of horses, he could see it was impossible. I pointed at once to the horses. They were there before him, and I said, “How can you expect those horses to accomplish this journey?” From that and other things, I saw the man was humbugging me. There is only one thing more. He spoke of having given other information. The only other was this young man on the road, where he was conveying provisions to the outlaws on the Black Range, and the other was when he met Mr. Sadleir and gave information. On no other occasion did he give information, and on all occasions he avoided me. He would go out of his way to avoid speaking to me when he met me at Benalla.

*The witness withdrew.*

*Adjourned to Thursday next, at Half-past Eleven o’clock.*

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APPENDICES.

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APPENDICES

APPENDIX 1.

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William B. Montfort further examined.

1. *By the Commission.*—Do you consider that there should be a foot constable stationed at Oxley Bridge?—I do, for the present.

2. What is your reason for that?—Because the premises of the Bank of Victoria there, unprotected, is a source of weakness, and liable to induce an outrage, which would lead to more serious results; and, in addition to that, that the bridge could be watched by the police, as being the most important crossing on the King River, and a good site for the mounted police to perform their proper duties.

3. Do you propose a station at any place?—Yes, temporarily. I have made arrangements. I believe that a station should be placed at a point about ten miles above Greta station, at Mason's, on the Fifteen-mile Creek. My reason for that suggestion is that the police at that station would command the country between the Fifteen-mile Creek and Benalla, a line running north and south from Greta to Mansfield, along which travelling stock pass; also, I am informed, stolen cattle to the Murray, and *vice versa*.

4. And that track also commands all the back country where the murders of the police took place?—Yes. I have been speaking to an intimate friend of mine, a squatter born and reared there, and when I told him confidentially of my intention to make this suggestion, he highly approved of it, and said that it commanded the whole of that country there.

5. Would you also recommend that additional telegraph offices be opened at various points, so that they may be made available?—I think it would be an unnecessary expense just at present. If I have four men there who know the country well, with the four men at Greta, and four at Glenrowan, I think it will be perfectly satisfactory.

6. Are the means of communication rapid enough without that?—Yes, I think so, for all practical purposes.

7. Do you propose to re-establish the station at Hedi?—No, certainly not. That is quite close to the Burke Range.

8. About the Fifteen-mile station: are you going to have any patrol between that and Kilfera and Tatong?—It completes the chain of patrols that I propose establishing.

9. Do you propose to make the mounted constables patrol regularly?—I have issued a district order to that effect.

10. In order that they may know all the people in that district?—I instruct them in that order to visit the residences and converse with the inhabitants, friends and foes alike, so that, should they get information, their foes might not know where they got it.

11. Do you propose that with a view of making them personally acquainted with the people?—With the view of keeping them constantly *en rapport* with the people.

12. We have had it in evidence that Mr. Hare's system of patrol with large parties was utterly useless, and that Mr. Nicolson's method broke down in consequence of the dishonesty of the agents or spies. Do you think it is a better way for the police to be thoroughly acquainted with the people of the country than to use either spies or large bodies to patrol?—Undoubtedly it is.

13. Do you think the police themselves will be able to get all the information that, we understand, ever was collected by those other means?—It is a difficult matter to answer that question. I believe we can get all information about such a matter as, say, this projected outbreak, as regards their movements—at least as to what is likely to take place now. But it is a different thing if there are four men out in the bush, for then it is necessary often to have a detective paid for the purpose of watching the movements of certain persons. For instance: in the detection of cattle stealing I am going to recommend, before very long that in a certain place a paid agent is to go to work there, otherwise we could not get at this person who is killing cattle. But under

any circumstances I do not believe in paying agents merely to go about broadcast to report what they like.

14. Do you consider your paid agent an officer of the police?—The officer of police must, of course, himself have an agent. People will not allow him to see them, or get into their secrets.

15. That agent, in your view, ought to be a man in whom the officers have undoubted confidence?—Undoubtedly.

16. That is, not to employ the friends?—No. Then the system degenerates into a system of espionage, which means that the agent is paid for the information he has to give; and if he has none to give, he will manufacture some.

17. He should be a paid private detective?—He is paid in proportion to the amount of information he gives; and I think that is a mistake, because the probable result would be that he would invent tales.

18. And it has been done over and over again in that district?—That I cannot say. At any rate the system has that tendency. There is a down right premium given to lying.

19. Are the police stationed at Greta now quartered at the hotel?—Yes.

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20. Do you consider it advisable that the police should be stationed there?—There is no other place for them to live, and I do not think they could be more harmlessly situated as regards the hotel, for it is a place where hardly any one goes to.

21. Do you advise that that system of quartering them at the Greta hotel should still obtain?—When you say system, I do not believe in it as a system; but as to stationing the police, or handling the police at the Greta hotel, that is an absolute necessity, for there is no other place to go to.

22. Would you recommend that a building should be provided at Greta for the police?—Not at present; because when a better state of things exists, which I hope for before long, I think it may be found necessary to reduce the number of stations. We may then perhaps have one that will command the whole of the Fifteen-mile Creek, and build a permanent station at a point near what is called the Heifer Station, about three miles lower down than Mason's. It is a place where the three roads meet—Greta, Benalla, and the one up the creek, and there is a crossing place there, going towards the Murray. We have land there reserved, ten acres on the creek, and then the road, and then beyond that again twenty-seven acres. That I recommended a few years ago; and I was on it a few days ago with Mounted-constable Graham from Greta, and was able to command his knowledge and experience. He is an exceedingly intelligent man, on whose judgement I can put great reliance, and he quite agreed with me in all those proposals.

23. That commands the King and Murray rivers?—Yes; it is a most central position. But at present we can get quarters at Mason's for £52 a year.

24. At young Robert Mason's?—Yes. Then again another advantage is that we have the benefit of his knowledge of the country. He was born there.

25. Have all those alterations you have spoken of been carried out?—No. Mr. Chomley, the Acting Chief Commissioner, has the recommendations in his office.

26. Are there any other recommendations you could make beyond those?—Well, none that I have been able to mature properly, so as to be certain about them.

27. In consequence of the statements that have been made by some persons, you think that all the recommendations you have made, and others you may make as your judgement matures, should be carried out as speedily as possible?—Undoubtedly.

28. How was it that, on the prosecution of McIlroy and Quin there, they were not made amenable to

some sort of justice to keep them quiet?—The case against McIlroy was not proved. The charge was that he had snapped a loaded gun at Quin, with intent to do him grievous bodily harm, and that was not proved to the satisfaction of the justices. It was sworn to right enough by Quin, but the justices did not believe him. There was subsequently a cross-summons taken out by McIlroy against Quin for some alleged insulting language made use of by him at Mrs. Dobson's Public-house. It is usual in the bush to have cross-charges made. I suggested to the bench that they should postpone the hearing of the case against Quin for a week, but they decided that they would jear it to-morrow, the 10th. I did that because I considered that Quin was taken by surprise; that he, in ignorance, trusted to me to defend him, when I had no status in the Court to do anything of the kind, and I considered that it would be treating him with injustice not to let him have the option and opportunity of employing a solicitor.

29. You were prosecuting McIlroy?—Yes. I might say, in connection with this, that a great deal of the difficulty with these men would be got over if they felt they were treated with equal justice—that there was no “down” upon them. They are much more tractable if they feel that they are treated with equal justice. As to the refusal of land to suspected persons, I have sent a report to the Commissioner, in which I asked him to take measures so that the Crown Lands Department should act in concert with the police—to place me in the position that I can use the provisions of the Land Act as a lever to influence the applicants for land in the North-Eastern district, more especially for a radius of fifty miles all round, taking Benalla as the centre. I find, from conversation with some of those men, that if they recognized me—that is the head of the police force there—as the arbiter of their destinies, to a certain extent, with regard to the taking and selling of Crown lands—in other words, that it would depend on their good behaviour—by that a lever would be put in our hands which would have more potency than an army of police. The result, I think, would be that it would prevent them from harboring criminals, and would give them a direct incentive to place themselves on good terms with the police, and avoid doing anything that would alienate them from the police, whereas, at the present time, they have no such feeling. Their whole object it to obtain land, and if their individual interests depended upon their good behaviour among the population where they are, it would be half the battle towards making good citizens of them.

30. In addition to your report, have you, since you have been stationed in charge of the North-Eastern district at Benalla, made any recommendations to him as to the probability of another outbreak?—I do not remember exactly having done so. There was nothing to have led me to do so. I might have expressed an opinion as I have to-day.

31. Do we understand now that, with the precautions you have already taken, and if your recommendations are acted up, there is no cause to fear another outbreak similar to the late one?—Yes; and, from information I have received, I do not think there is any cause to fear a similar outbreak except under certain circumstances. I have received private information that there are perhaps half-a-dozen young men who are closely connected with the late gang who would with great satisfaction rally round any men who, by the commission of any crime, might bolt from justice, and whom they considered competent to lead them. That, I believe, is quite on the cards at present.

32. Do you know those young men?—The police know them very well, those that are suspected. We cannot of course tell their intentions.

33. The police know them so that if an outbreak should occur hereafter, and an Act were passed the same as the last Habeas Corpus Act, you could seize those men readily?—Yes.

34. I suppose you will see that all the police in your district make themselves acquainted with those men who may join another gang?—They know them well.

35. And there would be no difficulty in their being known by the police?—I do not think there is the slightest difficulty. I think we are quite prepared for them.

36. Has any one told you since you have been at Benalla that the police are not likely to obtain the same facilities for getting information as was done during the Kelly outrage in consequence of statements made to this Commission and published?—Yes.

37. Do you think that information was really worth much that was received by the police from the

agents?—I did not know the extent of the information received. I know Mr. Nicolson and Mr. Sadleir received a great deal that I knew nothing about.

38. We have it in evidence that that information was generally received a week or a fortnight after the events?—Yes.

39. Do you think you could get information?—I think I could get information that they could not, because people would tell me things they would not tell them.

40. Do you think your position is prejudiced in getting information by anything that has occurred before this Commission?—I cannot say that of my own knowledge, except what I have been told by reliable persons. I believe it might have an influence if another outbreak did take place, because the feeling is very widespread in that part of the world that if they did give information to the police their names might be mentioned to a Commission. One man in particular, known as the “diseased stock” agent, is, I know, in fear and terror at the present moment.

41. Is he still up there?—He is.

42. Is he suspected or known?—He is not suspected, that I am aware, at present.

43. I have not the slightest idea what the man’s name is?—It is not supposed you do.

44. Then, if not known to the members of the Commission, it is not likely it is known to the people. We have specially requested the superintendents of police and others giving evidence to suppress names, and we have had the greatest difficulty, time after time, in preventing those names going out. Where they have been given by the members of the force themselves, we have warned them not to give them. That is a list of the agents supplied to the Commission, with the assumed names—[*handing a paper to the witness*]. Will you say if any of those individuals have spoken to you and said they would not assist the police?—I believe there is one man there who would tell me anything.

45. The question is this: is there any one on that list who has spoken to you and told you that, in the event of their being required, they would not assist the police in future?—That man “Denny” (*alias*) told Sergeant Whelan that he certainly would not mention a single thing again—that he might speak to Whelan himself, but he certainly would not open his lips to any one else. I told Whelan I did not want the man to speak to me. I said, “Any information you may get I will never ask you the name of your informant; I simply want you to give the information to me.” This man “Foot” I would not trust three yards; he is one of the biggest ruffians in the colony. However, none of those men have spoken to me about not assisting the police in future.

46. In point of fact, as to the conversation you have had with the people of the district, it is only a matter of suspicion in their own minds that those agents would not give information if they were required?—I believe they were told by agents.

47. Is it generally known in the district who those agents were?—Oh, no.

48. That is the difficulty that meets us in trying to understand this matter?—Sergeant Whelan told me that the agents who spoke to him said they would not give him information again through fear of their names being mentioned.

49. If your system be adopted as to stationing the police and so on, there would not be the same necessity to seek for private information as hitherto?—I believe there would be no necessity to have recourse to anything of the sort, because the result of the system, if carried out, would be that no outbreak would occur; and, therefore, no agents would be needed. If there should be an outbreak, I cannot tell now what would be required.

50. But if there were, with the police stationed in that way they would be acquainted with the people?—Yes; and I am in hope we would require no agents at all.

51. Constable Gascoigne, in his evidence, said that what he thought was wanted in the district was young, active men, well mounted, to keep patrolling; and he said they would get a personal knowledge of the criminal class, would mix with them, and be in a position to give more correct and reliable information themselves than could be got from any of those agents?—That is exactly what I have done in the general order

I have issued.

52. Do you consider that is really the best plan for keeping the district in order?—Yes. It was the plan we had when I was stationed up there before. The men were all *en rapport* with the public. They would remain there as an army of occupation.

53. Do you consider that it would be a wise expenditure to mount those men well?—Certainly; it is indispensable that they should be well mounted.

54. And indispensable that there should be a system of visitation of different districts almost daily—that the men should be kept riding about to show themselves everywhere?—Undoubtedly.

55. That has been provided for—and by doing that they will become acquainted with every movement of men of such a class as the Kellys, and would be able to nip them in the bud?—Undoubtedly. That is precisely the step we have taken. We know where they are now; we know where they go to—Lake Rowan, Greta, Mason's, Moyhu, and so on—we know where they are very well.

56. And you know all their haunts?—Yes.

57. Do you consider, from your knowledge of the country, that had that system been properly in operation when the Kelly outbreak did take place, the outlaws would have been caught sooner?—I do not believe, if it had been in operation, that the outbreak would have taken place at all.

58. If it had?—That I cannot say.

59. Would the chances be greater for catching them?—Undoubtedly; because the police would have the confidence of the people, who would not be afraid to give them information.

60. Would not the outlaws be in constant dread when they found one or two men galloping through the country in every possible direction and comparing notes?—Undoubtedly. It would, in my position, have rendered their position untenable.

61. By this system of patrols the police would be kept moving backwards and forwards as if on a chess-board, meeting each other half-way, and comparing notes about criminal matters—going half-way to one station one day; and half-way to another the next—have you that system in full operation?—Not yet; because I have been only about four weeks there; but the order is issued, and it will be put into operation as quickly as possible.

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62. And the intention is to make it complete?—It will certainly be made complete if I am allowed my way in the matter; but I would ask you to insist that the men get first-class horses, and that they be armed with the Martini-Henry carbine—every man in the North-Eastern district.

63. You approve of having arms of the same character for the whole force?—Certainly.

64. So that one class of ammunition will suit for any one?—Yes.

65. And a thorough system of drill and the men to be exercised in the use of arms?—Decidedly.

66. Because, according to the evidence, that has not been so up to the present time?—No; they are armed like a Turkish brigade, with all kinds of weapons.

67. Ned Kelly, in explaining the easiness with which he evaded the police, told Gascoigne, previous to his execution, that as long as strange police were going amongst them they could laugh at them. He said, "If you want to keep the districts quiet you will have men employed who know the place and people"?—Precisely—that is the axiom.

68. That is what he said the night before he was executed?—Every man would—any child in the place

will tell you the same.

69. Have you the best men there?—We have very good men there, but of course there may be some not so good—I have been only at very few stations.

70. You have not been to Mansfield?—That is under Sergeant Pewtress. He has a first-class man there.

71. Is he one of the best men in the force—named James?—Yes, and he could not be better placed than he is at present.

72. Are you not in charge of that district?—No, certainly not.

73. Are you not altogether doing Mr. Sadleir's duty?—Certainly. You asked me had I been to Mansfield, and I meant to say I had not, because Sergeant Pewtress was there, and there was no necessity for my going.

74. But you are responsible for it—it is within your district?—Yes, certainly. He is sub-inspector placed there under me.

75. You control that district?—Yes, certainly—I misunderstood the drift of the question.

76. Would you provide every constable with a revolver?—A Webley revolver and a Martini-Henry carbine.

77. Both mounted and foot?—Well, I do not say anything about the foot.

78. That is a question of some importance?—Well, I would arm the whole lot of them.

79. Would you give the foot police the long rifle or the short carbine?—The short carbine, because I would have no foot men there that could not ride in case of emergency.

80. Then with regard to getting bodies of men together periodically for purposes of drill, do you approve of that?—I do not think that is feasible.

81. Not possible?—No; it is not a question of drill so much as a knowledge of the bush. It is a guerilla warfare altogether if there is anything of the sort required. They must be good shots and good riders; in fact, it is not the opposing of an enemy, but to find out where the enemy is, is the difficulty.

82. Would you consider that both the men and horses should be trained in leaping fences?—Yes, I think so. The difficulty has been to prevent them leaping logs and fences; but every man should be able to jump his horse over a fence, and that should be done when he is trained in the dépôt.

83. You have got the black trackers now at Benalla?—Yes.

84. Under Constable Kirkham?—He is directly in charge. He lives with them, but he cannot be said to be in command of them. I control them myself.

85. If sent out for duty, does he go with them?—Yes, generally.

[*Mr. O'Connor was called in, and the Chairman directed that the evidence to follow should be printed in the usual course.*]

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## APPENDIX 2.

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Police Department, Chief Commissioner's Office,

SIR,

Melbourne, 5th July 1880.

Ever since the publication, in October 1878, of what is known as the Mansfield murders, remarks have been made in the public papers and elsewhere, in which reflections have been thrown upon the character of the police force and its proceedings generally in connection with the search for the outlaws, and now that the gang has been destroyed those remarks have taken a more specific and definite character.

It is asserted and implied that the long-continued efforts of the police force to trace and capture the outlaws have been characterised by supineness and apathy; that the police have been in many cases influenced by a desire to avoid rather than meet the offenders, while in connection with the recent outbreak, which led to the destruction of the gang' it is asserted that I have been guilty of most culpable procrastination; that the police officers have shown a want of generalship, and the conduct of the members of the force has been, according to some, characterised by an inconceivable disregard of human life, and, according to others, by an absence of that courage and dash which every good constable should possess. I have long felt the injustice of these reflections, and I think the time has now arrived when I can properly ask to have it ascertained whether they are deserved or not.

I have, therefore, the honor to request that an inquiry may be instituted by the Government into the whole proceedings and management of the police force, from the perpetration of the murders to the present date. This inquiry may take any form Government may consider desirable. On that point I am quite indifferent, provided only—(1) that the inquiry may be full and impartial, and open to receive the evidence of all persons, whether members of the force or not, who may have information on the subject to communicate; and (2) that the proceedings should not be open to the press, for though the full details of what the police have been doing should be known to the Government, it would be obviously contrary to public policy that they should be published for general information.

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The report of the gentlemen making the inquiry should, I think, be all that should find its way into the hands of the public. It could of course be made sufficiently full to satisfy the reasonable expectations of any persons unconnected with the force.

I have the honor to be, Sir,  
Your most obedient servant,  
F. C. STANDISH,  
Chief Commissioner of Police.

The Honorable the Chief Secretary.

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Police Department, Chief Commissioner's Office,  
Melbourne, 30th June 1880.

SIR,

I have the honor respectfully to request that, before proceeding to acknowledge the services of those engaged in the destruction of the Kelly gang of outlaws, a searching inquiry be held into the whole circumstances and transactions of the police administration in the North-Eastern district since the Kelly outbreak in October 1878, and particularly into the circumstances of my recent withdrawal from that district.

I have the honor to be, Sir,  
Your most obedient servant,  
C. H. NICOLSON,  
Assistant Commissioner of Police.

To the Honorable the Chief Secretary of Victoria.

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SIR,

Police Department, Stawell, 24th July 1880.

With reference to my application for an inquiry into the whole proceedings of the police *in re* the Kelly gang, forwarded to you on or about the 1st instant, and to which I have received no answer, I have the honor to state that I am aware the Government have since been much occupied with important matters. But the recent publication of a report from Superintendent Hare, dated the 2nd instant, containing serious charges against me, compels me to bring the said application again under notice.

I have the honor to be, Sir,  
Your most obedient servant,

To the Chief Commissioner of Police, Melbourne.

C. H. NICOLSON,  
Assistant Commissioner of Police.

SIR,

The Farm, Flemington, 7th September 1880.

I have the honor to apologise for trespassing upon your time, and to express a hope that you will be good enough to peruse the following report:—

In March 1879 I arrived in Victoria from Queensland, and placed myself and men under Captain Standish, Chief Commissioner of Police. He had me sworn in as an officer of the Victorian force. Captain Standish then sent me out in full charge of a party of police in quest of the Kelly outlaws. I requested to be allowed only two Victorian men to accompany my party, but the Chief Commissioner would not allow me to proceed with less than six. In one of our expeditions we received most reliable information in connection with the outlaws, which the Chief Commissioner would not allow us to proceed with, but instantly ordered our return. About May 1879, the Chief Commissioner began to show a degree of jealousy and dislike towards me. He ordered me to send my men to different localities, although my Government had ordered me not to do so. About this period, Captain Standish received some very good information, which, at the time, he only communicated to Superintendent Hare, who, some time after, told me that the information was that some men had been seen, whom the informer was confident were the Kellys, had gone to a hut, and if the police were sent they could be surrounded in the hut. I begged of the Chief Commissioner to allow myself and men to accompany the party going out, as the outlaws might get away before the police had time to reach the hut. Captain Standish said—"No; I will endeavour to get the Kellys without your assistance." Mr. Hare, who went out in charge of the party, returned unsuccessful, as a man, having met the party on their way to the hut, rode on and warned the outlaws, and was ready to receive the police when they arrived some time after. This, you will see, was a certainty thrown away, as my men could have easily picked up the outlaws' tracks.

Upon the Lancefield bank robbery occurring, my men and myself proceeded there, and were mainly instrumental in having the robbers arrested. Sub-Inspector Baner, of your force, can testify to this. Captain Standish never in any way acknowledged this service.

A private quarrel occurred between Mr. Hare and myself, altogether unconnected with official business, in which Captain Standish, who was not in any way concerned, took part against me, and carried it into official matters. He made a series of communications to the Queensland Government, tending to depreciate me, and to remove the men from my control and supervision. This was done without my knowledge, and consequently I had no opportunity of explanation to my commissioner. My Government ultimately acceded to the request of Captain Standish, and informed him that he was at liberty to have one of my men for permanent service in Victoria. Upon this, Captain Standish had the man taken out of my party and attached to his police, although he (Captain Standish) still required our services. For the discourteous manner in which this was done, my Government requested our immediate return; and, upon this being conveyed to me, I left Benalla for Essendon on the morning of the 25th June 1880.

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On the Sunday following, the 27th of June, at 7.30 p.m., I received a note (attached below) from Captain Standish, containing information of Sherritt's murder near Beechworth. Now, although I had received but scant courtesy, having received no communication from the Victorian authorities beyond the order to leave Benalla and return to Queensland as soon as convenient, I acceded to the Chief Commissioner's request, and waited upon him and arranged to leave Essendon at 10 o'clock that evening, with my men, for Beechworth. We left Essendon at 10.15 p.m., arriving at Benalla about 1 a.m., and at Glenrowan about 3 a.m. Mr. Hare and myself were considering the best course to adopt when Constable Bracken rushed down on the platform and gave us the information that the outlaws were in Jones's public-house. Mr. Hare and I ran up towards the house, he talking to me, and when at a short distance from the front of the place were stopped by a volley of bullets from its verandah. Almost simultaneously with the firing, Mr. Hare said, "O'Connor, I am wounded—shot in the arm; I must go back." This Mr. Hare did, not having been five minutes on the field. It was I who told the men to take cover, also the order to cease firing and to let the women out. Mr. Hare's statement as to having fired several shots is untrue, also his statement of having returned to the front, as he never left the railway platform after he returned there. Again, his statement is untrue when he states he saw me running up a drain, as I did not take cover for fully ten minutes after Mr. Hare disappeared. I remained at my post (immediately in front of the house) under heavy fire until 10.30 a.m., having held it for upwards of seven and a half hours, and only left when a superior officer arrived and took command. The Chief Commissioner arrived at Glenrowan at about 5.30 p.m., after the whole fight was over, and when he saw me he hardly condescended to recognise me. I returned next day to Melbourne, but never received a word of recognition for the services of my men or myself until Lord Normanby officially thanked me through Captain Standish.

In conclusion, I must say that Mr. Ramsay, the then Chief Secretary, subsequently sent for me, and thanked me most cordially on behalf of the Government of the colony, and stated that my services should be rewarded in the most substantial manner. After a little time he wrote a very complimentary letter to my Government.

In conclusion, I have to point out, as a Queensland officer of police, voluntarily serving in Victoria, assisting in searching for the Kelly gang, I have been treated in an ungentlemanly, ungenerous, and discourteous manner by the Commissioner of Police throughout the whole sixteen months I was under his command; and subsequently by Superintendent Hare, in his official report of the Glenrowan episode, which contains false and colored statements, calculated to make my services slightly esteemed, and to injure me seriously in my position as an officer of police. I submit that my voluntary action in proceeding to Glenrowan on the night of the 27<sup>th</sup> June, after my services had been dispensed with by Captain Standish, makes the injustice of Mr. Hare's report greater; and I again appeal to you to grant me the inquiry, for which I have returned from Queensland.

I have the honor to be,

Your obedient servant,

STANHOPE O'CONNOR,

Sub-Inspector of Queensland

To the Hon. Graham Berry,  
Police.

Chief Secretary, Melbourne.

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*Letter of Captain Standish to Sub-Inspector O'Connor.*

MY DEAR SIR,

Melbourne Club, 27<sup>th</sup> June 1880.

I have just received telegraphic information that the outlaws stuck up the police party that was watching Mrs. Byrne's house, and shot Aaron Sherritt dead. The police, however, appear to have escaped. In the urgent position of affairs, could you return to Beechworth with your trackers by the early train to-morrow, or by a special train, if that can be arranged. If you can oblige us in this way, could you manage to come in at once to see me at the Club by the hansom which I send out with this?

Yours faithfully,

S. O'Connor, Esq.

F. C. STANDISH.

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SIR,

Flemington, 12th August 1880.

I have the honor to request that you will grant me a board of inquiry into the acts and occurrences of the Police Department of Victoria during the time I was on special duty here as the officer in charge of the detachment of Queensland Native Police, acting in the pursuit of the Kelly outlaws; also into the facts and occurrences concerning the death and capture of the outlaws at Glenrowan.

I trust you will see your way to grant me this request, as, after the report of Superintendent Hare, published in *Argus* of the 20th July 1880, and the evidence of Senior-Constable Kelly on the magisterial inquiry at Beechworth, published in the *Age* of the 11th and 12th August 1880, I feel it is due to the Police Department of Queensland, also to myself as an officer and a gentleman, that my conduct and that of my men during the whole of the period referred to may receive the fullest investigation. If it is more convenient to you that this inquiry be included in that of any board appointed to inquire into the police administration of this colony, I would be content to allow mine to form part of it.

In conclusion, I beg to state that I do not wish to participate in any part or portion of the £8,000 reward, but only require to have an opportunity of placing my conduct and that of my men in the proper light.

I have the honor, &c.,

STANHOPE O'CONNOR,

Sub-Inspector Queensland Police.

The Hon. Graham Berry, Chief Secretary of Victoria.

The following appeared in the *Argus* on 30th June 1880:—

With regard to the part taken by Sub-Inspector O'Connor and the Queensland black trackers in the encounter at Glenrowan, Mr. O'Connor makes the following statement:—"I went down by the special train on Sunday night, at the request of Captain Standish. I collected my troopers and started three hours after I received notice. I agreed to go on condition that the Government of Victoria would see me held blameless, as we were under orders to leave for Queensland. On our arrival at Glenrowan, we heard that the rails had been taken up some distance further on. We thought the best course would be to get the horses and proceed to the spot. Bracken then appeared, and informed us that the Kellys were at Jones' public-house. Superintendent Hare, myself, and four or five men rushed up to the house. When we got within 25 yards we were received with a single shot and then a volley. We returned the fire. Hare said—'O'Connor, I am wounded; I am shot in the arm; I must go back.' He left immediately. We remained, and our incessant fire drove the outlaws into

the house, which we heard them barricade. Mr. Hare returned to the station, remained a short time there, and then went to Benalla. I stood at my post until half-past ten in the forenoon, when I was sent for by Superintendent Sadleir. I was within 25 yards of the house the whole time. At daybreak I got behind shelter. One of my troopers was shot alongside of me—cut across the eyebrows. he jumped on the bank, fired five shots into the house, and said, ‘Take that, Ned Kelly.’ It seemed to afford him great relief, but rather amused me.

I was left in charge of the men from the time Mr. Hare left until Mr. Sadleir arrived on the ground.

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## APPENDIX 3.

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### SUPERINTENDENT HARE’S REPORT.

(Published in *Argus* of 20th July 1880.)

“SIR,

“Rupertswood, Sunbury, 2nd July 1880.

“I have the honor to inform you that I deem it my duty to give you a full report of all the circumstances from the commencement of the time I was directed to proceed to Benalla up to the period of the Kelly gang being surrounded by the police at Glenrowan on the 27th June.

“You may remember, on the 30th April last, when visiting the dépôt, you informed me that I was to proceed to Benalla to relieve Mr. Nicolson, and to take charge of the whole of the proceedings in connection with the capture of the Kellys. I protested in the strongest manner possible at the injustice of my being sent up there again. I pointed out that there were three officers senior to me—viz., Mr. Winch, Mr. Chomley, and Mr. Chambers—none of whom had been called upon to undertake the hardships that I had to undergo during the seven months that I was with you in that district. I also pointed out that the responsibility should be thrown on the senior officers. I stated that a promise was made to me when I was sent for previous to the capture of Power, the bushranger; that Mr. Nicolson and Mr. Montford had reaped the benefit of that capture; and that I, who was directed to organize the whole affair, am still in the same position as I was then, notwithstanding the promise made by the Chief Secretary, Sir James McCulloch. Ten years having elapsed since then, and my position in the police force being still the same, I did not see any advantage to be gained by being told off on this special duty. Your reply to this was, ‘It’s no use saying anything about it; you’ll have to go.’ I then requested that I might be allowed to see the Hon. the Chief Secretary on the subject, as I wished to enter my protest to him against being sent up to Benalla. You agreed to make an appointment for me, and at two o’clock that day I saw Mr. Ramsay in his office. I then pointed out to him the disadvantage to me of sending me up there. Mr. Ramsay replied, ‘Mr. Hare, this Kelly business has been discussed by the Cabinet; and it is their unanimous decision that you should be sent up to take charge of affairs. I give you *carte blanche* to do whatever you think proper, and I leave you entirely untrammelled. The Government have such entire confidence in you that they will hear you out in whatever you deem it advisable to do.’ I replied, ‘Very well, Mr. Ramsay when do you wish me to go?’ He said, ‘As soon as possible.’ I told him that I would leave in two or three days’ time. On Monday the 3rd May I received a note from you informing me that the Hon. the Chief Secretary, at the earnest request of Mr. Nicolson, had consented to allow him to remain at Benalla for one month longer, and that my orders for transfer were cancelled for the present.

“I received orders from you at the end of May that I was to proceed at once to Benalla to relieve Mr. Nicolson. I accordingly, on the 2nd June, went up there. I arrived at Benalla at about 11 o’clock that day. I saw Messrs. Nicolson, Sadleir, and O’Connor in the office. After some conversation on general subjects, Mr. Nicolson produced a letter he had received from you, directing him to give me all the information he had obtained concerning the Kelly gang during his stay at Benalla. He showed me the state of his financial account with one of his agents, and said there was nothing owing to any of the others. He opened a drawer and showed me a number of papers and the correspondence which had taken place during his stay at Benalla, and said, ‘You can get all the information from these papers.’ He gave me no verbal information whatever, but said, ‘Mr. Sadleir can tell you all I know concerning the movements of the outlaws.’ He left the office, and I never spoke to him again, and he went to Melbourne by the evening train. The principal agent employed by Mr. Nicolson I had appointed to meet me that evening. He was one who was considered the best man they had. After talking with him a few minutes, he positively refused to work for me or have anything to do with me, although he had accompanied the police from Beechworth the previous day for the purpose of having an interview with me.

“That evening I telegraphed to Detective Ward to come down to Benalla the next morning by train. He did so, and, after some conversation, he informed me that on the previous evening the senior-constable in charge of Beechworth had received a telegram from Mr. Nicolson to pay off all the agents he had employed.

nor did the clerks know anything about it, so I presume it must have been sent from the railway telegraph office, as Mr. Sadleir knew nothing whatever about it.

"I directed Detective Ward to return to Beechworth at once and order the senior-constable to allow matters to continue as they had been previous to my taking charge, as I did not wish to make an alteration in anything until I was in a position to judge what was best to be done.

"For the first two or three days of my stay at Benalla I occupied my time in reading up the papers in the office, and obtaining all the information I possibly could on the subject. I had a long conversation with Mr. Sadleir, who assisted me in every possible way, and gave me all the information in his power. I conversed with the different non-commissioned officers and constables I came across, and obtained their views on the duty upon which I was engaged. Most of Mr. Nicolson's communications with his agents were by word of mouth and not in writing, and the information I obtained from documents in the office was very scant and not of much service to me. I then started round the district to see the non-commissioned officers in charge of the principal stations. I had long talks with them and their men on the state of affairs, and informed them that I intended stationing black trackers, whom I expected from Queensland, at Benalla, Wangaratta, and Beechworth. I also told them that at each of these towns I would have a full party of men stationed, so that, if any information was received about the Kellys, they would be in a position to go in pursuit at once; and all I wished them to do was to communicate by telegraph with me previous to their starting off, so that I might know in which direction they had gone.

"After a few days I returned to Benalla, and started off two or three parties of men who had been specially taken on in the police force, in consequence of their knowledge of the country and the outlaws, and directed them to obtain private horses, and go into the country they knew best, and knock about amongst their friends and relatives, in order to see if they could get any information concerning the outlaws. They might go where they liked, and remain out as long as they thought fit. I also made up three watch parties, consisting of four men each, and directed them to watch certain places by night and remain concealed all day. I made sundry other arrangements, which it will not be advisable for me to fully enter into.

"From the date of my arrival at Benalla up to Sunday the 27th June I heard nothing positive concerning the movements of the outlaws, although their agents and sympathisers were particularly active, and I was privately informed that the outlaws were about to commence some outrages which would not only astonish Australia but the whole world.

"On the 24th I received a communication from you that Mr. O'Connor and his black trackers were to be sent back to Queensland. I informed Mr. O'Connor accordingly. The next morning he started away from Benalla with his 'boys.' I had but one Queensland black of our own at Benalla, and there was another at Mansfield. I telegraphed for the one at Mansfield to be sent down to Benalla at once, so that I might have two trackers in case anything happened before Mr. Chomley, who had gone to Queensland for a fresh supply of trackers for our own force, returned, as I did not expect him back for eight or ten days.

"On Sunday the 27th ultimo I was at the telegraph office at Benalla, at ten o'clock a.m. I received telegrams from all the stations in the district that all was quiet. I made an appointment with the telegraph master to be at the office again at 9 p.m. About half-past two o'clock that day I received a memo, from the railway telegraph office to go to the general telegraph office, as there was important information for me there, and a memo. to the same effect had been sent to the telegraph master. I lost no time in going there, and received a message from Beechworth that Aaron Sherritt, in whose house I had a watch party, had been shot the previous evening at six o'clock. I immediately sent for Mr. Sadleir, and we consulted together as to the best course to adopt. First of all we decided to give you all the information in our possession, and ask you to request Mr. O'Connor to return without loss of time to Benalla, with his 'boys,' as we considered they might have a good chance of tracking the outlaws from Sherritt's house.

"About eight o'clock that evening I received a telegram from you informing me that Mr. O'Connor would be sent up by special train, leaving town at ten o'clock. I also telegraphed to you asking authority to send on a pilot engine in front of our train. Your reply to me was, 'A good idea; there's no knowing what desperate deed the outlaws may now be guilty of. Have the pilot.'

"The whole afternoon Mr. Sadleir and myself were engaged in the telegraph office, warning all stations to be on the alert, and at places where there were no telegraph offices private messengers were employed, and sent out to convey the information of the outrage at Beechworth, and to be on the alert also.

"I started off then for the railway station, having previously sent word to the station master to have an engine ready to go to Beechworth as soon as possible, as it was my intention to take up my party and the two trackers, in the event of Mr. O'Connor not consenting to return. I told Mr. Stephens, station master, that a special was to leave town at ten o'clock, and that I wished the engine that I had ordered to act as pilot to the train to Beechworth, which would reach Benalla about two a.m.

"He informed me that he had no engine there which could run to Beechworth, that line requiring peculiar engines. I requested him to get the engine which was to come down to Wangaratta from Beechworth the following morning to get up steam at once, run down to Wangaratta, and wait there till my arrival, so that it could act as pilot thence to Beechworth. He consented to do this, and also to have trucks ready to convey the horses and men from Benalla to Beechworth.

"I then returned to the telegraph office, where Mr. Sadleir had remained during my absence. We made arrangements for horses and provisions to be ready for the trackers, and told off the following men to accompany me to Beechworth:—Senior-constable Kelly, Constables Arthur, Barry, Gascoigne, Canny, Kirkham, and Phillips, leaving a party behind us all ready equipped, with two black trackers, for Mr. Sadleir, in case anything occurred while I was away. I remained in the telegraph office until 10 o'clock p.m. Having

completed all arrangements I went to lie down for two or three hours, as I expected to reach Sherritt's house by daybreak the next morning to commence tracking from there.

"At 1 o'clock I went to the railway station, had the horses put in the trucks, and waited the arrival of the special, which reached Benalla, I think, about half-past 1. Mr. Rawlins, a gentleman residing at Winton, asked me to allow him to travel in the special to Beechworth from Benalla, as he had a pass on all the railways. I told him I had no objection to his doing so. The engineer in charge of the Benalla station suggested that I should put a constable in front of the engine, to keep a look along the line. I accordingly told off Constable Barry for this duty, and saw him securely fastened on the engine. I afterwards ascertained that the engine that brought the train from town had become disabled on the way up, and

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it was decided to send it as the pilot, and send the Benalla engine to Wangaratta with the train. The engine-drivers refused to allow Barry to go on their engine, so I recalled him. The occupants of the train from Melbourne were as follows:—Mr. O'Connor, his wife and sister, five Queensland trackers, and six gentlemen connected with the press.

"My party, already mentioned, joined the train here. Previous to starting I asked the stationmaster to give me the key of the railway carriages, as the guard insisted on locking us in. He complied with my request. The pilot engine started about five minutes before our train. We went along at a rapid pace without interruption until within two or three miles of Glenrowan station I heard our engine whistle. I put my head out of the carriage, looked ahead, and saw the pilot pulled up within 300 yards of us. I immediately unlocked my carriage, jumped out of the train, and walked towards the pilot. When about a few yards beyond our engine, I met a man walking towards me from the pilot with a lamp. He came from the pilot engine, and told me that he had been stopped by a red handkerchief being held up, and lighted by a match held behind it. When he pulled up he saw a man without coat or hat approaching, who appeared greatly excited, and told him that the line had been broken up either this side or the other of Glenrowan. He said the man told him the Kellys had taken possession of everybody in Glenrowan, and that they said they were going to attack the police on their arrival. I asked him where the man was. He said after giving the information he ran away into the bush, as he had left his wife and family at home, and that he was a schoolmaster at Glenrowan. He said, 'I invited him to go on the engine, but he declined.' I then ordered all the carriages to be unlocked, lights extinguished, and gave the occupants the information that had been given to me, and to be ready for any emergency. I at once walked towards the pilot, taking with me three men, leaving Mr. O'Connor and his men with Senior-constable Kelly and the remainder of my men. I walked along the line myself, and distributed the men on each side, telling them to separate and keep a sharp look-out. When I reached the pilot the engine-driver repeated the story about the schoolmaster, and I told the driver to go on quietly in front of the train. He declined doing so until I jumped on the engine myself and brought up the three men with me. I placed the men in the best position, and told them to keep a sharp look-out and be ready for anything that might occur. I took up my position at the opening of the engine, and then told the driver to go ahead cautiously, and be ready to go ahead or backwards at any moment in the event of my directing him to do so. He said his engine was in a very disabled state, having lost its brake, and could not be depended on. He advised that he should shunt back to the train, and that the two engines should be hitched on together, and so take on the train. I consented to this, and we shunted back. I then directed Senior-constable Kelly to jump on the other engine with three men, and to put them in the most secure places, prepared for any emergency. I gave information to Mr. O'Connor of what I had ascertained and done, and we started off at a slow pace towards Glenrowan. When we reached the station everything was in darkness, not a soul moving anywhere. I got off the engine and told every man to jump out of the train and keep a sharp look-out. I then started off in company with Mr. Rawlins to the stationmaster's house, which was about 70 or 80 yards from the station, where I saw a light in the window. I knocked at the window, and looking through saw a woman and children. She asked, 'Who's there?' I answered, 'Police; open the window.' I asked her where her husband was. She replied, 'They have taken him away into the bush.' She was greatly excited, and for some time could scarcely answer me. I begged her to be calm and tell me who had taken her husband away. She said, 'The Kellys.' I asked in which direction they had gone, and she pointed in the direction of Warby's ranges.

"I immediately hastened back to the station with Mr. Rawlins, who told me he was thoroughly acquainted with the country, and would gladly render me all the assistance he could. He told me he was unarmed, and asked me if I had any spare arms. I told him 'No,' but that I would give him my revolver and stick to the double-barrelled gun myself. On reaching the station I told the men what I had been informed by the stationmaster's wife, and to lose no time in getting the horses out of the train and saddling them. Whilst the men were so engaged, Constable Bracken appeared on the platform in a very excited state. He said, 'Mr. Hare, I have just escaped from Jones's Hotel, where the Kellys have a large number of prisoners confined. For God's sake go as quickly as possible, otherwise they will escape.' I called on the men to follow me with their arms as quickly as they could. Many of them were holding horses. I told them to let go the horses, as the Kellys were in the house, and follow me, running off towards Jones's Hotel. Some six or seven men followed me, amongst them were some of the black trackers, but I cannot say who any of them were. When

approaching the hotel the place was quite silent and dark, and when within about twenty yards of the verandah I saw a flash of fire, but could not distinguish any figures. Instantly three persons also commenced firing from the verandah, which was in total darkness—the moon beams at the back of the house caused our men to be plainly seen—a continuous fire was kept up on both sides. I was struck by the first shot, and my left arm dropped helpless beside me. The firing was continued on both sides with great determination for about five minutes, when it ceased from the verandah, and screams from men, women, and children came from the inside of the house. I at once called on my men to cease firing, which they did. When the firing commenced I called upon the men to be steady, and I cannot speak too highly of the conduct of the men on this occasion, as they stood with firmness, receiving volley after volley from the verandah, and replying to it. The men were all on my right, and the fire seemed to come in a line, as if the men were on parade. I kept using my gun with my right hand, and I think I fired six shots. I had great difficulty in loading, having but the use of one arm. I had to put the stock of the gun between my legs in order to reload. I cannot remember any of the men who were with me during the firing except Senior-constable Kelly. I told him I was badly wounded, and directed him to take all the men and surround Jones' Hotel, so as to prevent the escape of the outlaws, and saw this was being done. During the firing there were shouts from the outlaws calling on us to fire away—we could do them no harm.

“Feeling that I was losing large quantities of blood, I returned towards the railway platform. On my way thither I saw Mr. O'Connor running up a drain with some of his boys. As I passed him I called out to him I was hit. Senior-constable Kelly called out to me to send some more ammunition at once from the train. I did so directly I arrived at the platform, and Mr. Rawlins volunteered to take the ammunition round, and distribute it amongst the men, which he did. There were a number of gentlemen of the press on the platform when I arrived there, and they very kindly took a handkerchief, and bound up my arm. I then returned to the front, intending to go round the men posted, but after visiting two or three of them

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I felt myself getting very weak and faint from loss of blood. When I again reached the platform I was staggering, and the gentlemen of the press assisted me into a railway carriage. I intended to run down to Benalla to have my arm dressed, and to return immediately it was done. After getting into the carriage I was given a little sherry, which rallied me considerably, but the blood was still flowing from my arm. I started an engine away to inform Mr. Sadleir of what had occurred, requesting him to come as soon as possible with every available man on the station, and bring up a supply of ammunition, and shortly after that I followed on another engine to Benalla. Owing to my great loss of blood, I had great difficulty in keeping myself from fainting on my way down. We reached Benalla in about ten minutes. On my arrival there I asked the stationmaster to telegraph to Wangaratta, and direct Sergeant Steel to bring every available man he had on the station by the pilot engine, which was waiting for me there, to Glenrowan, as we had the Kellys surrounded in a house; but to be careful not to let the engine come within a mile and a half of Glenrowan, as the rails had been torn up. I then started off to the Benalla Telegraph Office, which was about a mile and a quarter distant from the station. Being afraid to walk that distance by myself, feeling so faint, I asked a Mr. Lewis, school inspector from Wangaratta, whom I met, to accompany me, which he did.

“On the way we called at Dr. Nicholson's—this was about 4 a.m. I told the doctor I was shot by the Kellys, and I wished him to dress my arm, as the blood was still flowing freely. I told him I could not wait to have it done then, but to follow me to the telegraph office, as I wished him to return to Glenrowan with me, and to lose no time about it. I then started off with Mr. Lewis, leaving Dr. Nicholson to dress. On reaching the telegraph office I could barely stagger in. I found the office open, and dictated a telegram to the stationmaster to send to you. I also sent a telegram to the police at Beechworth and Violet Town, directing them to proceed with all available force to Glenrowan, as the Kellys were surrounded in a house, and as I did not know how much assistance might be required to secure them. I then laid down on a mattress, and Mr. Sadleir came into the office. I told him what had occurred, and to hasten back as quickly as possible, and I would follow him. His reply was—‘Don't be such a fool. You are a regular glutton. You have one bullet through you now, and I suppose you want more.’ He then left the office, and hastened away. Just then Dr. Nicholson entered. He examined my wound, and told me I had sustained a very bad fracture of the wrist, and that it would be madness for me to return. He procured an impromptu splint and lint, and, with the assistance of Mr. Lewis and Mr. Saxe (telegraph-master), dressed the wound. During the dressing I fainted. How long I remained in that state I do not know, but when I came to myself both the doctor and Mr. Lewis had gone, and Mr. Saxe gave me some strong spirits, and with his assistance, and that of one of his clerks, I walked to my lodgings, about a quarter of a mile away. I was unable to proceed, and was confined to bed all day, suffering great pain.

“At about 3 o'clock, Dr. Charles Ryan arrived from Melbourne, and dressed my hand, and Dr. Nicholson, returning just then, assisted in the operation.

“In conclusion, I wish to place on record the very great assistance rendered to me by Mr. Sadleir from the time I arrived at Benalla up to the eventful day. He spared neither time nor trouble, and I would desire strongly to urge upon you the necessity of suitably acknowledging his services.

Whilst mentioning the assistance rendered to me by Mr. Sadleir, I would also desire to place on record my high appreciation of the conduct and services of the police force, both of Queensland and Victoria, who by their steadiness and courage seconded my efforts and contributed to the successful termination of the

duties they were especially called upon to perform.

"I would also bring under your notice the great services rendered by Mr. Saxe, telegraph-master at Benalla. The police in the district found him always ready to assist them at any moment, day or night (Sundays inclusive), and he complied with everything he was asked to do most readily and cheerfully. I would therefore urge upon you the desirability of bringing his conduct under the notice of the Hon. the Postmaster-General, with a view to his promotion in the service, as you are well aware, from your own personal knowledge, of the many services rendered to us by him.

"With regard to the reward offered for the apprehension of the offenders, both by this Government and that of New South Wales, I trust that a board will be appointed to decide to whom it is to be paid, and that the constables and trackers who were engaged at the destruction of the gang will be allowed to partake of a portion, especially those who accompanied me from Benalla. I need hardly say that I decline to participate in any of the rewards already offered for the capture of these outlaws.

"I cannot bring my report to a close without strongly drawing the attention of the Government to the praiseworthy and plucky conduct of Mr. Curnow, who in my opinion was mainly instrumental in saving the lives of the whole party in giving the information of the lines being destroyed, and of the Kellys being at Glenrowan.

"Constable Bracken showed great presence of mind, and deserves much credit for his conduct on the occasion, and I think he has a claim to a good share of the reward.

"I think, also, that the thanks of the Government are due to Mr. Rawlius, who ably assisted me throughout the firing, he had previously offered me the benefit of his knowledge and experience of that part of the country. He ran considerable risk in serving out the ammunition to the police, and I feel very grateful to him for his personal service to me.

"Since writing the above I have seen a statement made by Mr. O'Connor to the press, and after reading it I can have no doubt his statement is perfectly correct, but in my report I have merely stated facts that are within my remembrance, and no doubt in the darkness of the morning, and time excitement of the time, I may have omitted many incidents that occurred.

"When I took charge of the district from the 2nd of June last, as far as I was able to ascertain, no more was known of the outlaws or their movements than when I left Benalla twelve months ago. The statements that have appeared in the public press for some weeks past, to the effect that the outlaws were surrounded by a cordon of the police and their agents, had not the slightest foundation. I do not take any special credit to myself and men in being able to surround them in Jones's Hotel on 28th June. The chance occurred; we took advantage of it, and success attended us. You may recollect that at my interview with the Chief Secretary I objected to having a large party of trackers kept at Benalla, and as Mr. O'Connor objected to divide his men, I suggested that some native trackers should be provided from Queensland for our own force. I said also it was a general belief that the outlaws were afraid to show out because of the trackers, and in my opinion, if such was the case, the sooner Mr. O'Connor and men were

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removed the better, because, should the gang make a raid, there would be a probability of capturing them, but as long as they remained in the mountains we had little chance of finding them. Mr. Ramsay agreed with me in this opinion. I frequently expressed the same opinion to you in the last few months. The trackers were removed on the 25th June; the outlaws believing they had left for Queensland, showed out on the 26th. On the 28th the gang was destroyed, and its leader captured.

"I have the honor to be, Sir,

"Your most obedient servant,

"FRANCIS HARE,

"Superintendent of Police.

"The Chief Commissioner of Police."

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## APPENDIX 4.

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### REPORT OF ACTING C. C. POLICE ON THE NORTH-EASTERN DISTRICT.

81/392.

SIR,

Police Department, Chief Commissioner's Office,  
Melbourne, 1st May, 1881.

I have the honor to inform you that in consequence of the report received from the North-Eastern District as to the unsettled state of that part of the country, and the probability of another outbreak of

bushranging, I proceeded to Benalla on Friday last to make some enquiries into the truth, or otherwise, of these reports, and also as to the best steps to be taken in relation thereto.

After conversation with Messrs. Sadleir and Baber, Sergeants Steele, Whelan, and others, the impression left on my mind was that a very bad and revengeful feeling prevails amongst the relations and friends of the late gang of outlaws, against the police and the persons who assist the police during the late disturbances, and that this feeling may lead to some cowardly advantage being taken of some constable or police agent, or may be brought to a head, and lead to open acts of violence at any moment, in the event, for instance, of an attempt being made by the police to arrest any of the Kelly sympathisers.

There is no doubt, also, that horse stealing is carried on to a great extent, and that persons who have assisted the police with information, &c., are in terror of being discovered, and assaulted in consequence, so that many of them have thought it advisable to leave the district.

To meet this state of things, I would suggest—

1. That Inspector Montford be placed in charge of the North-Eastern District. Mr. Montford is an active and energetic officer, who will, I think, be equal to the position; and as he was stationed in that district for some years, he will have the advantage of being acquainted with the country.

2. That in consequence of the disclosures made before the Police Enquiry Board, and the references made to persons who assisted the police with information during the Kelly outbreak, it is now utterly impossible to obtain information as to the movements of the sympathisers; our chief dependence must, in case of a fresh outbreak, be in our black trackers, and it is most advisable to make them as efficient as possible. *At present, I am led to believe they are not as useful as they might be if they were properly handled by an officer who understood them*, and I would therefore suggest that Mr. O'Connor who came here with the Queensland trackers, and who served here with our force for some sixteen months, be asked to again give his services if he is not otherwise engaged, and to take charge of our trackers, and generally assist in the police duties in the North Eastern District. Mr. O'Connor must have gained very considerable experience and knowledge of the country while he was stationed at Benalla, which should make his assistance of great value.

3. That two detectives be sent up to move about the district, and to pick up information, where possible, about the actual crime in the district, and any acts of violence which may be in contemplation.

4. That the stations named in the margin be strengthened sufficiently to allow of a well armed and mounted party of at least four or five being kept at each station named, in readiness to move away at a moment's notice if required.

5. That an addition of one foot constable be made to the strength of the Jamieson, Euroa, and Bethanga stations, as at these places there are banks situated, and they would be likely places to be attacked from the fact of their being so isolated.

6. That the Police Commission be asked to refrain from publishing any evidence having reference to the police agents, or at least to use great caution in doing so.

I think, with the addition of two smart officers to the district, the strength of the stations increased as suggested, and the police generally kept in a state of thorough efficiency and preparation, that not only will an actual outbreak be averted, but that confidence will be somewhat restored, and the district brought into proper order.

There are of course many details which will have to be attended to, such for instance as the selection of suitable men to take charge of parties, seeing that the men can make proper use of their firearms, that the men are well mounted, and that they acquire a perfect knowledge of the country; these must of course, however, be left a good deal to the discretion and attention of the officer in charge, who will, of course, receive every possible assistance from this office.

I have the honor to be, Sir,

Your most obedient servant,

(Signed) H. M. CHOMLEY,

A. C. C. Police.

The Honorable the Chief Secretary.

POLICE.

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## APPENDIX 5.

### REPORTED APPEARANCES OF THE KELLY OUTLAWS.

The portion of the return within brackets [ ] is that furnished by Superintendent Sadleir. The other portion contains additions to Mr. Sadleir's return, remarks thereon, and the particulars of some cases not noted by him.

Date Report Received.	Date of Appearance.	Where Seen, &c	Steps Taken by Police.
1878. November 2	1878 October 31	<i>Mr. Nicolson in charge.</i> At Margery and Peterson's, near Bungowannah	Search by Detective Kennedy, and subsequently by Mr. Nicolson to November 5th.
" 4or5	November 4	Wangaratta Bridge and crossings at railway	Inspector Brooke Smith making inquiry. In the meantime search started at Sheep Station Creek. Later tracks

				taken up by Mr. Smith, which led to police horses being found on Warby's Ranges. The identity of offenders only conjectured by informants.
"	6	"	3	Search party, under Captain Standish, Mr. Nicolson, and Mr. Sadleir, at daybreak on 7th.
"	6	October	29	No search, later information having been received.
"	11	November	11	Search by Messrs. Nicolson, Sadleir, and Smith, with party, on 12th, at daybreak; unable to follow tracks.
December	6	Not given		Search and inquiry by local police, and not traced.
"	10	December	9	This was the date when Euroa bank was stuck up. Search by police, under Mr. Nicolson.
"	13	December	12	Rumor unfounded.
December	18	November	24	<i>Mr. Hare in charge.</i>
"	19	December	8	Rumor unfounded.
"	21	Not given		No steps taken; later appearance at Euroa on 10th instant.
"	23	Not given		Report unfounded.
"	26	Not given; a few days previous		Report unfounded.
"	27	December	26	Inquiry by Alexandra police. Report found to be untrue.
"	28	About December 13		Inquiry by Lake Rowan police. Report found to be untrue.
"	30	December	22	Rumor unfounded.
"	30	...	...	Report too old to be acted on. Reported by Detective Ward.
"	31	December	21	Report unfounded.
1879				No steps. Reported by Detective Ward, who recommends Mrs. Byrne's house to be watched.
January	3	"	30	Local police searched. Found to be untrue.
"	7	January	5	
"	7	"	5	Place searched by Sergeant Harkin and party, but no trace.
"	7	"	5	Inquiry by Mansfield police; the informant, Eyres, not reliable. No trace.
"	8	"	4	Reported by Sergeant Harkin, who made search, but could not trace these persons; not supposed to be the outlaws.
"	9	"	1	No steps. The informant, George Cherry, to inquire of his informant, and report further. No further report from Cherry.
"	10	"	6	Inquiry by local police. Story unfounded.
"	13	"	7	Gang inquired about Harty's arrest, and threatened police. No steps, as information did not indicate particular locality, and was too stale.
"	13	"	9 and 10	Information too stale; Senior-Constable Strahan, with watch party, placed at crossings in vicinity.
"	16	About 10 days before		Inquiry by Sergeant Harkin and police, who report matter doubtful. Detective Eason, by telegrams on 17th, thinks report not reliable.
"	17	January	4	Search by police, without result.
"	18	December	25	Report too stale.
"	17 & 19	1879.	4	Report by Acting Chief Secretary, who directed search to be made in locality indicated for proceeds of bank robbery. Search by Senior-Constable Strahan and party, who could not find the "plant."
"	21	"	21	Party sent on 20th, accompanied by informant. No trace, and report considered doubtful. Banks in neighbourhood warned.
"	21	"	15	Reported by Patrick Moffat (constable on leave).
"	25	"	22	Superintendent Sadleir and party, by special train, searched and found report untrue. Informant mistook others for outlaws.
"	27	"	27	Inquiry by Mansfield police. Report traced to Absalom James, who afterwards denied the affair.
"	27	About	17th	No record of action taken.
		January		Reported by <i>alias</i> Sherrington to Assistant Commissioner of Police that he had seen offenders same day, and spoken to them. Four parties of police sent out on 29th.
				Report believed to be wholly unreliable.
				A mere suspicion.

Date Report Received.	Date of Appearance.	Where Seen, &c	Steps Taken by Police.
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1879.	1879.	<i>Captain Standish and Mr.</i>	<i>Hare in charge—continued.</i>
January 31	January 29	Sheep Station Creek, near Beechworth	A. Sherritt reported seeing D. Kelly and Joe Byrne, and other information
February 2	" 21	Tom Lloyd's near Greta	Too stale to act upon.
" 3	February 1	Lancashire Lead, near Chiltern. J. Byrne and (supposed) Dan Kelly	Party, under Senior-Constable Strahan, on foot, sent to inquire; Superintendent Sadleir also followed. Traces could not be followed.
" 8	No date	Gang supposed near Talangatta getting horses to cross river	Superintendent Sadleir to Albury to inform and act with police there on same day. Senior-Constable Mullane and parties also in search near Talangatta.
" 10	February 10	Jerilderie, New South Wales	Jerilderie bank stuck up. Four parties to watch crossings to Victoria, and all police warned.
" 11	" 10	Near Cashel	Report infounded. Kellys at Jerilderie this day. <i>See</i> B154
" 12	" 12	Urana, New South Wales (all the outlaws)	Reported by Albury police.
" 12	" 12	Taylor's Gap, near Beechworth (Dan Kelly only)	Detective Ward and two constables sent to search; no result; report believed to be doubtful. Party watching Tom Lloyd's from 16th, and party from Kilfera in ranges to Ryan's Creek.
" 20	" 15 & 16	Urana, New South Wales	Reported by Albury police.
" 20	" 22	Rutherglen and Wahgunyah	Report was to effect that attack by outlaws was imminent. Two parties of police, two in each, secretly lodged in each township.
" 23	" 23	Howlong, New South Wales. Outlaws not seen, but telegraph wires cut that morning each side of town	Party of police sent with Albury police from Wodonga. No appearance of outlaws.
" 25	Not given	Near Barnawartha	The gang were said to be drinking; Ned Kelly suffering from blight. Wodonga police in search, but no trace. Report believed untrue.
" 28	February 28, 2 p.m.	Whorouly	Search by police. A case of mistaken identity.
March 2	March 1	Doctor's Point, near Wodonga	Four armed men seen, not traced; but circumstances showed report to be unreliable.
" 2	February 22	Near Greta	Too stale to use.
" 30	Not given	Sebastopol, near Beechworth	Detective Ward reported Byrne somewhere in neighbourhood; place not directly indicated. Superintendent Hare to Beechworth to make inquiry.
April 6	Not given	Reported by Mr. Graves, M.L.A., that Ned Kelly seen near Melbourne	No steps taken.
" 9	Not given	Tumut, New South Wales	Man, named Collier, reports Kelly's in neighbourhood. An idle tale.
" 11	April 11	Bowman's Forest, near Beechworth	Inquiries made. Statement believed to be untrue.
" 25	Previous evening	Sheep Station Creek, near Beechworth (Joe Byrne only, supposed)	(?) <i>See</i> Detective Ward's ten telegrams, May 25th, 1879.
May 29	April 20	Caniambo, near Mooroopna	Mooroopna police searched. No result.
June 14	June 14	Lime Kilns, near Devenish	The outlaw Dan Kelly supposed to be hiding here. Cashel police searched. Report untrue.
" 26	" 26	Near Corowa	Search by Inspector Brooke Smith, Detective Ward, and others. Story found untrue.
July 2		Puzzle Ranges, near Woolshed	The information was received through A. Sherritt, who was asked by letter from Joe Byrne to meet him. Sherritt went, but reported that he failed to meet Byrne.
" 5	July 2	Lake Rowan to Yarrawonga Road	Ned Kelly, and three others not known armed. Reported by Kennedy. Not credited; heavy rains also prevented tracking. Inquiries by Lake Rowan police, without result.
		<i>Mr. Nicolson in charge.</i>	
July 11	July 11	At Mrs. Jones's, near Beechworth	[Reported by Mrs. Jones, 3 p.m. on 11th. After consultation with local police, it was considered not to be desirable to attempt tracking and so compromise the Jones family in case of failure. The outlaws were seen by children only, and were on foot. It was further said that the supposed appearance of the outlaws was to make a raid on the Beechworth banks; provision made accordingly.] Instructions issued. Yackandandah bank incensed. Approachable through Commissioner's Creek. Strength increased 1879.
" 11	" 10 4 p.m.	Sheepstation Creek. The outlaw Byrne and his younger brother were seen together on horseback at Reed's Creek Ranges	Enquiries made. Report denied. Telegraphic communication established between banks, telegraph office, and police station, Beechworth, with a view to signals being given all round on slightest alarm.
" 12	" 9	Near Doon	[Search and enquiry by Mansfield police. Statement found untrue.]
" 14	" 11	Mrs. Byrne, Sebastopol	[Reported by Chinaman; did not state which of outlaws were seen. No action taken; report too stale.]
" 23			About this time it was ascertained that some of the haunts of the gang were Hedi Ranges, Gum Flat, Hurdle Creek Ranges, Woolshed, Barrambogie, Pilot Ranges and

REPORTED appearances of the Kelly outlaws—*continued.*

Date Report Received.	Date of Appearance.	Where Seen, &c	Steps Taken by Police.
1879. July 31	1879 July 30	<i>Mr. Nicolson in charge—continued.</i> Mrs. Jones's, near Beechworth	[Reported by Moses. Action taken.] From 13th to 23rd August 1879, Carrington and Baron search on foot to Table Top, Drum Top, ranges head of Boggy and Fifteen-Mile Creeks, Myrtree and Greta Ranges, but found no trace. They heard that Ned Kelly paid imprisoned sympathizers' legal expenses. Foote often leaves home for three or four days. Sometimes he takes a parcel with him. When he returns fresh news oozes out of him, and has money.—C. 26. August 26th, Baron employed about Sebastopol.
August 9	August 5	Near Violet Town	[Four men, one supposed to be Ned Kelly. Benalla and local police searched. Report seems to have arisen from a scare.]
" 17	" 14	Ranges near Sebastopol (Joe Byrne only)	[Report received from two boys of Moses and Detective Ward, who disbelieved statement. No search.]
" 27	Not given	Near Boweya	[Reported by anonymous letter. Constable McGuirk sent out to watch.]
" 28			A threatening letter received from Joe Byrne to Moses by post.—C. 118. At Moses's request he proceeds to see Bruce, but obtains no information from him as to whereabouts of outlaws.
" 29	Not given	Near Glenrowan	[Scout Carrington reports gang likely to be in vicinity of Bryan Orangerie. Scouts employed in that neighbourhood watching for several weeks.]
September 1			A threatening letter from Joe Byrne to Moses, Senior-Constable Mullane, and Detective Ward, warning them of mischief before that day month. This letter was given by the outlaws to an agent to be posted to the police. It was posted, and every precaution taken to increase the confidence of the outlaws in their fancied security and their belief in the ignorance of the police.—C. 124. A notice of this letter was published in one of the local newspapers, in compliance with request of outlaws.—C. 118. [This report was three (3) weeks old.]
" 3	August (about) 3	Wilson's paddock, near Greta	
" 2	September 1	Near Sebastopol (Joe Byrne only)	[Agent Moses only employed to watch, on the recommendation of Detective Ward.]
" 6	July 9 (about)	In a paddock near Greta	Information to Superintendent Sadleir of the four outlaws having been seen two months previously in a paddock near Greta. Information too stale.
" 9	" "	Dan Kelly at Mrs. Skillian's stable door	Information too stale. Informant promised to watch, and communicate sooner next time. The other outlaws were probably present, as Mrs. Skillian was seen carrying a bucket supposed filled with tea, and a parcel supposed to have been bread.
" 12	September 10	Dan Kelly alleged to have been seen in Crawford's paddock.	Arrangements made to watch. Jones to meet Mr. Nicolson at Beechworth on 15 <sup>th</sup> . He met Mr. Nicolson for first time at Wangaratta with Bruce.
" 12	August 29	Ned Kelly alleged to have been seen at Goorambat, seven miles from Benalla	[Too stale to use, but informant undertook to watch and report any re-appearance.] Was seen several times by Mr. Nicolson and Sergeant Whelan. Ned Kelly about this time was reported as suffering from sciatica.
" 24	September 15	Mrs. Byrne's	Moses gives the information. It is too stale. The Jones's instructed to watch and secure tracks.
" 16	" 6		Mr. Nicolson had a private interview with Moses in Beechworth this 16th September, and Moses admitted having seen Byrne on 6th, and that Jones received from Byrne the threatening letter to Detective Ward.—C. 124.
" 22			Examined a camp 23rd August on Porcupine Creek, in a gully leading between Sebastopol and the Pilot Range. Found traces of three or four horses. Evidently a place of concealment. Byrne passed this way on return from Jerilderie into Victoria. But this camp is more recent, horses and men believed to have been the outlaws having been seen on the 23 <sup>rd</sup> August. This is of value, as indicating one of the outlaws' routes.
" 24	August 31	Mr. Crawford's paddock	El Dorado police put on alert. Information sent through agent to outlaw's brother Patsy for Byrne that even £20 would not at any time be found in the El Dorado or any other small post office. Jones was working, and Byrne asked him to ascertain amount of money in El Dorado

“	24	September 19	Mrs. Byrne's	Savings Bank. Joe Byrne left £2 in silver for Jones for posting a threatening letter to Detective Ward.
“	29	“ 28	Near Greta	[This is the report mentioned in evidence of Captain Standish, Mr. Nicolson, and Mr. Sadleir. Informant <i>alias</i> “Foote.”] Mr. Sadleir did not know the place indicated by the informant, therefore his services as guide could not be relied upon.— <i>Vide</i> memo. To Chief Commissioner of Police in Mr. Nicolson's evidence. Page 32. The informant was willing, and intended to come; and Mr. Nicolson telegraphed to Mr. Sadleir to bring him, which he did not do. Mr. O'Connor did not consider Mr. Sadleir's guidance sufficiently good under the circumstances. [Enquiry by police.] No truth in rumor.
October	4	Week previous	Near Hollow station	[Agent placed to watch locality.] Five men seen at Ryan's door, Lake Rowan.—C. 59. Horsemen pass through informant's paddock at night occasionally. Informant called at Benalla office. Arrangements made.
“	9	May previous	Near Lake Rowan and Taminick road	

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REPORTED appearances of the Kelly outlaws—*continued*.

Date Report Received.	Date of Appearance.	Where Seen, &c	Steps Taken by Police.
1879. October 16	1879. Not given	<i>Mr. Nicolson in charge—continued.</i> Between Greta and Oxley	[This report was only general as to haunts of gang. Renwick (alias) employed as scout in this locality.] Renwick employed on 17th. Rain set in, and portion of country indicated flooded. One of the McAuliffes purchased four well-bred horses, supposed for the outlaws, and hired Wilson's paddock, opposite Bowdren's.
“ 23	September 22	Sloan's paddock, near Wangarratta	[A man named Smith reported that he had been made prisoner by gang. <i>See</i> last item for steps taken. Diseased Stock agent also employed in these localities.] Edward Smith, farmer, Sloan's paddock, reported that he and Young Morgan had been made prisoners by the gang on The night of the 22nd September, and kept in Hart's (senior) house for several hours before being released. He had to swear that he would not divulge anything for one month. The police ascertained that young Morgan would not corroborate Smith. Morgan would only reply that he knew nothing about it. Morgan is connected with the sympathizers. From Wangarratta police.—Richard Hart would have been prosecuted if Morgan had consented to give evidence.
“ 29	“ 13	Near Greta	[Reported by Denny, who also conveyed warning <i>re</i> Jamieson Bank and escort. Banks in neighbourhood and police specially warned.] Mr. Nicolson was informed that the outlaws' knowledge of vigilance of the local police, and the defection of a scout of the gang, caused them to abandon this project.
“ 30,31			Joe Byrne, outlaw, writes several letters to the Jones's. Replies dictated by police. Requests in Byrne's letters acceded to as far as possible, with the view of the Jones's securing his confidence. Arrangements made by Mr. Nicolson with Detective Ward and Senior-Constable Mullane.
November 7	November 6		[Reported by Jones, who met Joe Byrne by appointment.] Under direction of police, Jones succeeds in making an arrangement, through one of brothers of outlaw Byrne, to meet the gang at Thompson's, near to Peechelba. On arriving finds Thompson gone twelve months, and no signs of the gang; but on his return home next day, on a scrubby track through the ranges, Byrne the outlaw suddenly appeared and signed to him to follow into the bush. When out of sight of the track they had a long conversation together, Byrne wanting Jones to join them as a scout. Byrne's mind appeared burdened about the murder of Sergeant Kennedy, and revealed several ideas and plans they had in view, which enabled Mr. Nicolson to take precautions against them. Byrne's spurs were bloody, and he had the appearance of having ridden hard. Jones believed he was under the eyes of the gang both going to and returning from Thompson's, to test his good faith. No police were sent as this extraordinary appointment of Byrne was evidently taken with such precautions as to baffle any pursuit that might be instituted. ( <i>See</i> Foote, September 29, page 9.) The object of this interview was to obtain more knowledge of the men and their plans. The outlaw Byrne made another appointment to meet him again at Evan's Gap.
“ 7	“ 7	Coloopna, near Shepparton	[Report that nine armed men seen. Turned out to be

“ 7 “ 13	“ 23 “ 13	Neranderra, New South Wales Jones's house, near Beechworth	cricketers.] Action taken by New South Wales police. Detective Ward sent to make enquiries. No tracks. Dan Kelly appeared at hut this afternoon, with revolver in hand, and asked for Jones, and searched each room for him. Jones was working in a paddock, but, on hearing of Dan Kelly's visit, he hid himself until dark, and rode into Beechworth, frightened lest the gang had come to carry him off. Mr. Nicolson arrived accidentally at 12 p.m. Jones instructed to conceal his fear from the gang by going to Julien's to amuse himself, and thereby account for his absence from home.
“ 17	September 14	Murphy's hut	No steps. Too stale. Outlaw Byrne said to have visited Murphy's empty hut on 14 <sup>th</sup> September.
“ 20	July 1	Near Nilacoota, Mansfield road, (supposed Ned Kelly only)	[No action. Report too stale.]
“ 27	November 23	Mrs. Jones's, near Beechworth	Further special steps taken to protect banks, and warning given. Beechworth reinforced. Cave party being formed. On November 23 <sup>rd</sup> Byrne visited Jones's hut about 8 p.m. Other members of the gang evidently outside. Dogs barked for two hours before he entered. He was well dressed. Shook hands with all, including Moses. Complimented Jones upon the work he had done for them about posting letters and caricatures during past month. Said that Dan had been sent on the 13 <sup>th</sup> to tell him not to meet him at Evans's Gap. That he and Ned had two separate plans for doing one of the Beechworth banks. His own plan was to get into a bank quietly at night, stick up the manager in or out of bed. If he had not all the keys, one of the gang and one of the brothers S. were to accompany Byrne to the person who had the keys, and get them, even if blood was shed over it. Two of

REPORTED appearances of the Kelly outlaws—*continued.*

Date Report Received.	Date of Appearance.	Where Seen, &c	Steps Taken by Police.
1879.	1879.	<i>Mr. Nicolson in charge—continued.</i>	the party were then to remain with the bankers until the money was got out of the safe, and then Byrne was to carry off the swag. Byrne said their horses were bad. His grey horse was still the best. A female present suggested if he would tell where the others were and give himself up he might get his pardon. He replied that the people would say he was worse than Sullivan, and hunt him out of the colony. He remarked that the police were tired of watching his mother's place. He looked as if fretting. Now looks under 10 stone weight. He left about 12 p.m., saying he would come again on Sunday the 30 <sup>th</sup> . Information four days old. Offender on foot. No tracks left. Moses to watch Mrs. Byrne's. Jones to sleep in his garden, outside his hut. Cave party established on 3 <sup>rd</sup> December. [Report enquired into and found untrue.]
1880. January 31	Some days previous	Shean's Gully, near Euroa (Steve Hart only)	[Report nearly two months old.] Carrington reports young Tom Lloyd and the McAuliffes about Greta and Fifteen-Mile Creek Swamp. They appear to have money. Gallop about at night shouting and noisy. Smith, who had been despatched by Detective Ward to El Dorado, Woolshed, Sebastopol, and Reid's Creek, returned, and reports nothing known of police movements (cave party).
February 6	December ...	Eleven-Mile Creek ...	Agent at present watching. Reported that Ned and Dan were seen rushing into Mrs. Skillian's, and a third man on horseback rode off at the sight of the stranger. The latter overtook the man on horseback, a relative of the outlaws. The latter admitted that the other two were the outlaws—the Kellys. Denny also reports Ned Kelly and Byrne about Fifteen-Mile Creek.
“ 10	December 19 (about)	Mrs. Skillian's, Greta	Visit from Denny. Gang about Greta Ranges. Portion of Greta Swamp burned from stone crossing nearly to township. Expect to ascertain outlaw's exact locality soon.
“ 11	... ..	... ..	17 <sup>th</sup> April 1880.—Renwick reports Eth. Hart still at Glenrowan. McAuliffes, Lloyd, and other sympathizers at Mrs. Jones's, and rowdy, especially to strangers. Was of opinion that the outlaws cross railway line on foot, horses through gates, thus no traces, and that they are using their friends' horses. The above corroborated by Denny about 4 <sup>th</sup> March.
“ 23	... ..	... ..	
	1880.		

“	21	February 19	Mrs. Byrne's, Sebastopol (Joe Byrne only)	[Watch maintained. Report believed unfounded. <i>See</i> C. 169.] Patsy Byrne says Joe slept at his mother's hut on this date. Untrue, Patsy evidently sounding. Denny says gang at present about Greta Swamp and ranges, hiding in long grass and bulrushes by day, on the prowl by night. Seldom carry their rifles on foot. Cross railway on foot. Their horses taken to meet them when they shift. Requested police to be kept quiet. No action at present. Would soon furnish definite information. 1st March 1880. From Greta. Quiet. 12 <sup>th</sup> March 1880.—Horses stolen at Greta from a drover Gallagher. N.B.—The first plough mould boards stolen were Mr. Sinclair's, Glenrowan. Missed on 22 <sup>nd</sup> March 1880.
“	27	“ 23	Myrtleford ... ..	[Report too stale, and arrangements made to watch for any further appearance.]
“	27	Two days previous	Near Baumgarten's ... ..	[Enquiries by police. Report found untrue.]
March	11	Not given ...	Mount Typo	[Reported by Mr. Graves, M.L.A. Report indefinite.] Smith, 22nd March, works at Glenrowan railway station on watch. Reports Ettie Hart, at Mrs. Jones's, visited by sympathizers, but no sign of outlaws. 24th.—McAuliffes and Lloyds cease visiting Mrs. Jones's. McDonnell tells him outlaws not far off.
	4	... ..	... ..	5 <sup>th</sup> March.—Mrs. Skillian purchased stores in Benalla; old Tom Lloyd also. Communicated to Wangaratta police with other information from Denny. Renwick instructed by Sergeant Steele, C. 177. Country indicated searched twice recently. Smith and Gallagher did not report to police until at Broken River station.
April	1	... ..	... ..	Detective Ward instructed to withdraw the cave party.
“	21	... ..	... ..	Denny reports that up to early last winter the outlaws camped frequently in Wilson's paddock, but their absences were frequent and irregular, from nine days to one month. They now put up a small low tent at night. They have recently removed. Exact locality unknown, but believed to be in one of the gullies of the ranges about. Very suspicious and wary, yet exhibiting a certain degree of carelessness. Further definite information will be furnished. Ned Kelly trusts much in Byrne. They often ride together at night, leaving Steve Hart with Dan Kelly following, one or more of the Lloyds or McAuliffs with them, the latter giving signals if anyone appears, whom the gang then avoids. Denny will furnish further definite information as to their action, whether they settle down again, or plan a raid. They are very short of money, and becoming suspicious of their friends.

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### REPORTED appearances of the Kelly outlaws—*continued*.

Date Report Received.	Date of Appearance.	Where Seen, &c	Steps Taken by Police.
1880. April 24	1880. ... ..	<i>Mr. Nicolson in charge</i> —continued. ... ..	Agents on the alert keenly. Winton, Glenrowan, and Lake Rowan agent, Smith, informed, on good authority, that the outlaws have been seen about lately by one or two persons who dared not tell. Further reported that gang said to be reduced to the last straits, and without means of carrying on longer. Movements circumscribed, and unable to find an unguarded bank to rob.
“ 27	April 23	Eleven-Mile Creek ... ..	Enquiries by the police. Mrs. Skillian's hut watched. Upon April 23rd (afternoon) Dan Kelly is said, upon fair authority, to have been seen near the Eleven-Mile Creek, galloping towards Mrs. Skillian's place. C. 215. By Smith and Sergeant Whelan.
“ 29	March 27	Broken Creek ... ..	Communicated to Glenrowan police. On the 27 <sup>th</sup> March, four horsemen, believed to be the gang, called at a hut, Broken Creek. Lake Rowan, and enquired for a well-known resident of Lake Rowan. They were informed that the person they enquired for was inside. They replied that the man they wanted was another of same name, who lived at Glenrowan, and they rode away. C.215.
“ 30	April 7	In Greta ... ..	[Reported by a woman, who says she saw the outlaws D. and E. Kelly in daylight, riding through township. Not credited.]
May 1	Not stated ...	Mrs. Byrne's, Sebastopol ...	[Reported by anonymous letter. No action.] 8th May 1880. Examined with Renwick maps of roads Moyhu, Greta, and Lake Rowan district, prior to another tour.
“ 11	... ..	... ..	Constable Bracken stationed at Glenrowan for police duty, but really to assist Smith in watching Mrs. Skillian's at

						night, and other work. Communicated to Sergeant Steele, Wangaratta. Watch party formed upon Warby Ranges. Suspicious movements of Dick Hart, elder brother of outlaw Steve Hart. He has returned to Mrs. Jones's, Glenrowan. On night of 14 <sup>th</sup> Dick went up behind the hotel; absent two hours. Next night he came out in front of house, and cracked a stockwhip three times, like a signal.
"	15	...	...	...	...	A party of horsemen passed through Glenrowan, going north. Two returned, one missing. The rest overhauled at Yarrowonga by police. Proved to be John, Dan, and Mick Nolan. Renwick, watching Ryan's, Lake Rowan, discovering that some one was hiding in a hut, Senior-Constable Kelly and Lake Rowan police searched the hut, and found young Tom Lloyd to be the occupant and the missing man of the band of sympathizers above referred to
"	17	May	10	Near Chiltern	...	Mrs. Jones, of near Beechworth, reports visit of Byrne and Dan Kelly to B——n's.
"	18			Near Chiltern	...	This information tested further, and found correct. Moses on watch. Beechworth police discovered B——n had visited Sebastopol, and conveyed a letter from outlaw Byrne to his mother. Detective Ward also reports message sent by Mrs. Byrne to Mrs. Jones, near Beechworth, not to let Moses know, nor to allow Joe or Dan to visit her house, lest Moses should betray them.
"	21	...	...	...	...	Sergeant Steele instructed to have Hart's house, near Wangaratta, watched at night. Denny reports that the plough mould boards recently stolen had been fitted into jackets for outlaws to wear.
"	22	...	...	...	...	Smith on watch. McAuliffe has given notice to the outlaw Ned Kelly that he must get some money. He must do another bank, as he, McAuliffe, was unable to continue aiding him longer.
" 25 & 26	May 24 and 26			At Mrs. Sherritt's and Mrs. Byrne's, Sebastopol		[Search party started, but withdrawn on account of rain, by recommendation of local police and Moses.]
"	29	...	26	Sebastopol	...	Mr. Nicolson despatched Renwick by night train to Beechworth, to reconnoitre, &c. Arranged for party of police to watch Mrs. Byrne's temporarily while other steps were being taken. Mr. Nicolson interviewed one person at Beechworth, who alleged she saw the outlaw Byrne at Murphy's empty hut, and that another person saw the Four outlaws at Mrs. Byrne's hut. Mr. Nicolson informed Detective Ward and Senior-Constable Mullane of his leaving North-Eastern District, and explained to them the necessity for their obtaining Superintendent Hare's authority to continue employment of Moses after Mr. N. leaves, as no authority existed from Chief Commissioner of Police to employ him. Mr. N. had done so latterly at his own risk.
"	30	...	30	Sebastopol (Joe Byrne only supposed)		[Reported by Scout Renwick. Search party, under Mr. Nicolson, with trackers, with result that tracks seen were Not those of outlaws.] Searched place of alleged appearance, and found information to be incorrect.
"	31	Previous week		Woolshed Creek	...	Scout informed. Report too stale.
June	19	Various within last nine months		Fifteen-mile Creek and neighborhood	...	Mr. Hare in charge. No action by police. See D7.
"	14	Three weeks previous		Near Greta	...	Report indefinite. No action. See D 10.

C. H. NICOLSON,  
Acting Commissioner of Police.  
J. SADLEIR,  
Superintendent of Police.

## APPENDIX 6.

### RETURN of Police Officers, Names, Ranks, Ages, and Dates of their Joining and Promotions.

Rank.	Name.	Born.	Joined Police	Promotions &c.
Assistant Chief Commissioner	Nicolson, Chas. Hope	7.10.29	1.12.52	Cadet, 1.12.52; lieutenant, 1.10.53; sub-inspector, 1.1.54; lieutenant, 1.2.55; sub-inspector, 1.1.56; inspector, 2nd class, 1.2.56; superintendent of detectives, 20.6.56; in-
Superintendent and	Chomley, Hussey	8.8.32	21.9.52	pector of detectives, 1.1.57; superintendent, 1.1.58;

Acting Chief Commissioner	Malone			superintendent, 1st class, 1.1.63; inspecting superintendent, 15.12.72; acting chief commissioner, 13.9.80.
Superintendent	Winch, Fredk. Alfred	21.11.27	6.9.52	Cadet; lieutenant, 13.5.53; sub inspector, 1.2.54; inspector, 2nd class, 1.1.56; inspector, 1st class, 1.1.59; superintendent, 2nd, 26.9.63; superintendent, 1st class, 19.8.74; acting chief commissioner, 26.3.81.
Superintendent	Chambers, David D.	10.8.26	28.1.53	Cadet; subaltern, 4.11.52; sub-inspector, 1.1.53; senior sub-inspector, 1.1.55; inspector, 1st class, 1.1.56; superintendent, 2nd class, 1.1.58; superintendent, 1st class, 1.12.62.
Superintendent	Hare, Francis Aug.	4.10.30	18.1.54	Sub-inspector; senior sub-inspector, 1.1.55; inspector, 1.1.56; dismissed, 29.2.56; re-appointed sub-inspector, 1st class, 1.1.58; inspector, 1st class, 15.10.58; superintendent, 2nd class, 1.1.59; superintendent, 1st class, 28.6.62; reduced to superintendent, 2nd class, 3.10.63; superintendent, 1st class, 20.7.76.
Superintendent	Nicolas, Wm. Keigwin	5.11.30	1.3.53	Lieutenant; sub-inspector, 1st class, 1.8.55; inspector, 2nd class, 22.3.56; inspector, 1st class, 1.5.60; paid as inspector, 2nd class, 1.1.61; inspector, 1st class, 28.6.62; superintendent, 2nd class, 6.10.66; superintendent (all one class), 1.7.78.
Superintendent	Kabat, Leopold	30.11.31	27.11.52	Clerk; lieutenant, 1.5.55; sub-inspector, 1.1.56; inspector; 2nd class, 22.3.56; inspector, 1st class, 1.8.60; paid as inspector, 2nd class, 1.1.61; inspector, 1st class, 1.12.62; superintendent, 2nd class, 3.10.68; superintendent, 1.7.78;
Superintendent	Sadleir, John	26.5.33	1.12.52	Cadet; lieutenant, 1.9.53; sub-inspector, 2nd class, 1.1.56; sub-inspector, 1st class, 1.9.57; inspector, 2nd class, 1.1.60; paid as sub-inspector, 1st class, 1.1.61; inspector, 2nd class, 28.6.62; inspector, 1st class, 24.9.65; superintendent, 2nd class, 18.5.74; superintendent, 1.7.78.
Superintendent	Palmer, Henry S.	25.12.28	18.7.53	Cadet; sergeant, 1.2.53; detective officer, 1.7.53; lieutenant, 1.2.54; sub-lieutenant, 1.1.55; sub-inspector, 2nd class, 1.1.56; sub-inspector, 1st class, 22.3.56; inspector, 2nd class, 22.8.60; paid as sub-inspector, 1.1.61; inspector, 2nd class, 8.6.63; inspector, 1st class, 3.10.68; superintendent, 2nd class, 19.8.74; superintendent, 1.7.78.
Inspector	Green, Reginald	3.8.32	16.9.52	Trooper; cadet, 1.1.54; acting sergeant, 1.1.55; sub-inspector, 2nd class, 1.6.56; sub-inspector, 1st class, 1.9.60; sub-inspector (sergeant's pay) till 16.5.64; inspector, 2nd class, 26.10.66; superintendent, 2nd class, 20.7.76; superintendent, 1.7.78.
Inspector	Beaver, Arthur	29.4.34	5.11.52	Cadet; acting sergeant, 18.2.54; sergeant, 6.4.54; sub-lieutenant, 1.5.54; sub-inspector, 2nd class, 1.1.56; sub-inspector, 1st class, 15.10.58; sub-inspector, 1.1.61; inspector, 2nd class, 11.11.64; inspector, 1st class,
Inspector	Smith, A. Brooke	27.6.27	14.1.53	
Inspector	Ryall, E. Benners	20.8.30	17.2.53	
Inspector	Montfort, W. B.	29.7.28	5.8.59	
Inspector	Secretan, Fredk. H.	29.5.31	23.10.52	
Sub-inspector	Drought, Wm. G.	24.6.32	1.12.54	
Sub-inspector	Larner, Jas. N.	1.11.31	12.11.53	
Sub-inspector	Baber, Henry	4.5.32	2.1.57	
Sub-inspector	Toohy, Jeremiah	9.3.27	7.12.52	
Sub-inspector	Pewtress, Henry	14.3.31	15.2.56	
	Kennedy, D. S.			

				<p>22.4.71. Cadet; lieutenant, 1.9.53; sub-inspector, 2nd class, 1.1.56; sub-inspector, 1st class, 1.2.56; resigned, 20.10.56; re- appointed sub-inspector, 2nd class, 20.2.58; sub-inspector, 1st class, 22.8.60; sub-inspector, 1.1.61; sergeant's pay to 11.11.64; inspector, 2nd class, 3.10.68; inspector, 1st class, 11.10.65. Constable; acting sergeant, 7.7.53; sergeant, 1.3.54; sub- inspector, 2nd class, 17.4.59; sub-inspector (sergeant's pay), 1.1.61; full pay, 24.9.65; charge of detectives, 1.3.69 to 12.2.70; inspector, 2nd class, 15.12.72; inspector, 1st class, 20.9.76. Constable; sergeant, 2nd class, 8.4.54; sergeant, 1st class, 1.10.57; sub-inspector, 27.6.70; inspector, 20.7.76. Detective, 3rd class; detective, 2nd class, 1.7.61; detective, 1st class, 23.5.67; sub-inspector in charge, 19.9.70 (pay as 1st class detective till 75); inspector, 2nd class, 1.7.77. Constable; sergeant, 2nd class, 1.8.53; sergeant, 1st class, 20.10.53; sub-inspector, 1.7.77; inspector, 1.4.80. Constable; sergeant, 2nd class, 6.5.56; sergeant, 1st class, 30.7.59; sub-inspector, 1.7.77. Constable; senior-constable, 16.2.59; sergeant, 2nd class, 1.12.59; sergeant, 1st class, 1.9.66; sub-inspector, 1.7.77. Constable; senior-constable, 5.4.57; sergeant, 2nd class, 1.10.59; sergeant, 1st class, 1.9.68; sub-inspector, 1.7.77. Constable; sergeant, 2nd class, 15.11.53; sergeant, 1st class, 6.5.54; sub-inspector, 1.8.78. Detective, 3rd class; detective, 2nd class, 1.8.56; detective, 1st class, 1.9.58; senior 1st class, 1.7.76; sub-inspector, 1.4.80.</p>
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H. M. CHOMLEY, Acting Chief Commissioner.  
9.6.81

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#### FIRST-CLASS POLICE SERGEANTS.

Name.	Number.	Born.	Joined Police.	Date of present rank.	Name.	Number.	Born.	Joined Police.	Date of present rank.
Moran, C. F.	914	9.3.21	1.8.52	1.1.53	Rennie, James	1091	16.6.30	1.5.53	1.12.74
Richards, J. B.	1093	13.3.24	7.11.52	10.3.53	Doyle, James	296	1.4.31	20.2.56	1.12.74
Finegan, O.	404	25.12.24	16.5.53	1.8.53	Webb, R. J.	1275	6.3.32	28.6.54	1.12.74
Tabor, Alfred	1230	15.6.31	1.3.53	1.7.54	Goodenough, H.	449	9.5.29	21.4.53	1.7.75
Fenton, Abraham	394	11.8.25	7.12.52	1.8.54	Parkinson, Thos.	1473	1.4.36	31.3.59	11.10.75
Daly, Henry	307	7.7.32	29.7.53	1.8.54	Delany, Patk.	357	26.5.28	4.6.58	1.4.76
Manson, John	897	28.4.28	7.12.52	1.5.55	Mooney, Thos.	949	1.5.32	8.6.57	1.6.76
Roche, Joseph	1086	1.33	6.7.53	1.6.56	Sullivan, W. P.	1159	11.1.34	2.5.56	1.8.76
Acton, William	11	2.2.27	14.1.56	1.10.56	Dalton, James	1455	14.4.28	31.3.59	1.4.77
Ellis, George	367	2.32	28.1.54	1.2.59	Chamberlain, R.	169	5.6.28	30.8.54	1.11.77
Moore, John	921	8.20	1.3.54	1.11.66	Britt, Wm.	47	28	23.4.55	1.11.77
Perry, Henry	1056	2.36	18.1.58	1.9.68	Harkin, Hy.	552	20.5.33	6.7.57	1.11.77
Burland, Leontine	57	2.6.31	9.1.54	1.9.69	Deasey, Denis.	1496	5.5.36	4.4.59	1.11.77
Holmes, R. F.	1555	24.2.32	12.8.59	1.9.69	Bailey, John	37	25.3.28	4.5.54	1.8.78
O'Flaherty, M.	1023	1.11.33	1.3.58	20.1.73	Carden, Rd.	244	1.31	22.3.58	1.8.78
Thomas, Wm.	1582	28.5.36	22.7.59	22.6.74	Whelan, James	1305	24.7.29	3.12.56	21.6.80
Scanlon, Edwd.	1158	4.5.31	5.5.56	10.8.74					

#### SECOND-CLASS POLICE SERGEANTS.

Name.	Number.	Born.	Joined Police.	Date of present rank.	Name.	Number.	Born.	Joined Police.	Date of present rank.
Searcy, Fredk.	1156	5.2.23	10.3.56	28.5.56	Scott, Robt.	1182	14.7.32	1.6.59	1.6.76
Watson, Benjn.	1315	9.30	10.8.67	1.3.60	Irwin, James	1402	10.11.36	9.12.58	1.8.76

Frood, H. W.	423	19.4.30	2.1.57	1.7.65	Steele, A. L. M.	1179	1.8.37	8.6.57	1.11.76
McParland, Patk.	876	3.3.32	4.3.58	1.6.67	Bell, Wm.	43	12.33	22.5.55	1.11.76
Wigmore, R. P.	1316	14.5.27	10.8.58	21.6.69	Sherson, James	1171	3.11.30	22.9.56	1.4.77
Dempster, Alexr.	335	5.1.34	17.12.57	1.9.69	Cahill, Denis	232	29.11.26	8.10.57	1.11.77
O'Shaughnessy, P.	56	8.22	29.3.55	17.2.70	Joyce, John	1648	21.6.32	17.1.60	1.11.77
McAdam, John	863	27.8.31	10.9.57	1.9.72	Bass, Thos.	1713	8.11.30	1.5.60	1.11.77
Fegan, John	2509	24.1.45	20.1.73	20.1.73	Larkan, Seymour	792	6.9.40	4.9.63	1.11.77
Jesse, Chas.	586	24.4.34	19.7.55	1.5.73	Kennedy, Thos.	1936	9.11.41	13.11.63	1.11.77
Fahey, Patk.	433	6.3.30	6.5.58	1.5.73	Hamilton, Richd.	1961	4.6.43	26.1.64	1.11.77
Tronson, Edwd.	1241	5.7.32	14.7.56	1.6.73	Rutledge, Adam	1796	30	9.11.60	1.11.77
Hayes, G. R.	523	24.4.34	19.9.54	10.8.74	Rogers, John	1113	2.3.36	22.3.58	1.8.78
Woods, Michl.	1303	4.27	6.10.56	1.6.75	Purcell, Phillip	1734	1.34	1.6.60	1.8.78
Simpson, W. H.	2084	6.1.40	15.9.65	1.7.75	O'Heare, Michl.	1032	1.10.37	22.11.58	1.8.78
Darcy, John	311	9.2.33	12.2.57	11.10.75	Gray, John	1857	8.3.36	27.9.61	1.8.78
Greer, John	474	3.30	26.11.56	1.3.76	Lynch, James	708	30	28.8.54	1.10.78
Hopkinson, Saml.	571	1.1.32	22.3.58	1.3.76	Harty, Patrick	553	3.32	8.6.57	20.1.79
Madden, John	984	3.30	19.7.58	1.3.76	Mills, Luke	982	9.36	3.6.58	5.3.80
Swale, Richd.	1212	6.2.38	16.9.58	1.4.76	McGrath, James	1893	5.5.30	17.12.61	21.6.80

DISTRICT STRENGTH AND DISTRIBUTION, NORTH-EASTERN DISTRICT, FROM  
JULY 1878 TO JUNE 1880.

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C. H. NICOLSON, Acting Chief Commissioner.  
25.3.81

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## APPENDIX 8.

### STATEMENT OF APPROXIMATE EXPENDITURE FROM POLICE CONTINGENT VOTES, JULY 1878 TO JUNE 1881.

—	Ordinary District Expenditure, North-Eastern District	Expenses Incurred in Search For the Outlaws.	—	Ordinary District Expenditure, North-Eastern District	Expenses Incurred in Search For the Outlaws
	£ s. d.	£ s. d.		£ s. d.	£ s. d.
1978—July	536 16 7		1980—January	614 6 0	440 0 1
August	616 15 6		February	437 8 10	474 0 6
September	501 2 8		March	659 3 11	514 1 2
October	388 2 2	343 11 4	April	503 8 10	312 7 2
November	572 13 2	2,515 12 3	May	519 19 1	357 0 4
December	690 8 11	2,197 16 10	June	514 11 11	685 9 5
1979—January	750 4 11	1,748 8 11	July	544 18 7	
February	564 13 1	1,856 14 8	August	623 15 6	
March	710 7 1	2,296 18 1	September	508 2 8	
April	579 8 6	1,433 13 0	October	388 2 2	
May	760 19 7	1,342 15 6	November	395 2 7	
June	658 4 1	1,180 2 7	December	505 2 7	
July	723 7 0	1,047 0 6	1981—January	521 10 11	
August	616 15 6	1,057 13 6	February	352 16 4	
September	641 14 8	707 2 10	March	650 5 4	
October	509 16 6	860 4 6	April	413 16 1	
November	486 1 3	358 0 1	May	474 19 4	
December	563 1 6	497 3 6	June	512 8 3	

H. M. CHOMLEY,  
Acting Commissioner Police.  
24.9.81

### MEMORANDUM SHOWING THE EXPENSES INCURRED BY EMPLOYMENT OF DETACHMENTS OF THE VICTORIAN ARTILLERY CORPS IN THE NORTH- EASTERN DISTRICT IN CONNECTION WITH THE “KELLY AFFAIR,” BETWEEN THE 15<sup>TH</sup> DECEMBER 1878 AND 5<sup>TH</sup> JANUARY 1880.

#### DETACHMENTS FURNISHED.

At Seymour	7 men	15th December 1878	to 10th July 1879.
Avenel	7 “	“	to 18th “
Euroa	8 “	“	to 3rd January 1880.

Violet Town	8	“	“	to	“
Chiltern	8	“	“	to	7th July 1879.
Wangaratta	8	“	“	to	“
Wodonga	8	“	“	to	“
Beechworth	13	“	3rd January 1879	to	11th May 1879.
Shepparton	8	“	8th March 1879	to	5th January 1880.

The total average being equal to 75 men for 242 days.

The cost of an artilleryman maintained in barracks in Melbourne, including rations, uniforms, kits, &c., for some years past, amounted to about £86 per annum.

The cost of the 75 men for 242 days, therefore, at head-quarters rate, amounts to	£4,276
Additional allowance to the men of 9d. each per day	£680
Extra allowance for uniform, kits, incidentals, &c.	530
Railway transport	250
	<hr/> 1,460

Total charges to the Military Votes £5,736

As the men would have to be maintained at head-quarters, if not employed on the above duty, at a cost of £4,276; the extra cost to the Government of the detachments employed appears to be £1,460.

ROB. REDE,  
Lieut.-Colonel Comg. L. Forces.  
5th Oct. 1881.

## APPENDIX 9.

### CONSTABLE ROBERT McHUGH'S AFFIDAVIT.

I, Robert McHugh, constable, of Euroa, in the colony of Victoria, being duly sworn, make the following statement:—

1. That Inspector A. B. Smith was in charge of the police force in the Ovens district from February 1876 to February 1878.
2. That during some months of that time he was unable, through an injury to his leg, to inspect the district and perform his duties effectively; yet no other officer took his place or performed his duties.
3. That, contrary to paragraph 122 of the Police Regulations, he selected constables to take charge of stations who were not the “most efficient” or “best conducted.”

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4. That he was in the habit of drinking in and frequenting publichouses, contrary to paragraph 166 of the Regulations.
5. That I have reason to believe, and do believe, that he was indebted to publicans, storekeepers, and others, contrary to paragraphs 165 and 288 of the Regulations.
6. That, between February 1876 and February 1878, the police stations at Yackandandah, Talangatta, Stanley, Eldorado, and Beechworth, were reduced in strength, thus—

Yackandandah, reduced from two to one constable.

Talangatta, do. do.

Stanley, do. do.

Eldorado, do. do.

Beechworth, one constable taken away.

7. That the rifles, belts, and ammunition issued to the constables, as a part of their kit, were of too old a pattern to be effective when employed against any modern rifle. These rifles were of three kinds, and all muzzle loaders, viz. :—1st. The old musket, dated, I believe, 1854. 2nd. The Wilkinson, dated 1857. 3rd. The Enfield, dated 1861. All these have been out of date for many years, and compared with the Winchester, Zsloper, or Martini-Henry rifle are practically useless. No practice in shooting was provided for, and none allowed except at the constable's own expense.

ROBT. McHUGH,  
Constable, 2551.

Sworn before me, at Euroa, in the colony of Victoria, this 19th day of August

## APPENDIX 10.

### ARRESTS AND CONVICTIONS OF THE QUINNS, KELLYS, AND LLOYDS.

Name.	Offence.	Where Tried.	Date.	How disposed of.
James Quinn, jun.	Having stolen cattle	Kilmore	2.12.56	Discharged.
"	Violent assault	"	30.9.60	6 weeks.
"	Horse stealing	Melbourne	18.10.60	Discharged.
"	"	"	15.2.61	4 months (illegally using).
"	Assaulting police	Donnybrook	23.8.61	£10, or 6 weeks (paid).
"	Horse stealing	Clunes	30.8.61	Discharged.
"	Violent assault	Kilmore	29.3.62	"
"	Horse stealing	Beechworth	1.2.64	12 months.
"	Threatening	Wangaratta	3.8.71	£5, or six weeks.
"	Assault	"	"	3 months.
"	Bodily harm	Beechworth	2.2.72	3 years }
"	"	"	16.4.72	18 months } Cumulative.
"	"	"	17.4.73	2 years }
"	"	Benalla G.S.	15.7.78	Discharged.
"	Assault	Benalla	16.9.78	3 months.
"	Kelly sympathizer	Beechworth	1.79	Discharged.
John Quinn	Horse stealing	Melbourne	4.60	"
"	Cattle stealing	Gisborne	27.6.60	"
"	Robbery under arms	Donnybrook	23.11.61	"
Patk. Quinn	Grievous bodily harm	Beechworth	10.70	4 years. Son-in-law of James Quinn, se.
John Kelly (Red)		Tipperary		To Tasmania
"	Unlawful possession of a	Avenel	5.65	6 months
James Kelly, sen.	hide	Kilmore	12.5.62	Discharged.
"	Cattle stealing	"	21.10.62	" } Brother of Red
"	"	"	22.4.63	Kelly.
"	"	Wangaratta		3 years }
James Kelly, jun.	Arson	"	.71	15 years }
"	Illegally using a horse	Beechworth	17.4.73	Discharged.
"	Cattle stealing	"	"	2½ years }
"	"	Wagga, N.S.W.	27.6.77	2½ years } Cumulative.
Edward Kelly	Horse stealing	Benalla	26.10.69	3 years.
"	Assault and robbery	Wangaratta	10.11.70	Discharged.
"	Obscene language	"	"	3 months }
"	Assault	"	"	3 months } Cumulative.
"	"	"	"	12 months in default of
"	"	Beechworth	2.8.71	sureties to
"	Horse stealing	Benalla	18.9.77	keep the peace. Sureties
"	Drunk and assaulting police	Kyneton	5.70	found.
"	Robbery under arms	Melbourne	11.11.80	3 years.
Daniel Kelly	Murder and outlawry	Wangaratta	.71	£3 ls., or 3 months.
"	Illegally using a horse	Benalla	19.10.77	Discharged.
"	Wilful damage	Beechworth	13.10.76	Executed.
"	Stealing a saddle	"	28.6.80	Discharged.
Ellen Kelly	Murder and outlawry	Beechworth	10.78	3 months.
John Lloyd, sen.	Abetting shooting	Donnybrook	5.10.60	Discharged.
"	Assault	Kilmore	21.3.62	Shot at Glenrowan.
"	Drunk and disorderly	"	22.4.62	3 years.
"	Larceny	Beechworth	19.10.65	Discharged.
"	Cattle stealing	"	3.2.73	"
Thomas Lloyd, sen.	Maliciously killing a horse	"	19.10.65	"
"	Cattle stealing	"	1.79	5 years.
Thomas Lloyd, jun.	Kelly sympathizer	Benalla	19.10.77	4 years.
"	Wilful damage	Beechworth	28.2.78	5 years.
"	Indecent assault	Benalla	11.3.79	Discharged.
"	Assaulting police	Beechworth	.79	3 months.
"	Kelly sympathizer	"	.79	3 months.
Lloyd, John jun.	Manslaughter	Benalla	19.10.77	7 days.
"	Wilful damage	Beechworth	1.79	Discharged.
"	Kelly sympathizer	"	"	"
				3 months.
				Discharged.

**RETURN** showing the Number of Arms in the Armoury, Victoria Barracks, on 27th May 1881.

Description.	Number or quantity.	Remarks.
Martini-Henry Rifles, B.L.	676	Of this number there are 290 allotted to Volunteer Corps. Although shown as being in store, the whole are allotted to Volunteer Corps.
Martini-Henry Rifles—Cavalry.	54	
Martini-Henry Carbines—Garrison Artillery	220	
Snider Rifles, B.L.	14	
Soper-Henry, B.L.	3	
Westley-Richards' Carbines, B.L.	541	Enfields, General Hay's, Lancaster's, and Sea Service.
Muzzle-loading Rifles.	6,303	

JAS. PHELAN,  
Superintendent of Stores (Ordnance Branch).

Ordnance Office, Victoria Barracks, 27th May 1881.

**RETURN** of Arms issued to the Police Department, Victoria.

Description.	Quantity originally issued.	Since returned.	Quantity on hand this date, 27.5.81.	Remarks.
Long Enfield Rifles.	384		384	} Issued for drill purposes } prior to the introduction of the new arms. }
Bayonets for Long Enfield Rifles.	384		384	
Scabbards for Long Enfield Rifles.	384		384	
Slings, Long Enfield Rifles.	24		24	
Martini-Henry Rifles, B.L.		130	30	
Jags for Martini-Henry Rifles, B.L.		117	43	
Sight-protectors for Martini-Henry Rifles, B.L.		121	39	
Arm Chests, Martini-Henry.		7	2	
Soper-Henry Carbine B.L.		1		
Martini-Henry Carbines, B.L.		3	3	
Jags, Martini-Henry Carbines, B.L.		3	3	
Sight-protectors, Martini-Henry Carbines, B.L.		3	3	
Westley-Richards' B.L. Carbines.		19	7	
Snider Rifle, B.L.		1		
	160			
	160			
	160			
	9			
	1			
	6			
	6			
	6			
	26			
	1			

JAS. PHELAN,  
Superintendent of Stores (Ordnance Branch).

Ordnance Office, Victoria Barracks, 27th May 1881.

## APPENDIX 12.

Police Department (Chief Commissioner's Office),  
Melbourne, 26th September 1881.

SIR,

1. With reference to Superintendent Hare's affidavit, of 16th September instant, in which he denies that my agent, "Diseased Stock," came into Benalla on Thursday the 24th June 1881, preceding the murder of Aaron Sherritt, and warned him that the outlaws had gone out, or were going out, to do something *at once*, I beg to enclose my affidavit on the subject; and further, simply to refer you to Mr. Hare's own evidence, No. 1518, viz.:—"Well, this looks rather black for me, that these men are going to commit some outrage *at once*."

2. This warning was what I was waiting for when I was superseded. It came from one whom Superintendent Hare describes as "this most respectable and reliable man;" yet he took no steps to communicate it by telegram or post to the police around him; otherwise Sherritt's life might have been saved, and the destruction of the outlaws accomplished in a more satisfactory manner.

I have further to request your attention to 1516, as compared with 1518, by which it is apparent Superintendent Hare is alluding to two different interviews with "Diseased Stock," which he relates to the Commission as one interview.

Mr. Hare's other affidavits are, I consider, beneath my notice. Such documents can be produced *ad infinitum*.

I have to apologise for replying to the one within referred to, but it seems necessary, in self defence.

I have the honor to be, Sir,

Your most obedt. servt.,

To the Chairman of the Royal Commission on Police.

C. H. NICOLSON.

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I, CHARLES HOPE NICOLSON, Assistant Commissioner of Police, make oath and say:

That referring to Mr. Superintendent Hare's affidavit, of sixteenth day of September One thousand eight hundred and eighty-one, as will be seen on reference to answer numbered 1518, wherein Mr. Hare says, speaking of the agent known as Diseased Stock:—

"He was not a supporter; he was, I think, one of the most respectable and reliable men that had ever been engaged in that capacity during the Kelly search. He was a little too sanguine, and after he left the office, I said to Mr. Sadleir, 'Well, this looks rather black for me, that these men are going to commit some outrage at once.' He said, 'Oh, that man has been giving us some information for months. Besides,' he says, 'he is the most sanguine and tantalizing man I ever saw.'"

That there was in the office at Benalla a lithogram for striking off several copies of documents, and it was my invariable custom, whenever there was any expected movement of the Kellys, to use this machine and telegraph to circulate notice to all the police stations in the district, warning them to be on the alert; and I say that if this course had been pursued by Mr. Hare, on the receipt of the above-mentioned information, the police would have been put on their guard, and the catastrophe at Sherritt's hut avoided.

C. H. NICOLSON.

Given at Melbourne, in the colony of Victoria, this twenty-second day of September One thousand eight hundred and eighty-one, before me,

FRANK MADDEN,

A Commissioner of the Supreme Court of the Colony of Victoria for taking Affidavits.

Police Department, E. Melbourne,

Superintendent's Office, Sept. 26th 1881.

SIR,

I do myself the honor to inform you that I this day received from Mr. Nicolson a copy of a declaration that he had forwarded to the Commission respecting a declaration made by me on the 16th September, and handed in to the Commission at their last meeting.

I would point out to the Chairman that the paragraph quoted from my evidence refers to what took place at my first interview with the man known as "the diseased stock agent," a few days after my arrival at Benalla, in June 1880, and not the visit on the Thursday prior to Aaron Sherritt's murder. See evidence, page 90, question 1516.

I would respectfully draw the attention of the Commission to the fact of Mr. Nicolson disobeying the positive instructions laid down by the Commission, viz., that each officer was to attend to the evidence concerning his own case, and not endeavor to pick holes in the conduct of other officers.

I think I might here observe that Mr. Nicolson has adopted a not uncommon course in such cases, that, when there is no defence, to set to work and abuse the opposite side.

I have the honor to be, Sir, your obedient servant,

FRANCIS HARE, Superintendent of Police.

The Honorable Francis Longmore,

Chairman Royal Commission.

## APPENDIX 13.

### MISCELLANEOUS.

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(Copy.)

PRISONER WILLIAMSON'S STATEMENT.—15.11.78.

The following is a further statement made to Inspector Green on the 15/11/78 by prisoner Williamson, in the Pentridge prison:— The Kellys are certain to keep on the ranges in the neighborhood, and get supplied with rations from Mrs. Skillion, which she would plant for them. They are likely to be camped at the head of one of the creeks, and as far back as they can keep; probably the Rose, the Hurdle, which is very scrubby, or the Cut-a-way, from which places they could see the police coming. They cross at Peacock's

paddock on the King. They will not come from the ranges except when the way is clear, as Mrs. Skillion can signal to them when the police are about by hanging a white sheet on a line fastened from the end of the house to a sapling which can be seen at a great distance.

They would probably get rations at Mick Millar's, near the Buckland, as King, who is along with Ned Kelly, is supposed to be a half-brother of Millar's. If pushed they would take food from any of the farmers' houses about.

There is a store at the Merry-jig, on the Devil's River, where they would likely get food; it is kept by a relative of the Lloyds on the wife's side. Jack Quinn would allow them to come to his house and take rations.

The following is a description of Kelly's horses

1st. A bay horse with white patch on near rump.

2nd. A tall bay mare, well bred, branded **W** > **E** (thinks near shoulder), small a under near saddle.

This is Edw. Kelly's favorite.

3rd. A little bay mare, JC made into JO or JQ near shoulder, > **E** on some other part.

4th. A little chesnut with one eye.

5th. A chesnut horse with silver mane and tail, 17 or 18 hands high, which is psed as a pack

horse.

## 702

Williamson is confident that the Kellys will keep to the ranges, as Ned Kelly told him often that it would be no good for him to try and get away as every body knew him well, and also that he would be suspicious of persons putting him away. The Johnstons, of Black Range Creek, would put the Kellys away; they are good bushmen, and know the country well; their father kept a station, and was known as Buffalo Johnston. Tom Lloyd and Wild Wright would also put them away. If they do leave the ranges they are certain to stick-up and make a haul. They would likely try the Seymour bank, as Ned Kelly had it in view for a long time to stick it up. They would keep the bush until they got to Seymour, and return the same way. Mrs. Skillion would probably get the haul. The Kellys have a track from Greta to Barnawartha; they pass under the railway bridge.

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[Confidential.]

Forwarded for the information of Mr. Nicolson and Mr. Sadleir. I address this to the latter, being uncertain whether Mr. Nicolson is still in Benalla. At all events, the information, which is important, should be communicated to him as soon as possible.

The signals which Mrs. Skillian makes from her place clearly bring her within the reach of the new Act. It would be very desirable to convict her, if possible, or, at aiiy rate, to prosecute her.

A/1100.

F. C. STANDISH,

28/11/78.

C. C. Police.

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7 Feby. 1879.

Williamson alias Brikey does not know Talangatta; but thinks that they would call at Magennis's for some purpose. They (the Kellys) don't know the country on the other side of the River Murray. Byrnes may know it. They might make from McGennis's to the Maneroo country; but I don't think they would go there. I think they must be about the Dividing Range, on the watershed into Gippsland, and have a camp there, and have come, where they were seen, for the purpose of obtaining rations and be returning to their camp, which they may have formed eighty or ninety miles off. I know no one but McGinnes in the country they are said to have been seen in. Mrs. Kelly should be sent to Beechworth to see the prisoners there, and her daughters; the latter would tell her all they know, and afterwards I might meet her in Mel bourne gaol. The daughters would require to be arrested and imprisoned in Beechworth, in order to meet their mother. Don't think they will try to get away just yet. They are probably planning something else like Euroa. They will not be about Buffalo or Morse's Creek. They will keep clear of any place where diggers are working. They have some store where gold is purchased, which Power tried, but missed the gold which was secured on a horse outside, arid which Power neglected to examine.

Michael Woodyard states they would be making for the head of the Murray, Paddy's River, in New South Wales; a track crosses head of Paddy's River to Yarrangobilly Ranges into the Maneroo country, between Paddy's River and Yarrangobilly. The Sparkes, a back station, who would show them the back country. By keeping to east of Kiandra they may reach Queensland. They may have been going to Duncan Macgennis's, the drover, who lives at Towong. They have been at Kiandra. Dan sheared at Maneroo. Steve Hart does not know New South Wales.

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The following statement has been made to Inspector Green, in the Pentridge prison, 29/10/78, by prisoner Williams, an associate of the Kellys

The Kellys will probably camp on the Black Range or the Dundommother, which runs into the Buffalo; they are more likely to camp on the Dundommother, about 45 miles from the Kellys. They have a tent 8 x 10 feet, and a fly, which they take with them, together with about a month's rations. They would plant

their horses on the Rowe's River, which runs into the Buffalo, and about 7 miles above Connolly's station; if the horses were found, they could be watched, when the Kellys would be seen coming for them; the horses might be hobbled, but, being quiet, they are more likely to be without them. The Kellys are likely to get food from their own place; but they are more likely to get it Skillion's, where Mick Henny, 40 years, 5 feet 6 or 7 inches high, grey hair, and Kelly's daughter, 16 or 17 years, are stopping, and who are acquainted with a large log where they plant food for the Kellys to take away; the log, marked on the attached sketch, is about a quarter of a mile from the south angle of Williams's fence, is in a scrubby range, it is the only log about the place, and lying north and south, it has a hollow large enough to hold two or three people in. If the log was found to contain food, it would be well to watch it, as the offenders would come in the night to take it away. The Kellys would give Skillion's wife any haul they would make, and she would provide rations for them.

The offenders might be found by starting from the Eleven-mile Creek up the King's as far as Wood-yard's, where search might be made for their horses. They might also be found near the head of the Cut-a way Creek, off the King Creek, which would be about 30 miles from Williams's place. This is a most dangerous place, as the offenders could roll down big stones on any one following them.

There is a man named Billy King—but that is not his proper name—about 25 years, 5 feet 10 inches high, stout build, thin features, fair whiskers, small very fair moustache, blue eyes, small hands, thick legs, who was evidently in Pentridge, and is like King, who is married to Kelly's sister. [is believed to be identical with Isaiah Wright, discharged from Pentridge last year, see Gazette, page 141, and is married to one of the Lloyds.] The above in brackets is not Williams's statement. This King, who is now a mate of the Kellys, has been stopping at Kellys since last year; he was in Kelly's house when Constable Fitzpatrick was fired at; he wanted the Kellys not to let Fitzpatrick get away alive, and said that, in place of being shot through the arm, he should be shot through the heart; he is a man that would fire on any one that would attempt to arrest him; he is a dangerous man.

Tom Lloyd would likely join the Kellys. Williams, when in his cell in Beechworth, spoke to Mrs. Kelly, who was in the yard after they were sentenced, when she said that they would play up, that there would be murder now. Williams further stated that Ned Kelly and King would fire on the police if followed, and that they would not be taken alive; but Dan Kelly would sooner run away than fire.

The Kellys and King have four revolvers and one rifle, but the rifle is not much use.

Last year Skillion came to Melbourne and purchased some revolvers and ammunition; two of the revolvers are large ones, similar to what the police have got, and probably one of the Kellys would come to Melbourne by train for anything that they would require.

If the log is carefully watched, the Kellys are certain to be caught, as they will have no other means of getting food except from this log.

## APPENDIX 14.

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### NORTH-EASTERN DISTRICT.

MEMO.

Police Department, Superintendent's Office, Benalla, 2/8/79.

With reference to the further reductions contemplated in the police strength of this district, will Mr. Sadleir be good enough to favor me with his views on the subject.

C. H. NICOLSON, A. C. Police.

J. Sadleir, Esq., Supt. of Police, North-Eastern District.

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### Re REINFORCEMENTS POLICE, N.E. DISTRICT.

MEMO.

Police Department, Superintendent's Office, Benalla, August 2nd 1879.

I do not see how any further reductions can be effected, especially in the case of small townships where banks are situated, and the danger of doing so will be at once obvious on a consideration of the circumstances that have occurred since the outbreak of the Kelly gang—

*Some time after the police murders, and before the Euroa bank robbery, I applied for still further additions to the police, in anticipation of some new outrage by the outlaws, but these were not supplied.* Notwithstanding the utmost activity on the part of the police, the bank robbery referred to and the "sticking up" of Faithful's Creek station followed. An immediate increase, making the strength greater than it is at present by about 50 police and 20 artillery, was effected on the Chief Commissioner taking the personal direction of affairs here, and was continued until very recently.

The protection thus afforded was effectual, and the outlaws have been forced to carry on their depredations since in N. S. Wales.

We have greater reason now than we perhaps ever had before for expecting further outrage. Within the last few days we have had reliable information that the outlaws are in the district; that they are pressed

for money; and that they intend attempting another bank robbery.

If the proposed reductions are carried out, I believe there will be further outrage and loss of life, and it appears to me that the police, having failed to prevent in the first instance the present unfortunate condition of affairs should not now refuse the protection necessary in consequence.

J. SADLEIR, Superintendent of Police.

The Assistant Commissioner of Police, Benalla.

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## APPENDIX 15.

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Benalla Police Station, 5/7/80.

### REPORT OF CONSTABLE FALKINER'S RELATIVE TO INFORMATION RECEIVED ABOUT THE KELLY GANG.

I respectfully report to the Superintendent that on the 11th June Superintendent Hare spoke to Constable Canny and I, and directed us to take a trip in the bush, and see if we could not get some information. Superintendent Hare -told us that we could go where we thought best, and when we found it convenient to send him a few lines, and giving me his private address.

We came to the conclusion that it would be best to carry no firearms, and if anything urgent was to turn up, to come to the nearest telegraph office and speak to him (Superintendent Hare). Constable Canny and I left here on the morning of the 12/6/80, and on the 16/6/80 we reached Cotton Tree. On that day I wrote to Superintendent Hare telling him that I had been informed, on good authority, that the Kellys had been seen coming home of late, giving the names of the persons who had seen them, and the direction they were coming from, and that they were getting provisions from a Chinese store, but could not name the place just then; also some other good information, but nothing that would point to their exact whereabouts. On the 22nd I wrote again to Superintendent Hare telling him that we thought it best to return, as we had got all the information we could, and that we intended to see if the above report was correct that the gang were getting provisions from a Chinese store. On the 24th we arrived at the Black Dog Creek, and went to see this Chuiaman, Ah Yang; he knew Canny, and took me to be Canny's brother, and spoke very freely. After speaking to him for a time, I asked him if he was not frightened of the Kellys, and he said no, that they were too far away, and that they were fifty miles away; that they were at the Buckland Flat, and were getting provisions at a Chinese store at that place, that they came down off the ranges two at a time, and tied their horses outside, and got plenty of grog and provisions, and carried them away.

This they did frequently, and telling the Chinaman, if he told the police, they would shoot him, and then burn him; he also said that they had plenty of money, and always paid.

The Chinaman said he was too frightened to tell the police, as the police were too frightened to go up there to them; and, if he told the police, they would kill him. As this information was so good, we thought we would get Superintendent Hare to see him.

We then rode to Wangaratta, and on the morning of the 25th I sent a telegram to Superintendent Hare stating that Canny and I would be home that evening, and wished to see him.

On our arrival here we saw Mr. Hare, and gave him the above information. He said it was the best information he had received.

On the morning of the 26th Superintendent Hare called me into his office, and told me that I would have to proceed to this place again, and get the name of the Chinaman who was keeping the store, and the Chinaman who gave the information—to find out when he was there last.

I left Benalla on the morning of the 26th, and saw the Chinaman on the 27th; and he informed me that he had been there in May last, and the names of Chinamen keeping the store are Pong Luke and Chat Ving. On the morning of the 28th, as I was returning to Benalla, I was told that the gang were captured at Glenrowan, a distance of four miles from their own home.

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I also beg to state that in my first letter to Mr. Hare I stated that the Kellys had been seen coming home of late, which proves my information to be correct, as they were captured within four miles of their own home.

Also the information I received from the Chinaman that they had horses for carrying their provisions, which since their capture has been proved beyond a doubt.

I regret to say that my being on this special duty prevented me from taking any part in the final destruction of the gang, as the superintendent is, of course, aware.

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## APPENDIX 16.

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*Urgent.*

(Copy.)

Police Department, Melbourne, 14th October 1881.

SIR,—I enclose herewith, for the information of the Royal Police Commission, a statutory declaration by Mr. C. C. Rawlins, in reference to matters now under their consideration. Mr. Rawlins was examined before the Commission at a time when the officers were excluded from the proceedings, and until yesterday I had no opportunity of knowing that he was in the position to give the evidence shown in his declaration. I hope that, even at this late period in the inquiry, the Commission will be pleased to take his declaration into careful consideration.

I have, &c.,

J. SADLEIR, Superintendent of Police.

J. Williams, Esq., Secretary H. P. Commission.

(Copy.)

I, Charles Champion Rawlins, farmer, of 36 Rus street, in the colony of Victoria, make oath and say as follows:—I was at Glenrowan on 28th June 1880 from the first attack of the police on the Kelly gang until about 4 p.m. I saw the train conveying Mr. Sadleir and the Benalla police, which arrived at Glenrowan about 5.30 a.m. About twenty minutes after Mr. Sadleir arrived, I saw him near the railway station at Glenrowan. I understood from Mr. Sadleir that he had just come from Mr. O'Connor. I said to him, "Have you made the south and west side of the hotel (Mrs. Jones's) secure against the escape of the outlaws?" Mr. Sadleir replied, "Yes, I have placed Sergeant Whelan and a number of the police there, and the place is perfectly secure." Mr. Sadleir was at this time standing on the Benalla end of the platform, in the open, and in view of the hotel (about 120 yards distant), from which the outlaws had been firing all the morning. Subsequently, about 9 a.m., I had further conversation with Mr. Sadleir. We were standing together near the contractor's tents, about 45 yards from the hotel (Mrs. Jones's). We were speaking of the difficulty of getting the innocent persons out, and I said, "Shall we tickle them up a bit?" Mr. Sadleir said, "We can't fire into the building until we get them out." I saw Mr. Sadleir constantly during the day, and he took entire control of the proceedings.

I saw Mrs. Skillian arriving on the ground just as the hotel was taken fire. She had not been on the ground before.

And I make this declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.

(Signed) CHAS. C. RAWLINS,

Declared before me, at Melbourne, on the 14th day of October One thousand eight hundred and eighty-one.—F. CALL, P.M.

## APPENDIX 17.

The following letter was received from H. M. Chomley, Esq., Acting Chief Commissioner of Police, and was read at the meeting held Tuesday, 9th August:—

(Copy.)

Police Department, Chief Commissioner's Office,  
Melbourne, 12th August

My dear Chomley,  
1880.

In reply to your letter of yesterday, I beg to say that you never at any time showed the slightest disinclination to proceed to the North-Eastern district in connection with the pursuit of the outlaws; on the contrary, in November 1878 you expressed your willingness to undertake that duty, but as Mr. Nicolson was then in charge of operations, I thought it unnecessary to send up another officer. Subsequently, as you are aware, I proceeded to Benalla myself with Hare immediately after I received the news of the Euroa bank robbery, and remained there upwards of six months.

I wish to disabuse your mind of the idea that Hare in his report conveyed, or had the intention of conveying, the slightest reflection on you or the other officers whose names are mentioned. His statement is an accurate account of what passed between him and me, and on that occasion he strongly urged on me that you should be selected for that duty, more especially as you had been stationed at Beechworth before.

Having known you intimately for 26 years, and our official connection having extended over close on 22 years, I may state that I have had at all times the greatest confidence in your tact, judgment, and energy, and I have no doubt that had you been sent to the N.-E. district no one would have performed his duty more satisfactorily.

I may inform you that Mr. Service's Government decided that it would be advisable to remove Mr. Nicolson, and to send up Mr. Hare in his place, and I was instructed to carry out that arrangement.

Yours very truly,

H. M. Chomley, Esq.

F. C. STANDISH.

## APPENDIX 18.

## LIST OF WITNESSES EXAMINED.

Date.	Name.	Page.	Date.	Name.	Page.
1881. March 23rd	Captain F. C. Standish	1 to 14	1881. June 28th	Senior-Constable Chas. Johnston (recalled)	445 to 451
" 24th	Assistant Commissioner C. H. Nicolson	15 to 28	" 29th	Superintendent J. Sadleir (recalled)	452
" 25th	" " "	29 to 42	" 29th	Senior-Constable E. Flood	455 to 459
" 29th	" " "	42 to 49	July 5th	Acting Chief Commissioner H. M. Chomley (recalled)	460 to 461
" 29th	Inspector S. O'Connor	50 to 51	" 6th	Rev. M. Gibney (recalled)	461 to 464
" 30th	" " "	52 to 61	" 6th	Alexr. Fitzpatrick	464 to 470
" 31st	" " "	61 to 62	" 20th	Constable Robt. Alexander	471 to 475
" 31st	Superintendent F. A. Hare	62 to 74	" 20th	Anton Wicks	476
April 1st	" " "	74 to 80	" 20th	Mrs. Sherritt, senior	476 to 479
" 5th	" " "	81 to 94	" 20th	Mrs. Sherritt, junior	479 to 482
" 6th	" " "	94 to 101	" 20th	Wm. H. Foster, P.M.	482 to 484
" 6th	Henry Moors, Chief Clerk	100 to 104	" 20th	Mrs. Ellen Barry	484 to 487
" 7th	Superintendent J. Sadleir	104 to 116	" 20th	Patrick Allen	487 to 488
" 12th	" " "	117 to 122	" 20th	Enoch Downes	488 to 489
" 12th	Alfred Wyatt, P.M.	123 to 130	" 20th	Senior-Constable Patrick Mullane	489 to 498
" 13th	" " "	131 to 138	" 20th	Mrs. Sherritt, senior (recalled)	498
" 13th	Superintendent Sadleir	139 to 147	" 20th	Mrs. Barry (recalled)	499 to 500
" 14th	(recalled)	147 to 159	" 21st	Mrs. Sherritt, junior (recalled)	500
May 3rd	" " "	159	" 21st	Sub-Inspector H. Baber	501
" 3rd	" " "	160 to 165	" 21st	Detective M. E. Ward (recalled)	501 to 507
" 3rd	Detective M. E. Ward	165 to 174	" 21st	Superintendent F. A. Hare (recalled)	507 to 508
" 4th	Inspector Wm. B. Montford	175 to 178	" 21st	Constable Robt. Alexander (recalled)	508 to 509
" 4th	" " "	178 to 191	" 21st	Senior-Constable Mullane (recalled)	509
" 5th	Constable Wm. Duross	192 to 197	" 22nd	Henry Laing	510
" 5th	Constable Thos. P. Dowling	197 to 203	" 22nd	Frederic Jno. Marsden	510 to 512
" 10th	Jacob Wilson	204 to 214	" 22nd	Wm. Willis	512 to 513
" 10th	Constable Dowling (recalled)	214 to 218	" 22nd	Sergeant Steele (recalled)	513 to 515
" 11th	Constable Alf. J. Faulkner	219 to 235	" 28th	Detective M. E. Ward (recalled)	515 to 518
" 13th	" " "	235 to 254	August 2nd	Superintendent F. A. Winch	519 to 523
" 13th	Sergeant Jas. Whelan	254 to 255	" 2nd	Constable Thos. McIntyre	523 to 526
" 13th	Constable Thos. Reilly	255 to 265	" 2nd	Jas. Wallace	526 to 529
" 13th	Constable Thos. Kirkham	265 to 271	" 3rd	" " "	529 to 540
" 14th	Senior-Constable Chas. Johnston	271 to 276	" 3rd	John Sherritt	540 to 546
" 14th	Constable Wm. Canny	276 to 281	" 4th	Thos. Bolam, Acting Secretary Education Department	546 to 548
" 17th	James Reardon	281 to 297	" 4th	John Sherritt (recalled)	549 to 552
" 18th	Constable Daniel Barry	298	" 9th	Hon. J. H. Graves, M.P.	552 to 554
" 18th	" " "	298 to 318	" 9th	John Sherritt (recalled)	554 to 555
" 31st	Senior-Constable Jno. Kelly	318	" 10th	" " "	556 to 561
" 31st	" " "	318 to 332	" 10th	Hon. J. H. Graves, M.P. (recalled)	561 to 569
June 1st	Sergeant A. L. M. Steele	332 to 338	" 10th	Detective M. E. Ward	569 to 573
" 1st	" " "	338 to 346	" 10th	Senior-Constable Mullane	573 to 574
" 2nd	Constable Jas. Dwyer	346 to 347	" 30th	Captain F. C. Standish	575 to 582
" 2nd	" " "	347 to 354	" 31st	(recalled)	582 to 595
" 2nd	Constable Chas. Gascoigne	354 to 362	" 31st	" " "	593
" 7th	Acting Chief Commissioner H. M. Chomley	362	September 1st	Superintendent F. A. Winch (recalled)	594 to 609
" 7th	Jacob Wilson (recalled)	362 to 367	" 6th	Superintendent F. A. Hare (recalled)	610 to 623
" 7th	Thomas Carrington	367 to 371	" 7th	Superintendent J. Sadleir (recalled)	625 to 645
" 7th	Josh. D. Melvin	371 to 379	" 8th	Acting Chief Commissioner C. H. Nicolson (recalled)	643 to 651
" 8th	Jno. McWhirter	379 to 383	" 8th	" " "	651 to 656
" 8th	Margaret Reardon	383	" 8th	Inspector Brooke Smith	656 to 657
" 8th	James Reardon (recalled)	383 to 389	" 9th	Constable Michl. Twomey	659 to 664
" 8th	Geo. V. Allen	390 to 392	" 20th	Inspector Brooke Smith (recalled)	663 to 667
" 9th	Jesse Dowsett	393 to 397	" 20th	Thos. Curnow	667 to 670
" 9th	Inspector Montford (recalled)	397 to 402	" 20th	Thos. Meehan	669 to 673
" 9th	Constable Jas. Arthur	402 to 406	" 20th	Patrick Quin	673
" 14th	Constable Wm. Phillips	406 to 410	" 20th	Superintendent J. Sadleir (recalled)	674
" 15th	Inspector O'Connor (recalled)	411		Mr. Nicolson	
" 15th	" " "	411 to 417			
" 15th	Chas. C. Rawlins	417 to 422			
" 16th	Inspector O'Connor (recalled)	423 to 427			
" 16th	Superintendent Sadleir	427 to 428			
" 16th	(recalled)	428 to 431			
" 21st	Inspector O'Connor (recalled)	432 to 441			
" 28th	Acting Chief Commissioner Nicolson (recalled)	441 to 442			
" 28th	Henry Armstrong	442 to 445			
" 28th	Superintendent F. A. Hare (recalled)	442 to 445			
	Rev. M. Gibney				

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1881.									1881.								
March 23rd	1	1	1	1	1	1	1		June 14th	1	1	1	1	...	1	1	...
“ 24th	1	1	1	1	1	1	1		“ 15th	1	1	1	...	1	1	1	1
“ 25th	1	1	1	1	...	1	1		“ 16th	1	1	...	...	...	1	1	...
“ 29th	1	1	1	1	1	1	1	1	“ 21st	1	1	1	1	1	1	1	1
“ 30th	1	1	1	1	1	...	1		“ 28th	1	1	1	1	1	1	1	...
“ 31st	1	1	1	1	1	1	1		“ 29th	1	1	1	...	1	1	1	...
April 1st	1	1	1	1	...	1	1		July 5th	1	1	1	...	1	1	1	1
“ 5th	1	1	1	1	1	1	1		“ 6th	1	1	...	...	1	1	1	...
“ 6th	1	1	1	1	1	...	1		“ 20th	1	1	...	...	1	...	...	...
“ 7th	...	1	1	1	1	1	1		“ 21st	1	1	...	...	1	...	...	...
“ 12th	1	1	1	1	1	1	1		“ 22nd	1	1	...	...	1	...	...	...
“ 13th	1	1	1	1	1	1	...		“ 28th	1	1	...	...	...	1	1	...
“ 14th	1	1	1	1	1	1	1		August 2nd	1	1	1	1	1	...	1	...
May 3rd	1	1	1	1	1	1	1		“ 3rd	1	1	1	1	1	...	1	...
“ 4th	1	1	1	1	1	1	1		“ 4th	1	1	1	1	1	...	...	...
“ 5th	1	1	1	1	1	1	1		“ 9th	1	1	1	1	1	...	1	...
“ 10th	1	1	1	1	1	1	1		“ 10th	1	1	1	1	1	...	1	...
“ 11th	1	1	1	1	1	1	1		“ 30th	1	...	1	1	1	...	1	1
“ 13th	1	1	1	1	1	1	1		“ 31st	1	...	1	1	1	...	1	1
“ 14th	1	1	1	1	1	1	1		Sept. 1st	1	...	1	1	...	...	1	1
“ 17th	1	1	1	1	1	1	1		“ 6th	1	1	1	1	1	...	...	...
“ 18th	1	1	1	1	...	1	1		“ 7th	1	1	1	1	1	...	...	...
“ 31st	1	1	1	1	1	1	1		“ 8th	1	1	1	1	1	...	...	...
June 1st	1	1	1	1	1	1	1		“ 9th	1	...	1	1	1	...	...	...
“ 2nd	1	1	1	1	1	1	1		“ 20th	1	1	...	1	1	...	1	1
“ 7th	1	1	1	1	1	1	1	1		—	—	—	—	—	—	—	—
“ 8th	1	1	1	1	1	1	1										
“ 9th	1	1	1	1	1	1	1			52	49	46	44	45	35	44	9

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“	5th	1	1	1	...	1	...	1	1		13	10	11	10	7	3	11	11
Number of meetings held ... .. 66																		
Hon. F Longmore attended	65	Jas. Gibb, Esq., M.L.A., attended																52
Wm. Anderson, Esq., M.L.A., attended	59	Hon. J. H. Graves, M.L.A., attended																38
E. J. Dixon, Esq., J.P., attended	57	G. W. Hall, Esq., M.L.A., attended																55
G. R. Fincham, Esq., M.L.A., attended	53	G. C. Levey, Esq., C.M.G., attended																20

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## APPENDIX 20.

### MINUTES OF PROCEEDINGS AT MEETINGS HELD BY THE ROYAL COMMISSION ON POLICE.

TUESDAY, 15<sup>TH</sup> MARCH 1881.

*Present:*

Honorable F. LONGMORE, in the Chair;

Mr. Graves,

Mr. Fincham.

Commission read.

Mr.Graves, prior to the commencement of the proceedings, called attention to remarks made by the Argus newspaper in reference to his appointment on the Commission. While contending that those remarks were, in his opinion, wholly unjustifiable, he at the same time expressed his willingness to resign his position, if his brother members considered his presence amongst them calculated in the least to act prejudicially to the public interests or impair the value of their report. He would withdraw from the room while the meeting considered the matter.

The Chairman requested Mr. Graves to remain, as such a proceeding as he proposed was quite unnecessary. He felt assured that Mr. Graves's long and intimate acquaintance with the North-Eastern district would prove of the greatest value to his fellow members. They had each an important duty to discharge, and should not be deterred from doing it by anything that appeared in the press.

Moved by Mr. Fincham, seconded by Mr. Graves—

*Resolved*—That the evidence of witnesses called before the Commission be taken on oath.

Mr. Fincham gave notice of his intention to move, at the next meeting, that the proceedings of this Royal Commission be open to the press.

Some discussion arose as to whether witnesses should be allowed to obtain professional assistance. No definite decision was arrived at, but the general opinion expressed was adverse to that course being adopted.

Mr. Graves moved, Mr. Fincham seconded—

*Resolved*—That the Government be requested to place the services of Mr. Bell, shorthand writer, at the disposal of the Commission.

The Secretary submitted the following documents, which had been obtained from the Chief Secretary's Department, viz. Communication addressed by Captain Standish to the Chief Secretary, dated 5th July 1880, asking for the appointment of a Board of Enquiry into the state of the police force, having special reference to the Kelly outrages. From Mr. Nicolson, Assistant Commissioner of Police, asking for a Board to investigate the circumstances of his removal from the North-Eastern district. From the same, reiterating the request. From Sub-Inspector O'Connor, of the Queensland police, requesting a Board. From the same, repeating the request. Also Superintendent Hare's official report upon the Glenrowan affray.

Moved by Mr. Fincham, seconded by Mr. Graves—

*Resolved*—That the foregoing documents be printed, and copies sent to the various police officers concerned therewith, and also to the members of the Commission.

*Ordered*—That Captain Standish, Mr. Nicolson, Superintendent Hare, and Sub-Inspector O'Connor be summoned to attend the meeting of the Commission to be held on Friday the 18th March, at Eleven o'clock.

The Commissioners then adjourned.

18th March 1881.

F. LONGMORE, Chairman.

FRIDAY, 18<sup>TH</sup> MARCH 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Dixon,  
Mr. Fincham,

Mr. Graves,  
Mr. G. C. Levey.

The minutes of previous meeting were read and confirmed.

A discussion took place as to whether witnesses should be represented by counsel. It was agreed that such a course was inadvisable.  
 Mr. Fincham moved, Mr. Graves seconded—  
*Resolved*—That the meetings of the Commission be open to the press except in cases where public policy demand that the proceedings should be conducted with closed doors.  
 Mr. Dixon moved, Mr. Fincham seconded—  
*Resolved*—That the Chief Secretary be requested to place at the disposal of the Commission all documents telegrams &c. in the hands of the Government relating to the Kelly outrages.  
 Mr. Dixon moved, Mr. Fincham seconded—  
*Resolved*—That application be made to the Lands Department for a suitable map of the North-Eastern district.  
*Ordered*—That the Chairman apply for a special advance from the Treasurer for the purposes of the enquiry.  
 The representatives of the press and the witnesses in attendance were admitted.  
 Mr. Frank Madden applied to be allowed to appear on behalf of Mr. Nicolson.  
 The Chairman intimated the decision arrived at by the Commission in reference to witnesses obtaining the assistance of counsel.  
 Captain Standish was called to give evidence.  
 Prior to being sworn the witness applied for a postponement of the hearing on the ground of insufficient notice, and the necessity for reading up documents bearing upon the enquiry.  
 Mr. Nicolson and Mr. O'Connor also asked for a postponement.  
 Mr. Hare stated that he was prepared to proceed with his evidence.  
 Discussion ensued.  
 Finally resolved to adjourn till Wednesday the 23rd March, at Eleven a.m.  
 The meeting then adjourned.

23rd March 1881.

FRANCIS LONGMORE, Chairman.

### WEDNESDAY 23RD MARCH 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
 Mr. Dixon,  
 Mr. Fincham,

Mr. Graves,  
 Mr. Gibb,  
 Mr. Hall.

The minutes of previous meeting were read and confirmed.  
 Captain Standish called and examined.  
 Moved by Mr. Fincham, seconded by Mr. Gibb—  
*Resolved*—That the Commission be furnished with a return giving full particulars of the officers and men of the police force stationed in the North-Eastern district immediately prior to and during the Kelly outrages.  
 The meeting adjourned until the following day, at Eleven o'clock.

24th March 1881.

FRANCIS LONGMORE, Chairman.

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### THURSDAY, 24TH MARCH 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
 Mr. Dixon,  
 Mr. Fincham,

Mr. Graves,  
 Mr. Gibb,  
 Mr. Hall.

The minutes of previous meeting were read and confirmed.  
 Room cleared.  
 Commission deliberated upon the course to be adopted in the examination of witnesses, the point being as to whether the cross-examination of Captain Standish should be at once proceeded with or allowed to stand over until the Government shorthand writer's notes were printed. It was ultimately decided to call Mr. Nicolson.  
 Moved by Mr. Dixon, seconded by Mr. Fincham—  
*Resolved*—That the Honorable the Chief Secretary be requested to allow the following officers of police leave of absence pending the result of the enquiry, viz.—Mr. Nicolson, Acting Commissioner of Police; Superintendent Hare, and Superintendent Sadleir.  
 The Secretary was instructed to take immediate steps to procure a colored map of the Kelly country.  
 Mr. Nicolson was called and examined.  
 The meeting adjourned until the following morning, at Eleven o'clock.

25th March 1881.

F. LONGMORE, Chairman.

### FRIDAY, 25TH MARCH 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
 Mr. Dixon,  
 Mr. Fincham,

Mr. Graves,  
 Mr. Hall.

The minutes of previous meeting were read and confirmed.  
*Ordered*—That application be made for all documents in the Police Department having reference to the Kelly outrages, also the return alluded to in Mr. Nicolson's letter to Captain Standish, dated 4th August 1879, complaining of the reduced strength of the police force at his disposal.  
 Mr. Nicolson called and examination continued.  
 The meeting adjourned until Tuesday, 29th, at half-past Eleven.

29th March 1881.

FRANCIS LONGMORE, Chairman.

### TUESDAY, 29TH MARCH 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Dixon,  
Mr. Fincham,  
Mr. Graves,

Mr. Gibb,  
Mr. Hall,  
Mr. Levey.

The minutes of previous meeting were read and confirmed.

*Ordered*—That application be made to the Honorable the Chief Secretary for a more suitable room in which to hold the meetings of the Commission.

*Ordered*—That application be made to the Police Department for the record taken of the capture of Power the bushranger.

*Ordered*—That a return be furnished to the Commission giving statistics regarding bushranging in Victoria and New South Wales from about 1860 to the present time, with a view of showing more particularly the length of time during which the criminals succeeded in evading capture, the expenses connected with their pursuit, &c., &c.

*Ordered*—A return of the secret-service money disbursed during the pursuit of the Kelly gang.

*Ordered*—Papers relating to the removal of Constable Flood from Greta before 1877.

Mr. Nicolson called and further examined. Direct examination closed.

Mr. O'Connor called and examination proceeded with.

The meeting adjourned until the following day, at Eleven o'clock.

30th March 1881.

FRANCIS LONGMORE.

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WEDNESDAY, 30<sup>TH</sup> MARCH 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Dixon,  
Mr. Fincham,

Mr. Gibb,  
Mr. Hall.

The minutes of previous meeting were read and confirmed.

Moved by Mr. Dixon, seconded by Mr. Anderson—

*Resolved*—That Mr. Sadleir, Superintendent of Police, Benalla, be instructed to hold himself in readiness, upon receipt of a telegram, to proceed to Melbourne for the purpose of giving evidence before the Commission, and to bring with him all documents, reports, letters, telegrams, &c., in his possession, relating to the pursuit and destruction of the Kelly gang.

*Ordered*—That application be made to the Police Department for the correspondence which took place in reference to the transfer of a tracker named Moses from the Queensland to the Victorian service.

Mr. O'Connor called and examined. Examination closed.

The meeting adjourned until the following day, at Eleven o'clock.

31st March 1881.

FRANCIS LONGMORE, Chairman.

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THURSDAY, 31<sup>ST</sup> MARCH 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Dixon,  
Mr. Fincham,

Mr. Graves,  
Mr. Gibb,  
Mr. Hall.

The minutes of previous meeting were read and confirmed.

*Ordered*—That Mr. Bellis, selector, Yarrawonga, be summoned to give evidence before the Commission.

Mr. Hare, Superintendent of Police, called and examined.

Discussion arose as to whether the Commission should sit on the following day or adjourn till Tuesday. Several members considered it unreasonable and inconvenient to sit more than three days a week.

The meeting adjourned until Eleven o'clock next day.

1st April 1881.

FRANCIS LONGMORE, Chairman.

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FRIDAY, 1<sup>ST</sup> APRIL 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Dixon,  
Mr. Fincham,

Mr. Graves,  
Mr. Hall.

Minutes of previous meeting read and confirmed.

Mr. Hare's examination continued.

*Ordered*—That application be made to Senior-Constable Mullane, of Beechworth, for the original of the telegram forwarded to him by Mr. Nicolson on 2nd June 1880, in reference to the discharge of secret agents.

Meeting adjourned until 5th April, at Eleven o'clock.

5th April 1881.

FRANCIS LONGMORE, Chairman.

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TUESDAY, 5<sup>TH</sup> APRIL 1881.

*Present:*

Mr. LONGMORE, in the Chair;

<p>Mr. Anderson, Mr. Dixon, Mr. Fincham,</p>		<p>Mr. Graves, Mr. Hall.</p>
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Minutes of previous meeting read and confirmed.  
Mr. Hare's examination continued.  
*Ordered*—That Mr. Moors, Chief Clerk of Police Department, be instructed to attend the meeting of the Commission to be held on Wednesday, 6th instant, to give evidence.  
*Ordered*—That Superintendent Sadleir be summoned to attend on Thursday, 7th instant.  
Meeting adjourned until following day, at Eleven o'clock.

6th April 1881. FRANCIS LONGMORE, Chairman.

### WEDNESDAY, 6TH APRIL 1881.

*Present:*  
Mr. LONGMORE, in the Chair;

<p>Mr. Anderson, Mr. Fincham, Mr. Dixon,</p>		<p>Mr. Gibb, Mr. Hall,</p>
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Minutes of previous meeting read and confirmed.  
Mr. Hare's examination continued and closed.  
Mr. Moors examined. Examination closed.  
*Ordered*—That the Commission be furnished with the names of the constables forming the cave party under Mr. Nicolson's directions; also the correspondence from the Education Department in reference to the schoolmaster in the North-Eastern district who had acted as one of the secret agents of the police.  
Meeting adjourned until the following day, at Eleven o'clock.

7th April 1881. WILLIAM ANDERSON, Chairman *pro tem*.

### THURSDAY 7TH APRIL 1881.

Mr. Longmore having to attend the Conference of the Houses on the Reform Question—  
The Chair was taken by Mr. ANDERSON;  
*Also present:*  
Mr. LONGMORE, in the Chair;

<p>Mr. Fincham, Mr. Hall, Mr. Graves,</p>		<p>Mr. Dixon, Mr. Gibb.</p>
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The minutes of previous meeting read and confirmed.  
Superintendent Sadleir called and examined.  
Meeting adjourned until Tuesday, 12th instant, at Eleven o'clock.

12th April 1881. FRANCIS LONGMORE, Chairman.

### TUESDAY, 12TH APRIL 1881.

*Present:*  
Mr. LONGMORE, in the Chair; and subsequently Mr. ANDERSON;

<p>Mr. Fincham, Mr. Graves, Mr. Dixon,</p>		<p>Mr. Hall, Mr. Gibb.</p>
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Minutes of previous meeting read and confirmed.  
In reply to Captain Standish, the Chairman intimated that arrangements would be made by the Commission to admit of the witness visiting Sydney.  
Examination of Mr. Sadleir resumed.  
Mr. Wyatt, P.M., called and examined.  
Meeting adjourned until the following day, at Eleven o'clock.

13th April 1881. FRANCIS LONGMORE, Chairman.

### WEDNESDAY, 13TH APRIL 1881.

*Present:*  
Mr. LONGMORE, in the Chair;

<p>Mr. Anderson, Mr. Hall, Mr. Fincham,</p>		<p>Mr. Graves, Mr. Dixon, Mr. Gibb.</p>
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Minutes of previous meeting read and confirmed.  
Mr. Wyatt, P.M., called and further examined.  
Examination closed.  
Mr. Sadleir's examination resumed.  
Meeting adjourned until following day, at Eleven o'clock.

14th April 1881. FRANCIS LONGMORE, Chairman.

### THURSDAY, 14TH APRIL 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson, Mr. Dixon, Mr. Fincham,	Mr. Graves, Mr. Hall, Mr. Gibb.
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Minutes of previous meeting read and confirmed.  
Mr. Sadleir's evidence continued and concluded.  
Meeting adjourned until 3rd May, at Eleven o'clock.

3rd May 1881. FRANCIS LONGMORE, Chairman.

TUESDAY, 3RD MAY 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson, Mr. Fincham, Mr. Graves,	Mr. Hall, Mr. Gibb, Mr. Dixon.
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Minutes of previous meeting read and confirmed.  
Superintendent Sadleir was briefly examined in reference to his summarised account of the various appearances of the Kellys, and the steps thereupon taken by the police.  
Detective Ward called and examined.  
Inspector Moutford called and examined.  
Meeting adjourned until the following day, at Eleven o'clock.

4th May 1881. FRANCIS LONGMORE, Chairman.

WEDNESDAY 4TH MAY 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson Mr. Hall, Mr. Fincham,	Mr. Graves, Mr. Gibb, Mr. Dixon.
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Minutes of previous meeting read and confirmed.  
Inspector Montford further examined. Examination closed.  
Constable Duross called and examined. Examination closed.  
Meeting adjourned until the following day, at Eleven o'clock.

5th May 1881. FRANCIS LONGMORE, Chairman.

THURSDAY, 5TH MAY 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson, Mr. Fincham, Mr. Graves,	Mr. Hall, Mr. Gibb, Mr. Dixon.
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Minutes of previous meeting read and confirmed.  
Mr. Dixon brought under the notice of the Commission the statement made on the previous day by Mr. O'Connor, to the effect that he had been appointed an officer in the Victorian police, and had been ordered to take the position of second in command in the North-Eastern district.  
Moved by Mr. Dixon, seconded by Mr. Gibb—  
*Resolved*—That as Mr. O'Connor was one of those who applied for an enquiry into his treatment during the search for and capture of the Kelly outlaws, this Commission, having been informed by Mr. O'Connor that he has been appointed to active duty in the North-Eastern district, express an opinion that, pending the result of this enquiry, such an appointment should not have been made.  
The following was the result of the division on this motion:—For—Messrs. Anderson, Gibb, Dixon, and Graves.  
Against—Messrs. Fincham and Hall.  
*Ordered*—That the Secretary at once see the Acting Chief Commissioner of Police and obtain the papers referring to Mr. O'Connor's appointment.  
The Secretary, having seen Mr. Chomley, reported that there were no papers in the case beyond the report which he (the Acting Chief Commissioner) had made to the Honorable the Chief Secretary respecting the state of the North-Eastern district, and in which he had suggested the propriety of making the appointment referred to.  
Moved by Mr. Graves, seconded by Mr. Gibb—  
*Resolved*—That the Chairman and Mr. Anderson wait upon the Honorable the Chief Secretary, and lay the resolution adopted by the Commission before him.  
The Chairman, at a subsequent stage of the proceedings, reported that the deputation had had an interview with Mr. Berry, the Chief Secretary, who informed them that the appointment of Mr. O'Connor as stated, had not been made; that it would not be made without the concurrence of the Commission, nor until a progress report had been sent in to the Government.  
Constable Dowling called and examined.  
Jacob Wilson called and examined. Examination closed.  
The meeting adjourned until the following Tuesday, at Eleven o'clock.

10th May 1881. FRANCIS LONGMORE, Chairman.

TUESDAY, 10TH MAY 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson, Mr. Fincham,	Mr. Hall, Mr. Gibb,
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Mr. Graves, |  
Minutes of previous meeting read and confirmed.  
Constable Dowling's examination resumed and concluded.  
Constable Falkener examined.  
The Commission then sat with closed doors.  
Communication, as follows, from Acting Under-Secretary was read:—  
Sir,—I am desired by the Chief Secretary to state that he will be glad if the Commission will submit separately, and at their earliest convenience, such of their recommendations as have reference to Mr. O'Connor and the black trackers under him, as in the projected re-organization of the police arrangements for the North-Eastern district it may be found necessary that Mr. O'Connor should be re-appointed.

Mr. Dixon.  
  
I have, &c.,  
(Signed) T. R. WILSON, Acting Under-Secretary.

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The Chairman, in explanation of the above, stated that he and Mr. Anderson had waited on the Chief Secretary, in accordance with the resolution of the Commission on the Thursday previously. They had expressed surprise that Mr. O'Connor should have received an appointment in the Victorian police while his case as well as that of other police officers was *sub judice*, as he (Mr. O'Connor) had made serious charges against officers of the force, and they had made serious charges against him. The Chief Secretary, in reply, informed the deputation that no appointment had been made, and that he would not make any without the concurrence of the Commission. Until a progress report respecting Mr. O'Connor had been sent in, nothing would be done. At the same time he (Mr. Berry) expressed a desire that the Commission should expedite their investigation upon that point, namely, Mr. O'Connor's connection with the pursuit of the Kellys, so that, if deemed desirable, he might be appointed second in command in the North-Eastern district, in charge of the black trackers, he having been considered the best adapted for that service. The Chief Secretary had given the assurance that no appointment under existing circumstances would be made without the approval of the Commission, and he expressed surprise upon seeing the announcement made in the newspapers of Mr. O'Connor's appointment.

Moved by Mr. Dixon, seconded by Mr. Gibb—  
*Resolved*—That the verbal report of the Chairman and the letter from the Under-Secretary be received and duly recorded on the minutes.

Moved by Mr. Dixon, seconded by Mr. Anderson—  
*Resolved*—That the Secretary communicate with the Acting Chief Commissioner of Police requesting him to forward to the Commission his report upon the state of the North-Eastern district submitted to the Honorable the Chief Secretary; also all documents in his possession or obtainable having relation to the projected appointment of Mr. O'Connor to the position of second in command in the North-Eastern district.

The meeting adjourned until the following day.  
11/5/81. FRANCIS LONGMORE, Chairman.

### WEDNESDAY, 11<sup>TH</sup> MAY 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Fincham,  
Mr. Graves,

Mr. Hall,  
Mr. Gibb,  
Mr. Dixon.

Minutes of previous meeting read and confirmed.  
Examination of Constable Falkener resumed and closed.

Received—Copy of report submitted by Acting Chief Commissioner of Police to the Honorable the Chief Secretary respecting the state of the North-Eastern district, in which he recommended the appointment of Mr. O'Connor.

Meeting adjourned till Friday, at Eleven a.m.  
13th May 1881. FRANCIS LONGMORE, Chairman.

### FRIDAY, 13<sup>TH</sup> MAY 1881.

The Commission sat at the Court House, Benalla.

*Present:*

Mr. LONGMORE, in the Chair:

Mr. Anderson,  
Mr. Graves,  
Mr. Gibb,

Mr. Dixon,  
Mr. Fincham,  
Mr. Hall.

Minutes of previous meeting read and confirmed.

The following witnesses were called and examined: —Sergeant Whelan, Constable Reilly, Constable Kirkham, Constable Johnston.

Meeting adjourned till the following day.  
14/5/81. FRANCIS LONGMORE, Chairman.

### SATURDAY, 14<sup>TH</sup> MAY 1881.

The Commission sat to take evidence at Glenrowan.

Prior to assembling, the scene of the Glenrowan affray was visited and inspected, the more immediate object being the verification or otherwise of the statements made in Superintendent Hare's report respecting the precise position occupied by Mr. O'Connor on that occasion.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Fincham,  
Mr. Dixon,  
Mr. Graves,

Mr. Hall,  
Mr. Gibb.

Constable Canny and Mr. Reardon called and examined. Their examination closed.  
Meeting adjourned until following Tuesday at Melbourne.  
17/5/81. FRANCIS LONGMORE, Chairman.

TUESDAY, 17<sup>TH</sup> MAY 1881.

*Present:*

Mr. LONGMORE, in the Chair, and subsequently Mr. ANDERSON; also	
Mr. Fincham,	Mr. Gibb,
Mr. Graves,	Mr. Dixon.
Mr. Hall,	

Minutes of previous meetings read and confirmed.

Constable Barry called and examined. Examination closed.

Meeting adjourned till following day.

18th May 1881. FRANCIS LONGMORE, Chairman.

WEDNESDAY, 18<sup>TH</sup> MAY 1881.

*Present:*

Mr. LONGMORE, in the Chair;	
Mr. Graves,	Mr. Fincham,
Mr. Dixon,	Mr. Anderson.
Mr. Hall,	

Minutes of previous meeting read and confirmed.

Senior-Constable Kelly examined. Examination closed.

Meeting adjourned till the following day.

31st May 1881. FRANCIS LONGMORE, Chairman.

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TUESDAY, 31<sup>ST</sup> MAY 1881.

*Present:*

Mr. LONGMORE in the Chair;

Mr. Anderson,	Mr. Graves,
Mr. Gibb,	Mr. Hall,
Mr. Fincham,	Mr. Dixon.

Minutes of previous meeting read and confirmed.

Mr. Hall informed the Commission that he had received letters from several persons in the Benalla district pressing their claims for participating in the Kelly reward, and also for compensation for losses arising out of the pursuit of the outlaws. He desired to elicit from the Chairman whether the Commission was in a position to deal with those matters.

Mr. Graves stated he understood that the Board appointed to consider the claims of persons to the reward, having found that exception was taken to their report, had declined to deal with claims for compensation.

The Chairman replied that the question of distributing the Kelly reward money had not been referred to the Commission. He had had a conversation with the Chief Secretary upon the subject, and Mr. Berry stated that it was not his intention to act upon the Report of the Kelly Reward Board until the Police Commission had made fuller enquiry. The Commission had no desire to review the decision given by the Kelly Reward Board.

Senior-Constable Kelly further examined.

Senior-Constable Steele called and examined.

Meeting adjourned till following day.

1st June 1881. FRANCIS LONGMORE, Chairman.

WEDNESDAY, 1<sup>ST</sup> JUNE 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,	Mr. Hall,
Mr. Graves,	Mr. Gibb,
Mr. Fincham,	Mr. Dixon.

Senior-Constable Steele further examined. Examination closed.

The Commission having deliberated in private, it was—

*Resolved*—That the further attendance of the officers be dispensed with, and that the Chairman be instructed to convey this decision of the Commission to the gentleman concerned before rising.

Constable Dwyer called and examined.

Meeting adjourned till following day.

2nd June 1881. FRANCIS LONGMORE, Chairman.

THURSDAY, 2<sup>ND</sup> JUNE 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,	Mr. Hall,
Mr. Fincham,	Mr. Gibb,

Mr. Graves, | Mr. Dixon.  
Minutes of previous meeting read and confirmed.  
Constable Gascoigne called and examined. Examination closed.  
Mr. H. M. Chomley, Acting Chief Commissioner of Police, examined. Examination closed.  
The following letter was received from Superintendent Sadleir:—

Memo. Police Department, Melbourne, 2nd June 1881.

Will you kindly inform me, at your earliest convenience, whether the resolution arrived at by the Royal Commission on Police, on yesterday, is intended to exclude the officers of police from the hearing of evidence before the Commission, and from cross-examinmg the various witnesses on such points as may affect the character, reputation, or conduct of the officers concerned.

(Sd.) J. SADLEIR, Superintendent Police.

J. Williams, Esq., Secretary Police Commission.

The Commission having deliberated, the Secretary was directed to forward the follow reply:—  
Superintendent Sadleir,

Melbourne, 2nd June 1881.

Sir,—In reply to your communication of this date, respecting the non-attendance of the officers of police at the meetings of the Commission whilst witnesses are being examined, I have been instructed to inform you that the Commissioners are of opinion that the presence of the officers and the system of cross-examination pursued by them have been found to greatly impede the progress of the enquiry and, in some instances, to have had the effect of apparently intimidating the witnesses. At present the Commission are engaged in dealing with the case of Mr. O'Connor, and as the line of examination to be adopted will have reference immediately to the circumstances attending that gentleman's connection with the Victorian police, the further attendance of the officers has been deemed unnecessary and inexpedient. The evidence taken, as heretofore, will be forwarded to you in due course, and when your attendance is required you will be communicated with.

Meeting adjourned till the following Tuesday.

7th June 1881.

FRANCIS LONGMORE, Chairman.

TUESDAY, 7TH JUNE 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Fincham,  
Mr. Graves,  
Mr. Hall,

Mr. Dixon,  
Mr. Gibb,  
Mr. Levey.

Minutes of previous meeting read and confirmed.

The following witnesses were called and examined:—Mr. Thos. Carrington, Mr. J. D. Melvin, Mr. McWhirter.

Meeting adjourned till following day.

8th June 1881.

FRANCIS LONGMORE, Chairman.

WEDNESDAY, 8TH JUNE 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Fincham,  
Mr. Graves,

Mr. Hall,  
Mr. Gibb,  
Mr. Dixon.

Minutes of previous meeting read and confirmed.

The following witnesses were called and examined:—M. G. V. Allan, Mrs. Reardon, and Mr. Dowsett.

The Commission having deliberated upon the case of Mrs. Reardon, it was—

*Resolved*—That the Honorable the Chief Secretary be requested to take into immediate consideration the case of the boz Reardon, who was shot at Glenrowan, and furnish the means requisite to enable him to undergo the surgical operation, declarea to be imperatively necessary by Dr. Fitzgerald.

Meeting adjourned till following day.

9/6/81.

FRANCIS LONGMORE, Chairman.

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THURSDAY, 9TH JUNE 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Fincham,  
Mr. Graves,

Mr. Hall,  
Mr. Gibb,  
Mr. Dixon.

Minutes of previous meeting read and confirmed.

Inspector Montford called and examined with closed doors. The representatives of the press were subsequently admitted and the witness further examined. Examination closed.

Constables Arthur and Phillips were examined. Examination closed.

Meeting adjourned till following Tuesday.

14th June 1881.

FRANCIS LONGMORE, Chairman.

TUESDAY, 14TH JUNE 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Fincham,  
Mr. Graves,

Mr. Hall,  
Mr. Dixon.

Minutes of previous meeting read and confirmed.

Mr. O'Connor was called and his cross-examination proceeded with.

*Ordered*—That the Secretary prepare a telegram for transmission to the Queensland Government or police authorities

asking for copies of all papers and correspondence in their hands having reference to the engagement and services of Mr. O'Connor and his contingent of black trackers.

Meeting adjourned till following day.

15th June 1881.

FRANCIS LONGMORE, Chairman.

WEDNESDAY, 15<sup>TH</sup> JUNE 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Graves,  
Mr. Hall,

Mr. Levey,  
Mr. Gibb,  
Mr. Dixon.

Minutes of previous meeting read and confirmed.

Mr. C. H. Rawlins called and examined. Examination closed.

Mr. O'Connor's cross-examination resumed and closed.

Meeting adjourned till next day.

16th June 1881.

FRANCIS LONGMORE, Chairman.

THURSDAY, 16<sup>TH</sup> JUNE 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Graves,

Mr. Hall.

Minutes of previous meeting read and confirmed.

Superintendent Sadleir was called, and examined by Mr. O'Connor.

Mr. Nicolson, Assistant Commissioner of Police, called, and examined by Mr. O'Connor.

Mr. O'Connor intimated that the examination of these witnesses closed his case, and asked permission to attend the future meetings of the Commission when evidence was being taken.

The Chairman stated that compliance with the request would be regarded as making an invidious distinction, as the officers of the police had been relieved from attending. The matter would, however, be considered by the Commission.

Meeting adjourned till Tuesday, 21st June.

FRANCIS LONGMORE, Chairman.

TUESDAY, 21<sup>ST</sup> JUNE 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Fincham,  
Mr. Graves,  
Mr. Hall,

Mr. Gibb,  
Mr. Dixon,  
Mr. Levey.

A letter was received from Captain Standish declining to allow his private correspondence with the Queensland Government, in reference to Mr. O'Connor and his trackers, to be placed before the Commission.

A statement was received from a prisoner named Baumgarton, containing charges against Senior-Constable Steele. The Secretary was directed to write, in reply, asking for the names of the witnesses who, it was alleged, could verify the statements made.

Senior-Constable Armstrong called and examined. Examination closed.

Meeting adjourned until 28th June.

28/6/81.

FRANCIS LONGMORE, Chairman.

TUESDAY, 28<sup>TH</sup> JUNE 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Fincham,  
Mr. Graves,

Mr. Dixon,  
Mr. Hall,  
Mr. Gibb.

Superintendent Hare was recalled and examined respecting the assistance given by the witness Jacob Wilson to the police during the pursuit of the Kelly gang.

*Resolved*—That application be made to the Acting Chief Commissioner of Police to place at the disposal of Jacob Wilson a small sum of money pending the consideration of his claim for compensation by the Government.

*Resolved*—That the Secretary be instructed to forward the following resolution to the Honorable the Chief Secretary

This Commission desire to bring under the special notice of the Honorable the Chief Secretary the case of the man Jacob Wilson who, owing to the assistance rendered to the police during the pursuit of the Kelly gang, has been compelled to relinquish his selection in Greta, and finally to leave the district. From the evidence adduced before them, the Commission think that, as a matter of justice, some means of subsistence should be provided for Wilson until such time as his claims for compensation have been dealt with by the Government.

The Very Reverend Dean Gibney called and examined. Examination closed.

Senior-constable Johnston recalled and examined.

*Ordered*—That the Secretary be instructed to proceed with the drawing up of the progress report in Mr. O'Connor's case.

Meeting adjourned until the following morning.

29/6/81.

FRANCIS LONGMORE, Chairman.

WEDNESDAY, 29<sup>TH</sup> JUNE 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Dixon,  
Mr. Graves,

Mr. Gibb,  
Mr. Hall.

Mr. Nicolson, Assistant Commissioner of Police, appeared before the Commission to contradict a statement made by a witness who was reported to have stated that he (Mr. Nicolson) had recommended Mr. O'Connor's appointment.

The Chairman intimated that no statement to that effect had been made to the Commission, and that the witness must therefore have been misrepresented.

Superintendent Sadleir asked the Commission to be allowed to cross-examine the Very Reverend Dean Gibney. The Chairman stated that Mr. Sadleir could arrange with Mr. Wade, Government shorthand writer, to hear the evidence given by Father Gibney read, and if he then considered it necessary to put additional questions to the witness referred to, they could be reduced to writing and forwarded to the Secretary, to be afterwards dealt with by the Commission.

*Resolved*—That the resolution of the Commission passed at the meeting held on Wednesday, 1st June, dispensing with the further attendance of the officers of police, be rescinded. That the officers be permitted to attend the meetings of the Commission while evidence is being taken; and, where statements are made reflecting upon their character or conduct, that they be allowed the right of cross-examining the witnesses, the questions to be submitted in writing and put through the Chairman.

Senior-Constable Flood called and examined. Examination closed.

Meeting adjourned until the following morning.

1/7/81.

FRANCIS LONGMORE, Chairman,

THURSDAY, 1<sup>ST</sup> JULY 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Fincham,  
Mr. Graves,

Mr. Hall,  
Mr. Gibb,  
Mr. Dixon.

The leading features of the draft report were considered, and the framing of the progress report referred to a sub-committee consisting of the Chairman, Mr. Anderson, Mr. Graves, and the Secretary.

A memo. was received from the Chief Secretary, forwarding an application from Superintendent Sadleir, asking for re-employment.

The Secretary was instructed to acknowledge receipt of the same.

Meeting adjourned until the 5th July.

5/7/81.

FRANCIS LONGMORE, Chairman.

TUESDAY, 5<sup>TH</sup> JULY 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Dixon,  
Mr. Graves,

Mr. Hall,  
Mr. Levey,  
Mr. Gibb.

The progress report, as appended, was finally adopted, and the Secretary instructed to forward it, when signed by the several members of the Commission, in due course.

The Chairman read the memo. of the Honorable the Chief Secretary, forwarding a communication from Superintendent Sadleir asking to be re-employed in active duty, on the ground that he had been only called as a witness before the Commission, and that he had been relieved from further attendance.

*Resolved*—That, in the opinion of the Commission, Superintendent Sadleir does not occupy the position of a witness only in connection with the enquiry now proceeding.

Mr. Sadleir was called before the Commission and informed of the decision arrived at.

*Ordered*—That arrangements be made for the attendance of the Very Rev. Dean Gibney for the purpose of cross-examination by Mr. Sadleir.

The Acting Chief Commissioner of Police, Mr. Chomley, called and examined.

*Resolved*—That, having heard the evidence of Mr. Chomley, the Commission cannot see their way to alter the recommendation made to the Honorable the Chief Secretary on the 29th March last, requesting that Mr. Nicolson, Assistant Chief Commissioner, Superintendent Hare, and Superintendent Sadleir should receive leave of absence pending the result of the enquiry.

The Secretary was instructed to forward this resolution to the Honorable the Chief Secretary.

The following is the progress report of the Commission:—

MAY IT PLEASE YOUR EXCELLENCY—

A Royal Commission was appointed on March 7th 1881, under letters patent by Your Excellency—

- 1st. To enquire into the circumstances preceding and attending the Kelly outbreak.
- 2nd. As to the efficiency of the police to deal with such possible occurrences.
- 3rd. To enquire into the action of the police authorities during the period the Kelly gang were at large.
- 4th. The efficiency of the means employed for their capture; and
- 5th. Generally to enquire into and report upon the present state and organization of the police force.

Subsequently a memo., dated 10th May 1881, from the Hon. Graham Berry, Chief Secretary of the colony, was received by the Commissioners as follows:—"The Chief Secretary will be glad if the Police Commission will submit separately, and at their earliest convenience, such of their recommendations as have reference to Mr. Inspector O'Connor and the black trackers under him, as in the projected re-organization of the police arrangements for the North-Eastern district, it may be found necessary that Mr. O'Connor should be re-appointed."

Your Commissioners have now the honor to submit the following progress report:—

1. That the evidence before the Commission is not of such a character as to warrant your Commissioners in recommending the Honorable the Chief Secretary to appoint Mr. Stanhope O'Connor to the position of an inspector of police in the North-Eastern district.
2. Your Commissioners are of opinion that the Government should make provision for the permanent employment of black trackers as an auxiliary branch of the police service; care being taken that they shall be trained to habits of

subordination, and made amenable to the general discipline of the force.

Your Commissioners would also recommend—

3. That, as far as practicable, a thorough system of police patrol shall be established throughout the colony, more especially in the North-Eastern district.

4. That immediate steps be taken by the Government to arm the mounted police of the colony with the Martini-Henry carbine; that the entire force shall be instructed in the use of the weapon by means of periodical target practice; and that a reasonable quantity of a shall be served out to each man for that purpose.

(Signed) FRANCIS LONGMORE, Chairman,  
WILLIAM ANDERSON,  
JAS. GIBB  
JAMES H. GRAVES,  
GEORGE W. HALL,  
GEO. H. FINCHAM,  
E. J. DIXON,  
GEO. COLLINS LEVEY.

6/7/81.

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WEDNESDAY, 6<sup>TH</sup> JULY 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Dixon,

Mr. Graves,  
Mr. Hall.

Minutes of previous meeting read and confirmed.

The Very Reverend Dean Gibney was called and cross-examined by Superintendent Sadleir.

Ex-constable Fitzpatrick called and examined. Examination closed.

The Commission then adjourned.

20/7/81.

(Signed) F. LONGMORE, Chairman.

WEDNESDAY, 20<sup>TH</sup> JULY 1881.

The Commission sat at Beechworth.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,

Mr. Gibb.

The following witnesses were examined:—Constable Robt. Alexander, Anton Wicks, Mrs. Annie Sherritt, sen., Mrs. Sherritt, jun., Mrs. Barry, Mr. Foster, P.M., Mr. Allan, Mr. Enoch Downes, Senior-Constable Mullane.

Meeting adjourned until the following day.

21/7/81.

(Signed) F. LONGMORE, Chairman.

THURSDAY, 21<sup>ST</sup> JULY 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,

Mr. Gibb.

Mrs. Sherritt, sen., and Mrs. Sherritt, jun., were recalled, and further evidence elicited in private respecting the conduct of the police in the hut on the night of Aaron Sherritt's murder.

Sub-Inspector Baber examined.

Detective Ward called and examined.

Constable Alexander recalled and examined respecting Detective Ward's denial of the allegation that he had suggested to the hut party to tell Superintendent Hare a falsehood.

The meeting adjourned until the following day, at Wangaratta.

22/7/81.

F. LONGMORE, Chairman.

FRIDAY, 22<sup>ND</sup> JULY 1881.

The Commission sat at the Wangaratta Court House.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,

Mr. Gibb.

The following witnesses were examined:—Mr. Laing, Mr. Marsden, Sergeant Steele, Mr. Willis.

The Commission adjourned until Thursday the 28th instant, at Melbourne.

28/7/81.

F. LONGMORE, Chairman.

THURSDAY, 28<sup>TH</sup> JULY 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,

Mr. Hall.

Minutes of previous meetings read and confirmed.  
An affidavit was received from Constable Alexander confirmatory of evidence given in Beechworth by Mrs. Sherritt, jun., regarding the conduct of the police forming the hut party on the night of Aaron Sherritt's murder.  
Detective Ward recalled and examined.  
The meeting adjourned until Tuesday, 2nd August, at Eleven a.m.  
2/8/81. F. LONGMORE, Chairman.

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TUESDAY, 2<sup>ND</sup> AUGUST 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Dixon,  
Mr. Graves,

Mr. Hall,  
Mr. Gibb,  
Mr. Fincham.

Minutes of previous meeting read and confirmed.  
Mr. Graves intimated to the Commission that owing to the nature of his departmental duties as Commissioner of Customs he would be unable to attend the meetings, and he thought it therefore desirable that he should send in his resignation. At the request of the Chairman and other members Mr. Graves consented to continue to act.  
Superintendent Winch called and examined with closed doors.  
Constable McIntyre called and examined.  
In reference to the case of this witness, which had been referred to the Commission for their recommendation, it was moved by Mr. Dixon seconded by Mr. Anderson—  
*Resolved*—That, in the opinion of the Commission, the consideration of the case of Constable McIntyre does not come within the scope of their functions, as laid down in the order of reference gazetted March 7th 1881.  
Jas. Wallace called and examination proceeded with.  
The Commission adjourned until the following day, at half-past Eleven o'clock a.m.  
8/8/81. FRANCIS LONGMORE, Chairman.

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WEDNESDAY, 3<sup>RD</sup> AUGUST 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Dixon,  
Mr. Gibb,  
Mr. Anderson,

Mr. Fincham,  
Mr. Hall.

Minutes of previous meeting read and confirmed.  
James Wallace called and examined in private. Examination closed.  
John Sherritt's examination proceeded with.  
The Commission adjourned until Eleven a.m. on the following day.  
4/8/81. F. LONGMORE, Chairman.

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THURSDAY, 4<sup>TH</sup> AUGUST 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Dixon,

Mr. Fincham,  
Mr. Gibb.

Minutes of previous meeting read and confirmed.  
Mr. Bolam, Secretary Education Department, called and examined. Examination closed.  
John Sherritt recalled and examination continued.  
The Commission adjourned until Tuesday, 9th instant, at Eleven a.m.  
9/8/81. F. LONGMORE, Chairman.

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TUESDAY, 9<sup>TH</sup> AUGUST 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Dixon,  
Mr. Gibb,

Mr. Hall,  
Mr. Fincham.

Minutes of previous meeting read and confirmed.  
The Honorable J. H. Graves intimated that he had forwarded his resignation as a member of the Commission to His Excellency the Governor.  
Mr. Graves was sworn and examined. Examination adjourned until the day following.  
The cross-examination of John Sherritt was partly proceeded with.  
*Ordered*—That the evidence of Constable Johnston be forwarded to Inspector Brooke Smith, requesting him to make an affidavit respecting the allegations therein contained in relation to the pursuit of the outlaws.

10/8/81. The Commission adjourned until the following morning, at Eleven o'clock.  
F. LONGMORE, Chairman.

WEDNESDAY, 10<sup>TH</sup> AUGUST 1881.

Present:  
Mr. LONGMORE, in the Chair;  
Mr. Anderson, Mr. Hall,  
Mr. Gibb, Mr. Dixon.  
Mr. Fincham,  
Minutes of previous meeting read and confirmed.  
John Sherritt called and further examined.  
The Honorable J. H. Graves further examined. Examination closed.  
Detective Ward further examined.  
Senior Constable Mullane further examined.

24/8/81. The Commission adjourned until Tuesday the 23<sup>rd</sup> instant, at Eleven o'clock.  
F. LONGMORE, Chairman.

WEDNESDAY, 24<sup>TH</sup> AUGUST 1881.

Present:  
Mr. LONGMORE, in the Chair;  
Mr. Levey, Mr. Dixon.  
Mr. Hall,  
Minutes of previous meeting read and confirmed.  
The meeting was held with closed doors.  
It was moved, seconded, and resolved—That, in future, the officers shall not have the entrée of the Commissioners' room, and further communications shall be conducted in writing.  
*Ordered*—That the officers be informed that their cross-examination will be proceeded with on Tuesday with closed doors, and that the evidence of any further witnesses they may be desirous of calling shall be tendered in the form of affidavits.

30/8/81. The meeting adjourned until the following Tuesday, at Eleven o'clock.  
F. LONGMORE, Chairman.

TUESDAY, 30<sup>TH</sup> AUGUST 1881.

Present:  
Mr. LONGMORE, in the Chair;  
Mr. Fincham, Mr. Hall,  
Mr. Dixon, Mr. Levey.  
Mr. Gibb,  
Minutes of previous meeting were read and confirmed.  
The Commission having deliberated, it was decided that the meeting should be open to the press, and that the several officers of the police concerned in the enquiry be allowed to be present during the cross-examination; but that the questions from one to the other be put through the Chairman.  
The cross-examination of Captain Standish was then proceeded with.

31/8/81. The meeting adjourned until the following morning, at Eleven o'clock.  
F. LONGMORE, Chairman.

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WEDNESDAY, 31<sup>ST</sup> AUGUST 1881.

Present:  
Mr. LONGMORE, in the Chair;  
Mr. Dixon, Mr. Gibb,  
Mr. Fincham, Mr. Levey.  
Mr. Hall,  
Minutes of previous meeting were read and confirmed.  
The cross-examination of Captain Standish was proceeded with and closed.  
The meeting adjourned until the following morning, at half-past Eleven o'clock.  
1/9/81. F. LONGMORE, Chairman.

THURSDAY, 1<sup>ST</sup> SEPTEMBER 1881.

Present:  
Mr. LONGMORE, in the Chair;  
Mr. Fincham, Mr. Gibb,  
Mr. Hall, Mr. G. C. Levey.  
Mr. Dixon,  
Minutes of previous meeting read and confirmed.

Cross-examination of Superintendent Hare proceeded with.

The meeting adjourned until the following Tuesday, the 6th instant, at Eleven a.m.

6/9/81.

FRANCIS LONGMORE, Chairman.

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TUESDAY, 6<sup>TH</sup> SEPTEMBER 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Gibb,

Mr. Fincham,  
Mr. Dixon.

Minutes of previous meeting read and confirmed.

Cross-examination of Superintendent Sadleir proceeded with and closed.

The meeting adjourned until the following morning, at Eleven o'clock.

7/9/81.

FRANCIS LONGMORE, Chairman.

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WEDNESDAY, 7<sup>TH</sup> SEPTEMBER 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Fincham,

Mr. Dixon,  
Mr. Gibb.

Minutes of previous meeting read and confirmed.

Cross-examination of Mr. C. H. Nicolson, Assistant Commissioner of Police, proceeded with.

The meeting adjourned until the following morning, at Eleven o'clock.

8/9/81.

FRANCIS LONGMORE, Chairman.

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THURSDAY, 8<sup>TH</sup> SEPTEMBER 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Fincham,

Mr. Dixon,  
Mr. Gibb.

Minutes of previous meeting read and confirmed.

Cross-examination of Mr. Nicolson resumed and closed.

Inspector Brooke Smith called and examined.

Constable Twomey called and examined. Examination closed.

*Ordered*—That the following be communicated with and requested to make an affidavit respecting the allegations contained in the letters of John Sherritt, sen., and John Sherritt, jun., dated respectively 3rd September and 6th September instant, viz.:—Mr. Nicolson, Mr. Dodd, Mr. Crawford, J.P., and John Sherritt, sen.

Also, that the Secretary obtain from the Police Department a monthly return of expenditure connected with the pursuit of the Kelly gang from 1st June 1878 to 1st July 1880, and from the latter date to the present time.

The meeting adjourned until the following day, at Eleven a.m.

9/9/81.

GEO. C. FINCHAM, Chairman.

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FRIDAY, 9<sup>TH</sup> SEPTEMBER 1881.

*Present:*

Mr. FINCHAM, in the Chair, and subsequently Mr. LONGMORE;

Mr. Anderson,  
Mr. Dixon,

Mr. Gibb.

Minutes of previous meeting read and confirmed.

Inspector Brooke Smith further examined. Examination closed.

*Ordered*—That the Secretary write to commissioners of police of the several colonies and obtain copies of the Regulations of the forces under their command respectively, also information regarding the management of the Detective Branch of each service. Further, that copies of the Regulations of the Irish and London police be obtained.

The Commission adjourned until Tuesday the 20th instant, at Eleven o'clock.

20/9/81.

FRANCIS LONGMORE, Chairman.

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TUESDAY, 20<sup>TH</sup> SEPTEMBER 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Levey,

Mr. Gibb,  
Mr. Fincham.

Mr. Hall, |  
Minutes of previous meeting read and confirmed.  
The following witnesses were called and examined:—Thos. Curnow, Thos. Meehan, and Patrick Quin.  
The Commission adjourned until Thursday the 22nd instant, at half-past Eleven o'clock.

22/9/81

FRANCIS LONGMORE, Chairman.

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THURSDAY, 22<sup>ND</sup> SEPTEMBER 1881.

*Present:*

Mr. Anderson, Mr. Fincham, Mr. Levey,	Mr. LONGMORE, in the Chair; 	Mr. Dixon, Mr. Hall, Mr. Gibb.
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Minutes of previous meeting read and confirmed.

*Resolved*—That the Commission desire to bring under the notice of the Honorable the Chief Secretary the cases of the boy Reardon, who was shot by the police at Glenrowan, and of ex-constable McIntyre, with a view to obtaining for them special consideration at the hands of the Government. They would also respectfully suggest that Jacob Wilson, another sufferer by the Kelly outrages, receive some such appointment as a gatekeeper on the railways.

Mr. Anderson submitted the following resolution:—That in view of the requirements of the Public Service and without prejudice to any recommendations that may be contained in their report, this Commission are of opinion that the officers of the police now on leave of absence, viz., Messrs. Nicolson, Hare, and Sadleir, may be allowed to resume duty.

The Commission having deliberated, the proposition was withdrawn, and the consideration of the points of the evidence with a view to the compilation of the report was proceeded with.

It was resolved that the Commission deal finally with the Kelly business before proceeding with the question of the reconstruction of the force.

The Commission then consulted and deliberated upon the evidence dealing with matters up to the period of arrival of black trackers.

The Secretary received instructions to prepare a brief historical sketch of the incidents of the Kelly pursuit as disclosed in the evidence, together with the lines upon which he should proceed down to the arrival of the Queensland black trackers in the colony.

The Commission adjourned until Tuesday the 27th instant, at half-past Eleven o'clock.

27/9/81.

FRANCIS LONGMORE, Chairman.

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TUESDAY, 27<sup>TH</sup> SEPTEMBER 1881.

*Present:*

Mr. Anderson, Mr. Fincham, Mr. Hall,	Mr. LONGMORE, in the Chair; 	Mr. Dixon, Mr. Levey.
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Minutes of previous meeting read and confirmed.

The consideration of the points to be embodied in the statement the Secretary had been instructed to prepare was proceeded with, and disposed of down to the Glenrowan affray.

The Commission having sat for three hours adjourned until the following Tuesday, at half-past Eleven a.m.

4/10/81.

FRANCIS LONGMORE, Chairman.

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TUESDAY, 4<sup>TH</sup> OCTOBER 1881.

*Present:*

Mr. Anderson, Mr. Gibb, Mr. Fincham,	Mr. LONGMORE, in the Chair; 	Mr. Hall, Mr. Dixon, Mr. Levey.
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Minutes of previous meeting read and confirmed.

The Commission having deliberated on section 25, referring to Superintendent Hare's report of 2nd July 1880, it was—  
*Resolved*—That the charge made by Superintendent Hare in his report of 2nd July 1880—that Mr. Nicolson, Assistant Commissioner, "gave me (Hare) no verbal information whatever," when at Benalla—is disproved by the evidence.

Sections 26 and 27 were postponed.

The Commission having deliberated respecting Captain Standish's relations to the police force, it was—

*Resolved*—That the conduct of Captain Standish, as Chief Commissioner of Police, as disclosed in the evidence brought before the Commissioners, was not characterized either by good judgment or by that zeal for the interests of the Public Service which should have distinguished an officer in Captain Standish's position. The Commission attribute much of the bad feeling which existed amongst the officers to the want of impartiality, temper, tact, and judgment evinced by the Chief Commissioner in his dealings with his subordinates; and they cannot refrain from remarking that many of the charges made by Captain Standish in his evidence before them were disproved by the evidence of other witnesses.

The meeting adjourned until the following morning, at Eleven am.

5/11/81.

FRANCIS LONGMORE, Chairman.

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WEDNESDAY, 5<sup>TH</sup> OCTOBER 1881.

*Present:*

Mr. Anderson, Mr. Dixon, Mr. Levey,	Mr. LONGMORE, in the Chair; 	Mr. Hall, Mr. Gibb.
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Minutes of previous meeting read and confirmed.  
That section of the synopsis dealing with the case of Mr. Nicolson, Assistant Commissioner, was deliberated upon at considerable length.

*Resolved*—That this Commission respectfully request the Chief Secretary to grant the sum of £10 to Jacob Wilson, one of the sufferers by the Kelly outrages, the same to be without prejudice to any claims for compensation on his part which the Government may hereafter think proper to entertain.

The meeting adjourned until the following morning, at Eleven o'clock.

7/10/81

FRANCIS LONGMORE, Chairman.

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FRIDAY, 7<sup>TH</sup> OCTOBER 1881.

*Present:*

Mr. LONGMORE in the Chair;

Mr. Anderson,  
Mr. Fincham,  
Mr. Hall,

Mr. Levey,  
Mr. Dixon.

Minutes of previous meeting read and confirmed.

The Commission, having debated various points of their report, decided upon the terms of certain notices of motion to be dealt with at a special meeting, to be held at Three o'clock on Monday the 10th instant.

The Commission adjourned until Monday, at Three p.m.

10/10/81.

FRANCIS LONGMORE, Chairman.

MONDAY, 10<sup>TH</sup> OCTOBER 1881.

*Present:*

Mr. LONGMORE. in the Chair;

Mr. Anderson,  
Mr. Hall,  
Mr. Fincham,

Mr. Dixon,  
Mr. Levey.

Minutes of previous meeting read and confirmed.

Mr. Levey moved, Mr. Dixon seconded:—That in the management of the police in the North-Eastern district Mr. Nicolson, Assistant Commissioner, evinced great zeal, and underwent considerable hardships, which told severely upon his constitution. The Commission are, however, of opinion that on several occasions the conduct of Mr. Nicolson was not characterized by judgment and discretion. They would recommend that Mr. Nicolson do not return to duty as Acting Commissioner, but that, in consideration of his services, he be allowed to retire upon the same superannuation allowance as though he had attained the age of 55 years.

Mr. Hall moved as an amendment, Mr. Anderson seconded:—That Mr. Nicolson, Assistant Commissioner, has shown himself in many respects a capable and zealous officer throughout his career in the force, but he labored under great difficulties through undue interference on the part of Captain Standish, and the jealousy occasioned by that officer's previous favoritism exhibited towards Superintendent Hare. The want of unanimity existing between these officers was the means of preventing any concerted action in important matters, and the interests of the colony greatly suffered thereby. In view of these facts, the Commission do not think that the force would be benefited by re-instating Mr. Nicolson in the office of Acting Chief Commissioner of Police. Further, we recommend that, in consequence of his age and impaired constitution, which suffered through hardships endured in the late Kelly pursuit, Mr. Nicolson be allowed to retire on his superannuation allowance.

The motion was put and negatived, the voting being as follows:—For—Mr. Levey, Mr. Dixon, Mr. Gibb. Against—Mr. Longmore, Mr. Fincham, Mr. Anderson, Mr. Hall.

The amendment was put as a substantive resolution and carried. The following was the voting:—For—Mr. Longmore, Mr. Anderson, Mr. Fincham, Mr. Hall. Against—Mr. Levey, Mr. Dixon, Mr. Gibb.

Mr. Hall moved, and Mr. Anderson seconded:—“That Superintendent Hare's services in the police force have been praiseworthy and creditable, but nothing special has been shown in his actions that would warrant the Commission in recommending his retention in the force, more especially when the fact is so patent that the ‘strained relations’ between himself and Mr. Nicolson have had such a damaging influence on the effectiveness of the service. This feeling is not likely to be mitigated after what has transpired in the evidence taken before the Commission; and we would therefore recommend that Mr. Hare be allowed to retire from the force ‘as though he had attained the age of 55 years, and, owing to the wound that he received at Glenrowan, that he receive an additional allowance of £100 per annum, under clause 29 of the Police Statute, No. 476.

Mr. Dixon moved as an amendment, That all the words after “creditable,” in the second line, be struck out, with the view to inserting the following:—“That during the time he was in charge of the North-Eastern district he displayed great zeal in his endeavors to capture the outlaws, and by the prompt and active steps taken by him on receipt of the news of the murder of Aaron Sheritt the gang were destroyed, and their leader, Ned Kelly, brought to justice. We therefore recommend that Superintendent Hare be allowed to return to duty.”

The amendment was put and negatived. The voting was as follows:—For—Mr. Dixon, Mr. Levey, Mr. Gibb. Against—Mr. Longmore, Mr. Anderson, Mr. Fincham, Mr. Hall.

The original resolution was declared carried.

The following resolutions were also agreed to

“That the evidence discloses that Superintendent Sadleir was guilty of several errors of judgment while assisting in the pursuit of the Kelly gang; that his conduct of operations against the outlaws at Glenrowan was not judicious or calculated to raise the police force in the estimation of the public. That the Commission are further of opinion that the treatment of Senior-Constables Kelly and Johnson, by Superintendent Sadleir, was harsh and unmerited; and the Commission recommend that Superintendent Sadleir be placed at the bottom of the list of superintendents when the changes necessitated in the force by the recommendations of the Commission have been carried out.”

“That a most favorable opportunity of capturing the outlaws at a very early period of their career of crime, namely, on the 4th November 1878, was lost, owing to the indolence and incompetence of Inspector Brook Smith. Your Commissioners consider that Inspector Brook Smith committed a serious blunder in not having started in pursuit of the outlaws immediately upon receiving information of the gang having been seen passing under the bridge at Wangaratta, and also in not having properly followed up the tracks of the outlaws in the Warby

Ranges, a proceeding which would have warranted your Commissioners in recommending his dismissal from the force. Your Commissioners, however, having in view his former efficiency, recommended that Inspector Brook Smith be called on to retire on a pension of £100 per annum.”

“That, in the opinion of the Commission, Detective Ward, while he rendered active and efficient service during the pursuit of the gang, was guilty of misleading his superior officers upon several occasions, more especially in connection with Mr. Nicolson’s cave party, Superintendent Hare’s hut party, and the telegram forwarded to Senior-Constable Mullane by Mr. Nicolson when the latter was superseded on the 2nd of June 1880. The Commission therefore recommend that Detective Ward be censured and reduced one grade.”

“That in the opinion of your Commissioners the conduct of Sergeant Steele was highly censurable in neglecting to take action, when, on the 4th November 1878, he received reliable information that the outlaws had been observed on the previous morning passing under the One-mile bridge at Wangaratta. Although despatched on special duty, there seems no reason why, having under his command at the time a large body of troopers, he should not have gone immediately in pursuit. The tracks were plainly discernible; the men observed were undoubtedly the outlaws, and had they been then followed they must have been over taken in the Warhy Ranges. Sergeant Steele had full power to act upon his own discretion, and there can be little doubt that, had he exhibited judgment and promptitude on that occasion, he would have been the means of capturing the gang, and preventing the loss of life and the enormous expenditure of money incurred subsequently in the extermination of the gang. Your Commissioners therefore recommend that Sergeant Steele be reduced to the ranks.”

“That the constables who formed the hut party on the night of Aaron Sherritts murder, viz.: Henry Armstrong, William Duross, Thos. Patrick Dowling, and Robert Alexander, were guilty of disobedience of orders and gross cowardice, and that the three latter—Constable Armstrong having resigned—be dismissed from the service.”

“That the entries made by Superintendent Sadleir in the record sheets of Senior-Constables Kelly and Johnson be cancelled, and the Commission recommend these members of the force to the favorable consideration of the Government for promotion.”

“That the Commission approve of the action taken by Constable Bracken when imprisoned by the Kelly gang in Mrs. Jones’s hotel, at Glenrowan, and recommend him for promotion in the service.”

“That in consequence of the reprehensible conduct of Mr. Wallace, the State school teacher, during the Kelly pursuit, and his alleged sympathy with the outlaws, together with the unsatisfactory character of his evidence before the Commission, lead your Commissioners to think it very undesirable that Mr. Wallace should be retained in any department of the public service. We therefore recommend his immediate dismissal from the Education department.”

“That the conduct of Mr. Thos. Curnow, State school teacher, in warning the special train from Benalla to Beechworth on this morning of the 28th of June 1880, whereby a terrible disaster, involving probably the loss of many lives, was averted, deserves the highest praise, and the Commission strongly recommend that his services receive special recognition on the part of the Government.”

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“The Commission desire to record their approval of the conduct of Mr. C. H. Rawlings during the attack upon the outlaws, and consider that his services deserve some consideration at the hands of the Government.”

“The Commission desire also to express their approval of the assistance rendered to the police at Glenrowan by the members of the press present.”

“That your Commissioners desire to record their marked appreciation of the courtesy and promptitude displayed by the Queensland Government in forwarding a contingent of native trackers to Victoria to aid in the pursuit of the outlaws. We take this opportunity of expressing our approval of the services of the black trackers as a body, and deeply regret that any misunderstanding amongst the officers in command of operations in the North-Eastern district should have led to unpleasant complications. The Queensland contingent did good service, and your Commissioners trust the Victorian Government will not fail to accord them proper recognition.”

The Commission adjourned until the following morning, at Eleven o’clock.

11/10/81.

FRANCIS LONGMORE, Chairman.

TUESDAY, 11<sup>TH</sup> OCTOBER 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Fincham,  
Mr. Hall,

Mr. Levey  
Mr. Dixon.

In moving the adoption of the minutes, Mr. Fincham called attention to the fact that the Chairman had not recorded his vote on the resolutions adopted. He gave notice of motion that at the next meeting of the Commission a fresh division take place, and the votes of all the members be recorded. Agreed to.

The minutes were then confirmed.

Mr. Hall gave the following notice of motion:—That, in the event of any protest being entered by a member of the Commission upon a finding in any clause of the report, such clause shall be open for additions and explanations before confirmation.

The following resolution was moved by Mr. Levey, seconded by Mr. Fincham:—That immediately prior to the Kelly outbreak, and for some time previously, the administration of the police in the North-Eastern district was not satisfactory, either as regards the number and distribution of the constabulary or the manner in which they were armed and mounted; and that a grave error was committed in abolishing the police station at Glenmore, and in reducing the strength of the stations at Stanley, Yackandandah, Tallangatta, Eldorado, and Beechworth.

The Commissioners then proceeded to revise and make certain verbal amendments in the resolutions previously adopted.

The historical sketch prepared by the Secretary was considered to page 11, and certain alterations made.

The Commission adjourned until the following morning, at Eleven a.m.

12/10/81.

FRANCIS LONGMORE, Chairman.

WEDNESDAY, 12<sup>TH</sup> OCTOBER 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Fincham,  
Mr. Anderson,  
Mr. Gibb,

Mr. Hall,  
Mr. Levey.

Minutes of previous meeting read and confirmed.

The Chairman, in reply to Mr. Fincham, stated that he had voted for the third and fourth clauses of the report.

Mr. Levey gave notice of motion—That Mr. Gibb be asked how he would have voted on those clauses, so that his name should appear upon the record.

The sketch prepared by the Secretary was read, and some amendments made; it was then ordered to be printed and attached to the findings of the Commission.

The Commission adjourned until Tuesday following, at Eleven o'clock.

14/10/81.

FRANCIS LONGMORE, Chairman.

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#### SPECIAL MEETING HELD ON FRIDAY, 14<sup>TH</sup> OCTOBER 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Fincham,  
Mr. Hall,

Mr. Levey.

The protest forwarded by Mr. E. J. Dixon against certain findings of the Commission in their report was submitted.

Mr. Fincham moved, Mr. Hall seconded, That the protest be received, and that a sub-committee consisting of the Chairman, Mr. Fincham, and Mr. Hall, be appointed to draw up a reply to be laid before the meeting to be held on Tuesday.

In pursuance of notice, Mr. Hall moved, and Mr. Fincham seconded—

*Resolved*—That in the event of any protest being entered by a member of the Commission against a finding upon any clause in the report, such clause shall be open to amendments, additions, and explanations before final confirmation.

The meeting adjourned until Tuesday, at Eleven o'clock.

FRANCIS LONGMORE, Chairman.

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#### TUESDAY, 18<sup>TH</sup> OCTOBER 1881.

*Present:*

Mr. LONGMORE, in the Chair;

Mr. Anderson,  
Mr. Hall,  
Mr. Levey,

Mr. Fincham,  
Mr. Dixon,  
Mr. Gibb.

The minutes of previous meeting read and confirmed.

The report and accompanying documents were duly signed, and the Secretary instructed to forward them to His Excellency the Governor.

The meeting adjourned without naming a day for the next sitting of the Commission.

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By Authority: JOHN FERRES, Government Printer, Melbourne.

END.

1881  
VICTORIA  
POLICE COMMISSION  
SECOND PROGRESS REPORT  
OF THE

**ROYAL COMMISSION OF ENQUIRY**  
**INTO THE CIRCUMSTANCES OF**  
**THE KELLY OUTBREAK**

**THE PRESENT STATE AND ORGANIZATION OF THE POLICE FORCE, ETC.**  
**PRESENTED TO BOTH HOUSES OF PARLIAMENT BY HIS EXCELLENCY'S**  
**COMMAND**

**By Authority:**  
**JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.**

To His Excellency the Most Honorable George Augustus Constantine, Marquis of Normanby, and Baron Mulgrave of Mulgrave, all in the County of York, in the Peerage of the United Kingdom; and Baron Mulgrave of New Ross, in the County of Wexford, in the Peerage of Ireland; a Member of Her Majesty's Most Honorable Privy Council; Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George; Governor and Commander-in-Chief in and over the Colony of Victoria and its Dependencies, &c, &c, &c.

**MAY IT PLEASE YOUR EXCELLENCY:-**

Under date March 7th 1881, Letters Patent were issued by Your Excellency appointing a Royal Commission, whose powers were thus defined, viz.:-

1. To inquire into the circumstances preceding and attending the Kelly outbreak.
2. As to the efficiency of the police to deal with such possible occurrences.
3. To inquire into the action of the police authorities during the period the Kelly gang were at large.
4. The efficiency of the means employed for their capture; and
5. Generally to inquire into and report upon the present state and organization of the police force.

A memorandum, dated 10th May 1881, was subsequently received by your Commissioners from the Honorable Graham Berry, as follows:- "The Chief Secretary will be glad if the Police Commission will submit separately and at their earliest convenience such of their recommendations as have reference to Mr. Inspector O'Connor and the black trackers under him, as, in the projected re-organization of the police arrangements for the North-Eastern district, it may be found necessary that Mr. O'Connor should be re-appointed."

In accordance with the powers thus assigned to them, your Commissioners have held 66 meetings, and examined 62 witnesses. In order also to verify, by personal observation, the evidence of witnesses, and glean information on the spot respecting the career of the outlaws, your Commissioners visited several centres of population in the district, including Benalla, Greta, Glenrowan, Beechworth, Sebastopol and Wangaratta.

Your Commissioners, having taken a large amount of evidence respecting, and carefully considered the case of, Inspector O'Connor, had the honour to submit to Your Excellency, on 6th July last, their First Progress Report, as follows:-

“1. That the evidence before the Commission is not of such a character as to warrant your Commissioners in recommending the Honorable the Chief Secretary to appoint Mr. Stanhope O'Connor to the position of an inspector of police in the Victorian Service.

“2. Your Commissioners are of opinion that the Government should make provision for the permanent employment of black trackers as an auxiliary branch of the police service; care being taken that they shall be trained to habits of subordination, and made amenable to the general discipline of the force.

“Your Commissioners would also recommend:-

“3. That, as far as practicable, a thorough system of police patrol shall be established throughout the colony, more especially in the North-Eastern District.

“4. That immediate steps be taken by the Government to arm the mounted police of the colony with the Regulation Pattern Martini-Henry carbine; that the entire force shall be instructed in the use of the weapon by means of regular drill and periodical target practice; and that a reasonable quantity of ammunition shall be served out to each man for such practice.”

Your Commissioners have now the honour to submit their Second Progress Report as follows:-

1. That immediately prior to the Kelly outbreak, and for some time previously, the administration of the police in the North-Eastern District was not satisfactory, either as regards the numbers and distribution of the constabulary, or the manner in which they were armed and mounted; and that a grave error was committed in abolishing the police station at Glenmore, and in reducing the number of men stationed at Stanley, Yackandandah, Tallangatta, Eldorado, and Beechworth.

2. That the conduct of Captain Standish, as Chief Commissioner of Police, as disclosed in the evidence brought before the Commissioners, was not characterized either by good judgment, or by that zeal for the interests of the public service which should have distinguished an officer in his position. The Commission attribute much of the bad feeling which existed amongst the officers to the want of impartiality, temper, tact, and judgment evinced by the Chief Commissioner in dealing with his subordinates, and they cannot refrain from remarking that many of the charges made by Captain Standish in his evidence before them were not sustained in his late examination, and were disproved by the evidence of other witnesses.

3. That Mr. Nicolson, Assistant Commissioner, has shown himself in many respects a capable and zealous officer throughout his career in the force, but he laboured under great difficulties through undue interference on the part of Captain Standish, and the jealousy occasioned by that officer's favouritism towards Superintendent Hare. The want of unanimity existing between these officers was frequently the means of preventing concerted action on important occasions, and the interests of the colony greatly suffered thereby. In view of these facts, the Commission do not think that the force would be benefited by re-instating Mr. Nicolson in the office of Acting Chief Commissioner of Police. Further, your Commissioners recommend that, in consequence of his impaired constitution, caused by hardships endured in the late Kelly pursuit, Mr. Nicolson be allowed to retire on his superannuation allowance, as though he had attained the age of 55 years.

4. That the charge made by Superintendent Hare in his official report, dated 2nd July 1880 -viz., that "Mr Nicolson, Assistant commissioner, gave me (Hare) no verbal information whatever when at Benalla"- has been disproved by the evidence.

5. That Superintendent Hare's services in the police force have been praiseworthy and creditable, but nothing special has been shown in his actions that would warrant the Commission in recommending his retention in the force, more especially when the fact is so patent that the "strained relations" between himself and Mr. Nicolson have had such a damaging influence on the effectiveness of the service. This feeling is not likely to be mitigated after what has transpired in the evidence taken before the Commission; and we would therefore recommend that Superintendent Hare be allowed to retire from the force, as though he had attained the age of 55 years, and that, owing to the wound he sustained at Glenrowan, he receive an additional allowance of 100 pound per annum, under clause 29 of the Police Statute (No. 476).

6. That the evidence discloses that Superintendent Sadleir was guilty of several errors of judgement while assisting in the pursuit of the Kelly gang; that his conduct of operations against the outlaws at Glenrowan was not judicious or calculated to raise the police force in the estimation of the public. That the Commission are further of opinion that the treatment of Senior-Constable Kelly and Johnson, by Superintendent Sadleir, was harsh and unmerited. Your Commissioners therefore recommend that Superintendent Sadleir be placed at the bottom of the list of superintendents.

7. That a most favourable opportunity of capturing the outlaws at a very early period of their career of crime, namely, on the 4th November 1878, was lost, owing to the indolence and incompetence of Inspector Brook Smith. Your Commissioners consider that Inspector Brook Smith committed a serious blunder in not having started in pursuit of the outlaws immediately upon receiving information of the gang having been seen passing under the bridge at Wangaratta, and also in not having properly followed up the tracks of the outlaws in the Warby Ranges, a proceeding which would have warranted your Commissioners in recommending his dismissal from the force. Your Commissioners, however, having in view his former services, recommend that Inspector Brook Smith be called on to retire on a pension of 100 pound per annum.

8. That, in the opinion of the Commission, Detective Ward, while he rendered active and efficient service during the pursuit of the gang, was guilty of misleading his superior officers upon several occasions, more especially in connection with Mr. Nicolson's cave party, Mr. Hare's hut party, and the telegram forwarded to Senior-Constable Mullane by Mr. Nicolson when the latter was superseded on the 2nd of June 1880. The Commission therefore recommend that Detective Ward be censured and reduced one grade.

9. That in the opinion of your Commissioners the conduct of Sergeant Steele was highly censurable in neglecting to take action when, on his arrival at Wangaratta, on the 4th November 1878, he received reliable information that the outlaws had been observed on the previous morning passing under the One-mile bridge at Wangaratta. There was no reason why, as he had a large body of well-armed troopers under his command, and was then actually engaged in the search for the outlaws, he should not have gone immediately in pursuit. The tracks were plainly discernible; the men observed were undoubtable the outlaws, and had they been followed they would most probably have been overtaken in the Warby Ranges, in as much as their horses and themselves were exhausted by their journey to and from the Murray. Sergeant Steele had full power to act upon his own discretion, and there can be little doubt that, had he exhibited judgment and promptitude on that occasion, he would have been the means of capturing the gang, and preventing the loss of life and the enormous

expenditure of money incurred subsequently in the extermination of the outlaws. Your Commissioners therefore recommend that Sergeant Steele be reduced to the ranks.

10. That the Constables who formed the hut party on the night of Aaron Sherritt's murder — viz., Henry Armstrong, William Duross, Thomas Patrick Dowling, and Robert Alexander — were guilty of disobedience of orders and gross cowardice, and that the three latter — Constable Armstrong's resignation having been accepted — be dismissed from the service.

11. That the entries made by Superintendent Sadleir in the record sheets of Senior-Constables Kelly and Johnson be cancelled, and the Commission recommend these members of the force to the favourable consideration of the Government for promotion.

12. That the Commission approve of the action taken by Constable Bracken when imprisoned by the Kelly gang in Mrs Jones's hotel, at Glenrowan, and recommend him for promotion in the service.

13. That in consequence of the reprehensible conduct of Mr. James Wallace, the State School teacher of Hurdle Creek, during the Kelly pursuit, and his alleged sympathy with the outlaws, together with the unsatisfactory character of his evidence before the Commission, your Commissioners think it very undesirable that Mr. Wallace should be retained in any department of the public service. We therefore recommend his immediate dismissal from the Education Department.

14. That the conduct of Mr. Thomas Curnow, State School teacher, in warning the special train from Benalla to Beechworth on the morning of the 28th of June 1880, whereby a terrible disaster, involving the probable loss of many lives, was averted, deserves the highest praise, and the Commission strongly recommends that his services receive special recognition on the part of the Government.

15. The Commission desire to record their approval of the conduct of Mr. C. H. Rawlings during the attack upon the outlaws, and consider that his services deserve some consideration at the hands of the Government.

16. The Commission desire also to express their approval of the assistance rendered to the police at Glenrowan by the members of the press present.

17. That your Commissioners desire to record their marked appreciation of the courtesy and promptitude displayed by the Queensland Government in forwarding a contingent of native trackers to Victoria to aid in the pursuit of the outlaws. We take this opportunity of expressing our approval of the services of the black trackers as a body, and deeply regret that any misunderstanding amongst the officers in command of operations in the North-Eastern district should have led to unpleasant complications. The Queensland contingent did good service, and Your Commissioners trust that the Victorian Government will not fail to accord them proper recognition.

FRANCIS LONGMORE, Chairman;  
WILLIAM ANDERSON,  
JAMES GIBB,  
GEORGE WILSON HALL,  
GEORGE RANDALL FINCHAM,  
EDWARD JOHN DIXON,  
GEORGE COLLINS LEVEY,

JAMES WILLIAMS,

Secretary.

Your Commissioners, in lieu of the usual resume of the evidence, have the honor to submit to Your Excellency the following sketch of the antecedents, pursuit, and destruction of the Kelly gang of outlaws:-

## **1.-THE KELLY FAMILY**

Among the many predisposing causes which operated to bring about the Kelly outbreak must be included the unchecked aggregation of a large class of criminals in the North-Eastern district of Victoria, all of whom, either by ties of consanguinity or sympathy, were identified with the outlaws. The origin and settlement in the colony of the Kelly family therefore deserves some passing notice at the hands of your Commissioners. James Quinn, the grandfather of Edward and Dan Kelly the outlaws, was a native of the county of Antrim, Ireland. With his wife and family, consisting of six children, he arrived in Victoria in 1839. He, in the first instance, resided in Pascoe Vale, and earned a subsistence by the cartage and sale of firewood in Melbourne. In 1845, he settled in Wallan Wallan, in the Kilmore district, where he rented a small farm, and was enabled in the course of a few years to purchase the freehold of 700 acres of land in that locality. In 1863, by which time his family had increased to ten children, four sons and six daughters, he realized the landed property which he possessed, and with the proceeds, amounting to about 2,000 pounds, took up the Glenmore run, situated in a remote part of the North-Eastern district. The precise object of this migration has not been ascertained; but it is believed that Quinn, having become notorious as a cattle stealer in the Kilmore district, was desirous of escaping from police surveillance; and, by removing back to the borders of settlement and civilization, to secure for himself and his associates a safer and more extended field of operations. The sons of old Quinn were named respectively - Patrick, John, James and William; the daughters were - Mary Anne; Catherine, married to John Lloyd; Ellen, married to John Kelly, the father of the outlaws; Jane, married to Tom Lloyd; Margaret, married to Pat Quin; and Grace. Numerous progeny was the result of the marriages contracted by the children of the elder Quinn, which accounts for the Kelly family being described as the most prolific in the district. James, the third son of old Quinn, became an object of interest to the police so far back as 1856; and from that date down to 1879, when he was incarcerated under the Felons Apprehension Act as a Kelly sympathizer, there were recorded against him no less than 16 arrests, and ten convictions for various offences, many of them of a serious nature, involving terms of imprisonment amounting to about nine years. John Quinn, though frequently before the courts, has escaped conviction, but when residing at Wallan he was regarded by the authorities as the organizer of many of the depredation's in which the members of his family were concerned. John Kelly, who married Ellen, the third daughter of the elder Quinn, and who was the father of the outlaws, was a convict, having been transported from Tipperary, Ireland, to Tasmania, in 1841, for an agrarian outrage, stated to have been shooting at a landlord with intent to murder. He worked as a bush carpenter for a time after arriving in Wallan, and subsequently turned his attention to gold digging, at which he was successful, and was enabled to purchase a small freehold at Beveridge. Here he became notorious as an expert cattle stealer, and his house was known as the rendezvous of thieves and suspected persons. In 1865, he was convicted of cattle stealing, and sentenced to six months' imprisonment in Kilmore gaol. He died shortly after his release. At his death he left seven children, namely Edward and Dan (the outlaws), James, Mrs. Gunn, Mrs. Skillion, Kate and Grace. Mrs. Kelly, upon the death of her husband, settled at the Eleven-mile Creek, near Greta, where, with the younger portion of her family, she at present

resides. Her place was regarded for years as the resort of lawless and desperate characters, including Power, who is said to have given Ned Kelly his first lesson in bushranging. Edward Kelly, the leader of the outlaws, was born in 1854, at Wallan Wallan, and from an early age was regarded by the Police as an incorrigible thief. In company with Power the Bushranger he, on the 16th of March 1870, robbed Mr. McBean; and on the 25th of April stuck up Mr. John Murray of Lauriston. Kelly was arrested for the latter offence on the 4th of May following, but escaped conviction owing to want of identification. He was implicated in several outrages; and at Beechworth, in 1871, he received a sentence of three years for receiving a stolen horse. He led a wild and reckless life, and was always associated with the dangerous characters who infested the neighbourhood of Greta until the shooting of Constable Fitzpatrick, on the 15th of April 1878, when he took to the bush. Daniel Kelly was born in 1861, and from the age of 16 years was, with his elder brother Ned, a noted criminal. Joseph Byrne, the third outlaw, was born in 1857, and lived with his parents, who were Irish extraction and respectable antecedents, at the woolshed, about seven miles from Beechworth. When 16 years of age he was in trouble, and from the first appears to have developed vicious and cruel propensities. In 1876, along with Aaron Sherritt, who figures so prominently throughout the Kelly campaign, so to speak, and with whom he was on terms of the closest intimacy, he was arrested and sentenced to six months' imprisonment for having stolen meat in his possession; and he was also believed to have been connected with numerous cases of horse stealing in the North-Eastern district, which ultimately led to his joining the Kelly gang. Steve Hart, the fourth member of the gang, was born in 1860, and was the second son of Richard Hart, of Three-mile Creek, near Wangaratta. Stephen, at an early age, became the associate of disreputable persons, and carried on a system of stealing horses and planting them until such time as rewards were offered by the owners for their recovery. He received a sentence of imprisonment in July 1877, and subsequently was sent to gaol for ten months for horse stealing. On his release he returned to Wangaratta, and for a time appeared disposed to lead a more honest and reputable life. One day, however, while at work cutting timber, he suddenly threw down his axe, exclaiming to his mate, "A short life and a merry one." He then rode off, stating that he was going to New South Wales. Nothing further was heard of him until the murders of the police at Wombat, when it was reported that a man answering to his description was seen near Greta; but it was not until the Euroa bank robbery that his identity was established as one of the accomplices of the murderers, Ned and Dan Kelly.

## **II.-THE KELLY COUNTRY**

That portion of the North-Eastern district known as the Kelly country may be said to embrace the triangular tract lying between the points formed by the townships of Mansfield, Benalla, and Beechworth, together with the country lying to the west of the line of railway which extends to the Murray, including the vicinity of Lake Rowan, the Warby Ranges, and the neighbourhood of the Woolshed. This constitutes a large and diversified extent of territory, measuring about 1,600 square miles. It is in parts well suited for agricultural purposes, and settlement of late years there has been rapid and permanent; but in the main, especially to the north-east, it consists of mountain ranges with innumerable spurs, forming steep ravines and slopes so heavily timbered, covered with scrub, and encumbered with huge boulders, that for the greater part it is almost inaccessible. The country is intersected by numerous creeks and rivers; and recently bush tracks have been cut, and roads capable of vehicular traffic constructed; land has been taken up eagerly, and an intelligent, honest, and hard-working population is steadily settling on the soil. It was, however, evident from the

first that the peculiar characteristics of the country afforded special facilities for the operations of such lawless characters as the Quinns, the Lloyds, and the Kellys, who, if pursued by the police, could seek refuge in the vastness of the mountains and defy all the attempts of the authorities to arrest them. The district lying to the north and north-west of Mansfield, in the vicinity of which Sergeant Kennedy and Constables Lonigan and Scanlan were murdered by the Kelly gang, is exceptionally wild and broken. Here the various branches of the Broken River, the King River, and some smaller streams take their rise, flowing in a northerly direction, while the principal ranges trend in lines nearly parallel with their courses. In this isolated and still sparsely-inhabited spot, not far from the junction of the right and left branches of the King River, and about 40 miles from Mansfield, Glenmore is situated. The homestead of the elder Quinn lay directly in the track - the only one existing in the early days - between Mansfield and the Murray. It was principally utilized by cattle stealers, who, owing to the rugged and inhospitable character of the country, were enabled to pass to and fro without risk of being intercepted by the police. The arrest of Power the bushranger pointed to the necessity for a police station at Glenmore. In 1870 one was accordingly erected, and two constables placed in charge, with the results highly satisfactory. The proximity of the police became intolerable to the criminals in the neighbourhood, and various means were adopted unavailingly to induce the Government to withdraw them, until finally the Quinns sold out and left the district. The policy of abolishing the Glenmore police station has been frequently adverted to in the course of the evidence; and, with due regard to all the circumstances, it seems to your Commissioners to have been a grave error of judgment on the part of Captain Standish, the Chief Commissioner of Police, to have consented to its removal. In 1872 Superintendent Barclay strongly recommended the abolition of this station, on the grounds that the place was remote from settled population, that there was no crime in the neighbourhood, and that its maintenance was unnecessarily expensive. Acting upon the advice of his subordinate officers, and that of many respectable residents in the locality, the Chief Commissioner declined to accept Superintendent Barclay's suggestion. In 1875 the representations of this superintendent proved more successful. He directed Inspector Brook Smith to report on the subject. The views of the latter coincided with those of his superior officer, and, upon their recommendations, supported by the opinions of certain residents in the district, Captain Standish, in a memo. dated 17th November 1875, approved of the removal of the Glenmore station to the place recommended by Superintendent Barclay, viz., three miles above the Hedi station. The inadvisability of this step should have been apparent to Captain Standish at the time, inasmuch as he must have been aware of the state of the district. For many years anterior to the outbreak offences against the person were of frequent occurrence in the North-Eastern district. It was the scene of the exploits of many notorious criminals and bushrangers, and horse and cattle stealing was carried on systematically by gangs of thieves who acted in concert on both sides of the River Murray. Those engaged in the traffic were associated with the families of the Quinns, the Lloyds, and the Kellys, and constituted a "ring" that became a standing menace to the respectable and law-abiding people of the district. A return compiled from official documents shows the extent to which cattle stealing prevailed in the Kelly country for eight years prior to the outbreak. In 1871 the number of cases of cattle stealing reported was 101; 1872, 108; 1873, 97; 1874, 80; 1875, 93; 1876, 130; 1877, 132; and 1878, 101. It is true that a certain percentage of the animals missing, and reported as having been stolen, were subsequently found, but there seems every reason to conclude that in the majority of instances horses disappearing, if not permanently appropriated by the criminal classes, were freely taken and utilized as occasion served, and were then turned adrift into the bush, where they were sometimes recovered by the owner. The plan frequently adopted was to drive mobs of stolen cattle from Victoria across the Murray, where they were impounded by the New South Wales

police. In due course they were disposed of, when the thieves attended the sale, and purchased the animals at a nominal price. Fortified against prosecution by possessing the sale note obtained from the poundkeeper, they retraced their steps to their homes, carrying with them the fruits of their criminal enterprise. Cattle stealers across the border pursued a similar system, driving the cattle lifted in New South Wales into Victoria, purchasing them when sold by the poundkeepers, effacing the brands, and taking them back to the districts from which they had been stolen. In 1877, Inspecting Superintendent Nicolson drew attention to the prevalence of this description of crime in the North-Eastern district, which drew forth a strong remonstrance from Captain Standish, addressed to the officers in charge of the North-Eastern district. Numerous witnesses, notably Captain Standish and the Hon. J. H. Graves, have deposed to the almost incredible extent to which for many years cattle stealing was carried on with impunity in the North-Eastern district; nevertheless, not only was the Glenmore station abolished, but the strength of many other police stations in the district was reduced. Further, excellent and experienced members of the force were removed from important centres and replaced by others wholly incompetent and unacquainted with the district.

### **III.-CAUSES OF THE OUTBREAK**

In the opinion of your Commissioners, the abolition of the Glenmore station, the reduction of the numerical strength of the force in the district, and the substitution of inexperienced and inferior constables for those more competent, necessarily weakened that effective and complete police surveillance without which the criminal classes in all countries become more and more restive and defiant of the authorities. The incident, however, which seems to have more immediately precipitated the outbreak was the attempt of Constable Fitzpatrick to arrest Dan Kelly, at his mother's hut, on the 15th of April 1878. This constable appears to have borne a very indifferent character in the force from which he was ultimately discharged. Mr. Fosberry, the Inspector-General of Police, New South Wales, and Captain Standish express in strong terms their adverse opinions of Fitzpatrick, while the present Acting Commissioner of Police. Mr. Chomley, writes a valedictory memo. on his papers, describing him as a liar and larrikin. To this man was entrusted, in April 1878, the temporary charge of Greta, the very focus of crime in the district. He had been stationed at Benalla, and prior to starting for Greta he appears to have had an interview with Sergeant Whelan, the sub-officer in charge, relative to his duties. Whelan, in his evidence, is somewhat contradictory upon the point as to whether Fitzpatrick was justified in attempting to arrest Dan Kelly under the circumstances. In almost the one breath he states that the constable was wrong in going to the Kelly's hut, and then urges that it was his duty to act as he did. The arrest was attempted to be made in consequence of a Gazette notice to the effect that a warrant had been issued at Chiltern against Dan Kelly and Jack Lloyd, on a charge of suspected cattle stealing. Sergeant Lynch, at Chiltern, considered that the men alleged to have been seen driving certain horses through the township answered the description of those men, and warrants for their arrest were issued accordingly. Fitzpatrick's efforts to fulfil what he may have considered his duty proved disastrous. He was entrapped by accepting the invitation to accompany Dan Kelly into the hut, where he was attacked by several members of the family, and shot in the wrist by Ned Kelly. Warrants were in due course issued against Fitzpatrick's assailants; and those arrested, including Mrs. Kelly and a relative named Williamson, were sentenced to long terms of imprisonment for the offence of assault with intent to kill. The alleged severity of the punishment inflicted upon the mother of the outlaws has been subject of comment in the

course of the inquiry, and Captain Standish considers that it formed one of the many causes which assisted to bring about the Kelly outrages. One point in this matter should not be overlooked. Jack Lloyd, who was implicated in the alleged case of horse stealing for which Fitzpatrick sought to arrest Dan Kelly, was subsequently taken into custody, and, the charge having been investigated, he was discharged. There can be little doubt that Constable Fitzpatrick's conduct, however justified by the rules of the service, was unfortunate in its results. It may also be mentioned that the charge of persecution of the family by the members of the police force has been frequently urged in extenuation of the crimes of the outlaws; but, after careful examination, your Commissioners have arrived at the conclusion that the police, in their dealings with the Kellys and their relations, were simply desirous of discharging their duty conscientiously; and that no evidence has been adduced to support the allegation that either the outlaws or their friends were subjected to persecution or unnecessary annoyance at the hands of the police.

#### **IV.-THE WOMBAT MURDERS**

In July 1878 a change was effected in the police arrangements of the country districts. Beechworth and Mansfield and a portion of Kilmore were combined, forming the North-Eastern district, and Superintendent Sadleir placed in charge, with his head quarters in Benalla. Mr Sadleir, upon taking charge, found warrants had been issued against Ned and Dan Kelly for the assault upon Constable Fitzpatrick in the previous April. He at once communicated with the Chief Commissioner, asking for the assistance of a detective to discover the whereabouts of the offenders, and Detective Ward, owing to his previous knowledge of that part of the country, was selected for the purpose. In a communication dated 17th October 1878, Inspector Secretan suggested to Superintendent Sadleir that an organized search should be made about Greta, the Fifteen-mile Creek, and from thence to Mansfield, as it was reported that one, if not the two Kellys had been seen there. This was all the information that Sergeant Kennedy and his party possessed when, on the afternoon of the 25th October, they started from Mansfield charged with the duty of arresting the Kellys. Although early in August an expedition to search the country between Mansfield and Greta had been proposed, various matters had interfered with the project being carried out. In reply to a communication from Superintendent Sadleir, in October, Sergeant Kennedy intimated that the only feasible plan of effecting the arrest was by establishing a depot at some distance beyond the Wombat, say near Stringy Bark Creek. This he pointed out, would enable the party to keep up a continuous search between that spot and the flat country towards the King River, the Fifteen-mile Creek, and Holland's Creek. He urged that, while the Mansfield men would be searching the ranges and creeks in that neighbourhood, the men forming the party to be despatched from Greta could co-operate on the flat country. Sergeant Kennedy's suggestion was approved of by his superior officer, and on 18th of October Superintendent Sadleir issued final orders to guide the search parties. Two parties of police were to start simultaneously - one, consisting of Sergeant Kennedy and Constables Lonigan, Scanlan, and McIntyre, from Mansfield, and the other, in charge of Senior-Constable Shoebridge, from Greta. The spot indicated by Sergeant Kennedy for the purpose of a camp was, therefore, of his own selection, and the arrangements generally left to himself. On reaching the site of the proposed depot, at Stringy Bark Creek, measures were adopted by Sergeant Kennedy for camping there for the night. It seems clear that Kennedy had no knowledge of the presence of the Kelly's in the locality. He took no precautionary measures against surprise. He seems to

have acted with a singular disregard to possible contingencies. He not only divided his party, but allowed McIntyre to fire off his rifle at some birds, thus attracting the Kellys to the spot. The party was armed each with the regulation revolver, having beside a Spencer repeating rifle and a double shot gun. Considering that they anticipated meeting only the two Kellys, and that probably no more than a show of resistance would have been offered, those arms were considered sufficient for every purpose; but the absence of foresight, of proper discipline or precaution, enabled the gang to take the party in detail, and, consequently, at a disadvantage. There seems no reason to suppose that the murders were the result of premeditation; the men were shot down when, with an instinctive sense of duty, they endeavoured to repel the attack of their assailants. The cold-blooded despatch of the brave but ill-fated Kennedy when, wounded and hopeless of surviving, he pleaded to be allowed to live to bid farewell to his wife and children, is one of the darkest stains upon the career of the outlaws. It was cruel, wanton, and inhuman, and should of itself, apart from other crimes, brand the name of his murderer, the leader of the gang, with infamy.

## **V.-AFTER THE MURDERS**

The action of the police immediately after the Wombat murders proved the utter unpreparedness of the authorities for so grave an emergency. The constables were found armed with revolvers that, under the circumstances were comparatively useless. A few rifles were scattered throughout the district, but such was the inadequacy of the armament available that upon the departure of Kennedy on his fatal expedition, the station at Mansfield was almost completely denuded of weapons. The parties who went out to search for the bodies of the murdered men were wretchedly equipped, and, before starting, the whole township had to be searched in order to obtain arms. The majority of the police were unacquainted with the use of the more modern description of rifle, and were, in many instances, notoriously bad bushman, and ignorant of the country in which they had to search for the outlaws. Some also were indifferent horsemen. As soon as information reached Melbourne of the Wombat murders. the Hon. Graham Berry, who was then Chief Secretary, gave the Chief Commissioner carte blanche, as regarded expense, to enable him to cope with the situation. Some Spencer repeating rifles that were in store were forwarded, and reinforcements were despatched to the scene of operations. Mr. Nicholson, the Assistant Commissioner of Police, who had done good service in the capture of bushrangers in the early days of the gold diggings, was specially selected to take charge of the pursuit. On arriving in Benalla, he found the township in a state of intense excitement, which was shared in more or less by the general community. At this time the mounted police in the North-Eastern district, which embraced an area of 11,000 square miles, numbered only about 50 mounted men, and the reinforcements came to hand slowly. Having visited the more important stations, Mr. Nicholson proceeded to form search parties with whom to scour the country according as information was received as to the supposed whereabouts of the gang. The officers in the district at this time, in addition to Mr. Nicholson and Mr. Sadleir, were Inspector B. Smith and Sub-Inspector Pewtress. Mr. Smith, as subsequent events proved, was quite inefficient for the work, and Mr. Pewtress was wholly unsuited for bush duty. The police parties sent in pursuit in the first instance returned to Quarters without success, and no reliable information appears to have been obtainable as to the whereabouts of the gang. The Government, it must be said, exhibited a commendable zeal and promptitude in seconding the efforts of the police. The better to facilitate their object, the Felons Apprehension Act was passed through the legislature at one sitting. The measure was based upon one that in New South Wales was

found very effectual in stamping out bushranging. Its provisions were directed against not only the outlaws, but also against all those who wilfully harboured, assisted, or otherwise sympathized with them; and, doubtless, had it been judiciously administered, the object aimed at would soon have been achieved.

## **VI.-THE SEBASTOPOL RAID**

One of the earliest combined movements of the police in pursuit of the outlaws was not calculated to favourably impress the mind of the public as regards the capacity of the officers. The "Sebastopol charge" as it has been designated, and which took place on the 7th November 1878, proved an utter fiasco, calculated simply to excite ridicule, and for this Superintendent Sadleir must be held directly responsible. On the 6th November, a splitter, in a state of intoxication, made his way from the Woolshed into Beechworth, where he was heard to boast that three days previously he had seen the gang in the bush near Sebastopol. This individual was conveyed to the lock-up, where he reiterated his statement to Superintendent Sadleir, and indicated where he believed the outlaws were secreted. Mr. Sadleir telegraphed to Mr. Nicolson, at Benalla, the information. Captain Standish happened to be with the Assistant Commissioner of Police at the time, and it was arranged that, taking with them a party of police, they should both proceed immediately by special train to Beechworth and accompany Superintendent Sadleir to the spot where he seemed sanguine of catching the Kellys. The Benalla contingent arrived at Beechworth at 3 am., and were met by Mr. Sadleir, who communicated to Captain Standish the information he had obtained, and then all rode off, leaving the Assistant Commissioner behind, searching for a horse, which occupied some time. The cavalcade moved rapidly forward, and as it proceeded, its numbers were gradually increased by parties of troopers who were gathered from various directions, until the force present numbered, according to various computations, from 23 to 50. The noise of so large a body of horseman, clattering along a hard road in the early hours of the morning and in the clear atmosphere of the ranges, was described by one witness as "just like thunder," and could have been heard a mile off. Indeed, everything was done as though it were desirable to give the gang - supposing that they were in the neighbourhood - timely warning of the approach of the police. What followed was perfectly in keeping with the haphazard organisation of the party. It was not until the party had arrived opposite the house of Sherritt, senior, that Mr Sadleir informed the Assistant Commissioner of the precise object of the expedition, whereupon arrangements were made for the attack. While Mr. Nicolson and Mr. Sadleir rushed the hut where the outlaws were supposed to be concealed, the Chief Commissioner took up a position at a distance, in charge of the reserve force. The hut was duly searched, but nothing to excite suspicion was discovered. A second hut adjacent was pounced upon after a similar fashion with a like result. The procession of horseman then moved on to Mrs. Byrne's house, but here again the police were doomed to disappointment. The entire proceedings of the day were little better than a travesty; and as indicating the extent to which discipline prevailed in the force, it may be mentioned, that not a single witness could positively state which of the officers present was actually in the command of the party.

## **VII.-INSPECTOR BROOK SMITH IN PURSUIT**

The conduct of Inspector Brook Smith while in charge at this period cannot be too severely censured. The history of the expedition which started on the 6th November 1878

from Wangaratta to search the Warby Ranges discloses culpable negligence and incapacity on the part of Mr. Smith, who was the officer in command. In the first place, he failed to take the proper steps with a view to the verification of the rumour that, on the morning of the 3rd November, the gang had been observed riding under the One-mile Bridge, at Wangaratta, in the direction of the ranges. Two days were allowed to elapse before starting in pursuit. Then, when the unmistakable tracks of the outlaws were discovered and Kennedy's horse found, this officer deliberately disobeyed orders by returning with his party to quarters. The following morning, from sheer laziness, he kept his men waiting from 4 am. till 7. The next day they had to start without him. With no other apparent object than that of retarding the pursuit, he compelled his men to make unnecessary detours to follow up the tracks; he rode slowly, loitered in the rear, and altogether so conducted the affair that only one conclusion can be arrived at as regards his conduct, namely, that he was determined that his party should not overtake the outlaws. What renders his action all the more reprehensible is the fact that upon no occasion throughout the pursuit, from the murders at the Wombat to the final affray at Glenrowan, was there presented a more favourable prospect of capturing the gang. Sergeant Steele was most blameworthy in this matter. If, as has been frequently urged, the men and more particularly the sub-officers were allowed to act upon their own discretion, upon the receipt of reliable intelligence, then surely it was the clear duty of Sergeant Steele, when informed by Constable Tuomy of the gang's appearance, to have immediately gone in pursuit. When the circumstance was communicated to him, he at once and rightly surmised that the men seen crossing the creek were the gang, and that they were guided by Steve Hart. The tracks were plainly discernible; he had a large body of armed troopers under his command, and was then actually engaged in the search for the outlaws; it was only men flying for their lives that would have attempted the passage of the creek at the time; the murderers and their horses were completely exhausted, owing to the journey to and from the Murray; so that, had this sub-officer acted with vigour and judgment on the occasion, he must have been instrumental in effecting the capture of the gang, and preventing the loss of life and the large expenditure of money which was subsequently incurred in bringing about the extermination of the gang. It would be unjust to lay down as a general principal that an inferior officer may be punished for the laches of his superior, but the circumstances of this case are exceptional. No one better than Sergeant Steele the personal peculiarities and unsuitability of Mr. Brook Smith for the work, and to have referred his informant to that officer was simply an attempt to evade responsibility.

## **VIII.-PROVISIONING THE OUTLAWS**

A Pentridge inmate, named Williamson, who had been implicated in the assault upon Constable Fitzpatrick, and sentenced to a long term of imprisonment, imparted some very important information to the authorities shortly after the Wombat murders. His first communication was dated 30th October 1878. In this he gave certain particulars respecting the gang, their haunts, probable whereabouts, and their mode of obtaining supplies of provisions while hiding in the ranges. Attached to the statement was a rough pen-and-ink sketch, or plan, of the position and surroundings of Mrs. Kelly's hut at Eleven-mile Creek and its relation to a large hollow log, not far distant, which was likely to be used as a receptacle of food for the use of the outlaws. Search was made for the log, and it was found by Senior-Constable Flood without much difficulty. It was lying about 400 or 500 yards distant from the Kelly's hut, and in a spot suitable for secreting provisions. The suggestion made by Williamson - indeed the action that common sense would have dictated - was to watch the

log, when discovered, and endeavour to cut off the outlaws' supplies, or possibly trace them to their lair. This course was not adopted. From the appearance of the hollow log, Senior-Constable Flood came to the conclusion that it could not have been utilized as indicated, and so the matter rested. About the same time a secret agent informed Mr. Sadleir that Mrs. Skillion, the sister of Ned and Dan Kelly, was in the habit of preparing large quantities of food which she conveyed into the bush at night, returning in the morning with her horse completely exhausted. She was not, however, interfered with. It was stated in evidence that attempts were made to follow her, but the difficulty of doing so without skilled trackers was thought insurmountable, and all efforts to trace her nightly expeditions to their source were relinquished. The evidence given by Superintendent Sadleir upon this point is unsatisfactory, and favours the hypothesis that the officers depended upon fortuitous circumstances rather than upon any defined plan of operations to bring about the capture of the outlaws.

## **IX.-THE EUROA BANK ROBBERY**

The authorities received from the prisoner Williamson another important statement, dated 15th November 1878, in which it was intimated that the Kelly gang would probably attack one of the banks at Seymour. This information was communicated to Superintendent Hare on the 26th November, and that officer took immediate steps in his own district to guard against such an eventuality. On the 28th the document reached the hands of the officers in Benalla, and on the following day Mr. Nicolson telegraphed to the Chief Commissioner, suggesting that the police at Seymour should be reinforced. It seems clear that at this time rumours were current that one or other of the banks in the district would be robbed; and it has not been satisfactorily shown that Mr. Nicolson or Mr. Sadleir took any precautions to frustrate an attempt of that nature if made in the North-Eastern district. Indeed, their action indicates that they were either ignorant of the rumours or attached no importance to them, although the witness Patrick Quinn asserts, in the course of his evidence, that some time prior to the robbery he informed the Assistant Commissioner not only as to the locality in which the Kellys were secreted, but that one of the banks at Bright, Avenel, or Euroa would probably be attacked. That the force at the command of the officers in charge of the district was inadequate to resist the threatened raid in every centre of population in the district was apparent. Nevertheless it has not been satisfactorily proved, from the documents or the evidence submitted to your Commissioners, that Mr. Nicolson realized the danger and applied for reinforcements. There is a document, dated some eight or nine months later, written by Mr. Sadleir, in which he alleges that application had been made to the Chief Commissioner for additional police prior to the attack upon Euroa, and Mr. Nicolson, in cross-examination, reiterates the statement, but beyond these mere assertions we have no proof that any special effort was made at this time to protect the banks in the North-Eastern district. Further, at a very critical juncture, and in the teeth of the most emphatic warning, both officers left head quarters at Benalla and proceeded to Albury on the 9th December 1878. The journey thither appears too have been the result of a ruse on the part of the sympathizers of the gang. The precise object of the officers in starting was simply to reconnoitre by daylight the crossing of the Murray, near Albury, where it was stated by a supposed reliable agent that the Kellys were expected to pass. Before starting an incident occurred which might have induced them to pause, if not to forego their intention. Mr. Wyatt, PM., arrived from Euroa by the evening train, bringing with him incontestable proofs that the telegraph wires in the vicinity of the township had been deliberately cut, and direct communication with Melbourne destroyed. Mr. Wyatt appears to have argued the matter out in his own mind, from all the circumstances which came under his notice, that the cutting of the wires was probably the work of the Kelly gang;

and as soon as he observed Mr. Nicolson on the platform, at Benalla, he at once communicated to him his suspicions. Unfortunately Mr. Wyatt had warned the driver of the engine and others in the train by which he had arrived not to disclose any information they possessed on the subject, so that, when they were interrogated by Superintendent Sadleir as to whether there was anything wrong down the line, they returned a distinct negative. The warning of the police magistrate was disregarded. Turning to him, Mr. Nicolson said, "It will not alter our plans," and, getting into the train, he and Mr. Sadleir took their departure for Albury. When passing Glenrowan station another incident occurred, which appears to have attracted the attention of Mr. Sadleir. When the train arrived at Glenrowan, Mr. Sadleir observed a suspected sympathizer and scout of the gang watching their movements; and, from this action and the expression of his face, it was evident that something unusual was stirring. This fact flashed through Mr. Sadleir's mind in the train on the journey to Albury, but he neglected to communicate with Sergeant Whelan, at Benalla, so as to place him on the Qui vive, as he might have done on arriving at Wangaratta or at any of the stations along the line. A strange and unfortunate fatality appears to have attached itself to every phase of this remarkable episode. There was, at the time of the robbery, virtually no police protection in Euroa. The constable, the only one stationed there, had been absent from the township during the day; and it was not until late in the evening, when doing duty at the railway station, he ascertained that the outrage had been committed, whereupon he leaped into the train and proceeded to Benalla. It seems also clear that for some days prior to the raid the outlaws were either in the township or secreted in its neighbourhood, and that their scouts gave them full information of its unprotected condition, so that they could push their audacity to any limits without fear of molestation. Mr. Nicolson was at Albury when, at midnight, he received intelligence of the robbery, and he took steps to return immediately by special train. En route he issued instructions to the several police stations, in order to ensure co-operation in the pursuit. Some stress has been laid upon the telegrams despatched to Sub-Inspector Pewtress, conveying instructions as to the course he should adopt; but - apart from the fact that if any doubt existed in the mind of Mr. Pewtress as to the propriety of acting upon the orders received he had full power to decide for himself what was best to be done - a careful scrutiny of the telegrams does not bear out the allegation that the Mansfield contingent were instructed to proceed in a direction the opposite to that in which there was a possibility of the gang with their plunder being encountered. The efforts made to follow up the tracks by Mr. Nicolson and his search party on the day following the robbery proved utterly futile, and they were compelled, from sheer exhaustion and inability to trace the outlaws, to return to quarters in the afternoon.

## **X.-CAPTAIN STANDISH AND SUPT. HARE IN CHARGE OF THE PURSUIT.**

Mr. Nicolson was relieved from duty in the North-Eastern district, owing to the state of his health, immediately after the Euroa bank robbery, and Captain Standish and Superintendent Hare took charge of operations. One of their first acts was to enforce the provisions of the Felons Apprehension Act by arresting a large number of the more notorious sympathizers. By the orders of Captain Standish the responsible sub-officers and men in charge of stations who had for any length of time been in the Benalla district were collected. They were asked the names of the persons suspected. Those were taken down by Mr. Hare, and, without any effort to obtain information for the purposes of the prosecution, the

necessary legal machinery was put in motion to make the arrests. In making these arrests no proper discretion was exercised. Several persons were taken into custody against whom no evidence could be obtained, while a number of persons known or suspected of being in close and intimate relations with the gang were allowed to remain at large. As a consequence, when the cases were called on, remand after remand was applied for and granted, until finally the magisterial bench at Beechworth discharged the prisoners. Those apparently arbitrary proceedings were not salutary in their effects. They did violence to people's ideas of the liberty of the subject; they irritated and estranged probably many who might have been of service to the police; they failed to allay apprehensions of further outrages on the part of the gang, or to prevent them from obtaining the requisite supplies; they crippled the usefulness of the officers, who had to be called away from active duty in connection with the pursuit to attend the petty sessions at Beechworth, when remands were applied for; and, what was of more significance, the failure of the prosecutions led the public to believe that the conduct of affairs was mismanaged. The original intention of the gang, after the Wombat murders, seems to have been to leave the colony, but this object having been frustrated, owing to the flooding of the Murray, they returned to the vicinity of their homes. Finding that the police were utterly at fault as to their whereabouts, and were receiving no reliable information as to their movements - that they were simply exhausting their energies in dragooning the district on purposeless expeditions - the gang gained confidence, and settled down in the ranges, varying their retreats, as occasion arose, between the neighbourhood of the King River, the Woolshed, near Sebastopol, and the Warby Ranges. The first detachment of the Garrison Artillery was forwarded from Melbourne to the North-Eastern district, 15th December 1878, and were distributed in the townships along the line of railways where another raid on the banks was possible. In January reinforcements of the artillery were sent to Beechworth, and in March following, it was deemed desirable to place a number in Shepparton. A considerable accession of strength was thus made to the available police at the disposal of Superintendent Hare, who appears to have attended to field work while Captain Standish transacted office business. The first cave party was formed at this time, and was taken command of by Superintendent Hare in person. It was maintained for a month, during which the party endured considerable hardships, having to remain concealed in the ranges in the neighbourhood of the Woolshed during the day, and watch the hut of Mrs. Byrne at night, on the chance of pouncing on one or other of the outlaws. At the end of 25 days the camp of the police was discovered by Mrs. Byrne, whereupon, without having accomplished anything, Superintendent Hare returned to Benalla. At this period Aaron Sheritt, no doubt in the hope of securing the reward offered for the capture of the outlaws, attached himself to Mr. Hare and his party, and great reliance appears to have been placed upon his fidelity. His acquaintance with the movements of the police in all parts of the district, communicated by bush telegraphs, demonstrated his knowledge of the operations of the sympathizers, and doubtless of the movements of the gang; but he did not enable the authorities to thwart the outlaws' raid upon Jerilderie on the 10th of February 1879. The daring with which this outrage was committed, and the impunity with which the gang were allowed to swoop down upon a township, to bail up the police, to rob one of the banks, and return to their haunts in Victoria, marked this episode as one of the most extraordinary in the whole career of the outlaws.

Superintendent

Hare

conducted many search parties with vigour, and in addition to watching Byrne's house, kept active supervision over the houses of others who were supposed to be sympathizers. He undertook expeditions to the Warby Ranges; he led search parties to Cleary's house, and to the Whorouly races respectively, on the strength of information supplied by agents, but without success. What Captain Standish accomplished by his personal supervision and direction of affairs in the district does not appear manifest. He was supposed to attend at the

office during the day and act upon information received from scouts, but beyond having visited Mr. Hare and remained with him one night during the existence of the cave party, he seems to have contented himself with rustivating peacefully in Benalla. Evidence has been given by several witnesses that the Chief Commissioner was not an ardent worker in connection with the Kelly business. He has been described as apathetic, and as seeking refuge in a novel when his officers referred to matters relating to the pursuit. Mr. Hare states that the Chief Commissioner was always willing to converse with him upon the subject, but other officers declare that the apathy of the Chief Commissioner was the subject of frequent conversation. As a matter of fact, when in July 1879 Captain Standish and Superintendent Hare returned to Melbourne, owing, as the former alleges, to the business of the head office being in a "frightful muddle," the authorities were uncertain whether the outlaws were actually in the colony or had gone northward, in the direction of Queensland. An analysis of the list of appearances during the time Captain Standish and Superintendent Hare were in charge shows that the number reported was 53. Of these, 23 are stated to have been untrue or unreliable; in 5 instances the news was considered too stale; in four, no steps were taken; inquiries were simply instituted in several cases, and in 13 alone were active measures adopted, without any practical outcome.

## **XI.-THE QUEENSLAND TRACKERS**

Early in December 1878 Mr. D. T. Seymour, the Queensland Commissioner, offered to place a number of native trackers at the service of the Victorian Government. The proposal did not meet with acceptance at the hands of Captain Standish. After the Jerilderie raid, however, the necessity for employing skilled trackers became obvious, and the Chief Commissioner's objections were overcome upon the representations of his officers. A telegram, dated 15th February 1879, was accordingly despatched to Mr. Seymour, at Brisbane, asking him to send down a party of eight trackers, under the command of a competent officer. The terms as regards remuneration and mode of working the contingent were soon arranged, and, on the 6th of March ensuing, Inspector O'Connor and his blacks arrived at Albury, where they were met by Captain Standish, who accompanied them the remainder of the journey to Benalla. Mr. O'Connor's instructions were that he was to obey the orders of Captain Standish, and co-operate with the members of the Victorian or New South Wales police, with whom he might be required to serve, while at the same time he was to communicate as opportunity arose with the Commissioner of Police in Brisbane. In fact, however Inspector O'Connor may have been regarded, he never held the position of an officer in the Victorian police. He stood in the relation of a volunteer, subject to the regulations and discipline of the force for the time being, simply holding the rank of an officer in a foreign service, his commission being recognized as a matter of courtesy by those with whom he was co-operating. In Mr. Seymour's memo., Inspector O'Connor was expressly informed that "he merely went as an assistant and that the conduct of affairs was entirely in the hands of Captain Standish and his officers; and that, in obeying orders, he freed himself from responsibility for anything beyond his own acts." Mr O'Connor was not appointed to any particular position in the Victorian police; he was sworn in and remained exclusively in charge of the Queensland trackers. The arrangement was anomalous, and much of the difficulty and misunderstanding that afterwards arose might have been avoided had Mr. O'Connor been gazetted an officer in the Victorian police. For some months after the arrival of the Queensland trackers cordial relations appear to have subsisted between Captain Standish and Inspector O'Connor. Then dissension arose, and much bitterness of feeling was engendered in consequence of a personal quarrel with one of the officers. On the 11th of March, a week after the arrival of the trackers, they were despatched with Mr.

O'Connor in pursuit of the gang. As showing the friendly feeling entertained towards him at this period, it may be mentioned that he was placed in command of the party alluded to, although he was accompanied by Superintendent Sadleir, an officer of higher grade. Mr. O'Connor was desirous of going out with only a few Victorian troopers attached to his party, but the Chief Commissioner, for certain reasons, was averse to this arrangement, and sent a much larger number. This expedition, which was intended to test the powers of the trackers, resulted in demonstrating their usefulness to some extent; but, at the same time, it showed that, being natives of a warmer climate, they were not well adapted, even when supplied with suitable clothing and covering at night, to endure severe weather or the physical hardships incidental to carrying on operations in the ranges. They returned to quarters earlier than was expected, principally owing to this circumstance. Corporal Sambo, one of the contingent, died in a few days afterwards, having succumbed to the effects of congestion of the lungs. On the 16th of April following, Mr. O'Connor and his party again proceeded in pursuit, but on the fifth day out they were recalled by the Chief Commissioner for the purpose of placing the trackers at the disposal of Superintendent Hare, who was supposed to have obtained an important clue to the whereabouts of the gang in the Warby Ranges. This appears to have been the last occasion upon which, during the period Captain Standish remained in charge of the district, Inspector O'Connor went out in command of a party. This, together with the fact that the Chief Commissioner declined to work the trackers in accordance with the views of Mr. O'Connor, no doubts served to bring about the estrangement which arose between those officers. The Chief Commissioner at no time refrained from expressing his disparaging estimate of the value of the Queensland trackers. They had been engaged contrary to his wishes and his judgment. He believed them to be wholly unsuitable for tracking in broken and mountainous country, more especially as they required a considerable quantity of impedimenta, could work but slowly, and were therefore the more liable to attract observation. In a district like that in which the pursuit was conducted, and having to cope with men who frequently rode from 60 to 70 miles in one night, it was believed by Captain Standish that the trackers were utterly useless, and that their engagement was an idle expenditure of money. In withholding information from the officer in charge of the trackers, in connection with the search of Cleary's house, a slight was thereby implied; and, by making Superintendent Hare a party to the transaction, the Chief Commissioner adopted the most effectual means of sowing discord amongst the officers. He also deliberately informed Mr. O'Connor that he intended to catch the Kellys without his assistance; and, by his general demeanour, according to the evidence, displayed a want of kindly and generous feeling towards Mr. O'Connor, who as a stranger and a volunteer sent specially by the Government of a neighbouring colony to assist the Victorian police, was the more entitled to courtesy and consideration. While Captain Standish entertained this opinion of the trackers, it must be noticed that Mr. Hare, Mr. Sadleir and other competent authorities who had practical experience of the value of their work, bore favourable testimony to their abilities and usefulness.

## **XII.-MR. NICOLSON RESUMES CHARGE OF THE PURSUIT**

When, in July 1879, Mr. Nicolson resumed charge of the pursuit, the prospect of capturing the outlaws appeared more remote than ever. The alarm caused by the daring

outrages of the gang had to some extent subsided, but a strong feeling of indignation prevailed throughout the country at the spectacle presented of four young men, three of them only about twenty years of age, defying all the resources and powers of the Government, and remaining in almost undisturbed tranquillity in what one of them described as their mountain home. As indicating the condition of the district and the influences at work to shield and assist the gang, it may be mentioned that not even the offer of 8,000 pounds for their capture, to any appreciable degree, facilitated the operations of the police. Weary of the delay in effecting the capture, and concerned at the enormous outlay incidental to the pursuit, pressure appears to have been brought to bear immediately on Mr. Nicolson taking charge to effect reductions. The Garrison Artillery were gradually withdrawn, while the strength of the police in the district was also considerably reduced, as will be seen from the following returns:-

Number of Officers and Police stationed in the North-Eastern district and the extra expenditure incurred during the period Captain Standish and Superintendent Hare were in charge, and for the seven months after Mr. Nicolson resumed command.

UNDER CAPTAIN STANDISH & SUPERINTENDENT HARE			UNDER MR. NICOLSON		
	Men	Extra Expense		Men	Extra
Dec. 1878	217	2,197	July 1879	156	1,049
Jan. 1879	201	1,748	Aug. 1879	153	1,057
Feb. 1879	213	1,856	Sept. 1879	155	707
Mar. 1879	196	2,296	Oct. 1879	155	860
Apr. 1879	198	1,433	Nov. 1879	154	356
May 1879	191	1,342	Dec. 1879	155	497
June 1879	174	1,180	Jan. 1880	157	440

It must be borne in mind that these returns are irrespective of the Garrison Artillery, who were stationed in the district while Captain Standish remained in Benalla, and whose presence and co-operation were no doubt of great importance at that time. Prior to the Euroa bank robbery Mr. Nicolson appears to have lost faith in the utility of search parties exclusively; and his coadjutor, Superintendent Sadleir, emphatically pronounced the system to be mere "fooling." The Assistant Commissioner thus explains the position in which he was placed at this juncture, and the steps which he found it necessary to take. "I set to and reorganized the men on this basis, and adopted the view that, with the materials at my command, my best course to adopt was to secure places from outrage where there was treasure, so that the outlaws would be baffled in any attempt to replenish their coffers. I stationed a small body of men at Wodonga, under Sergeant Harkin, another at Wangaratta, under Sergeant Steele, another at Bright, under Senior-Constable Shoebridge, and the same at Mansfield, under Sub-Inspectors Toohey and Pewtress. At each of these there was barely strength enough for a search party, but they could make up a fair party - seven or eight - by calling in men from neighbouring stations. The only place where a complete search party was kept was Benalla. I instructed the police throughout the district to arrange to get quietly from two to four townsmen of the right sort who would turn out and aid them in the case of an attack." Mr. Nicolson adds, that he had not carte blanche for expenditure as Captain Standish had. He had no money placed to his credit. He paid the accounts and all other expenses out of his own pocket, which were afterwards refunded. Large economies were also effected as regards the keep and hiring

of horses and the expenses attached to the use of buggies by those engaged by the police. At the same time systematic efforts were made throughout the district to induce the well-disposed portion of the population to aid the police by every means in their power, and to afford any information respecting the outlaws that might come to their knowledge. This in time began to bear good fruit. At first the intelligence gleaned would be about a month old, then it was reduced to a fortnight, in time about a week, and sometimes a day only would elapse, before the receipt of news of the appearance of the gang, or the doings of their sympathizers. In fact the Assistant Commissioner appears at this time to have relied almost solely upon secret agents for information, and a reference to the list of reported appearances shows that his plan of operations so far was producing some effect. It was not, however, until he had been six weeks in charge that he obtained positive and reliable information that the Kellys were in the district. Special stress has been laid upon several incidents which mark the administration of affairs by Mr. Nicolson, to which it is desirable notice should be directed. On the 27th September 1879, Superintendent Sadleir, while at Wangaratta, was informed by the agent known as Foote that on the previous night he had seen Ned Kelly and the other members of the gang in the bush. They were on foot, and of their identity there could not be any doubt. Mr. Nicolson, on being informed of this, at once telegraphed to Mr. Sadleir, from Benalla, instructing him to bring the man down. This order was not complied with, Mr. Sadleir explaining that he had left his informant drinking at a public house, and that he would himself be able to find the precise spot where the outlaws had been seen. Upon being questioned upon this point, Mr. Sadleir's knowledge was found to be vague; and Mr. Nicolson, under the circumstances, took no action. This was the occasion upon which the search party had assembled in the barrack yard at Benalla, with their horses saddled and ready to start, when at the last moment they were ordered back to quarters. In the following memo., dated 30th September 1879, Mr. Nicolson thus explains to the Chief Commissioner his reasons for adopting this course:-

The informant was \_\_\_\_\_; he stated he saw five men. From conversation with Superintendent Sadleir, upon his return from Wangaratta, it did not appear that "the spot was indicated so that it could be found without difficulty," nor that "it could be taken up by the trackers at daybreak before the people were moving" and had become conscious of the presence of the police among them. The subsequent examination of Mounted-Constable Ryan as to the locality and its approaches did not tend to remove the above impression. It appeared that the neighbourhood was settled, and that our party could hardly expect to pass Lloyd's house, even at midnight, without being discovered, and that the trackers might have to search over at least a quarter of a mile before finding the footprints; and considering the precaution said to have been taken by the men seen by \_\_\_\_\_ in sending a man to dog him home, it seemed likely that they had taken the other precaution of moving off, and, with the fifth man and other friends, each had taken separate directions, so that the trackers pursuing might find themselves running down one wrong man. Sub-Inspector O'Connor was of opinion that the chance of success was a bad one. Considering my other improving sources of information, I determined, upon this occasion, not to disturb the false sense of security into which the outlaws have been lulled. Although I decided upon the above course upon the merits of the report made to me, yet I may remind the Chief Commissioner that \_\_\_\_\_, the informant, was the man who tried to induce me to proceed with the Benalla police and meet him at the head of the King River on the day before the Euroa bank robbery.

The informant was Pat Quin, whose loyalty to the police Mr. Nicolson appears to have always doubted; but there seems every reason to believe that had Mr. Sadleir taken the

precaution to bring with him the agent his statement would have been acted upon, and the officer in question have escaped the responsibility of the expedition being abandoned owing to his action. The tactics adopted at this time appear peculiar, and, perhaps, account to some extent for the apparent listlessness of the police. Mr. Nicolson was desirous, he alleges, of lulling the gang into what he terms a false sense of security. He was gradually forming round them a cordon, not of police but of secret spies, and was anxious not to allow them to know of the information he possessed, or of the precise nature of his plans, lest they should leave the district - where he felt assured they would ultimately be taken - and seek refuge in the inaccessible region near Tomgroggin, in New South Wales. The immediate object was not so much to effect the capture as to guard against any renewal of a raid upon the banks. The relative merits of the two systems adopted by the police in connection with operations against the Kelly gang, namely, that of search parties and of secret agents, have been frequently referred to in the course of the evidence. The name of Mr. Hare has been more particularly associated with the former, and that of Mr. Nicolson with the latter. As a matter of fact, however, both systems were employed conjointly as occasion arose, but, from instinct and peculiarity of temperament, Mr. Hare seems to have preferred the more active and military mode of prosecuting the pursuit; while Mr. Nicolson trusted principally to the effects likely to arise from having the outlaws surrounded with spies and informers. One of the most peculiar features of Mr. Nicolson's administration of affairs during the period of his second charge was the nature of his transactions with the Sherritt family. Jack, the youngest brother, appears to have acted faithfully to the police while engaged by them; and there seems no doubt that from time to time he gave them important and reliable information respecting his frequent intercourse with Dan Kelly and Joe Byrne. He was introduced to Mr. Nicolson by Detective Ward, at Wangaratta, on the 12th September 1879, and from the information which he then gave, and the letters which he subsequently brought from the outlaws, it was evident that he was in close communication with, and was implicitly trusted by them. They were in fact anxious to induce him to join them in an attempt to rob one of the banks in the district. Sherritt seems to have told everything very unreservedly to Mr. Nicolson, who nevertheless decided on each occasion to wait for a more favourable opportunity in the hope of capturing the entire gang at one blow. This policy of procrastination was more especially noticeable on the occasion of Sherritt's interview, when he informed Mr. Nicolson of Dan Kelly's visit to his place at Sebastopol on the 13th November 1879, leaving word that he would call again about eight o'clock. Both witnesses agree as to the facts, but there is a marked difference as to the precise hour at which the interview occurred, and upon this point the material value of Jack Sherritt's information hinges. According to his evidence, he left the Woolshed in time to interview Mr. Nicolson about half-past seven o'clock, and as the outlaws called at his place at eight, it has been urged that there was ample time for a party of police to have proceeded there, if not to encounter the gang direct, to have at least obtained such a clue to their whereabouts as would probably lead in the end to their capture. As against the evidence of Jack Sherritt, however, there must be taken, not only the denial of its accuracy, as given by Mr. Nicolson, but several other circumstances which deserve consideration in weighing the value of the testimony given pro and con. Jack Sherritt states that Dan Kelly called at dusk. According to the almanac, the sun, on the 13th November 1879, set at 6.45. The outlaw is said to have searched the house, looking for Jack; he remained, say ten minutes. Sherritt was working in a paddock, half a mile away. It must have taken his sister thirty minutes to have brought him the information. The distance into Beechworth was three or four miles through rough country, which took Senior-Constable Mullane three-quarters of an hour to ride. Ten minutes may be allowed for the recital of the intelligence to Mr. Nicolson. Supposing then that Dan Kelly called at Sherritt's at seven o'clock, these intervals bring up the hour to 8.35 pm. before Mr. Nicolson was in a position to order out a search party to go in pursuit. It

would occupy say ten minutes getting a search party together, saddling the horses, and preparing to start, and, by going by the main road, the ground might be covered in about twenty-five minutes. It would, therefore, be after nine o'clock before the men by any possibility could have reached the spot. But the probabilities are against the entire gang having called according to promise. It was well known and can be easily understood that they never kept an appointment punctually. Again, as comparing oath with oath, there is on the one side a young man not particular as to dates, who, at the time, according to his own admission, was greatly agitated, thinking that the outlaw had called to carry him off, and disposed to make the most of his case, when before the Commission, as against the Assistant Commissioner. On the other, there is a trained official, accustomed to accuracy in matters of detail, who wrote the circumstances of the interview at the time in his memorandum book, and who, some days afterwards, wrote a long letter to the Chief Commissioner, in which he elaborates the narrative, and distinctly declares that it was late when Sherritt called at the station. Again, as indicating that Sherritt may have been mistaken in this as in other points, he alludes to Mr. Nicolson looking up from the desk at the clock and making some remark about the hour. As a matter of fact there was no clock in the room where they were conversing; the only clock in the station was fixed in the verandah and could not be seen from the room. Early in December 1879 Mr. Nicolson organized the second cave party; the secret was revealed by Senior-Constable Johnson to Mr. Hare, at the depot, and the latter at once informed Captain Standish on the subject. The Chief Commissioner did not approve of those parties, and wrote to Mr. Nicolson to that effect, stating that the cave was known at the depot. The announcement caused surprise and pain to the Assistant Commissioner, who, however, refused to withdraw the men, believing that their presence in the hut, although known at the depot, remained a profound secret in the district. There is a reason to believe that, during the existence of the cave party, the outlaws frequently visited the Woolshed, and that being so it must be inferred either that the gang were in possession of the secret and carefully avoided Mrs. Byrne's house, or they visited the place, as has been asserted, unseen by the police, who were supposed to be on the watch. The testimony of the constables bears out the supposition that the men's presence in the cave was known for a considerable time before they were removed, and the conduct of Detective Ward favours the conclusion that he deliberately deceived Mr. Nicolson upon that point, by the manipulation of the reports sent in by several of the constables. In February 1880, a report was received by the police that a number of mould-boards of ploughs had been stolen from the neighbourhood of Greta and Oxley. It was not then known what the object of these depredation's was, but a search party and two trackers were sent out, and upon this occasion was discovered the footprints with the "larrikin heel," which, with other information, indicated that the Kelly gang were the thieves. The "diseased stock" letter, in which the object of the stolen mould-boards was communicated for the first time, was dated 20th May 1880, and this marks an epoch in the history of the pursuit. In that letter it was stated, "a break out may be expected, as feed is getting scarce." It was the receipt of this intelligence that gave Mr. Nicolson hope that the "beginning of end" was approaching. The outlaws were evidently preparing for a raid, and it was only necessary to be prepared to receive them. Doubtless the consciousness of this served to embitter Mr. Nicolson's feelings when he found himself obliged to relinquish the pursuit and yield to another the post of honor when he daily anticipated the fruition and reward of his labours. About the months of May and April the police ascertained that the outlaws were reduced to great straits. Over a year had elapsed since their last - the Jerilderie - raid. Their funds were well-nigh exhausted. With their money, their friends and sympathizers began to fall off too; and more than one, it was stated, had significantly suggested that another bank should be robbed. The outlaws at this time were said to be usually in the vicinity of the Greta Swamp, from which they would move back to the ranges, get across the

Ovens River towards Sebastopol, and from thence to the Pilot Range, near Wodonga. They were obliged to travel on foot, and their immediate assistants were reduced to four. Intimation was also received that they were suffering such severe hardships in the ranges that they were obliged to obtain a tent to cover them at night; and the agent who gave all this valuable information led Mr. Nicolson to believe that, in a very short time, he would lead the police to the spot where they would have, to use the language of the Assistant Commissioner, "their hands on the throats of the outlaws without any trouble." Information of this character at the time must have appeared very general, very indistinct, and its reliability very problematical, which may account for the fact that more practical measures were not adopted. When on one occasion, about this time, a search party was despatched to a hut near the Lloyd's house at Lake Rowan, on the strength of somewhat similar intelligence, the police by their efforts simply subjected themselves to badinage, as when the suspected hut was searched, only a well-known sympathizer was found there. It must be added that every precaution seems to have been taken to intercept the gang, should they attempt to pass any of the bridges, or crossings leading to or from their reputed haunts. Sealed orders, with special instructions were issued to every station; constant telegraphic communication was maintained throughout the district; the vigilance was apparently incessant, but was sought by the Assistant Commissioner to be of a masked, unostentatious, character, which it was believed would in time achieve success. An analysis of the list of appearances discloses that during Mr. Nicolson's second charge there were about sixty reports received by the police; of those, sixteen were considered stale or unreliable; inquiries were made as regards five; there is no record of action in reference to six; in several no action whatever; and in twenty six, action was taken mainly with a view to resisting attacks, the arranging of watch parties, or in endeavouring to induce the outlaws to suppose that the police were not on the alert. There were very few search parties despatched, and in every instance where action was taken of this nature the expeditions proved entirely fruitless.

### **XIII.-MR. NICOLSON'S RECALL**

The Assistant Commissioner takes no pains to conceal the opinion that his removal in June 1880, although ostensibly the direct act of the Executive, was in reality the result of official intrigue. Whatever may have been the influences at work - whether, as Mr. Ramsay declared, the decision of the government meant no more than a desire for a change of bowlers, or, as has been insinuated, Captain Standish, for reasons of his own, was responsible for the move - of this there cannot be a doubt, that there was thereby revealed the existence of acrimonious feelings amongst the officers - of jealousy, distrust, and personal rivalry, of which nothing previously had been positively known, although perhaps suspected. There is no gainsaying the fact that the recall of Mr. Nicolson implied dissatisfaction, if not censure; but the fact of his having received a month's grace at a time when, according to his own account, he was in daily anticipation of capturing the Kellys, indicates some consideration for his feelings. Public servants are not always the best judges of the motives which actuate a Government in adopting a particular policy, and unfortunately private interests and individuals must often be sacrificed to public expediency. Mr. Nicolson evidently regarded his case as a hard one under the circumstances. He states that, for some time prior to his removal, he felt that there was mischief brewing. On the 22nd of April the Assistant Commissioner had an interview with the Chief Secretary, who was then returning from the ceremony at Mansfield of unveiling a monument erected to the memory of the victims of the Wombat tragedy. Mr. Ramsay expressed the greatest pleasure and confidence in Mr. Nicolson when informed of how things were going on. An anonymous letter, which has been frequently adverted to in evidence, was forwarded by the Chief Commissioner to Mr.

Nicolson on the 26th April for his explanation, and in a week subsequently he received intimation that he was to be superseded. The so-called anonymous letter was signed "Connor," evidently a fictitious name. It criticised unsparingly Mr. Nicolson's character and conduct throughout the pursuit, and from internal evidence it was clearly written or inspired by some member of the force. It had been forwarded in the first instance to the Honorable J. H. Graves, the member for the district, and by that gentleman placed in the hands of the Chief Commissioner. The witness Wallace, a State-school teacher, and an alleged sympathizer with the gang, was the putative writer of the document, but he denies the allegation, and subsequently, in a communication addressed to your Commission, he declares that it was the joint concoction of Jack Sherritt and the outlaws, in order to have Mr. Nicolson removed from the district. But Wallace's bona fides and veracity are open to grave suspicion, and his flippancy of manner, when before your Commission, apart from the evidence respecting his equivocal relations with the gang, mark his statements as wholly unreliable. The Assistant Commissioner, when informed of the intention to remove him, sought an interview with the Chief Secretary early in May, when, upon his urgent representations, he obtained a month's extension of his charge of the district. The scenes which occurred between Mr. Nicolson and Captain Standish at this period indicate exacerbation of feeling and defiance on the one hand, and of cold superciliousness on the other, utterly at variance with that esprit de corps which is so desirable amongst brother officers. During the last month Mr. Nicolson remained in command he strained every nerve to make the most of the limited time allowed him. His last effort was made on the strength of a report by a secret agent, that Joe Byrne had been seen in the ranges, to the rear of his mother's hut. Mr. Nicolson organized and led a search party to the spot. It was upon this occasion that Aaron Sherritt accompanied the expedition as a guide during daylight - a proceeding that has induced many to attribute the murder of Aaron Sherritt to a want of discretion on the part of the Assistant Commissioner. The fact, however, should not be forgotten, that some time previously Byrne had seen Mrs. Sherritt at Sebastopol, and had threatened to shoot Aaron. At the end of the month, Mr. Nicolson in the interim having failed to effect the capture of the outlaws, Mr. Hare was sent up to supersede him. This latter officer remonstrated with Captain Standish for having selected him for the duty, and appealed to Mr. Ramsay with a view to some other officer being appointed to the post. The only reply that he received was that the Government had determined that he should take charge, and that there was left him no other alternative than to obey orders. The interview between Mr. Nicolson and Superintendent Hare on the 2nd of June 1880, when the latter took over charge, is variously described by the witnesses who were present. Superintendent Hare emphatically declares, and inserted a statement to the same effect in his official report after the affray at Glenrowan, that the interview lasted only ten minutes, and that Mr. Nicolson "gave him no verbal information whatever." Mr. Sadleir speaks of a quarter of an hour or twenty minutes, but, in cross-examination, goes further. Mr. O'Connor thinks that the interview lasted much longer, while Mr. Nicolson insists that Superintendent Hare remained with him in the office nearly an hour; that during that time he gave him all the information he possessed, and, in conclusion, asked Mr. Sadleir if he thought he had omitted anything. Mr. Hare, in support of his allegation, produces his diary, and Mr. Nicolson relies, to a great extent, upon the corroborative fact that the train by which his successor arrived reached Benalla at ten minutes past eleven; that it took him about half-an-hour to reach the police station; and it is admitted upon all hands that the interview did not terminate until one o'clock, when the officers adjourned to their hotel for luncheon. A more serious charge than that levelled by Mr. Hare against Mr. Nicolson it would be difficult to define, amounting as it does to disloyalty to the service and the country, and meanness and treachery to brother officers; and if Mr. Hare at the time considered Mr. Nicolson guilty of such conduct, it was his duty to have at once

reported the circumstance. He wrote, it appears, a private letter to Captain Standish informing him of his impressions, but such a course was not calculated to meet a case of such grave significance as Mr. Hare represents in his official report and evidence. The Assistant Commissioner indignantly repudiates the charge under which he had been allowed to labor for over twelve months, and appeals to his long service and the respect entertained towards him by his brother officers and men in refutation, urging that he would be even more criminal than the Kellys themselves if there were the least foundation for the charge. It must be mentioned that Mr. Hare was the first to leave the room in which the interview occurred; that he called again at the office in the afternoon without asking for further information; and that, if the interview were briefer than might have been expected under the circumstances, it was owing to Mr. Hare having asked Mr. Nicolson, in the course of conversation, to come to the last that had been heard of the outlaws. The telegram despatched by Mr. Nicolson to Senior-Constable Mullane prior to his leaving Benalla for Melbourne seems to have strengthened Mr. Hare's suspicion of mala fides on the part of the Assistant Commissioner; but, judging from the explanations made, and the tenor of the document itself, there does not seem sufficient grounds for preferring so grave a charge against Mr. Nicolson as having wilfully sought to coerce the agents, and obstruct the efforts of the officer by whom he had been superseded.

#### **XIV. SUPERINTENDENT HARE SUPERSEDES MR. NICOLSON.**

Superintendent Hare having mastered the documents in the office which had a bearing upon the pursuit, and having also obtained every information and assistance from Superintendent Sadleir, preceded to make his own arrangements. Reliable residents and constables in charge of stations were interviewed; scouts were despatched; secret agents communicated with, and what has become known as the hut party organized. Four constables under the direction of Detective Ward were secreted in Aaron Sherritt's hut, at Sebastopol, with instructions to remain concealed during the day, and in the evening to proceed to Mrs. Byrne's place and watch it at night, as the cave parties had done previously. From the evidence it is clear that the constables acted very indiscreetly, situated as Aaron Sherritt's hut was, in close proximity to the main road and within view of numerous dwellings in the neighborhood. The first impression of your Commissioners when they visited the scene of the murder was its unsuitability for such a purpose. Again, the constables were known to have gone out to cut wood during the daytime and were, there is every reason to believe, seen by the gang and their sympathizers in the vicinity. Whatever suspicions there may have been engendered in the minds of the outlaws as regards Aaron Sherritt's treachery towards them previously, the fact of his harboring the police in his hut was sufficient to seal his doom. On the evening of the 26th of June 1880, while the police were in the hut, and as they were about to start on their nocturnal watch, a knock was heard at the door, and a neighbor named Anton Wicks, as though he had been bushed, inquired the way to his home. The door was opened by Aaron Sherritt. That moment a shot was fired; a second followed; Aaron stepped back, and fell dead without uttering a word. Three of the constables at the time were in an inner room divided off from the main apartment by a slight partition, which only reached from the floor to the lower edge of the roof, a door composed of flimsy material being in the centre. The front and back doors faced each other. There were two small windows in the hut, one giving light to the bedroom, the other to the kitchen. The hut in reality consisted of only one room with a portion partitioned off for the purposes of a bedroom. Constable Duross was at the fire in the outer room when the knock was heard; he at once sought refuge in the bedroom, where

he and his companions remained throughout the night. The murder was perpetrated by Joe Byrne, assisted by Dan Kelly. The outlaws made several inquiries as to the men concealed in the bedroom, but the evidence upon the subject is contradictory and unsatisfactory. The names of the police present were Constables Armstrong (in charge), Duross, Dowling, and Alexander. Never was there a more conspicuous instance of arrant cowardice than was exhibited by those men on the night of the murder. Instead of attacking the outlaws, or at least making some effort out of sheer regard for their manhood, if not for their official responsibility, they sought the protection for themselves which they should have afforded to others. Two of them, Armstrong and Dowling, lay prostrate on the floor, with their bodies partly concealed beneath a bed, under which they had thrust the wife of the murdered man, with their feet resting against her, so that she could not possibly escape, in the hope that her presence would deter the outlaws from shooting them or attempting, as they had threatened, to set fire to the place. The conduct of those constables throughout the night was characterized by shameful poltroonery, which, in the army, would have been punished by summary expulsion from the service with every accompanying mark of contempt and degradation. It was not until the afternoon of the following day that the authorities in Benalla and Melbourne became aware of the outrage. As soon as information of the murder was received, prompt action was taken. The black trackers, who, with Mr. O'Connor, had been withdrawn from the district, preparatory to returning to Brisbane, were recalled, and despatched the same night by special train from Melbourne to Beechworth, the object being to utilize them in following the tracks of the outlaws from Sherritt's hut, at Sebastopol, to the ranges in the vicinity, where the murderers were supposed to be concealed.

## **XV.-GLENROWAN**

The murder of Aaron Sherritt was designed as the prelude to the terrible tragedy by means of which the outlaws intended, as they had previously boasted, to astonish not only the Australian colonies but the whole world. It seems manifest that they had carefully thought out and matured their plan of operations. They proposed in the first place to shoot Aaron Sherritt. By this they rightly conjectured that they would, not only have wreaked their vengeance upon one who had betrayed them to the police, but would induce the authorities to despatch on the following day - Sunday - when there was no ordinary traffic on the line, a special train to Beechworth with the Queensland trackers and a large body of police. Next, it was determined to wreck this special train, and shoot any constable who might escape the effects of the disaster. Finally, the coast having been thus cleared, the gang were to proceed at once to Benalla or one of the townships in the district, rob one of the banks, and with the spoil retrace their steps to their previous haunts in the ranges. By one of those unforeseen accidents which often defeat the best laid schemes, execution of the latter portion of their program was frustrated, and their career suddenly brought to a close. The murder was perpetrated by only two of the gang, Joe Byrne and Dan Kelly. Their task accomplished, they rode with all speed across country to Glenrowan, where Ned Kelly and Steve Hart were occupied in preparing for the destruction of the train. The outlaws established themselves in Mrs. Jones's hotel, which stood in an oblique direction, about 400 yards south-west of the local railway station, and between the line and the Warby Ranges. Thither Ned Kelly and Hart conveyed the persons whom they had bailed up during the day, the intention being to keep them in duress until the special had passed. At an early hour on Sunday morning the rails were torn up by two men named Reardon and Sullivan, with a threat of being shot by Ned Kelly in case they refused to act as directed. The spot selected for the catastrophe is about 1000 yards north of the

Glenrowan station, at a point where the line, after passing through a deep cutting, suddenly makes a sharp curve. Here there is on one side, to the west, a high embankment, which shuts out the view ahead as the point is approached; and on the other a steep declivity, down which it was intended to precipitate the train. The members of the gang were somewhat abstemious during the day. Steve Hart was drunk in the morning, but he soon recovered, and he alone appears to have taken any liquor to excess. They established very friendly relations with their prisoners, of whom, towards evening, there were no less than 62. They joined in outdoor sports, got up a dance during the night, played cards, indulged in some vocal music, and otherwise amused themselves while awaiting the arrival of the train which was expected to pass Glenrowan about midnight. Mr. Curnow, the local State School teacher, who, with his wife and sister-in-law, had been bailed up early in the afternoon, contrived by a show of sympathy to ingratiate himself into the good graces of the gang; and, under Providence, to his tact, coolness, and bravery, must be attributed the rescue of the special train and its occupants from destruction. Constable Bracken, who was stationed in the locality, was taken prisoner and conveyed to the hotel late in the evening. He appears to have acted with prudence throughout the trying circumstances in which he was placed. Mr. Curnow was released about midnight, and immediately took steps to warn the approaching special train. He improvised a danger signal by placing a lighted match behind a scarlet mantle, and with this he set out along the line to meet the train. The special, containing Mr. O'Connor, his wife, and sister-in-law, five trackers, and several representatives of the press, arrived at Benalla at about half-past one o'clock. Here Superintendent Hare and a party of troopers joined them, and having procured a pilot engine to go in advance, a start was made for Beechworth at 2.10 am. On arriving within a mile and a half of Glenrowan, the pilot engine was observed to stop, and upon inquiry as to the cause, the information given by Mr. Curnow of the presence of the Kellys at Glenrowan, and of the rails having been torn up, was communicated to Superintendent Hare. After a consultation, it was decided to travel slowly and cautiously, and bring the train up to the Glenrowan station. Under ordinary circumstances, the special would have passed Glenrowan without stopping. When therefore the outlaws heard the whistle, and observed the train draw up at the station, they were at once convinced that Mr. Curnow had conveyed the warning to the police. The prisoners in the hotel having been locked up, the outlaws at once prepared for the fight. They went into a room together and assisted each other to don the iron armour that they had brought with them, and thus equipped they awaited the attacks. Superintendent Hare ordered the horses to be taken out as soon as the train drew up at the station. He did not know the precise bearings of the locality, and supposed that the spot where the rails were torn up was about a mile from the station, and that it would be necessary to proceed there on horseback. A volunteer, Mr. Rawlings, undertook to act as guide. Mr. Hare and Mr. Rawlings, followed at a distance by three or four constables, went down the line to the station master's house to make inquiries. At this time everything was still; there was not a sound or a sign to indicate that the gang was so near. Mrs. Stanistreet, the wife of the station master, was found crying in great distress at the loss of her husband, who, she stated, had been taken away by the Kellys, at the same time pointing in the direction of the ranges behind Mrs. Jones's hotel. Thereupon Mr. Hare returned to the platform, and while engaged giving further instructions about the horses, Constable Bracken, in a state of excitement, appeared upon the scene and informed Mr. Hare that the outlaws were in Mrs. Jones's hotel, and had a large number of prisoners there bailed up. Thereupon Superintendent Hare told the men to let go the horses and to follow him. Without pausing, he rushed away, in the direction indicated, across the open space formed by the railway reserve, at the corner of which, directly opposite the hotel, is a large swing-gate with a wicket. He was closely followed by Constables Gascoigne, Phillips, and Canny, Inspector O'Connor and some of his black trackers bringing up the rear. On emerging from

the wicket, Superintendent Hare and the constables mentioned found themselves on the roadway opposite the south-east corner of the hotel, which, although it was moonlight, stood in the shade, so that it was with difficulty objects could be discerned. When about fifteen paces from the hotel Superintendent Hare saw the figure of a man on the verandah. Then three men came round from the off side of the house and drew up. These were the outlaws, who, trusting to their armour, appeared to regard themselves as invulnerable. A shot was fired from the verandah, followed by a volley. The police at once returned the fire, and several volleys were exchanged, but in the very first Superintendent Hare received a bullet wound in the left wrist, which rendered his arm useless. The ball passed through the limb, shattering the bone and severing the artery. Mr. Hare with his one arm reloaded and fired. Several volleys having been exchanged, the outlaws retired within the house, when the shouts and screams of men, women, and children, imprisoned in the place, called forth the order from Superintendent Hare, and it is said from Mr. O'Connor also, to cease firing. Mr. Hare's wound appears to have become very painful, so, turning to Senior-Constable Kelly, who had reached the spot by making a detour round by the railway crossing, near the station master's house, he directed him to surround the house with the men and not allow the outlaws to escape. He then retired, going in the direction of the station. On his way thither he observed Mr. O'Connor, as he alleges, "running up a drain." He informed him of his accident, at the same time repeating the orders he had already given to Senior-Constable Kelly. Inspector O'Connor warmly resents the statement contained in Mr. Hare's official report that he saw him "running up a drain." Probably, it is the contemptuous form of expression employed to which Mr. O'Connor objects. As a matter of fact, there seems no reason to doubt the accuracy of Mr. Hare's description. Mr. O'Connor, it is clear, did not accompany Mr. Hare and the others who passed through the wicket or cross the fence surrounding the railway reserve. In the vicinity of the gate the ground is intersected by a number of watercourses, varying in depth from half a foot to seven feet. Those are in places spanned by small foot bridges, and all, more or less, in their sinuous windings communicate with each other. At the moment that the first volley was fired, Inspector O'Connor appears to have reached the culvert within the enclosure, in a direct line with the front of the hotel, or perhaps a little more towards the Wangaratta side of it, and about twenty-five yards distant from the house. Finding the danger of remaining in an exposed position, he at once sought shelter in a depression in the ground, in front of the bridge. To save himself from the bullets, which were flying about in every direction, it was requisite that he should assume a crouching attitude, and if, as Mr. O'Connor asserts, he remained in this position for nearly half an hour after the firing commenced, it was here he must have been observed by Superintendent Hare on his way returning to the platform. Whatever may have been the length of time Mr. O'Connor remained in this spot, it is certain that the position, having been found insecure, owing to the woodwork in front of the culvert having been struck by several bullets, Mr. O'Connor rose, crossed the little bridge, descended into the watercourse, which increases in depth at the other side, proceeded along this until some 15 or 20 yards back he reached a half-moon shaped excavation in the bank, which served him for all the purposes of a rifle pit. Here he took up his position, along with two of his trackers, the distance from the hotel being between 40 and 50 yards. The accounts given are so conflicting, and based, seemingly, upon after occurrences, that it is difficult to pronounce decisively as to the precise point of time at which Superintendent Hare saw Mr. O'Connor on his way back to the station; but as nearly all the witnesses agree that Mr. Hare was not more than from five to ten minutes in the front, it seems probable that he must have sighted Mr. O'Connor in his first position as he describes and before the Queensland Inspector had sought the more secure shelter of the spot where he remained until Mr. Sadleir's arrival. Mr. Hare, on reaching the platform, had his arm bandaged by Mr. Carrington, one of the representatives of the press, and he then left

the station with the intention of resuming his position at the front. Great loss of blood, and consequent physical exhaustion, prevented him from doing so. He states that he felt great pain, and as the blood continued dripping from his wrist he became faint. He was clearly apprehensive of bleeding to death, and in this extremity he is said to have called to Mr. Rawlings - "For God's sake, Rawlings, go and get me a horse, or anything that will carry me to Benalla, where I can have my wound dressed properly." He was observed sitting near a log not far from the fence by Constable Kirkham, but finding it necessary to return to the station, Superintendent Hare re-appeared there after an absence the second time from five to eight minutes, according to the evidence of the reporters. He fainted and fell down on reaching the platform. He was then lifted, placed in a railway carriage along with the ladies, who administered some sherry, under the influence of which he shortly revived. He then arranged to be sent to Benalla by one of the engines, and this was done. Here ends the first phase of the Glenrowan affray. Superintendent Hare, when he took his departure from the scene, appears to have been under the impression that he left Mr. O'Connor in charge of the attack. No doubt such was his intention, but Inspector O'Connor seems throughout the morning to have been animated by but one idea, namely, that by remaining in the deep cutting where he had sought shelter he was guarding the front of the premises, thereby cutting off all chance of escape for the outlaws from that quarter. A little reflection, however, would have led this officer to see that, if the outlaws did attempt an escape, they were not likely to select the front, where they would have had to run the gauntlet between the various parties of police stationed there. If an escape were attempted at all, it was more likely to have been by the rear of the hotel, where the ground was covered with timber and scrub, while the Warby ranges were only a short distance off. Therefore, instead of standing in the cutting, blazing away every time a flash was seen from the hotel, Mr. O'Connor might just as well have been on the platform along with the ladies, the reporters, and other non-combatants. Indeed the appearance of the ladies at such a juncture was somewhat incongruous. It was a mistake to have allowed them to accompany the party from Melbourne, and, as a fact, their presence seems to have had the reverse of an inspiring influence upon the officer in charge of the Queensland contingent. He held his position until the arrival of Superintendent Sadleir and the reinforcements from Benalla. About the same time Sergeant Steele arrived from Wangaratta with his contingent, having ridden down with the greater part of them, a few proceeding by train. Mr. Sadleir, on reaching the ground, sought Mr. O'Connor, and consulted with him. After the first volley some of the female prisoners in the hotel escaped; but at the time Sergeant Steele took up his position, close to the rear of the hotel, Mrs. Reardon and some members of her family endeavored to make their escape. Mrs. Reardon, who had a child in her arms covered with a shawl, states distinctly that Sergeant Steele deliberately fired at her, and produced, before the Commission, a shawl perforated apparently by a bullet. Steele denies the allegation; but admits having shot young Reardon who, it is asserted, neglected, when ordered, to put up his hands. The ball or pellet fired entered his breast, and lodged beneath the ribs, but did not cause death. Indeed, the firing at this time, by all accounts, seems to have been indiscriminate, the blacks particularly being industrious in potting away at the premises. The prisoners, in a state of terror, arranged to hold out a white handkerchief, at which several shots were immediately fired, a proceeding highly reprehensible, as the most untutored savage is supposed to respect the signal of surrender. The order was given to fire high, but not before one of Mrs. Jones' children and a man named Martin Cherry were wounded, the latter fatally. About seven o'clock, Ned Kelly, the leader of the gang, was captured. He had been wounded in the foot during the first brush with the police. He left the hotel by the back shortly after, and selected his own horse, which he led away into the bush at the rear. On the way he seems to have dropped his rifle and the skull cap that he wore inside his iron headpiece, not far from the house. He then seems to

have endeavoured to disencumber himself of his armour, but, being unable to do so without assistance, he evidently made up his mind to break through the cordon of police, rejoin and die with his companions in the hotel. His capture was effected without much difficulty or danger, as he was wounded in several parts of the body, and was incapacitated from using his revolver with effect. As the tall figure of the outlaw, encased in iron, appeared in the indistinct light of the dawn, the police for a time were somewhat disconcerted. To some it seemed like an apparition; others thought it was a black man who had donned a nail-can for a joke, but as the shots fired from Martini-Henry rifles, at short range, were found to have no effect, the sensation created seemed to have been akin to superstitious awe. One man described it as the "devil," another as the "bunyip." Ned Kelly advanced until within a stone's throw of the hotel, when, in the vernacular of the bush, he defied the police, and called on the other members of the gang to come out of the hotel and assist him. The lower portion of his body being unprotected by armour, the shots soon began to tell. The one that brought him to the ground was fired by Sergeant Steele, who then rushed forward, grappled the outlaw, when both fell to the ground. What followed precisely is confused and indistinct. However, it seems clear that Senior-Constable Kelly, Guard Dowsett, Constable Dwyer, and others, were early in at the capture of Ned Kelly, who, having been overpowered and divested of his armour, was conveyed to the railway station a prisoner, where he remained until the close of the fight. The male prisoners were allowed to escape at ten o'clock. They conveyed the intelligence that Joe Byrne had been shot dead early in the morning, while toasting prosperity to the gang at the bar of the hotel. The other outlaws, Dan Kelly and Steve Hart, had last been seen standing in the passage, both in armour, no doubt in their last extremity, considering as to what should be done. It has been asserted by various witnesses that spasmodic attempts at firing from the hotel were kept up till one o'clock that day; but viewed by the light of surrounding circumstances and subsequent information, it seems probable that there was little, if any, firing on the part of the survivors of the gang after the prisoners left at ten o'clock. In the forenoon, when the police were firing high and firing low, according as they were directed, Superintendent Sadleir appears to have evolved from his own inner consciousness - an idea which he was desirous at first of crediting the reporters and subsequently Dr. Nicolson with, namely, to blow down the hotel. He telegraphed in the forenoon to the Chief Secretary in Melbourne, asking him to send up to assist in the siege a big gun with the necessary ammunition and men to demolish the hut. A cannon and the requisite appliances were despatched by train, but owing to a stoppage on the line were detained, as Captain Standish was, until too late to be of any service. Superintendent Sadleir was seen several times during the day - once talking with Mr. O'Connor, the latter leaning against a tree reading a newspaper; again going round to some of the men, again talking to Ned Kelly, and on several occasions smoking his pipe at the railway station. He was pressed by several constables to allow them to rush the hotel, but he refused on the ground that not a single man should lose his life if he could help it in capturing the rest of the gang. The Superintendent was very probably influenced by humane motives in arriving at this decision, but a dispassionate observer could not fail to couple this inactivity with a want of capacity, if not courage, to deal with the difficulty. Of course, if an attack were made, as suggested, the officer in charge was in honor bound to take the lead, so that if there were danger in having recourse to such an expedient, the spectators could not be blamed if they thought more of Mr. Sadleir's discretion than any other quality that he displayed on that very trying occasion. The spectators were clearly not impressed with a very elevated opinion of the police proceedings on that day. The Very Revd. Dean Gibney's evidence upon the point is conclusive. Towards four o'clock, that is, after a state of siege had been maintained by three outlaws against nearly fifty police for about fourteen hours, Superintendent Sadleir consented to allow the hotel to be fired. This was accomplished by Senior-Constable

Johnson. The Rev. Father Gibney was the first to enter the burning building. He found the bodies of the three outlaws with life extinct, and judging from appearances, Steve Hart and Dan Kelly, having taken off their armour, committed suicide, knowing death to be inevitable. The body of Joe Byrne was taken out before it was reached by the flames. The unfortunate man Cherry, one of the men bailed up by the outlaws, and who was wounded early in the fight, was taken out also, and died in a few minutes. The place was then abandoned to the flames, and these having done their work the charred remains of Dan Kelly and Steve Hart, with the body of Joe Byrne, were subsequently recovered and handed over to relatives for internment, while Ned Kelly was conveyed to Melbourne, and, some months subsequently, tried, convicted of the Wombat murders, and executed.

FRANCIS LONGMORE, Chairman;  
WILLIAM ANDERSON,  
JAMES GIBB,  
GEORGE WILSON HALL,  
GEORGE RANDALL FINCHAM,  
GEORGE COLLINS LEVEY.

JAMES WILLIAMS,  
Secretary.

## **PROTEST A**

In signing the Second Progress Report of the Police Commission, I beg to enter my protest against the decision of a majority of the Commission in their finding in Clauses three and five.

1. Because, in my opinion, it is in direct contradiction of the evidence taken before the Commission in that portion of clause four in which it states, "But nothing special has been shown in his action that would warrant the Commission in recommending his retention in the force."

2. It is proved in evidence that Mr. Hare, after the murders at the Wombat, was zealously engaged at the depot in Melbourne in selecting the best men and horses and sending them to the North-Eastern district.

3. When informed by Captain Standish that the outlaws intended sticking up one of the banks, he at once took steps to protect those in his district, viz., Seymour, Avenel, Nagambie. *See* Questions Nos. 1244, 1245, and 1246.

4. After the Euroa bank robbery M. Hare was sent to the North-Eastern district with Captain Standish, Mr. Nicolson, who had been up to that time in charge, returned to Melbourne. He remained there for about seven months, but no reliable information was obtained as to the whereabouts of the outlaws. During the greater part of that time he pursued the same system as that followed on previous occasions in this colony when the police were in search of bushrangers, by keeping search and watch parties continually scouring the country. With these parties he took his full share of the hardships endured, and by so doing ensured the confidence and support of the men under his charge. During this time he was twenty-five days and nights with his cave party watching Mrs. Byrne's house; the result of all this arduous work told on his constitution, and he broke down under it, and asked to be

relieved from duty in that district. This was conceded, and he returned to Melbourne, being relieved by Mr. Nicolson.

5. In April 1880, he was informed by Captain Standish that he would have to again resume charge of the North-Eastern district. Against this he strongly protested, but was told by the Chief Commissioner of Police that he must go; he then requested an interview with Mr. Ramsay, the then Chief Secretary; at this interview he again protested, and asked that one of his senior officers should be appointed to undertake this special duty. His appeal was of no avail. Mr. Ramsay told him that the subject had been under the consideration of the Cabinet, that the Ministry had full confidence in his ability, and they thought him the best officer in the force to undertake the duty, and that he must go, and if he should succeed in the capture of the outlaws he would be duly rewarded. *See Question 1434.*

6. Mr. Hare went to Benalla on the 2nd June 1880, and from all the information then obtained, the police were as far off the capture of the outlaws as they were when Mr. Hare left the district eleven months before. After two or three days looking round and interviewing the officers and police stationed in the district, he took steps to stop supplies by friends and relations of the outlaws. *See Question 1477.*

7. He then visited the watch party that had been stationed by Mr. Nicolson at Aaron Sherritt's house, and found it far from satisfactory.

8. On the 27th June 1880 he received information of the murder of Aaron Sherritt. *See Question 1500.*

9. He at once sent a telegram to Captain Standish, asking that Mr. O'Connor and his black trackers might be sent back at once. *See Question 1501.*

10. Captain Standish replied that Mr. O'Connor would be sent by first train on the following day, Monday.

11. Mr. Hare was not content with this reply, being thoroughly determined that no chance should be thrown away in his endeavour to secure the capture of the outlaws. And as this was the first reliable information he had obtained of their whereabouts during the whole time he had been in charge of the district, he felt that no time should be lost. He therefore sent another telegram to Captain Standish, "That if Mr. O'Connor and his trackers did not come that night it would be no use their coming on the Monday." To this he received reply that Mr. O'Connor and his men would be sent that night by special train. Mr. Hare then made all necessary arrangements for the police and horses to be ready to go on by the special coming from Melbourne, also providing for a pilot engine. And on the way up from Benalla he took every precaution against surprise from the outlaws, such as sending the pilot engine in front, stationing his men on the engine, and in every way acted as an active, intelligent, and determined officer. When the train was stopped by Mr. Curnow, he appears, if possible, to have taken extra care until their arrival at Glenrowan Station, when, from the statement made by Mr. Curnow to the man on the engine, he expected that the outlaws would be at some distance. He ordered the horses to be taken out of the train, and whilst this was being done a light was seen in the station master's house, to where he proceeded; and from what he heard there he thought the outlaws had taken to the Warby Ranges. On his return to the railway station, Constable Bracken made his appearance, having just escaped from Jones' Hotel, where he had been kept a prisoner by the gang. This was the first information Mr. Hare received that the outlaws were so near. I think his conduct at this time is worthy of all praise, for he at once started direct for the hotel, ordering his men to let the horses go and follow him. When within sixteen yards of the building, they were fired on by the outlaws; the firing was returned by the police, and kept up by them until the gang retired into the hotel. In the first fire he received the wound in his left wrist, but still he stood his ground, and fired several shots. From the evidence there can be no doubt in this first engagement both Ned Kelly and Joe Byrne were wounded.

12. The warder at the gaol says that Ned Kelly told him that Joe Byrne received a wound in the first engagement with the police, and this is corroborated in the declaration made by Constable Phillips, where he states, "I heard a conversation between Ned Kelly and Joe Byrne, shortly after taking up my position around the hotel, in which both admitted being wounded." It is known that Ned Kelly had a bullet in his foot, another through his arm, and his thumb badly cut with shot when he was captured.

13. After the outlaw had retired into the hotel Mr. Hare found, from his disabled arm, that he would be compelled to return; he called on his men to cease firing, and ordered Senior-Constable Kelly and Mr. O'Connor to surround the building and not allow the outlaws to escape; he then returned to the railway platform, when his wound was bound up by the reporters. After this was done he again returned to the field and remained some time, but feeling that he was becoming faint from loss of blood, he was compelled to leave the scene of action, and on arrival at the station it was found necessary, to save him from bleeding to death, to at once send him back to Benalla to obtain surgical attendance. His conduct, on arrival at Benalla, shows clearly that his duty to the public service received his first attention. He first got the railway guard to go and inform Mr. Sadleir what had happened.

14. Then on his way to the telegraph station called on Dr. Nicholson and asked him to follow and dress his wound. He did not stop to have it done, but proceeded to the telegraph office, and telegraphed to Beechworth, Violet Town, Wangaratta, and Melbourne, informing the police what had taken place at Glenrowan and asked for reinforcements.

15. When Dr. Nicholson arrived at the telegraph station he found him in a low and fainting condition. After his wound was bound up and dressed he was conveyed to his hotel, suffering great pain.

16. He was laid up for months, his left hand maimed for life, and after he had sufficiently recovered he returned to his duty in Melbourne. He did not ask, at that time, for any special recognition for the arduous work he was called upon to perform, and the plucky and determined way in which he had acquitted himself at Glenrowan. He did not ask for any enquiry. He felt that by a fortunate circumstance the gang had come within his grasp. He took advantage of that, which resulted in the capture and destruction of the band of outlaws, who, for nearly two years, set the authorities at defiance; and, for this, it is recommended by the Commission that he should retire from the force.

17. I regret that my brother Commissioners should have made this recommendation, and thereby compelling me to enter this protest against their decision; but feel that I would be doing violence to my conviction were I not to do all that lays in my power to protect a public officer and a gentleman from an act of great injustice, and the loss of a valuable servant to the public.

18. Believing also that if this portion of the Report of the Commission be acted on it will be attended by disastrous effects on the police force of this colony, for, in future, what officer or men in the force will run the risk of distinguishing themselves in the discharge of their duty if, by so doing, they are subject to be dismissed, or may have brought on themselves the bitter jealousy of some of their fellow officers?

19. I have no desire, in making this protest, to compare the conduct of Mr. Hare with that of any of the other officers in charge of the North-Eastern district during the Kelly outlawry; they have been dealt with in the Report of the Commission, in my opinion, without any more censure than they deserve; and I am, therefore, more at a loss to understand why Mr. Hare should have met with such treatment at their hands.

**E. J. DIXON.**

**12th October 1881.**

## **PROTEST B**

We must decline signing clauses 3 and 5. We should have preferred that the motion recommending Mr. Nicolson's superannuation had not been accompanied by the statement that "the want of unanimity existing between these officers, ie. Mr. Nicolson and Mr. Hare, was frequently the means of preventing concerted action on important occasions, and the interests of the colony greatly suffered thereby," inasmuch as we do not consider that the latter statement is borne out by the evidence, and a resolution to that effect was moved in the course of the deliberations on the report. Nor do we see anything in the evidence to warrant the recommendation that Mr. Hare should be superannuated.

**JAMES GIBB.**  
**GEORGE COLLINS LEVEY.**

## **REPLY TO MR. DIXON'S PROTEST**

1. We, the undersigned Commissioners, in submitting a reply to the statement put forward in the form of a protest by Mr. Dixon, cannot refrain from expressing our surprise and regret that the document in question should be found a mere paraphrase of portions of Superintendent Hare's official report, which has been the source of so much mischief, and which we have no hesitation in declaring to be, in its essential features, a mere tissue of egotism and misrepresentation.

2. Your Commissioners have no desire to question Mr. Hare's personal courage or determination; the decision arrived at respecting this officer, we contend, has been based upon much more important considerations, namely, those of public expediency and the interest of the service.

3. Before proceeding to traverse the allegations contained in the official report and reproduced in the protest, we feel it incumbent upon us to make some reference to Superintendent Hare's conduct in connection with the present demoralized state of the police force of the colony.

4. There seems every reason to believe that Superintendent Hare was throughout in direct collusion with Captain Standish in the petty and dishonorable persecution to which Mr. Nicolson was subjected for many years while endeavoring honestly to discharge his duties to the best of his ability. Superintendent Hare admits that the late Chief Commissioner consulted him upon everything; one of the witnesses declared that Superintendent Hare was regarded as the actual head of the force; under such circumstances, how can Superintendent Hare be exonerated from all responsibility for the strained relations that existed amongst the officers?

5. Captain Standish characterized Mr. Nicolson's reports as twaddle; Superintendent Hare described them as infernal bosh. This agreement of opinion is significant when upon examination those reports are found to deserve a very different appellation. Had Captain Standish acted properly upon one of those written in 1877, concerning the state of the North-Eastern district, the Kelly outbreak would probably have been prevented.

6. Superintendent Hare exhibited a spirit of insubordination to a superior officer in questioning Mr. Nicolson's dictum regarding Constable Redding, and in the Assistant Commissioner's presence coinciding with Captain Standish when the latter was informed that Constable Gorman was not a suitable man for a particular station. Further, as showing Superintendent Hare's regard for the rules of the service, and the respect due to a superior officer, it may be added that when in the course of the enquiry Mr. Nicolson forwarded, as a matter of courtesy, a communication to Mr. Hare, the reply received, after acknowledging the receipt of the document, was as follows:- "I would suggest to Mr. Nicolson the advisability of his devoting his attentions to answering the serious charges preferred by the witnesses examined before the Commission against himself instead of attempting to find fault with my conduct. - Francis Hare, Supt., 26/9/81."

7. In the personal feuds and jealousies which have marked the relations of the police officers, Superintendent Hare appears to have adroitly sheltered himself behind the late Chief Commissioner. Further, it is notorious that many of the men have taken sides with the officers, and that a spirit of rivalry and dissension exists in the lower ranks of the force.

8. Superintendent Hare's position as officer of the depot gave him many advantages over his brother officers, which he was not slow to utilize.

9. Your Commissioners cannot too strongly deprecate the action by Superintendent Hare to override the decision of the political head of the department, in order to retain his position as officer of the depot and avoid being sent to Beechworth. With very questionable taste, and contrary to the regulations of the service, he applied personally to Sir George Bowen, the Governor of the colony, whom he met at a coursing meeting, to intercede for him and have the order for his removal cancelled. While Mr. Hare acknowledges to have thus enlisted the highest political influence on his own behalf, his charge against Mr. Nicolson of having employed similar means to obtain promotion utterly broke down, as the Assistant Commissioner appears to have depended solely for advancement upon his rights of seniority.

10. Superintendent Hare's conduct during the Kelly Pursuit was marked by anything but a generous or kindly feeling towards Mr. Nicolson. In paragraph 2 of the protest, Mr. Dixon states that after the Wombat murders Mr. Hare was zealously engaged at the depot in selecting the best men and horses to send to the North-Eastern district. As a matter of fact the reinforcements came to hand slowly, and the district, at the time of the Euroa Bank robbery, was unprepared to resist, at all points, the threatened raid, owing to the inadequacy of the police force placed at Mr Nicolson's disposal.

11. As regards warning the banks of Seymour, Avenel, and Nagambie, Superintendent Hare simply obeyed the instructions given him two days before Mr. Nicolson was apprised of the existence of the prisoner Williamson's communication, in which the information was conveyed regarding the intention of the outlaws to attack the bank at Seymour. Had there been proper concert between the officers at this period, the Euroa bank robbery might have been averted. Captain Standish, while he consulted Mr. Hare, neglected to inform Mr. Nicolson what arrangements had been made to protect Seymour, and made no effort to assist him in repelling any attack that might be made upon the banks in the North-Eastern district.

12. Mr. Dixon, in paragraph 4, states that during the seven months Captain Standish and Superintendent Hare remained in charge of the pursuit no reliable information was obtained respecting the whereabouts of the outlaws. To our minds this fact proves that the officers mentioned were incapable of grappling with the difficulties of the situation, more particularly as they had with them double the number of men, and incurred double the extra expenditure, in prosecuting the pursuit, allowed Mr. Nicolson.

13. As regards Mr. Hare's health having broken down after his seven months' duty, it has been proved in evidence that he was not so incapacitated as to be prevented from attending a series of coursing matches held in the district prior to his return to the depot.

14. When Mr. Nicolson resumed charge in June 1879, sweeping reductions were insisted upon, despite his repeated protestations; and when he applied for additional men for ordinary duty to replace those who had been invalided, Superintendent Hare sent him up from the depot a number of men, described as cripples, who were utterly useless.

15. While Mr. Nicolson was in charge, Superintendent Hare, in a manner highly unbecoming an officer, extracted privately from one of the constables some information respecting the cave party, and immediately informed the Chief Commissioner, as a piece of current gossip, that all about the cave was known at the depot. Further, while Mr. Nicolson was endeavoring to improve the efficiency of his men by rifle practice, Mr. Hare interfered, and told Captain Standish that the men were simply wasting ammunition. Those points may appear insignificant, but to our minds they indicate a system of tale-bearing undignified and ungracious and calculated to materially obstruct operations against the outlaws.

16. Mr. Dixon's statement in Clause 6, that when Mr. Hare went to Benalla on 2nd June 1880 the police were as far off the capture of the Kelly gang as when he left the district eleven months previously, is a reiteration of Superintendent Hare's assertion, contained in his official report, and is not borne out by the evidence. The allegation also based upon question 1477 is to some extent misleading. There is nothing in the paragraph mentioned to show that the steps taken by Mr. Hare were calculated to prevent supplies being conveyed to the outlaws.

17. Clause 7 of the protest is calculated to convey a false impression. The hut party alluded to had not been stationed at Aaron Sherritt's place by the Assistant Commissioner. During the last week of Mr. Nicolson's command in the North-Eastern district, and while scouring the ranges in the vicinity of Mrs. Byrne's hut, he had placed some men temporarily in Sherritt's house, but withdrew them prior to Mr. Hare's arrival. The organization of the hut party properly speaking is due to Mr. Hare, and it proved a most disastrous failure.

18. We have not been slow to acknowledge Superintendent Hare's energy and promptitude upon receiving intelligence of Aaron Sherritt's murder, but the injudicious zeal of his friends provokes the criticism which he might otherwise be spared. Mr. Dixon gives him credit for extraordinary foresight in providing a pilot engine for the special which left Benalla for Beechworth on the night of the 27th of June, but a reference to Mr. Carrington's evidence shows

that, prior to the starting of the train, it was generally known, or at least currently reported at Benalla, that the rails had been taken up. Under such circumstances what was more natural than that a pilot engine should be procured?

19. Mr. Hare, as officer in command, should not have tolerated the presence of ladies in the special train when leaving Benalla, especially as he was aware of the report that the rails had been removed.

20. We consider that this officer cannot be complimented upon his discretion of generalship in the conduct of operations at Glenrowan for the short time that he remained upon the scene. He knew little, apparently, of the precise situation of Glenrowan, notwithstanding that he had been for eight months in command of the district. He was informed during the journey that the Kellys had torn up the line, taken possession of the place, and imprisoned all the people there; yet, on arrival, he seems to have had no correct idea of the peculiarity of the situation. The moment he was informed by Bracken of the presence of the outlaws at the hotel he dashed away, without waiting for some of his men to

collect their arms. When he reached the hut he found his onslaught resisted by the gang. He was disabled in the wrist by the first volley, and after an absence of from five to ten minutes from the platform, he returned to have his wound dressed. He left the front without transferring the command to any one. The order to surround the house given to Senior-Constable Kelly and to Inspector O'Connor cannot be regarded as transferring the command. This neglect he might have rectified when he essayed to reach the front on the second occasion, but he failed to do so. Did he propose to rush the place, and at once overpower the outlaws? If that were his intention, he should not have been deterred by a mere wound in his wrist from doing so. If he had resolved merely to surround the gang and prevent their escape, then he ran unnecessary risk in exposing himself and his men to the fire of the outlaws. If, however, he simply trusted to the chapter of accidents, without any definite idea of what was best to be done, then his management of affairs displayed a decided lack of judgment and forethought. Comparisons may be odious, but it cannot fail to strike one as singular that, while Superintendent Hare felt himself obliged to leave his post and return to Benalla, under the impression that the wound in his wrist would prove fatal, the leader of the outlaws, with a rifle bullet lodged in his foot, and otherwise wounded in the extremities, was enabled to hold his ground, encumbered too by iron armour, until seven o'clock, when, in the effort to rejoin his companions, he fell overpowered by numbers.

21. Superintendent Hare's bill against the Government for surgical attendance amounted to 607 pounds, about 480 pound of which was paid to his relative, Dr. Chas. Ryan. While this officer was being petted and coddled on all sides, and a special surgeon despatched almost daily some thirty miles by train to attend him, the Government questioned the payment of four guineas for the treatment of one of the black trackers who had received a wound in the head at Glenrowan.

22. It is, however, chiefly in relation to Superintendent Hare's official report of the 2nd of June 1880 that we, the undersigned Commissioners, have been led to regard this officer's conduct with suspicion. The document was manifestly written with the design of crushing Mr. Nicolson once and for all; to deprive him of all credit for anything that he had done or suffered in the pursuit, and to brand him as disloyal to the service and his brother officers. The evidence, however, discloses that many of the charges contained in the report were unfounded, the insinuations unjustifiable, and the statements mere assumptions.

23. It must be borne in mind too that Mr. Hare's personal quarrel with Inspector O'Connor led up to the latter officer's unfortunate complications with Captain Standish; the favoritism exhibited towards him by the Chief Commissioner was the cause of jealousy and dissension amongst the officers. And it is only fair to conclude that Superintendent Hare has been for many years a disturbing element in the force, and that his withdrawl from the service has become a matter of public necessity.

24. We have no desire to act unkindly towards Superintendent Hare. We regret deeply that, in justice to ourselves and in explanation of our action, we should be compelled thus to refer to matters that otherwise had better be buried in oblivion. The services rendered, and the injury sustained by Superintendent Hare have not been lost sight of, and, while declaring his immediate retirement from the force as indispensibly necessary, the Commissioners have treated him, we consider, in connection with the recommendation submitted to Your Excellency, with the greatest possible liberality.

**FRANCIS LONGMORE,  
GEORGE WILSON HALL,  
GEORGE RANDALL FINCHAM,  
WILLIAM ANDERSON.**

