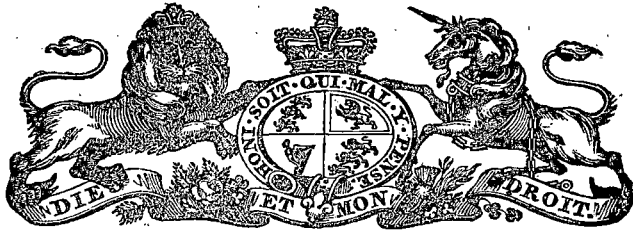


(No. 21.)



1877.

SESSION III.

T A S M A N I A.

H O U S E O F A S S E M B L Y.

F R A N K L I N.

PETITION AGAINST MR. J. E. RISBY'S ELECTION BY
MR. RUSSELL YOUNG.

Presented by Mr. Gellibrand, 18 July, 1877, and referred by the House to the
Committee of Elections and Qualifications: ordered by the House to be printed,
24 July, 1877.



*To the Honorable the Speaker and Members of the House of Assembly of
Tasmania, in Parliament assembled.*

The humble Petition of Russell Young, of Hobart Town, in Tasmania, Solicitor.

RESPECTFULLY SHOWETH :

1. THAT your Petitioner was a duly nominated Candidate at the late General Election as a fit and proper person to serve as a Member for the Electoral District of Franklin in your Honorable House.

2. That Joseph Edward Risby, Esquire, of Hobart Town, was also nominated as a Candidate for election for the said Electoral District of Franklin, and a Poll for the said Election was held on the twenty-second day of June last.

3. That Edward Atkyns Walpole, of Franklin, in Tasmania, Esquire, was the Returning Officer at the said Election.

4. That, in ascertaining the state of the Poll from the ballot papers taken at the several polling places at such Election, certain of such ballot papers in favour of the said Joseph Edward Risby, which should have been rejected as invalid, were by the said Returning Officer allowed to be recorded in his favour, contrary to the provisions of Section 6 of the Act of the Parliament of Tasmania, 26 Vict. No. 14, and Section 69 of 21 Vict. No. 32.

5. That the said Returning Officer, in declaring the general state of the Poll at the close of such Election, announced that the majority of votes at such Election in favour of the said Joseph Edward Risby was two, the numbers being declared to be one hundred and forty-five votes for the said Joseph Edward Risby, and one hundred and forty-three for your Petitioner; and the said Returning Officer thereupon declared the said Joseph Edward Risby to be duly elected.

6. That, had the said Returning Officer rejected such invalid papers as aforesaid, your Petitioner would have had a majority of votes, and would have been entitled to be declared duly elected at such Election.

Your Petitioner therefore humbly prays that your Honorable House will cause a full and searching enquiry to be made into the matter of this Petition; and upon the same being found to be true, will declare your Petitioner to be the duly elected Member of your Honorable House for the said Electoral District of Franklin, or that such other remedy may be afforded to your Petitioner as to your House may seem meet.

And your Petitioner, as in duty bound, will ever pray.

RUSSELL YOUNG.

[In continuation of Paper No. 21, presented 18th July, 1877.]

REPORT from the Select Committee of ELECTIONS AND QUALIFICATIONS, upon the Petition of RUSSELL YOUNG, Esquire, against the Return of JOSEPH EDWARD RISBY, Esquire, with Minutes of the Proceedings of the Committee, and Evidence.

[Brought up by Mr. Douglas, 7th August, 1877, and ordered by the House of Assembly to be printed.]

MEMBERS OF THE COMMITTEE.

MR. DOUGLAS.
MR. HODGSON.
MR. BELBIN.

MR. PILLINGER.
MR. BALFE.

DAYS OF MEETING.

24 July, 1, 2, 3 August, 1877.

WITNESS EXAMINED.

HUGH MUNRO HULL, Esquire, Clerk of the House.

EXTRACT from the Votes and Proceedings of the House of Assembly, No. 4, 18th July, 1877.

2. Mr. Gellibrand presented a Petition from Russell Young, Esquire, against the Election of J. E. Risby, Esq., as Member for Franklin.

Which being read, was referred, in accordance with Section 125 of "The Electoral Act," 21 Victoria, No. 32, to the Committee of Elections and Qualifications.

R E P O R T.

THE Committee of Elections and Qualifications duly appointed under the provisions of "The Electoral Act," to whom was referred on the 18th July, 1877, the Petition of Russell Young, Esquire, against the Election and Return of Joseph Edward Risby, Esquire, as a Member for the Electoral District of Franklin, have determined and do hereby declare:—

1. That Joseph Edward Risby, Esquire, was, on the 22nd day of June, 1877, duly elected a Member of the House of Assembly for the Electoral District of Franklin.

2. That the Evidence before your Committee discloses that the Election was in accordance with "The Electoral Act."

3. That the Petitioner having requested to be allowed to withdraw the Petition, the Committee have decided that the privilege of withdrawing the Petition shall be accorded to Mr. Young.

4. That the Committee adjudge that the Petitioner shall pay the costs of the sitting Member in opposing the said Petition.

ADYE DOUGLAS, *Chairman.*

Committee Room, 7th August, 1877.

No. 1.

MINUTES OF THE PROCEEDINGS OF THE COMMITTEE.

11 A.M., TUESDAY, JULY 24, 1877.

Present—Mr. Douglas, Mr. Lewis, Mr. Hodgson, Mr. Belbin, Mr. Bromby.

1. The Clerk produced the Record of the Election of the above five Members as the Committee of Elections and Qualifications.

2. A list of the Members petitioned against was read by the Clerk, from which it appeared that two of the members of the Committee were amongst the number.

In consequence of two of the members of the Committee being petitioned against, the 119th Clause of the Act 21 Vict. No. 32 appears to the members of the Committee, who are all present, to require that the Clerk should report to the House the apparent disqualification of the two members, in order that the House may decide the question.

No. 2.

WEDNESDAY, AUGUST 1, 1877.

The Committee met at 11 o'clock.

Present—Mr. Douglas, Mr. Belbin, Mr. Hodgson, Mr. Balfé, Mr. Pillinger.

1. On the motion of Mr. Hodgson, Mr. Douglas was elected Chairman of the Committee.

2. The Minutes of the Meeting of 24 July were read and confirmed.

The apparent disqualification of Messrs. Bromby and Lewis having been reported to the House, Messrs. Pillinger and Balfé were elected by the House in their stead.

3. The Clerk produced the Record of the Election of Alfred Thomas Pillinger, Esquire, and John Donnellan Balfé, Esquire, as Members of the Committee of Elections and Qualifications; also the Writs for the Return of the seven Members petitioned against, and the Electoral Rolls.

4. Read a letter addressed to the Chairman by Messrs. Young & Walker, dated 19th July, stating that they had been retained as Counsel in the cases of the Petitions in regard to the Electorates of Norfolk Plains, Queenborough, Selby, and Franklin; and asking that timely notice may be given of the sitting of the Committee.

To be replied to,—stating that the Committee allow their attendance as Counsel for the several parties.

5. Read a letter addressed to the Chairman by Mr. D. H. Crisp, Solicitor, stating that he had been retained as Counsel for the Electors of Queenborough against Mr. Gayer.

To be informed that the Committee allows his attendance as Counsel in the matter.

6. The Clerk produced the following seven Petitions, which were considered in the following order:—

- No. 1. Electors of Norfolk Plains against Mr. Bromby.
- No. 2. Mr. Murray against Mr. Just.
- No. 3. Mr. Young against Mr. Risby.
- No. 4. Mr. Dooley against Mr. Whitehead.
- No. 5. Electors of Queenborough against Mr. Gayer.
- No. 6. Mr. Gayer against Mr. Lewis.
- No. 7. Mr. Meredith against Mr. Gunn.

7. The Committee decide to take Nos. 2 and 3 to-morrow at eleven o'clock.

The Clerk is instructed in No. 1 to compare the names of the Electors with the Electoral Roll for Norfolk Plains.

Notice to be given to the three parties that the Committee will proceed with their case as follows:—No. 1, on Friday, at 11 o'clock. No. 2, to-morrow, at 11 o'clock. No. 3, to-morrow, at 11 o'clock.

8. Petition No. 4 to be taken into consideration on Tuesday next at 11. Notice to be given to the parties, and the Returning Officer to be summoned to produce the Nomination Paper of Mr. D. Collins.

9. Petition No. 5 to be taken into consideration on Wednesday, 8 August. Notice to be given to the parties.

10. Petition No. 6 to be taken into consideration on Thursday, 9 August, at 11. Notice to be given to the parties.

11. Petition No. 7 to be taken into consideration on Tuesday, 7 August, at 11. Notice to be given to the parties.

12. Read an application from the Reporter of the *Tribune* newspaper, asking if the Press is to be allowed to be present at the Meetings of the Committee.

It was decided that the Press should be admitted, upon condition that no publication of the proceedings should take place until each case had been reported to the House.

13. A Short-hand Reporter being present, as appointed by the Clerk of the House, he was duly sworn before the Chairman to report the Evidence faithfully.

The Committee adjourned at twelve o'clock to to-morrow at eleven o'clock.

No. 3.

THURSDAY, AUGUST 2, 1877.

Present—Mr. Douglas, Mr. Hodgson, Mr. Balfé, Mr. Pillinger, Mr. Belbin.

1. The Committee met at eleven o'clock.

2. The case of Mr. Young against Mr. Risby was called on.

Mr. Giblin appeared on behalf of Mr. Young.

Mr. Gill said he appeared on behalf of Mr. Risby.

Mr. Gill not being robed, the Chairman suggested that he should appear in his legal dress.

3. The Clerk read Mr. Young's Petition.

4. On the application of Mr. Risby, the Committee adjourned the further proceedings on this case till to-morrow (Friday) at eleven o'clock.

5. The Committee then proceeded in the case of Mr. Murray's Petition against Mr. Just.

Mr. Giblin appeared for Mr. Murray.

Mr. Just applied for an adjournment on the ground that he had reason to believe that Mr. Murray had withdrawn his Petition.

The Committee therefore adjourned the further proceedings in this case till to-morrow (Friday) at eleven o'clock.

The Committee adjourned at 11:30 to 11 o'clock to-morrow.

No. 4.

FRIDAY, AUGUST 3, 1877.

Present—Mr. Douglas, Mr. Hodgson, Mr. Balfe, Mr. Pillinger, Mr. Belbin.

1. The Committee met at eleven o'clock.

2. Mr. Risby's case, which was yesterday adjourned to to-day, was called on.

Mr. Giblin appeared for Mr. Young, the Petitioner; Mr. Gill for Mr. Risby, the sitting Member.

3. Mr. Giblin stated the case for Mr. Young, and requested that the Ballot Papers used at the Franklin Election might be produced and inspected. Mr. Gill objected; but his objection was overruled by the Committee.

4. The Clerk of the House of Assembly produced a sealed packet said to contain the Ballot Papers in question.

By direction of the Committee the seals were broken, and the Ballot Papers were inspected by Mr. Giblin in the presence of the Committee.

5. Mr. Giblin, for Mr. Young, expressed his intention of not going on with the matter of the Petition, and begged permission to withdraw the Petition.

6. The Committee decide that Mr. Young be allowed to withdraw his Petition.

7. Counsel for Mr. Risby applied for costs. The Chairman directed him to send to the Committee a statement of costs, in order that it might be certified to.

8. *Ordered*, That the decision of the Committee be reported to the House at its meeting on Tuesday next.

The Committee adjourned *sine die*.

EVIDENCE.

HUGH MUNRO HULL, *Esquire, examined.*

By Mr. Giblin.—Your name is Hugh Munro Hull, and you are Clerk of the House of Assembly? Yes.

Have you received from the Returning Officer of the Electoral District of Franklin a packet? I have. I received it on the 3rd July of this year.

What does the packet purport to contain? Election Papers, Franklin, June 22nd, 1877; Electoral Rolls, Abstracts, and Ballot Papers, signed E. A. Walpole, Returning Officer.

That is what is endorsed upon those papers? Yes.

You produce those papers to this Committee? Yes.

Then the Chairman directed Mr. Hull to open the packet.

Will you open the packet?

The packet was opened accordingly.