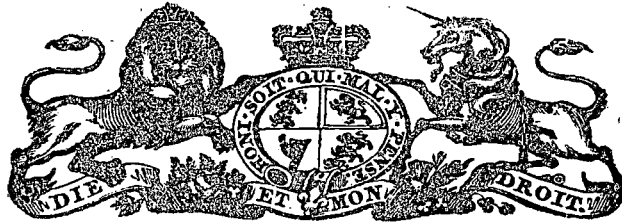


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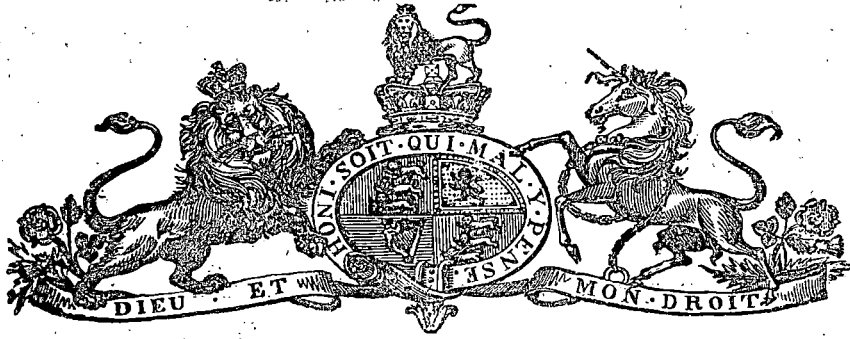
TASMANIA.

HOUSE OF ASSEMBLY.

DAVID HAYNES, OF SWANSEA.

CORRESPONDENCE.

Laid upon the Table by the Attorney-General, October 3, 1876, and ordered by the House to be printed.



Swansea, 21st August, 1876.

SIR,

I BEG most respectfully to call your attention to what I consider a gross irregularity on the part of Messrs. E. C. Shaw and John Meredith, when forming the Bench and dealing with me on a criminal charge at the Police Office, Swansea, on the 11th day of July last; and more particularly to their ignorance, as Magistrates of many years standing, in their extraordinary and illegal proceeding on the 16th instant, and by which they have publicly branded me as a "receiver of stolen property." You can judge of the harshness of the proceeding from the beginning, when I tell you that I was apprehended by warrant and placed in gaol on this trumpety charge, although I am a master tradesman, a resident householder—residing within 200 yards of the Police Office, a father of a large family, and have lived 15 years in the place without a stain against my character. I am quite aware the magistrates have discretionary power either to apprehend or summons, and I mention the fact merely to show you how inhumanly they exercise the "discretion" entrusted to them by the Legislature. I feel that I have been most unfairly dealt with, and I appeal with confidence to you, as Minister of Justice, to take such steps in the matter as you think desirable; and, if nothing more can be done by you, perhaps it may have some good effect, and prevent others being similarly dealt with, if you point out to these sapient Justices their duty, and the law which regulates criminal proceedings when accused persons are before them *who have elected to be tried by a jury*, as they seem to ignore the latter part of Sec. 2 of "The Petty Offences Act." In a separate paper I send you copies of the proceedings in the case, a perusal of which will substantiate all that I have said. Awaiting your reply,

I am, &c.

(Signed) DAVID HAYNES.

The Hon. the Attorney-General.

PARTICULARS of Case complained of.

On the 8th July I was apprehended by warrant and lodged in gaol "for having received property well knowing it to be stolen."

On 11th July I appeared before the Bench on such charge, when the Magistrates very properly read the whole of the words in inverted commas, "we shall have to hear, &c." in Sec. 2 "Petty Offences Act;" whereupon I at once elected to be *tried by a jury*. The case then proceeded in the usual way, so far as I know anything to the contrary, under "The Magistrates Criminal Procedure Act." When the evidence of the prosecutor was *finished*, they at once dismissed the case and discharged me. I applied to have my property restored, whereupon the Bench said they would not make any order, nor indeed did I consider any order necessary. I was never asked to make any defence, or if I had any witnesses to call, nor any opportunity given me to prove the property was mine. I naturally supposed the things would be returned to me, and when I found the Superintendent of Police had given them to the prosecutor, I gave him notice that if he did not restore them to me I should sue him for the value thereof.

Two days after I gave him this notice I received the accompanying Memo. signed "G. Palmer," *inviting* me to attend the Police Office on 16th August, as the Magistrates were going to meet to make an order for the "restitution" of the goods; but, knowing they had no power of "restitution," as the Act became a dead letter from the moment I elected to be *tried by a jury*, I declined to attend. However, it seems they went through the farce of incorporating "The Petty Offences Act" with "The Magistrates Criminal Procedure Act," and made the order for "restitution," as you will see by a copy of their proceedings, on 16th August. This unique document is, I presume, taken from the record book, but there is nothing to show by whom the Bench was set in motion. In their great anxiety to protect the Superintendent for giving away my property they have made themselves look ridiculous; this would not distress me if it did not brand me as a receiver of stolen property.

You will also see the Bench have been generous with some of my property the prosecutor did *not* swear was his.

POLICE OFFICE, SWANSEA.

TASMANIA } THE charge of George Palmer, Superintendent of Police for Glamorgan, taken this eighth
 TO WIT. { day of July, 1876, before me, one of Her Majesty's Justices of the Peace for this Colony,
 who says that David Haynes the Elder, of Franklin-street, in Swansea, in Glamorgan aforesaid, did on or
 about the 24th day of June last receive: one arm-chair of the value of Two shillings, one hearth-rug of the
 value of Five shillings, one cushion of Two shillings, and two pieces of crochet work of the value of
 Fifteen shillings, knowing the same were feloniously and unlawfully stolen from the premises of William
 Graham the Elder, of Julia-street, in Swansea, in Glamorgan aforesaid.

(Signed) GEORGE PALMER.

SWORN before me the day and year first above mentioned, at Swansea.

(Signed) EDWARD CARR SHAW.

HAYNES elected to be tried by jury. Case dismissed.

(Signed) JOHN MEREDITH, J.P.
EDWARD CARR SHAW.

POLICE OFFICE, SWANSEA, 11TH JULY, 1876.

REGINA v. DAVID HAYNES, charged with receiving stolen property.

THIS deponent, William Graham, on his oath, saith:—I am a shoemaker, and reside at Swansea. I missed some property from my premises—some last week and some the week before. I did not give any one permission to remove any of my property. I lost a quantity of calico, one pair of blankets. I would know any of the property again that was stolen from my place. I can swear to the hearth-rug now produced as my property; also, the arm-chair I could swear to; but would not swear positively to the cushion—I believe it to be mine. The small piece of crochet work I will swear is my property; the large piece I will not swear to, although I believe it to be mine—mine had a hole in it, and an iron mark on it similar to the piece now produced. I saw the property now produced last Saturday at the house of the accused, and identified it as my property.

By the Bench.—I consider the hearth-rug is worth One pound; the chair was worth about Ten shillings when it left my place, and the crochet work about Ten shillings. The crochet work and hearth-rug were made by my wife. I never sold the property to any one. The accused is my father-in-law. My wife has bolted from me lately. I don't know who she went away with; she left some time in the night. I never saw her since. I cannot tell whether it was before or after she left that the things were stolen. I reckon the stealing the things lays between my wife, her mother, and sister. I think my wife was the principal, and that her mother and sister assisted her to take the things away. I remember on Saturday night, towards the end of June, Yorkey Joe came to my house, and I brought two bottles of ale and had some drink before I went home. Yorkey Joe, Cogle, and Bumsty did not have any of the ale to drink; my wife did not have any. I cannot say that every rag in that hearth-rug was my property, but the greater part of it was my property. The rug, the chair, and the piece of crochet work were not concealed in the house of the accused when I went there with the Superintendent of Police to search the premises. My son gave my wife the chair. This is the second time my house has been cleared out. I believe it was my wife who cleared it out before.

To the accused.—When searching your house Mr. Palmer and myself did not go right through your house. I did not say to the accused whilst in his house, in the presence of Mr. Palmer, that I would make it a warning to you coming to my house in the dead hour of the night and taking my things away.

(Signed) WILLIAM GRAHAM.

Superintendent's Office, Swansea, 16th August, 1876.

SIR,

I HAVE the honor to inform you that the "Magistrates" that tried the case Palmer v. Haynes, on the 11th day of July last, will be in attendance at the Police Office, Swansea, at 2.45 P.M. this day, for the purpose of making an order for the restitution of the goods, when you are respectfully invited to attend.

I have, &c.

(Signed) G. PALMER, Superintendent of Police.

Mr. DAVID HAYNES the Elder, Swansea.

POLICE OFFICE, SWANSEA, 16TH AUGUST, 1876.

WHEREAS a complaint was heard at the Police Office, Swansea, on the 11th day of July last, before John Meredith and E. C. Shaw, Esqs., J.P.'s, of the Superintendent of Police *versus* David Haynes, for receiving sundry goods stolen from William Graham, of Swansea, senior; and whereas the said complaint was dismissed, but the goods shown to be the property of the said William Graham, senior, but an order

was omitted to be made for the restitution of the said property to the said William Graham, the Justices now order the said goods,—to wit, one arm-chair, one hearth-rug, one cushion, and two pieces of crochet work,—to be delivered to the said William Graham, senior, in accordance with the Act of Council, 31 Vict. No. 12, Sec. 19.

(Signed) JOHN MEREDITH, *Warden*.
EDWARD CARR SHAW, *J.P.*

MEMO.

THIS document says the Bench *omitted* to make an order, whereas they positively *refused*, which can be easily proved. It also shows that they gave the prosecutor one cushion and one piece of crochet work he did *not* swear to.

Attorney-General's Office, Hobart Town, 22nd August, 1876.

SIR,

MR. David Haynes has made a complaint to me that, upon a recent charge against him, before you and Mr. E. C. Shaw, of receiving goods knowing them to be stolen, and when he elected to be tried by a jury, and you dismissed the case, you afterwards ordered the goods in question, which had been taken from the defendant's possession, to be given up to the prosecutor of the charge. Mr. Haynes further states that before the order was made the Superintendent of Police had given the goods up to the prosecutor. Mr. Haynes also complains that, although he is a tradesman and a resident householder within 200 yards of the Police Office, and had lived there for 15 years, a warrant in the first instance was issued for his apprehension and himself placed in Gaol.

Will you be so good as to inform me whether these statements are correct, and if you think it necessary to let me have any further information in the matter?

I remain, &c.

(Signed) C. HAMILTON BROMBY.

JOHN MEREDITH, *Esq., J.P., Swansea.*

Attorney-General's Office, Hobart Town, 22nd August, 1876.

SIR,

I AM directed by the Attorney-General to acknowledge the receipt of your letter of the 21st instant, with its enclosures, and I am to state that a communication has been addressed to John Meredith, Esq., on the subject to which your letter relates.

I have, &c.

(Signed) F. STOPS.

Mr. DAVID HAYNES, *Swansea.*

Swansea, 26th August, 1876.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of 22nd instant, informing me that Mr. David Haynes has made a complaint to you affecting myself and Mr. E. C. Shaw in the discharge of our duties as magistrates.

Hitherto, any complaint against magistrates in the performance of their duty, the *original letter* of complaint has been courteously submitted for their remarks. I hope no exception will be made in this case, when I shall have the opportunity of correcting any misstatements and making any remarks necessary relative thereto.

I have, &c.

(Signed) JOHN MEREDITH, *Warden.*

The Hon. the Attorney-General.

Attorney-General's Office, 29th August, 1876.

SIR,

IN reply to your letter of the 26th instant, received this day, I have the honor to forward to you, herewith, the original letter addressed to me by Mr. David Haynes, with its enclosures.

I have, &c.

(Signed) C. HAMILTON BROMBY.

JOHN MEREDITH, *Esq., J.P., Swansea.*

Swansea, 2nd September, 1876.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of 29th August, and original letter signed David Haynes, with enclosures.

In compliance with your request,—contained in your previous letter with reference thereto, asking “if I will be so good as to inform you whether these statements are correct, and if I think it necessary to let you have any further information in the matter,”—I state the circumstances connected with the case of David Haynes, so far as I know.

A man named William Graham, a shoemaker residing on the township of Swansea, and son-in-law of David Haynes, reported to the Superintendent of Police that a quantity of household goods had been stolen from his house, and he suspected they were in the possession of David Haynes, and asked that a search warrant might be granted to search Haynes’s premises, which was accordingly granted by me to the Superintendent of Police, who executed it and found portions of the goods taken away on Haynes’s premises, which he took charge of, and apprehended Haynes on the charge of receiving, in accordance with the directions set forth in all search warrants; and very shortly after being in custody was taken before Mr. E. C. Shaw, J. P., at the Police Office, and admitted out on bail.

On the 11th July Haynes was charged before Mr. E. C. Shaw, J. P., and myself (Warden) with receiving, &c., when the defendant elected to be tried by a jury. The case was then proceeded with in the usual way, when upon the evidence of Graham, the prosecutor, it was found that his wife—daughter of defendant—had absconded and taken the goods to Haynes’s, assisted by her mother and sister; consequently, the charge was dismissed without calling upon the defendant to make any statement,—but Graham swore to the goods being his property, and the Bench were satisfied on that score. No application was made to the Bench by either Graham or Haynes for an order in respect of the goods produced. The Superintendent of Police, under the impression that he was acting correctly, delivered the goods to Graham, obtaining from him an undertaking in writing to produce the goods at any time should he be called upon to do so. Subsequently the Superintendent of Police found out his mistake, he recovered the goods, and had them and Graham at the Police Office before the same Magistrates, when the order was given for restitution. Haynes was invited to attend at the same time; he did not do so, but sent a very impertinent note, which I forward for your perusal. You will recognize the handwriting as the same as the letter addressed to you 21st August last. There is no doubt but the goods were improperly taken from Graham’s house, and were found on Haynes’s premises.

I cannot conclude without drawing your attention to the gross and barefaced attempt to mislead you, by stating “that Haynes was apprehended by a warrant, &c. instead of a summons;” whereas, in fact, neither warrant nor summons were issued—excepting the search warrant. In point of fact, Haynes is only the tool of the writer of the letter signed David Haynes: for years past he has pursued the same course, advocating the cause of nearly every offender who has appeared at the Police Office merely for the purpose of annoyance and obstructing the police; and I deem it my duty, Sir, to call upon you to protect the magistracy against such libellous, contemptuous, and scandalous language as is conveyed in Haynes’s letter.

I have, &c.

(Signed) JOHN MEREDITH, Warden.

The Hon. the Attorney-General, Hobart Town.

(Copy.)

Swansea, 16th August, 1876.

SIR,

I AM in receipt of your Memo. of this date, informing me that the Magistrates who tried the case, *Palmer v. Haynes*, at the Police Office, on the 11th July last, will be at the Police Office this day, for the purpose of making an order for the restitution of the goods, and inviting my attendance there.

As I have neither time nor inclination to dance attendance before the Bench unnecessarily, I most respectfully decline the honor sought to be conferred upon me. When the case was *dismissed*, I applied for the goods, and the Bench declined to make an order. There was no *adjournment*, and the Bench have now no power to reopen the case; besides the goods having been improperly given up to another person it is now too late to make an order in the matter. The giving up should have *followed* the authority to do so, and not have *preceded* it. The Magistrates appear to me to have as good a share of simplicity as you have yourself, but of course I should not like to tell them so, and I hope you will not.

I have, &c.

Mr. G. PALMER.

(Signed) DAVID HAYNES.

P.S.—I think you should seek the aid of the Legislature if you want to obtain an act of indemnity for anything you have done contrary to law in carrying out the very responsible duties of your office, as no other power can override the existing law.

D. H.

Attorney-General's Office, 8th September, 1876.

SIR,

I HAVE to inform you, in reply to your letter of the 21st ultimo, complaining of the conduct of E. C. Shaw and John Meredith, Esquires, Justices of the Peace, that, having referred your letter to Mr. Meredith, I have received his report thereon. I find that no warrant was issued for your arrest, but that a search warrant issued to search for the goods alleged by Graham to have been stolen from his premises. The search warrant always gives the officer authority to arrest if the goods alleged to have been stolen are found on the premises searched; and it appears that you were admitted to bail by Mr. Shaw without delay.

With reference to your complaint that, when you elected to be tried by a jury, the Justices seemed "to ignore the latter part of Sec. 2 of 'The Petty Offences Act,'" I am of opinion that the Justices were justified in dismissing the charge; but, when the charge was dismissed, the goods taken from your premises ought no doubt to have been restored to you. I understand from Mr. Meredith a restitution order has since been made.

In conclusion, I must draw your attention to the language used in your letter, and in the memorandum which accompanied it. I perceive that they are not written by yourself, but by an amanuensis. I trust you will in future, if you have any complaint to make against any magistrate, take care that more guarded language is used, and you must upon reflection see that no good end is attained by the use of such expressions as those contained in your letter.

I have forwarded a copy of this letter to Mr. Meredith for the information of himself and Mr. Shaw.

I have, &c.

(Signed) C. HAMILTON BROMBY.

Mr. DAVID HAYNES *the Elder*, Swansea.

Attorney-General's Office, 8th September, 1876.

SIR,

I HAVE the honor to forward to you, herewith, for the information of Mr. Shaw and yourself, a copy of a letter which has been addressed to Mr. David Haynes in reply to his letter to me of the 12th ultimo.

I have, &c.

(Signed) C. HAMILTON BROMBY.

JOHN MEREDITH, *Esq., J.P.*, Swansea.

Swansea, 9th September, 1876.

SIR,

I HAVE the honor to acknowledge the receipt, this evening, of your letter of the 8th instant, in reply to my complaint of the 21st ultimo. I take the liberty of writing a few lines in reply and explanation.

I did not object to the Justices dismissing the charge because they "seemed to ignore the latter part of Section 2 of 'The Petty Offences Act;'" but I thought, as you seem to think, that the goods found on my premises ought to have been returned to me. What I complain of is, that they were not so returned by the Police in the first instance upon my application *after the case was dismissed*, and that the Magistrates having to hear the charge under "The Criminal Procedure Act," instead of "The Petty Offences Act," (as per latter part of Section 2 of same,) had no power to make a "restitution order," either at the time or afterwards; and upon this important point you do not give an opinion. This bears so strongly upon the proper administration of the Criminal Law in isolated places like this, where there is neither press nor public opinion to check such irregularities, that I venture again to press it upon your notice.

They (the Magistrates) did not make an order for 39 days after, and then not until they were made aware that I had given the Superintendent of Police notice that if he did not restore my property to me I should sue him for the value thereof; and at this time, I have every reason to believe, he had actually delivered them to William Graham. Their order then (though as I contend not authorised by "The Criminal Procedure Act") *was for restitution of the goods to the complainant, and I have never received them up to this time*; although I gather from your remark, "I understand from Mr. Meredith a restitution order has since been made," that you are under the impression the order was in *my* favour.

I believed and still believe the goods ought to have been restored to me by the Police, and that these Magistrates did wrong in interfering after they had dismissed the case; and I cannot but think that my letter of complaint has been misunderstood by you in this particular.

My chief grievance is, that I am fully convinced the Magistrates so interfered (or why wait so long as 39 days between dismissing the charge and making the order) to protect as far as they could the Superintendent of Police from the consequences of his illegally *giving my property to the complainant* without any previous authority for doing so.

Mr. Meredith's denial that I was not arrested under warrant is an astounding statement—a mere evasion. I was apprehended under the search warrant, and if he had not wished to have made me a prisoner, he could easily have erased from the warrant the words “and the person or persons,” &c., and *summoned* me to appear to answer the complaint. I feel sure you will not contend that a Magistrate is necessarily bound, when issuing a search warrant to recover reported stolen property, to order the arrest of the person in whose possession it was found. The subsequent proceedings show the extreme hardship of my having been imprisoned; and my character and position have been considerably affected thereby.

I must apologise for troubling you at such length at a period when I know your time is so fully occupied, but the importance of the subject to me is of such moment that I trust to your indulgence; and, in conclusion, I have to express my regret that in my previous letter, when writing under a strong sense of grievous wrong having been done to me, I should have been led into the error of making use of expressions which have called forth so severe a rebuke from you; but I have endeavoured, and I hope successfully, to avoid doing so in my present communication.

I have, &c.

(Signed) DAVID HAYNES.

The Hon. the Attorney-General.

Attorney-General's Office, Hobart Town, 14th September, 1876.

DEAR SIR,

I BEG to forward for your perusal a further letter from Mr. Haynes. I understood, from your last letter to me of the 2nd instant, that the property taken from Mr. Haynes's house had been restored to him. You will see by Mr. Haynes's letter that he states this has not been done. Will you be good enough to let me know whether the property has been restored to him or not, and if not, why not? You are doubtless aware that property taken from the possession of any one charged with larceny is, in the eye of the law, the property of the person from whom it is taken until he is found guilty. As Mr. Haynes was acquitted of stealing this property, it ought to have been at once restored to him. If any one else has any claim to the property, that claim can be tried and determined in a Civil Court. I deem it of the utmost importance that the power the Police have in seizing property should be carefully protected from being abused.

As to the arrest of Mr. Haynes himself upon a search warrant, I think, under the circumstances, this was an unnecessary proceeding. The search warrant, though usually concluding with instructions to take the person, as well as the goods found, need not do so. And the Justice who issues and signs the search warrant should in each case use his discretion as to whether the arrest of the person should be included; and it ought not to be included unless the Justice has grounds for believing that the person whose premises are to be searched is likely to escape. In this case, it appears, the person charged lived near the Police Office, and had lived there and carried on business there for many years.

You will be glad to see that Mr. Haynes expresses his regret in a proper way for the improper manner in which he wrote to the Justices.

I have, &c.

(Signed) C. HAMILTON BROMBY.

JOHN MEREDITH, *Esq., J.P., Swansea.*

Swansea, 16th September, 1876.

SIR,

I HAVE the honor to acknowledge the receipt, this evening, of your letter of the 14th instant, requesting me to let you know if the property taken from David Haynes's house—in the case of *Graham v. Haynes*—had been returned to him or not, and if not, why not?

The goods were not restored to Haynes, but to Graham, the Magistrates at the time of doing so believing that they were acting correctly in restoring the goods to Graham, whose property they were.

Graham, as I have before pointed out, positively swore to the goods being his—that they were stolen from his premises; but it came out in evidence that Graham's wife—who is Haynes's daughter—assisted to carry away the goods; and, as a wife cannot *steal* from her husband, Haynes, in the opinion of the Magistrates, could not in law be guilty of *receiving stolen* property. On these

grounds the case was dismissed, but, at the same time, the Magistrates were convinced that Graham was the real owner of the goods in question; and subsequently, when applied to by the Superintendent of Police to make an order in respect of them, they made an order for the goods to be restored to Graham, the rightful owner, believing they were acting justly and properly in so doing. I observe, however, that you advise me that the goods ought to have been returned to Haynes; and thus, it appears, the Magistrates made a mistake, which I regret.

There are no grounds whatever for Haynes saying that the Magistrates acted unjustly or cruelly. You say, "as Mr. Haynes was acquitted of stealing this property, it ought to have been at once restored to him." The view the Magistrates took of the case was, that in law there had been no *stealing*, consequently no receiving *stolen* goods—but that nevertheless the goods were Graham's, and ought to be restored to him.

You further point out, that you think the arrest of Haynes himself upon a search warrant, under the circumstances, was an unnecessary proceeding. The search warrant, though usually concluding with instructions to take the person as well as the goods found, need not do so; and the Justice who issues and signs the search warrant should, in each case, use his discretion as to whether the arrest of the person should be included, &c.

I beg to thank you for pointing this out to me, for I was unaware that a Justice had any discretion in the matter. I should certainly, in the case referred to, have preferred that Haynes was caused to appear by summons, as I knew that for a long time past there had been a family feud between the respective parties.

I have endeavoured to furnish you with all particulars, but if at any time I can in any way add thereto, I shall be happy to do so.

The Hon. the Attorney-General, Hobart Town.

I have, &c.

(Signed) JOHN MEREDITH.

Attorney-General's Office, 25th September, 1876.

SIR,

I beg to acknowledge the receipt of your letter of the 9th on the 12th instant, which has been forwarded to Mr. Meredith, and I have received his reply to a letter which I addressed to him upon receipt of yours.

Mr. Meredith informs me that the goods were handed to Graham because the Justices were convinced that Graham was the real owner of the goods in question, and believed that they were acting justly and properly in making the order they did. As I have advised Mr. Meredith that the goods ought to have been returned to you by the Police, he regrets that a mistake was made in that respect.

With reference to your arrest upon the search warrant, I have pointed out to Mr. Meredith that though the search warrant usually concludes with instructions to take the person as well as the goods found, it need not do so, and that the Justice who issues and signs the search warrant should, in each case, use his discretion as to whether the arrest of the person should be included, and that it ought not to be included unless the Justice has grounds for believing that the person whose premises are to be searched is likely to abscond. Mr. Meredith states that he was unaware that a Justice had any discretion in the matter, and that he should certainly have preferred that you should have been summoned, as he knew for a long time past that there has been a family feud between you and Graham.

The result of your bringing the matter under my notice, therefore, is that a misapprehension on the part of the Police authorities has been removed, and I trust a more perfect performance of their duties secured for the future.

I have, &c.

Mr. DAVID HAYNES, Swansea.

(Signed) C. HAMILTON BROMBY.

Attorney-General's Office, 25th September, 1876.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 16th instant, in reply to mine of the 14th instant, and beg to thank you for its contents.

I now enclose, for your information, a copy of a letter which has been addressed to Mr. Haynes, in reply to his letter of the 12th instant.

I have, &c.

JOHN MEREDITH, *Esq., J.P., Swansea.*

(Signed) C. HAMILTON BROMBY.

Swansea, 30th September, 1876.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 25th instant, in answer to mine of the 9th, and am sorry that I cannot receive it as satisfactory, without troubling you again. As far as I can learn, from what you tell me, Mr. Meredith does not answer my main charge against him and Mr. Shaw, which is, *that they dealt with me illegally*; for, from the moment that I elected to be tried by a jury (in answer to a question very properly put to me by the Bench), the "Petty Offences Act" became, to all intents and purposes, a dead letter; and the proceedings were bound *by law* (see Sec. 2 of the same Act), which, as clearly as language can express it, says, "the Justices *shall* proceed with the charge as if this Act had not been passed."

It is therefore quite obvious that "The Magistrates Criminal Procedure Act," 19 Vict. No. 9, is the only one by which they had any legal power to deal with me and my property; and I respectfully submit for your consideration that this last-named Act (and I again say they could not avail themselves of any other) gives no power for making an "order for restitution;" so that, by their own record, on the 16th of August, they stand self-condemned of the very grave charge of acting *without jurisdiction*.

Without troubling you with the whole case again, I will simply say, it was dismissed. What I want to know is, by what authority did they, 39 days after, (and then not till after they knew I had commenced an action against the Superintendent for illegally detaining my property,) re-open it under "The Petty Offences Act," and this, too, without anything to set them in motion, as can be seen on reference to their own record, sent to you in my first letter.

When they made this "restitution order" to give my goods to another person, and by such act branded me as a receiver of stolen property, they assumed a power the law does not give them; *this* is my chief grievance, and this is what I want plainly cleared up—the assumption of authority they can find no legal justification for, or, in other words, their acting *without jurisdiction*.

The Magistrates are either right or wrong. If right, they are undoubtedly entitled to your protection, and I, for one, would not begrudge it to them. If wrong, they deserve to be dealt with accordingly. They have done me a serious injury, by blasting my fair fame, for the character of a receiver is far more hateful to all honorable minds than that of a thief. I do feel that, in bringing such a glaring case under your notice, and establishing it, as I have done, beyond dispute, that I am entitled to some consideration.

I am perfectly aware that, had the case gone on under "The Petty Offences Act," they could have done as they have, and, however much they may have erred in judgment, I must have submitted to their decision; but my contention is, they not could legally go back to that Act *after the case had been dismissed under "The Magistrates Criminal Procedure Act,"* and the proceedings must be under the last-named Act in spite of all Messrs. Meredith and Shaw's desire to the contrary.

Once let Magistrates feel that they can deal with persons on criminal charges in open defiance of a plain statute law passed exclusively for their guidance, it is easy to foresee the evil consequences that will ensue in isolated places. It is not a very desirable state of affairs to find the Chief Magistrate of a District, in order to excuse his harsh treatment by unnecessarily signing a warrant for my arrest, saying, "he did not know he could avoid it;" but however honest it may be on the part of Mr. Meredith to make such an admission of his want of ordinary magisterial knowledge, it is as little consolation to me, who has been made to suffer the degradation thereby caused, as it is creditable to his own intelligence.

Have you, Sir, as Attorney-General, no power either to make these gentlemen restore to me the property they have so unjustly, in their *magisterial capacity*, deprived me of, or pay me the value thereof? They have acted *without jurisdiction*, which in effect is about the same, as far as the legal wrong is concerned, as it would be for men to assume the power of Justices who had not been appointed by the Governor to the Commission of the Peace. It is indeed hard if I have no redress for the wrong done me by Messrs. Meredith and Shaw, without being driven to the costly proceeding of a *certiorari* to bring their illegal order under the review of the Supreme Court; for, if driven to this extreme step, I shall, as I am only a poor man, have to raise a subscription for the purpose. I therefore respectfully urge upon you to render me whatever assistance may be in your power.

I forgot to tell you before, that I was not arrested *when the goods were removed* from my premises, but in about an hour afterwards the Superintendent of Police returned, and said *he found he was obliged to lock me up*; and then marched me off a prisoner, through the township, in the middle of the day, and lodged me in Gaol. Who he consulted in this interim I am at a loss to know, but, from well-founded reports, can give a pretty good guess.

I have again adverted to the matter of arrest in order that you, as the Minister of Justice and the head of magisterial authority in Tasmania, may know how the liberty of the subject is trifled with in Glamorgan.

If not asking too much, may I request the favour of being allowed to see what Mr. Meredith has written to you in this case. Mr. M. sees what I write, and it seems only fair I should see what he says in reply.

I most cordially reciprocate the wish expressed in the last paragraph of your letter, although I feel constrained to say I have but little hope of seeing it realised so long as the Police are under local control, and, as a natural consequence, rotten to the core.

I have, &c.

(Signed) DAVID HAYNES.

The Hon. the Attorney-General, Hobart Town.

Attorney-General's Office, 27th October, 1876.

SIR,

I BEG to acknowledge the receipt of your letter of the 30th September last on the 3rd instant.

I do not deem it necessary or desirable to enter afresh into the points of law arising in your case, and therefore refrain from entering upon them anew, and must leave you to take such legal steps as you may be advised by your own Solicitor.

In reply to your question whether I have any power to order the restitution of the property to you, I beg to inform you that I have no such power.

With reference to your request that you may be allowed to peruse Mr. Meredith's letters to myself, I may inform you that your letters were only referred to Mr. Meredith for his remarks, as they were complaints against his conduct, and I do not feel justified in forwarding his remarks for your perusal.

I have, &c.

(Signed) C. HAMILTON BROMBY.

Mr. DAVID HAYNES, Swansea.