

(No. 73.)



1881.

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T A S M A N I A.

LEGISLATIVE COUNCIL.

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H U O N E L E C T I O N :

REPORT OF THE COMMITTEE OF ELECTIONS AND  
QUALIFICATIONS.

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Brought up by Mr. Aikenhead, and ordered by the Council to be printed,  
August 3, 1881.



## R E P O R T.

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THE Committee of Elections and Qualifications duly appointed under the provisions of "The Electoral Act," (21 Vict. No. 32), to whom, on 26th July, 1881, was referred the Petition of William Fisher and others against the election of Joseph Solomon for the Electoral District of Huon on the 5th day of November, 1880, and also against the election and return of John Watchorn on the 20th day of June, 1881, have decided and do hereby declare—

1. That the said Joseph Solomon having, on the 8th day of October, 1880, been declared guilty of bribery, by his Agent or Agents, and his election in consequence having been declared void, and being therefore by Section 94 of "The Electoral Act" incapable of being again elected or sitting in Parliament during the Parliament then in existence, was not duly elected on the said 5th day of November, 1880.

2. That the said Joseph Solomon and the said William Fisher being the only Candidates at the election for Huon on the said 5th day of November, 1880, and the said Joseph Solomon being so disqualified, and the said William Fisher being thus the only legal candidate at such election, the said William Fisher was duly elected as the Member for the Electoral District of Huon; and the election of the said John Watchorn on the 20th day of June, 1881, was therefore void.

The Committee awards costs to the amount of Five Pounds Five Shillings, to be recovered as directed by Section 124 of "The Electoral Act."

The Evidence and other documents therein referred to are appended.

JAMES AIKENHEAD, *Chairman.*

August 3, 1881.

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DAYS OF MEETING.—July 22, 27, 28 ; August 2, 3.

WITNESSES EXAMINED.—1. Mr. E. A. Walpole. 2. Mr. John Watchorn.

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MINUTES OF PROCEEDINGS.

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FRIDAY, JULY 22, 1881.

*Present.*—Mr. Aikenhead (Chairman), Mr. Dodery, Mr. Crowther, Mr. Lord, Mr. Cameron.

Order of reference, dated July 19, 1881, (*Votes No. 1, Entry 7,*) read.

Petition read, as follows :—

*To the Honorable the President and the Honorable the Members of the  
Legislative Council of Tasmania, in Parliament assembled.*

The humble Petition of William Fisher, of Hobart, in Tasmania aforesaid, Merchant, and of the undersigned Electors of the Electoral District of Huon,

RESPECTFULLY SHOWETH :

1. An Election was held in the month of June, one thousand eight hundred and eighty, for the Electoral District of Huon, to fill the vacancy in your Honorable Council caused by the retirement of James Thomas Robertson, Esquire, and your Petitioner, the said William Fisher, and Joseph Solomon, of Hobart aforesaid, Esquire, were duly nominated as Candidates for such Election.

2. The poll for the said Election was taken on the twenty-third day of June, one thousand eight hundred and eighty, and the said Joseph Solomon was declared by the Returning Officer of the said District to be duly elected at such Election by the casting vote of the said Returning Officer.

3. In the month of August last the said William Fisher duly presented a Petition to your Honorable Council stating, among other things, that the said Joseph Solomon, as such Candidate as aforesaid, and at such Election as aforesaid, was guilty of bribery at such Election, and praying that the said William Fisher might be declared to be the duly elected Member for the said Electoral District.

4. The said Petition was duly received and was ordered by your Honorable Council to be referred to the Committee of Elections and Qualifications; and the said Committee, having heard the evidence adduced on the part of the said William Fisher and of the said Joseph Solomon, and having duly considered the matter, pronounced their decision, and brought up and presented to your Honorable Council their Report upon the said Petition; and the following is a copy of such Report :—

REPORT.

The Committee of Elections and Qualifications duly appointed under the provisions of "The Electoral Act," to whom on 19th August, 1880, was referred the Petition of William Fisher against the Election and return of Joseph Solomon as a Member for the Electoral District of the Huon, have determined and do hereby accordingly declare—

1. That the ballot papers at the last Huon Election to which exception has been taken were, by a majority of the Committee, held to have been properly received by the Returning Officer.
2. That the said Joseph Solomon was, by his agent or agents, at the last Huon Election guilty of bribery.

That bribery extensively prevailed, and that therefore the last Huon Election is declared absolutely void, and the said Joseph Solomon not duly elected.

That the cost of this enquiry be defrayed by the said Joseph Solomon.

The Committee desire to record their opinion that the District should be disfranchised for a time, on account of the corrupt practices which have been found to prevail there during this and previous Elections.

The Evidence in this case is appended.

J. AIKENHEAD, *Chairman.*

5. On the twentieth day of October last His Excellency Sir John Henry Lefroy, Acting Governor, duly issued a new Writ for the holding of another Election for the said District, and the said William Fisher and the said Joseph Solomon were duly nominated as candidates for such Election; and the poll for such Election was duly taken on the fifth day of November last, and the said Joseph Solomon was declared by the Returning Officer of the said District to be duly elected at such Election.

6. On or about the 9th day of June last the said Joseph Solomon purported to resign the seat alleged to be held by him for the said District; and on the tenth day of June last His Excellency Sir John Henry Lefroy, Acting Governor, issued a Writ for the holding of another Election for the said District, and John Watchorn, of Hobart aforesaid, Wine Merchant, was nominated as a candidate for such Election: no other candidate was nominated, and at the close of the period of nomination the said John Watchorn was declared by the Returning Officer of the said District to be duly elected.

7. Your Petitioners humbly submit to your Honorable Council that, in consequence of the decision of the Committee of Elections and Qualifications stated in paragraph 4 of this Petition, and by virtue of Section 94 of "The Electoral Act," the said Joseph Solomon was, from the date of such decision and thenceforward during the Parliament of Tasmania then in existence, incapable of being elected or sitting in the said Parliament, and that therefore the said William Fisher was duly elected a Member of your Honorable Council for the said District at the said Election held on the said fifth day of November last, and that the said William Fisher is now the duly elected Member of the said District.

Your Petitioners therefore humbly pray that your Honorable Council will cause a full and searching enquiry to be made into the matters of this Petition, and will declare that the said Election of the said Joseph Solomon held on the fifth day of November, one thousand eight hundred and eighty, and that the said Election of the said John Watchorn, were void, and that the said William Fisher was, on the said fifth day of November, one thousand eight hundred and eighty, duly elected and that he now is a Member of your Honorable Council for the Electoral District of Huon, or that such other remedy may be afforded to your Petitioners as to your Honorable Council shall seem meet.

And your Petitioners, as in duty bound, will ever pray, &c.

Dated this        day of July, one thousand eight hundred and eighty-one.

W. Fisher.	John C. Judd.	Thos. Barnett.
Willm. Lawrence.	W. H. Andrewartha.	P. Good.
G. Peacock.	John Hay.	R. D. Cuthbert.
George Arnold.	David Chapman.	John Hay.
John Drysdale.	Geo. Miles.	Joseph Wise.
John Nichols.	P. Facy.	Thomas Walton.
Philip Devereux.	F. Pearce.	James Combes.
B. Stafford Bird.	J. E. Baynton.	George Lucas.
Willm. Hawkins.	S. J. Baynton.	Jos. C. Firth.
O. Geeves.	David Smith.	A. Wright.
J. Geeves.	J. M. Bayley.	Nathaniel Lucas.
A. H. Kennedy.	Charles Coleman.	J. N. Worsley.
James Whyte.	Theop. Cane.	H. J. Thomas Walker.

*Ordered*, That the Petitioner and Mr. Watchorn be informed that the Committee will be prepared to hear them by Counsel on Wednesday next, at 11 o'clock in the forenoon; and that a similar intimation be sent to the Government.

The Committee adjourn till Wednesday next, at 11 o'clock.

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#### WEDNESDAY, JULY 27, 1881.

*Present*.—Mr. Aikenhead (Chairman), Mr. Cameron, Mr. Lord, Mr. Dodery, Mr. Crowther.

The Chairman read a memorandum from Mr. Alfred Dobson requesting that the time for hearing Counsel may be postponed till Thursday, at 11 o'clock.

The Committee adjourn till to-morrow at 11 o'clock.

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#### THURSDAY, JULY 28, 1881.

*Present*.—Mr. Aikenhead (Chairman), Mr. Cameron, Mr. Lord, Mr. Dodery, Mr. Crowther.

Counsel for Petitioner, Mr. A. Dobson; for Mr. Watchorn, Mr. M'Intyre.

Mr. E. A. Walpole, and Mr. John Watchorn, examined.

The Committee adjourn until 11 o'clock on Tuesday next.

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#### TUESDAY, AUGUST 2, 1881.

*Present*.—Mr. Aikenhead (Chairman), Mr. Lord, Mr. Cameron, Mr. Dodery, Mr. Crowther.

Mr. Watchorn's examination concluded.

Strangers having withdrawn;

The Committee deliberate.

The Committee adjourn till 11 o'clock to-morrow.

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#### WEDNESDAY, AUGUST 3, 1881.

*Present*.—Mr. Aikenhead (Chairman), Mr. Lord, Mr. Dodery, Mr. Cameron, Mr. Crowther.

Draft Report brought up by the Chairman, and agreed to with amendments.

The Committee adjourn *sine die*.

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## EVIDENCE.

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THURSDAY, JULY 28, 1881.

MR. WALPOLE *called in, sworn, and examined.*

1. *By Mr. McIntyre.*—Your name is Edward Atkyns Walpole, you reside at the Franklin, and you are the Returning Officer for the Electoral District of the Huon? Yes.

2. Do you remember the election of a Member to represent the Huon District in the Legislative Council which was held on the 5th November last? Yes.

3. William Fisher and Joseph Solomon were the only candidates nominated at that election, were they not? They were the only candidates.

4. Did Captain Fisher enter any protest against the nomination of Mr. Solomon at that election? No.

5. Do you remember the last election at the Huon subsequent to that? I do.

6. Mr. Watchorn was the only candidate nominated for that election, was he not? The only one.

7. Do you produce the nomination paper, signed by how many electors? Yes; signed by about 41 electors. [Appendix A.]

8. Did Captain Fisher enter any protest against Mr. Watchorn's election, or at any time during the election? No.

9. And Mr. Watchorn was duly elected? Yes.

10. *By Mr. Crowther.*—Were you aware of the fact at the time of the second election that Mr. Solomon had been declared guilty of bribery under the first election? I was not aware of it except from newspaper reports.

11. But did it not appear strange to you that a second election should have occurred so soon after the first if you were not aware of the cause? [Question objected to.] I never considered the matter whether it was strange or otherwise.

12. It is your duty to receive nominations, and to see that they are in form? Yes.

13. Are you conversant with the Electoral Act? I am, I think so.

14. Presuming that you were conversant with the Act, and aware of the fact from the *Mercury* or some other source that Mr. Solomon had been unseated for bribery, did you consider the renomination or Mr. Solomon good or valid? I considered it good.

15. Is it your duty as Returning Officer to take exception to either informal or irregular nominations? No, it is not the duty of a Returning Officer to look into the nomination papers.

16. Then if a nomination paper arrived with a single name attached to it, or with two or three names that were not upon the Roll, it would not be your duty to take exception to it? If there were any names that were not on the Roll the Returning Officer would not entertain them.

17. Did it not strike you at any time when the second nomination of Messrs. Fisher and Solomon was before you, that that of the latter was irregular? No, it did not strike me.

18. What I want to know is, whose province is it to take exception to irregularities in the nomination of candidates? Not that of the Returning Officer, unless the irregularities are laid before him by protest or otherwise.

19. Do you find anything in the Electoral Act to support that hypothesis? I do not recollect anything in the Electoral Act to that effect.

20. But you are aware that it is the duty of the Returning Officer to take cognisance of any irregularities in the nomination of candidates or of any papers accompanying such nominations? If they are brought under his notice.

21. *By Mr. Dobson.*—Was not the Report of the Committee talked about all over the Huon District? I cannot answer that question.

22. *By Mr. Crowther.*—Were you furnished with a copy of the Report; did you see it, or read it in the *Mercury*? I did not. I do not trouble myself about these things. I did not take any interest in the election as Returning Officer.

23. Do you regard the unseating of your Member, you being Returning Officer for the District and an elector, as a thing of ordinary occurrence, and one that you would not take much interest in? [Question objected to.] It is not a thing of ordinary occurrence, nor would I take much interest in it.

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*The Hon. J. WATCHORN called in, sworn, and examined.*

24. *By Mr. M'Intyre.*—Your name is John Watchorn, you are a merchant residing in Hobart? **Yes.**
25. You were the only candidate at the last Huon Election, and you were declared duly returned? **Yes.**
26. Do you produce a petition signed by a number of electors for the Huon? **Yes: signed by 81 electors.**
- [Mr. Dobson objected to the petition being put in. Petition read and handed back to the witness.]
27. How many electors are there in the Electoral District of Huon? **One hundred and twenty-six.**
28. *By Mr. Dobson.*—Did you understand from Mr. Solomon himself that he was going to resign? **No.**

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TUESDAY, AUGUST 2, 1881.

MR. WATCHORN'S *examination continued.*

29. *By Mr. Dobson.*—Mr. Solomon published an address to his constituents stating why he resigned, did he not? **I think he did.**
30. [Reads from address as published in *Mercury* newspaper of 11th June, 1881, which is afterwards put in. (Appendix B.)] Did you not think that Mr. Solomon was disqualified from standing again after reading that address? **I did not think the matter over.**
31. Did you not infer from this address that Mr. Solomon thought himself disqualified, and that his only course was to resign? **I did not read the address particularly or carefully. I could not swear that I read the address even, I took so little notice of it.**
32. But you afterwards became a candidate? **Yes.**
33. Did not that lead you to take any interest in Mr. Solomon's address? **No, none whatever.**
34. Did you address the electors yourself? **I published an address, which only appeared once.**
35. And you alluded to Mr. Solomon's resignation in your published address? **Yes.**
36. *By Mr. M'Intyre.*—Had you anything to do with the preparation of Mr. Solomon's published address? **Nothing whatever.**
37. Did you take any interest at all in the election until after the writ was issued? **None.**
38. Was there any arrangement between you and Mr. Solomon as to his resigning? **None whatever; I never spoke to him on the subject.**
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## APPENDIX.

## A.

Franklin, 14th June, 1881.

To the Returning Officer for the Electoral District of Huon.

SIR,—WE, the undersigned duly qualified Electors of the Electoral District of Huon, do hereby nominate John Watchorn, of Hobart, Merchant, a fit and proper person as a Candidate at the present Election to serve as a Member of the Legislative Council in the Parliament of Tasmania for the said Electoral District of Huon.

Surname and Christian Name of Elector.	Place of Abode.	Nature of Qualification.	Particulars of Qualification.
Cuthbert, William .....	Franklin	Freeholder	Franklin, house and land.
Thorp, John, his $\times$ mark . . .	Franklin	Freehold	Freehold property at Franklin.
Stansfield, James Thomas . . .	Franklin	Freehold	Freehold estate; and as trustee for late Rev. Stansfield, occupiers Mrs. Stanfield, Alfred Thorp, and self.
Boyer, Chas. ....	New Norfolk	Freehold estate	
Thomas, James .....	Franklin	Freeholder	Freehold property at Franklin.
Fitzpatrick, John .....	Franklin	Freeholder	House and land, Franklin; Roderic Fitzpatrick, occupier.
Markham, Philip .....	Glazier's Bay	Freehold estate	House and farm, and orchard, Glazier's Bay.
Brown, Isaac .....	Glazier's Bay	Freeholder	Land and house, Glazier's Bay.
Martin Fitzpatrick .....	Franklin	Freehold estate	Houses, farm, and land.
Edward H. Thompson .....	Franklin	Minister of Religion	Clerk in Holy Orders, St. John's, Church of England.
Herring, Frederick .....	Franklin	Freehold estate	House and farm, Franklin; annual value £30.
Murphy, John .....	Franklin	Catholic Clergyman	Franklin; appointed by Right Rev. Dr. Willson, 1856.

To the Returning Officer for the Electoral District of Huon.

I HEREBY consent to be nominated as a Candidate at the present Election to serve as Member of the Legislative Council in the Parliament of Tasmania for the Electoral District of Huon.

J. WATCHORN.

Victoria, Huon, 13th June, 1881.

To the Returning Officer for the Electoral District of Huon.

SIR,—WE, the undersigned duly qualified Electors of the Electoral District of Huon, do hereby nominate John Watchorn, of Hobart, Merchant, a fit and proper person as a Candidate at the present Election to serve as a Member of the Legislative Council in the Parliament of Tasmania for the said Electoral District of Huon.

Surname and Christian Name of Elector.	Place of Abode.	Nature of Qualification.	Particulars of Qualification.
John Lloyd .....	Franklin	Freeholder	Land and buildings, Franklin.
Thomas Walton .....	Victoria	Freehold	Inlet Farm, Victoria.
William Slough .....	Kingston	Freehold	Hut and land, Huon Road and Franklin.
Samuel Page .....	Victoria	Freehold estate	House and land, Victoria.
Jonah Rodman .....	Upper Huon	Freehold	House, orchard, and land, Upper Huon.
Jas. Lucas .....	Mountain River	Freehold	Land, Mountain River.
W. J. Wright .....	Upper Huon	Freehold	House, orchard, farm, Upper Huon.
Silas Parsons .....	Grove, Victoria	Freeholder	Grove, Victoria, orchard and land, Ironstone Creek.
Charles Oates .....	Mountain River	—	House, land, orchard, and mill, Mountain River.
Charles Harriss .....	Mountain River	Freehold	House, land, farm, and orchard, Mountain River.
John Linnell .....	Crow Hall, North Huon	Freeholder	Crow Hall, farm, Upper Huon.
Richard Wallis .....	Upper Huon	Freeholder	Land and house, Upper Huon.

To the Returning Officer for the Electoral District of Huon.

I HEREBY consent to be nominated as a Candidate at the present Election to serve as a Member of the Legislative Council in the Parliament of Tasmania for the Electoral District of Huon.

J. WATCHORN.

Hobart, 15th June, 1881.

To the Returning Officer for the Electoral District of Huon.

SIR,—WE, the undersigned duly qualified Electors of the Electoral District of Huon, do hereby nominate John Watchorn of Hobart, Merchant, a fit and proper person as a Candidate at the present Election to serve as a Member of the Legislative Council in the Parliament of Tasmania for the said Electoral District of Huon.

Surname and Christian Name of Elector.	Place of Abode.	Nature of Qualification.	Particulars of Qualification.
Arthur E. Risby .....	Hobart	Freeholder	Coal mine, South Bruni. Farm, Oyster Cove, valued at £400.
Richard Wilcox .....	Old Wharf, Hobart	Freeholder	
O. H. Hedberg .....	Hobart	Freeholder	Trustee under Will of late Jacob Christie, freehold estate, house, orchard, and land, occupied by Mrs. Christie.

To the Returning Officer for the Electoral District of Huon.

I HEREBY consent to be nominated as a Candidate at the present Election to serve as a Member of the Legislative Council in the Parliament of Tasmania for the Electoral District of Huon.

J. WATCHORN.

Port Cygnet, 14th June, 1881.

To the Returning Officer for the Electoral District of Huon.

SIR,—WE, the undersigned duly qualified Electors of the Electoral District of Huon, do hereby nominate John Watchorn, of Hobart, Merchant, a fit and proper person as a Candidate at the present Election to serve as a Member of the Legislative Council in the Parliament of Tasmania for the said Electoral District of Huon.

Surname and Christian Name.	Place of Abode.	Nature of Qualification.	Particulars of Qualification.
Sexton, Thomas.....	Port Cygnet	Freeholder	Inn, annual value £33.
Fitzpatrick, Matthew .....	Port Cygnet	Freeholder	House, shop, and land, Port Cygnet.
Hill, Richard .....	Kermadec River	Freeholder	Kermadec River, mill and land.
Markham, Philip .....	Glazier's Bay	Freehold estate	House and land, Glazier's Bay.
Mackey, Michael.....	Glazier's Bay	Freehold estate	House and land, Glazier's Bay.
Dance, William.....	Port Cygnet	Freeholder	Inn and land, Port Cygnet, and land, Franklin.
O'Reilly, Thomas J.....	Port Cygnet	Freeholder	Land and house, Port Cygnet.
Lawler, John .....	Petchey's Bay	Freehold estate	Land, Petchey's Bay and Agnes Rivulet, annual value £34.

To the Returning Officer for the Electoral District of Huon.

I HEREBY consent to be nominated as a Candidate at the present Election to serve as a Member of the Legislative Council in the Parliament of Tasmania for the Electoral District of Huon.

J. WATCHORN.

Kingston, 14th June, 1881.

To the Returning Officer for the Electoral District of Huon.

SIR,—WE, the undersigned duly qualified Electors of the Electoral District of Huon, do hereby nominate John Watchorn, of Hobart, Merchant, a fit and proper person as a Candidate at the present Election to serve as a Member of the Legislative Council in the Parliament of Tasmania for the said Electoral District of Huon.

Surname and Christian Name of Elector.	Place of Abode.	Nature of Qualification.	Particulars of Qualification.
William E. Baynton, J.P.....	Near Kingston	Freeholder	Farm, near Kingston
A. Wright .....	Kingston	Freehold estate	Land, Kingston and North West Bay
Richd. Hy. Henwood.....	Near Kingston	Freeholder	Dairy farm, near Kingston
Robert Williamson, J.P. ....	Kingston	Freeholder	Cottages, land, and premises, Kingston
Joseph Keen .....	Kingston	Freeholder	Store and cottage, Kingston, annual value £31
Thos. W. Lucas.....	Kingston	Freehold	Trustee in estate of late Nathaniel Lucas; freehold estate, North West Bay, occupier Nathaniel Lucas, annual value £50.

To the Returning Officer for the Electoral District of Huon.

I HEREBY consent to be nominated as a Candidate at the present Election to serve as a Member of the Legislative Council in the Parliament of Tasmania for the Electoral District of Huon.

J. WATCHORN.



## B.

## TO THE ELECTORS OF THE HUON.

GENTLEMEN,

I AM credibly informed that recent events have evoked the expressed determination from Captain Fisher, notwithstanding the decisive majority by which he was defeated at the last Election for your District, to once more petition against your decision, and thus secure a partial or complete disqualification of the Huon Electorate during the coming Sessions of Parliament. I have, therefore, anxiously considered in which way I can best act to promote the interests of my constituents, and ensure their being represented next Sessions. I have arrived at the conclusion that it is my duty, by placing my resignation in the hands of His Excellency the Governor, to set the question at rest, and thus secure to the District I now have the honour to represent the opportunity of returning to the Legislative Council a Member whose seat cannot be challenged, even by political animosity or disappointed ambition.

In taking this step, I am not unmindful of the great courtesy and consideration which I have always received at your hands, nor of your spontaneous and generous action in returning me with an unmistakable majority on the last occasion free of expense; and be assured the interests of the Huon will not be forgotten by me, whether I occupy a seat in the Legislature or not.

I am, Gentlemen,  
Your faithful Servant,

J. SOLOMON.

*Temple House, June 9, 1881.*