

(No. 63.)



1894.

PARLIAMENT OF TASMANIA.

MINERAL SECTION, MOUNT HUXLEY :

REPORT OF SELECT COMMITTEE, WITH MINUTES OF
PROCEEDINGS, EVIDENCE, AND APPENDIX.

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SELECT COMMITTEE appointed, on the 1st June, 1894, to enquire into and report upon Mr. H. E. Smith's application for Forfeiture of a Mineral Section at Mount Huxley.

MEMBERS OF THE COMMITTEE.

HON. N. J. BROWN.
MR. DUMARESQ.
MR. MCWILLIAMS.
MR. W. T. H. BROWN.

MR. GILMORE.
MR. MULCAHY.
MR. URQUHART. (*Mover.*)

DAYS OF MEETING.

Wednesday, 6th June; Friday, 8th June; Wednesday, 13th June; Friday, 15th June; Thursday, 21st June; Friday, 22nd June; Wednesday, 27th June.

WITNESSES EXAMINED.

Mr. F. Belstead, Secretary of Mines; Hon. A. T. Pillinger, Minister of Lands and Works; Hon. A. I. Clark, Attorney-General; Sir E. N. C. Braddon, K.C.M.G., Premier; Hon. F. W. Piessé, M.L.C.

EXPENSES OF WITNESSES.

Nil.

R E P O R T.

YOUR Committee have the honor to report that they have given their diligent attention to the matter referred to them by your Honorable House, and having obtained and duly considered all necessary evidence, both oral and documentary relating thereto, they have arrived at the following conclusions :—

1. That Messrs. Propsting and Robey are the holders of a lease of a mineral section known as the Huxley Reward Claim, which lease they acquired by purchase at a sale by the Sheriff of all the right, title, and interest in the section held by a Company known as the Huxley Gold Mining Company, such purchase being the sole satisfaction that they obtained in respect of a debt owing to them by the said Company.

2. That an application for forfeiture of the lease referred to was made to the Hon. the Minister of Lands and Works, the ground of such application being that the lessees had not complied with the labour clauses of the lease.

3. That this application having been received, and an investigation having been held by the Secretary of Mines into the circumstances connected with the lease and the application for

forfeiture of the same, the then Minister of Lands, the Hon. William Hartnoll, decided that he would recommend the Governor in Council to carry out the forfeiture, and notice to that effect was duly published in the *Gazette*.

4. That before effect was given to the decision of the Hon. William Hartnoll, that Minister left office and was succeeded by the Hon. A. Pillinger.

5. That, at the request of the holders of the lease, Messrs. Propsting and Robey, the Hon. A. Pillinger reopened and inquired into the whole matter, and decided that, in view of the circumstances in which the lessees had acquired the lease (which circumstances are disclosed in the evidence herewith submitted), he would be justified in allowing the lessees three months' grace during which they might place themselves in compliance with the labour conditions of the lease, this course having been adopted in some previous cases of similar applications for forfeiture of leases, and this decision was duly communicated to the parties. Such determination of the Hon. A. Pillinger was arrived at without any further evidence having been taken, the Minister not considering it necessary to call any further evidence.

6. That the law permits the exercise of such discretion as was used by the Hon. A. Pillinger in reversing the decision of his predecessor in this case.

7. The Committee are of opinion that neither of the Ministers of Lands and Works who had to deal with the case was influenced by any other motive than a desire to do justice between the parties concerned.

8. Your Committee recommend that the law should be so amended as to provide for applications for forfeiture of leases being decided by some judicial and non-political tribunal.

9. Mr. H. E. Smith, Chief Clerk in the Chief Secretary's Office, whose name was appended to the application for forfeiture, came before the Committee and made a statement. The Members of the Committee desire to record their opinion that Mr. H. E. Smith is entirely free from any blame in connection with the application for forfeiture, and was not acting in collusion with the Directors of the Mount Huxley Gold Mining Company in making such application.

NICHOLAS J. BROWN, *Chairman*.

Committee Room,
27th June, 1894.

MINUTES OF PROCEEDINGS.

WEDNESDAY, JUNE 6, 1894.

The Committee met at 3.18 p.m.

Present—Mr. Urquhart, Mr. McWilliams, Mr. Gilmore, Mr. Mulcahy, Mr. Dumaresq, and the Hon. N. J. Brown.

Motion made by Mr. McWilliams, That Mr. Urquhart do take the Chair.

Motion made by Mr. Mulcahy, That Mr. Dumaresq do take the Chair.

The Question having been put, That Mr. Urquhart do take the Chair, the Committee divided :—Ayes (3)—Mr. Dumaresq, Mr. McWilliams, Mr. Urquhart. Noes (3)—Mr. Gilmore, Mr. Mulcahy, Hon. N. J. Brown.

The votes being equal, it was—

Resolved, That the proceedings be commenced *de novo*.

And Mr. Dumaresq having here withdrawn, it was—

Resolved, That Mr. Urquhart do take the Chair.

The Chairman tabled (a) letter from Messrs. Propsting and Robey asking that they be allowed representation by Counsel.

The Clerk was directed to inform Messrs. Propsting and Robey that the Committee did not consider such a course necessary at the present stage of the proceedings, but should they deem it necessary in the future the permission would be given.

The Chairman tabled (b) Papers in connection with the matter under consideration, tabled in obedience to an Order of the House on 5th April, 1894. (*Vide Appendix*.)

Resolved, That the following Witnesses be requested to give evidence before this Committee on Friday, the 8th instant, at 11 o'clock :—Mr. Hartnoll, Mr. Belstead, Mr. Minister of Lands and Works.

Before the Committee adjourned, Mr. Urquhart expressed his desire that the Honorable N. J. Brown should take the Chair at the next and subsequent Meetings:

The Committee adjourned at 3.55 p.m. until 11 a.m. on Friday, 8th June.

V

FRIDAY, JUNE 8, 1894.

The Committee met at 11 A.M.

Present—Mr. Urquhart, Mr. Dumaresq, Mr. W. T. H. Brown, Mr. Gilmore, Mr. McWilliams, Honorable N. J. Brown.

The Honorable N. J. Brown was voted to the Chair.

The Minutes of the last Meeting were read and confirmed.

Mr. F. Belstead, Secretary to the Mines Department, was called in and examined.

Mr. Belstead withdrew.

Mr. William Hartnoll, late Minister of Lands and Works, was called in and examined.

Mr. Hartnoll withdrew.

The Committee adjourned at 12:50 P.M. until 11:30 A.M. on Wednesday, 13th June.

WEDNESDAY, JUNE 13, 1894.

The Committee met at 11:40 A.M.

Present—Mr. Dumaresq, Mr. McWilliams, Mr. Gilmore, Hon. N. J. Brown, and Mr. Mulcahy.

The Hon. N. J. Brown took the Chair.

The Minutes of the last Meeting were read and confirmed.

The Hon. A. T. Pillinger, Minister of Lands and Works, appeared before the Committee, and gave evidence.

The Hon. N. J. Brown vacated the Chair, owing to urgent private business.

Mr. Dumaresq was voted to the Chair, *pro tempore*.

The Hon. A. T. Pillinger withdrew.

Mr. Urquhart took his seat.

Resolved, That the Hon. F. W. Piesse, M.L.C.; the Hon. A. T. Pillinger, Minister of Lands and Works; the Hon. A. Inglis Clark, Attorney-General; and Sir E. N. C. Braddon, Premier, be requested to attend and give evidence before the Committee at 2:15 P.M. on Friday, June 15, 1894.

The Committee adjourned at 12:30 P.M. until 2:15 P.M. on Friday, June 15.

FRIDAY, JUNE 15, 1894.

The Committee met at 2:35 P.M.

Present—Mr. Urquhart, Mr. W. T. H. Brown, Mr. McWilliams, Mr. Dumaresq, and the Hon. N. J. Brown (Chairman).

The Minutes of the last Meeting were read and confirmed.

The Hon. A. Inglis Clark, Attorney-General, appeared before the Committee and gave evidence.

Mr. Mulcahy took his seat.

The Hon. A. Inglis Clark withdrew.

Sir Edward Braddon appeared before the Committee and gave evidence.

Sir Edward Braddon withdrew.

The Committee deliberated.

The Chairman tabled copy of a letter from himself to the Hon. A. T. Pillinger, Minister of Lands and Works, which had been omitted from the correspondence. (*Vide Appendix.*)

Resolved, That the Chairman do move the House for permission to send a Message to the Legislative Council requesting the attendance of the Hon. F. W. Piesse to give evidence before the Committee on Wednesday, the 20th instant.

Resolved, That Mr. H. E. Smith be summoned to attend and give evidence before the Committee at 11:30 A.M. on Wednesday, the 20th instant.

The Committee adjourned at 3:50 P.M., until 11:30 A.M. on Wednesday, the 20th instant.

WEDNESDAY, JUNE 20, 1894.

The Committee met at 11:30 A.M.

Present—Mr. Mulcahy, Mr. Dumaresq, Mr. McWilliams, Mr. Gilmore, Mr. Urquhart, and the Hon. N. J. Brown, (Chairman).

The Minutes of the last Meeting were read and confirmed.

Mr. H. E. Smith, being in attendance in obedience to a summons, was informed that the Committee did not propose to examine him, but would be glad to hear any statement he might wish to make. Mr. Smith elected to leave the question in the hands of the Committee.

The Hon. F. W. Piesse, M.L.C., appeared before the Committee and gave evidence.

The Hon. F. W. Piesse withdrew.

The Committee adjourned at 12:15 P.M. until 11:30 A.M. on Friday, 22nd instant.

FRIDAY, JUNE 22, 1894.

The Committee met at 11·30 A.M.

Present—Mr. Dumaesq, Mr. Gilmore, Mr. Urquhart, Mr. W. T. H. Brown, and the Honorable N. J. Brown, (Chairman).

The Minutes of the last Meeting were read and confirmed.

The Honorable A. T. Pillinger, Minister of Lands and Works, appeared before the Committee and gave evidence.

Mr. Pillinger withdrew.

The Committee deliberated.

The Committee adjourned at 12·50 P.M. until 12 noon on Wednesday, the 27th instant.

WEDNESDAY, JUNE 27, 1894.

The Committee met at 12·15 P.M.

Present—Mr. McWilliams, Mr. Mulcahy, Mr. Dumaesq, Mr. Gilmore, Mr. Urquhart, Mr. W. T. H. Brown, and the Honorable N. J. Brown, (Chairman).

The Minutes of last Meeting were read and confirmed.

Motion made, and negatived, That Mr. Samuel, of Sydney, be summoned to attend and give evidence before the Committee. (Mr. Gilmore.)

Mr. H. E. Smith appeared before the Committee and made the following statement:—"The facts connected with this case, so far as I am concerned, are embodied in a Memo. signed by me on 21st May last, which I handed to the Premier, in the absence of the Minister of Lands and Works, on the morning of that day. I felt very keenly being charged by Propsting & Robey and examined on oath by Mr. Commissioner Belstead on a charge of collusion with former Directors of the Huxley Company."

The Committee adjourned at 1 P.M. until 2·45 P.M.

Paragraphs 1 and 2 read and agreed to.

Paragraph 3 amended by striking out all the words after "leave" in line 3 to the end of the paragraph, and agreed to (Mr. W. T. H. Brown).

Paragraphs 4 and 5 agreed to.

Paragraph 6 amended by inserting the words "re-opened and," after the word "Pillinger," in line 2 (Mr. W. T. H. Brown), and agreed to.

Paragraph 7 amended by striking out all the words after "case" in line 2 to the end of the paragraph, and agreed to. (Mr. Urquhart.)

Mr. Urquhart moved, That the following new paragraph 8 be inserted—

"That Messrs. Propsting and Robey improperly attempted to bring political influence to bear upon both Messrs. Hartnoll and Pillinger, Ministers of Lands and Works."

Question put, Committee divided. Ayes—Mr. Urquhart, Mr. Gilmore, Mr. McWilliams. Noes—Mr. Dumaesq, Mr. Mulcahy, Mr. W. T. H. Brown. And the votes being equal, the Chairman voted with the Noes, and so it passed in the Negative.

The following new paragraph 8 was agreed to, and inserted—

"The Committee are of opinion, that neither of the Ministers who had to deal with the case were influenced by any other motive than a desire to do justice between the parties concerned."

Resolved, That the Chairman, in conference with Mr. Urquhart, do select the necessary Appendices to the Report.

Resolved, That it be an instruction to the Chairman to present the Report at the next sitting of the House.

The Committee adjourned *sine die*.

EVIDENCE.

FRIDAY, JUNE 8, 1894.

FRANCIS BELSTEAD, *called and examined.*

1. *By the Chairman.*—What is your name? Francis Belstead.
2. And you are the Secretary of Mines, are you not, Mr. Belstead? Yes.
3. You are familiar, I believe, with all the facts connected with the application for the forfeiture of a mineral section, and respecting which this Committee is appointed to enquire? Yes.
4. Will you inform the Committee how the matter came under your notice? It first came under my notice by the receipt of an application from Henry Edwin Smith for the forfeiture of Lease No. 5. I think I am speaking accurately, but should prefer to have the papers in my hand. Yes, Lease $\frac{5}{11}$, stated to be owned by the Mount Huxley Gold Mining Company, No Liability, and the ground of the application was the nonfulfilment of the labour covenants contained in the lease.
5. Is the application before us? Yes. I was quoting from it in the particulars just given.
6. Do I understand that this application for forfeiture, amongst the papers before us, is the one you refer to? It is, Sir.
7. And it is signed by whom? It purports to be signed by Henry Edwin Smith.
8. And did you hear anything as to Mr. Henry Edwin Smith not having himself signed the application? Not for some considerable time after the application had been dealt with up to a certain point.
9. Is it the invariable practice for the applicant to sign his own name to the application—that is, so far as you are aware? So far as I am aware, unless it is specified on the face of it “By his Agent: so & so,” and it is not so specified there, consequently I took that to be the signature of Henry Edwin Smith.
10. Was any enquiry made by the officer who received this application as to whether Henry Edwin Smith had authorised his signature to be attached to the application? I have learned that he made no enquiry. This is from enquiry made since I received the application.
11. Was any enquiry made as to whether he had authorised his name to be put to the application, and you reply what? That I have since inquired, and found that it was not made.
12. Do you consider that the officer receiving it in that style, without satisfying himself that the signature was the signature of the applicant, acted rightly—that he ought to have accepted it under those circumstances? I don't think he acted improperly in so doing.
13. *By Mr. Urquhart.*—What? I don't think the officer who received the application behaved improperly.
14. *By the Chairman.*—The term improperly is, I think, putting it too strongly. I do not wish to imply that he behaved improperly. I think I would put it that he acted unusually. I would rather that my question should be in that form.
15. Do you think, then, that he acted unusually? Yes. It is, I know, a bad plan for a witness to start explaining matters, but I think I may save time if I say that this application, when it first came into my hands, was dealt with as a *bona fide* application, and it was only at a later period when I came to enquire into the circumstances that the fact of its not being signed by Smith came to my knowledge, and it was then stated that the application was deposited with the Registrar of the Mines Office, and that a man named Kennan whose name appears there and who presented it asked the Registrar if it would be right for him to sign Henry Edwin Smith's name to it, and the Registrar informed him it would be all right if he was authorised by Smith to do so. These circumstances came to my knowledge at an inquiry which was held a considerable time after the application was first dealt with by me.
16. I think it will save time if Mr. Belstead will state all that is within his knowledge with regard to this matter. Now, Mr. Belstead, will you be kind enough to inform the Committee of all that you know, that is, of all that is essential regarding this question of Smith's application; its history, and the mode in which it was dealt with? On the 6th February, 1894, this application purporting to be signed by Henry Edwin Smith, which is put in, applying for the forfeiture of lease 5-91, belonging to the Mount Huxley Gold Mining Company, No Liability, was received by me. On its receipt, knowing that the Huxley Gold Mining Company was practically dead, I either wrote a note, of which no copy has been kept if that was the case, or sent a telephonic message, to the late manager of the Company, Mr. W. Guesdon, and asked him to come and see me. He came, and I showed him the application, and in conversation I said to him, “Your Company is practically dead; it will save the expense of an inquiry if this lease can be forfeited without holding one.” He said, “Yes, the Company is dead, and we have no interest in the lease, and don't care about anything that takes place in reference to it, and therefore you can advertise the lease for forfeiture, and proceed without any inquiry upon it, for of course we have not fulfilled the labour covenants.” The lease was advertised for forfeiture, without any inquiry into the allegation of Smith, on the grounds that the labour covenants were not being fulfilled. The advertisement was the usual one in such cases, notifying that it was the intention of the Minister of Lands and Works to apply to the Governor in Council for the forfeiture of the lease, and in it was a clause saying any person might object to the intended application, if they saw fit to do so, within thirty days. Propsting or Robey came to the late Minister of Lands and said they had the right, title, and interest of the Huxley Company, that they had acquired it at a sheriff's sale under writ issued against the Company for a debt owing to them by the Company, and that if this application of Smith's was entertained and the lease forfeited the Government, or Ministry—I think that was the term used—would be aiding the Huxley Gold Mining Company in defrauding them of their rights, and they alleged that Smith, the applicant, was only being made use of by some of the old people, shareholders of the old Company; that he was instigated by persons formerly identified with the Company in making this application; that if it

was granted they (Propsting and Robey) would be deprived of what they considered their just rights. The Minister told him to put his complaint in writing, and seemed to admit that an injustice might be done to Propsting and Robey, and said that if he considered there was sufficient grounds for doing so he would direct an inquiry to be made, the scope of the inquiry to be confined not to the question of the non-fulfilment of the labour covenants, because that was admitted on all sides, both Propsting and Robey and the Huxley Gold Mining Company conceding that there had been failure to comply with these, but to be confined to ascertaining whether Smith in his application had been instigated by the Huxley Gold Mining Company, or any persons formerly connected with it, with the intention of doing Propsting and Robey out of their rights. That is how far it went. Am I to go on, Sir?

17. Yes, please? Then I held that inquiry, and sent notices of intention to do so to Smith. I may add that at that time I did not know who Henry Edwin Smith was. Up to that time I simply knew him as Henry Edwin Smith, and I sent him a notice. I also sent the Huxley Gold Mining Company notice to appear, and told them in my notice what would be the scope of the inquiry—that was to ascertain whether the application for forfeiture was instigated by any one connected with the Huxley Gold Mining Company or not.

18. Or any of the directors? Or any of the directors of the Huxley Gold Mining Company. I held that enquiry, and it did not appear to me that there were any grounds for the statements made by Propsting and Robey, and I recommended to the Minister that he should apply to the Governor in Council for the forfeiture of the lease. It was clearly proved and admitted on all sides that the labour covenants had not been fulfilled, and that the lease still stood in the name of the Huxley Gold Mining Company; that although Propsting and Robey had purchased it as stated at a sheriff's sale two years before, they had slept on their rights, and during the whole of that time had taken no trouble to even register themselves as the owners or deal with the leases in any way, and, therefore, although they had purchased the right, title, and interest of the Company in some five other leases upon which rent was payable, they had let these lapse for want of payment of rent, and only continued to hold this lease (5-91) because it was a reward claim, upon which no rent was paid or payable. Upon receipt of my report and recommendation the Minister of Lands (Mr. Hartnoll) concurred, and directed that the proceedings instituted should go on, and forfeiture be secured. My report (and the Minister's minute, which is attached,) is included in the papers before me.

19. Then, is the Committee to understand that in your opinion there was no equitable claim on the part of Propsting and Robey? I think so; or at least if there is an equitable claim I don't know where it is.

20. Is the Committee to understand that if there was any collusion on the part of those formerly connected with the Company and Mr. Smith you would regard that as an equitable claim? I think such a thing as that might be an equitable claim, but although they alleged this they failed to substantiate it in the evidence taken by me.

21. In the evidence taken? Yes, in the evidence which was taken.

22. *By Mr. Gilmore.*—You mean that before you heard the evidence you considered they had an equitable claim, but that after you heard that you considered they had not? Clearly so. That is, up to that point, Sir. Of course there were other proceedings afterwards.

23. *By the Chairman.*—Perhaps it will be better to have it fully. Go on, Mr. Belstead? I hesitate in giving my evidence, because a good deal of this is from memory and not matters of record. Propsting and Robey were very persistent indeed, very persistent, in urging their claim. There were a good many interviews between either Mr. Propsting or Mr. Robey, I do not know which is which, and myself and others, with the Minister, at which I was present. Propsting and Robey at these interviews urged their claim on the grounds of equity, and were met by the Minister—that is up to the period of the recent change of Ministers—alleging that he considered the matter had been fairly dealt with, and that the claim was to be forfeited.

24. The Committee is to understand that these interviews between the late Minister of Lands and Propsting and Robey all took the form indicated—that of their urging that they had an equitable claim? Yes, up to the date of the Minister's final decision, and I think at the final interview, Mr. Robey—I forget whether it was Mr. Robey or Mr. Propsting, it was one or the other—left the Minister's room saying that that might be the Minister's decision—to forfeit the section—but that he would bring the matter before Parliament. He imputed motives to myself in a most unwarrantable manner before saying this. On the same day, I think it was, a Member of Parliament moved that the papers in relation to this matter be laid upon the table of the House. They were laid upon the table of the House in accordance with that motion, and nothing was done in the matter. That had the effect of preventing the minute recommending the forfeiture and giving effect to the Minister's decision going forward to His Excellency the Governor for signature. Then, I think, when the change of Ministry occurred, Propsting and Robey again urged their claim upon the new Minister, and from time to time there were interviews and references made between the present Minister of Lands, Mr. Pillinger, and myself, and the present Minister decided that it would possibly be fair, and in accord with what had been done in previous cases, to give Propsting and Robey three months' time in which to comply with the labour covenants, after which he would give his final judgment.

25. So far as you are concerned the matter ends there? The matter ends there. The papers were sent for by Parliament, and that is the position of matters at the present moment. Notification was sent to Smith of this decision, to the effect that Propsting and Robey had been given three months to put themselves in compliance in relation to the labour clauses, and if at the expiration of that time they have not done so the lease will be forfeited upon Smith's application, and a similar notification was sent to Propsting and Robey.

26. *By Mr. Gilmore.*—I think, Mr. Belstead, you said when you carried out your enquiry, you did so for the purpose of finding out whether there had been any collusion between Smith and any director of the Huxley Gold Mining Company in reference to the application? Yes, that was the scope of the inquiry.

27. Did you find any evidence that there had been any collusion? No conclusive evidence—no evidence. I was not satisfied on the matter at all.

28. Not satisfied at all? No, my finding was that there was no collusion at all on the evidence submitted. The only evidence you will find in the record of the proceedings of that nature was that the man Kennan who had formerly been a shareholder and director in the Huxley Gold Mining Company—that is two or three years ago—had acted for Smith, and had told Smith that the thing was a good thing and worth taking up and that there was no work being done there. I might mention that when Smith appeared before me at that inquiry it was the first occasion on which I knew that the applicant was Henry Edwin Smith, a civil servant; and it was also upon that occasion that the matter of E. Kennan having signed the application in Smith's name was made known to me, and the explanation then given to me was that Kennan went into my Registrar's office to ascertain the number of the lease and so on, for the purpose of framing the application, and he told the Registrar that he was going to apply for the forfeiture in Smith's name, and asked him if it would be right for him to sign Henry Edwin Smith's name to the application, and the Registrar expressed his opinion; he is only a young man, and he said "Yes, you can sign his name if you are authorised to do so."

29. *By Mr. Urquhart.*—As his agent? No; he did not say as his agent; it is signed, as you will see, "Henry Edwin Smith."

30. *By Mr. Gilmore.*—I think you said Smith's application came in and you communicated with Guesdon and told him there was an application for forfeiture and suggested to him it would be better not to oppose it, and thus save expense? I did not say it would be better not to do so: I asked him if he had any grounds to show; I might have said, "If your company is dead it is no use going to the expense of an inquiry."

31. And as a matter of fact Mr. Guesdon agreed with you entirely? Yes, entirely; he said his company was dead and he had nothing whatever to do with it.

32. *By the Chairman.*—In your opinion the imputation that Henry Edwin Smith, the applicant, was made use of as a civil servant, and as one likely to be influential if the matter came before Ministers afterwards, is quite unfounded? Quite, so far as my judgment goes.

33. You said Propsting and Robey made charges of that kind against Henry Edwin Smith? No, that charge was always alleged against myself—it was made in the Minister's room—that I was influenced by Smith's being a civil servant.

34. In the Minister's room? Yes, in the Minister's room. I don't know that it was said in just so many words, but either Mr. Propsting or Mr. Robey insinuated that I was actuated in making my recommendation for forfeiture by the fact that Smith was a civil servant.

35. It was only at a later interview than the period of that recommendation that you discovered Smith was a civil servant? At a later period, because I did not know he went in for mining at all.

36. So far as you are aware, Mr. Belstead, is there any reason why the present Minister should have altered the decision of his predecessor in reference to this matter? No, no other reason that I know of except the desire to be merciful and to be sure that no one is being wronged; and as a matter of fact no one is being wronged.

37. What I mean is this: you say that, except a probable desire to be merciful, you are not aware of any reason; I take it there has been no further evidence brought before the present Minister of Lands than that which was brought before his predecessor? No, there has been no further evidence; there has been further appeal by Propsting and Robey, who have urged that the forfeiture should not take place.

38. Possibly, that outside of interested parties there has been no further evidence obtained to justify the reversing of his predecessor's decision by Mr. Pillinger? No, not so far as I am aware of.

39. *By Mr. Urquhart.*—As to the application being signed by Kennan in Smith's name, was it not an unusual act on the part of an officer to send it in that form? No, I do not think so.

40. If the application is sent in to you, can you tell by whom it is signed? No, I can only assume the signature is that of the person it purports to be.

41. Then there was nothing unusual in this? Not if he knew who it was signed by.

42. Was it not signed and sent in upon his own instructions? Whose instructions?

43. Was the application not sent in practically in that form at the request, or rather, at the suggestion of the officer? Not at the request or suggestion of the officer. Kennan, in evidence, said he asked the Registrar if it would be right to sign it, and was told it would be if he was authorised by Smith to do so.

44. And seeing he was authorised, there was nothing unusual in it? No, certainly not.

45. As a fact, Smith ratified the transaction, did he not? Yes.

46. And you know ratification holds good in law? Yes. In fact, I think he said he authorised Kennan to act for him.

47. As a matter of fact, does any application require to be sent in for the forfeiture of a lease? Yes.

48. Where is it specified in the Act? Well, the department never forfeit for non-fulfilment of the labour clauses unless they are applied to.

49. But, as a matter of fact, if a man goes to the Lands Office, and says, "there is a Section, number so and so, upon which the labour covenants have not been observed for a number of years," would it be the Minister's duty to apply for the forfeiture on the ground that the labour covenants are not being complied with? I do not know what the Minister would consider to be his duty in such a case.

50. What would you consider to be your duty if your attention was directed to a case of that kind? To pay attention to it. As a matter of course, if it appeared in the public interest, forfeiture would be applied for.

51. Is it not a matter of notoriety that the Minister of Lands (Mr. Hartnoll) publicly notified his intention to enforce the labour clauses, and apply for forfeiture wherever they were disregarded—to rigidly enforce them? I think I heard so.

52. It has been stated—you may have read it in the papers—that Mr. Hartnoll publicly made such a statement? I think I can particularise the occurrence; it was made by him in his speech at the Blue Tier.

53. That was a considerable time ago? Oh, yes.

54. And a very proper thing to do? Possibly.

55. If a man came into the office to see who was the owner of this section, whom would you have said, at the time Smith lodged his application, was the owner? The Huxley Gold Mining Company. So far as I knew the Huxley Gold Mining Company were the only ones who had anything to do with it.

56. Would it not be a reasonable thing for a man knowing the Huxley Company was dead to send out a prospector to see if it was worth his while to take up their section? Yes, decidedly.

57. And seeing the man sent a man out put his application in for forfeiture, which was practically granted, and then an unregistered proprietor turns up, would you not say that that man who had failed to register his claim was wrong? He might be doing a wrong to the other man if that man incurred any expense.

58. Did it not come out in the evidence taken at your enquiry that he incurred expense in relation to this section, and was not a receipt shown to you in connection therewith? I am not quite sure; I think there was mention made of Kennan being paid for going down to put up certain notices, but then he didn't go.

59. It is a name like Kennan? Some money had been paid by Smith for work that appeared to me had not been done.

60. At any rate, he paid the money in good faith? Yes.

61. Assuming that this was an ordinary lease. It is not every mining company that holds a reward claim—it is the exception and not the rule, is it not? Yes.

62. And the only reason this section was not forfeited was that it was a reward claim? Yes.

63. You forfeited the others? Yes, for non-payment of rent.

64. Then it may be an accident that this claim has not been forfeited too. They bought the right, title, and interest in five sections. Had these sections been all leasehold (or rent-paying—not including a reward section) they would have been forfeited for non-payment of rent? Yes, that is so, if the rent had not been paid.

65. And all the other sections were forfeited? Yes.

66. It was an accident, then, or perhaps a God-send, that that one section turned out to be a reward claim? It may have been. I cannot tell; that is another matter.

67. It may have been an accident? I think it was; I will not say definitely.

68. Did they spend one solitary shilling while they were proprietors of this section? No.

69. Did they pay one shilling in rent to the Government? No, nothing at all.

70. Have they done anything to satisfy the department they are entitled to consideration? Well, I don't know that I can speak as to that.

71. To satisfy you, then? No.

72. They have not done anything to satisfy you that they are entitled to consideration? No, nothing whatever.

73. Can you state when the notice was sent to Propsting and Robey that they would be allowed three months' extra time: was it before or after the notice of motion tabled in the House of Assembly asking for a Select Committee? It was written before; it was sent out after that notice was tabled.

74. Written before, and sent out after? Yes.

75. Don't you think in the interests of justice, seeing there was notice of a motion before the House, that it would have been only a right and proper thing to stop the forwarding of that notice in the same manner that you stopped the other document when the papers were called for in the House of Assembly—would it not have been justice to have arrested this second paper? I acted under instructions from my superior.

76. I ask you, do you not think it would have been fairer to have done this—that more justice would have been done? I do not care to review the action of my superior officer.

77. You acted under the instructions of your superior officer? Yes; my Ministerial head.

78. Was it the same head that arrested the document when about to be transmitted to the Governor for his signature? The delay in sending the minute forward was occasioned by the papers being sent for to be tabled in the House of Assembly.

79. Who gave instructions for the document to be stopped? I don't think any one did so. We always hold our hand while a case is *sub judice*. We had the paper drawn, then the papers were called for, and I knew some proceeding would follow that, and therefore waited.

80. And through your action the minute was never sent? Exactly so.

81. Don't you think it would have sustained justice in the matter of Propsting and Robey if you had arrested the final papers until the decision of the House was known? I do not think I am called upon to express an opinion upon the acts of my superior, the head of my department.

82. You do not care to express an opinion on the acts of your superior? No.

83. Did you, in the first instance, recommend that three months' time be allowed? No.

84. And if the Minister says that he acted in accordance with your original recommendation it is untrue? I hardly can say that. Will you allow me to explain? At one of the interviews between Propsting and Robey and Mr. Hartnoll it was suggested that the same course be adopted in reference to this case as in others, that of giving them time to put themselves in compliance with the Act, and in talking the matter over with the late Minister I said that was done sometimes, but I expressed myself to be of opinion that it was hardly necessary in this case; that there was hardly a warrant for it, inasmuch as that Propsting and Robey had done nothing to assert their rights; that they had slept on them for two years. As a matter of fact, the Department does show leniency to those whom they see are acting in a *bonâ fide* way. In such a case the Department would not order the forfeiture.

85. In this case, however, Propsting and Robey had done nothing to entitle them to any consideration? Nothing. They stood with no claim for consideration, except their equitable right in that the Huxley Company owed them money and they had the section in payment, and that it might be a hard thing to take it away from them.

86. At this time there was some attention directed to the Huxley district, was there not? Not when this thing was first commenced.

87. Not when Propsting & Robey appeared upon the scene? No.

88. I think there was. I knew something about it? Well, if there was it was kept *sub rosa*.

89. Going back to the old question. If Mr. Pillinger stated that in giving these three months' concessions to Propsting & Robey he is only following out your original suggestion, would that be a true statement or not? No; I have never recommended that three months should be given. I suggested that three months had been given in some cases. I don't go to the length of saying that what the Minister states is untrue.

90. I only put it in my own language, and say that if the Minister stated that in giving this three months' time to Propsting & Robey he was following out your original suggestion, would that be true? No.

91. *By the Chairman.*—Did you inform the present Minister of Lands of what you have just stated you brought under notice of the previous Minister, Mr. Hartnoll, that in several cases this had been done, and without going the length of recommending that it should be done: did you inform the present Minister in similar terms to what you used in the case of his predecessor in office? I did, Sir; but the present Minister was fully aware of the fact, for he had frequently done it when in office before.

92. *By Mr. Urquhart.*—The present Minister did not require the information. Probably he had a longer acquaintance with the custom than yourself? Possibly he had; although I won't say that he had.

93. Is it usual in your experience, Mr. Belstead, that where a Minister had gone so far as to record his determination to do a certain thing, for a subsequent Minister to come round and reverse it? It is not usual.

94. Can you cite a solitary instance where it has been done before? In my own department, do you mean?

95. Yes, in your department? I cannot. I do not know of any.

96. I am talking of the Mines Department? Yes, I know you are; but I don't know of any case.

97. So far as you know, there is no case in existence in your department where the decision of a former Minister has been rescinded by his successor? No.

98. You said Propsting and Robey prosecuted this matter very vigorously? They did; they were very persistent.

99. Did they bring any friends to argue their case for them? Their solicitor, of course.

100. *By Mr. Gilmore.*—At the enquiry? They brought their solicitor.

101. *By Mr. Urquhart.*—Have you ever been interviewed by any one beside Propsting and Robey on this subject,—by any one on their behalf? I don't remember. Can you mention any name? If you can instance any person I could recollect.

102. Did you see those two letters which were removed from the file when in the House of Assembly? I read the correspondence in the report of the proceedings of the House.

103. Have you read those letters? I have.

104. Can you state how they got in among your papers? They were filed and put away as done with. The letters had been backward and forward from the Attorney-General to the Premier's Office and back to us, and on one occasion they came back to me and were filed with other papers, and when they were called for suddenly everything on the file was sent to the House just as they were.

105. You state that the papers were sent from your department to the Premier's, and then to the Attorney-General? They were.

106. Is not that an unusual procedure that papers in your department should be handed about like that? No; not an unusual one.

107. Not an unusual one? No.

108. They were called for by the Premier and the Attorney-General? I am not absolutely certain I am correct in saying the Attorney-General got them from me. I think he got them from the Premier.

109. Are you in the habit of sending your papers from your department like this? It is a matter of frequent occurrence to send papers to Ministers.

110. In your own mind, acting in your capacity as Secretary of Mines, and trying to do your duty between man and man, do you consider there was anything in the case put forward by Propsting and Robey that justified the three months' extension? No; I recommended the forfeiture. My recommendation is in the record, and the reason for giving that recommendation is there as well.

111. *By Mr. Mulcahy.*—In regard to the notification to Propsting and Robey which was withheld some time, was that withheld by the instruction of the Minister, or by your own? By myself.

112. Mr. Pillinger was out of town, was he not? I think he was.

113. When he came back to town did you refer the matter to him? Yes.

114. With the result that the notification was sent? Yes.

115. Do you know of any other application ever having been made for forfeiture of a reward claim? Oh, yes.

116. And of the section being forfeited? Yes.

117. It has been done before? Yes.

118. With regard to this one, you did not take into consideration at all the probability that Propsting and Robey, having been forced into the position of owners of this lease, and their being too poor to comply with the labour conditions, that they might not be able to afford it? That was not within the scope of the inquiry held by me. That inquiry was simply to ascertain whether Smith, in making the application, was instigated by the Huxley Company or any one connected by it—by people whom Propsting and Robey asserted in round terms had robbed them.

119. That came within the scope of your inquiry then? Yes.

120. But is the matter of whether the section should be forfeited,—suppose the application had been made by any one against the old Huxley Company, and Propsting and Robey were not in the matter at all, would you have recommended forfeiture? Yes.

121. While knowing they had spent a certain amount of money on the claim? I did not know that. With the evidence that was before me I did not know that.

122. Had it been proved to you that they had expended money on the section, and were unable to spend any more,—that they had gone to the full extent of their capital,—would you not, under those circumstances, take that into consideration? Yes, clearly so, and so would the Minister.

123. That has been the practice of the Department? Yes.

124. With regard to Propsting and Robey,—you are aware that they purchased the right, title, and interest of the Huxley Company in that section, and you know also that they were forced to purchase it as being the only available asset that they could get for their claim against the Company? No, I was not aware of that.

125. Had you been aware of it would that fact have weighed with you in taking their claims into consideration? No, it would not, and for the reason that they had done nothing whatever; they had not even registered their ownership to it. The Company was practically dead, and it was allowed to remain in the books of the department in that name. The Company had been divested of its interest by the action of Propsting and Robey, and yet Propsting and Robey had taken no steps to obtain recognised ownership.

126. Had Propsting and Robey been able to show themselves not in a position to comply with the labour covenants, and considering how they obtained possession of the section, would it be just to take it from them because of that inability; would such circumstances if existent have weighed with you in making your decision and probably would have altered it? No, not to a very great extent, because I should also have known on the date that they took it that they took the four or five other sections, and that the debt of the company to them was only some £5 or £6, and I certainly should not consider an expenditure of £5 or £6 would justify that amount of leniency being shown them. I don't know the exact amount of the debt, but at any rate it was under £10.

127. The reward claim is subject to the labour clauses the same as any other? Yes, precisely so.

128. Had you any reason to believe there was anything suspicious in the application? Of Smith?

129. Yes, of Smith? None whatever.

130. Neither before or after the application? Neither before or after.

131. Have you ever known an extension of time to be given where the rights of a company have been purchased? Oh, yes.

132. In purchasing this claim of these leases did Propsting and Robey secure the whole of the rights of the company? Yes, in this section and in four or five others.

133. Would they not, so far as the department is concerned, become the Huxley Company? No, they would become the holders of the leases the Huxley Company held, and upon registering their ownership, the bill of sale or sale note which was given them by the sheriff, they would become the owners of the leases.

134. As a matter of fact, if they had not omitted to register the transactions they would have become the Huxley Gold Mining Company? No, they would become the defendant in Smith's application. It would be Smith against Propsting and Robey, and not Smith against the Huxley Company. In the office books Propsting and Robey were not known in connection with these leases in any way.

135. If they had registered would they not have really stood then as the Huxley Gold Mining Company, having purchased their rights in the section?—would they not have been entitled to credit for work done by the Company whom they had bought out? They would have had all the privileges and liabilities in connection with this lease, but the lease would have stood on our books in the name of Propsting and Robey.

136. But I want to know would they then have been entitled to consideration for the work done on the claim by the Huxley Company? Hardly, I think. No, I don't think they would.

137. Are all matters of forfeiture of leases submitted to you? Yes.

138. Have you ever found a case in which a Company's rights having been purchased you have granted concessions to the purchasers on account of work done by a different Company? By their predecessors?

139. Yes, by their predecessors? No, I don't think so, not where the purchasers have been independent of the vendors. We have done it when dealing with the same people, that is some of the shareholders who had paid away large sums in developing the mine and then subsequently purchased it.

140. Is it usual when an application for forfeiture is made to grant an extension of time to the defaulting leaseholder? It is not always done, but very often this is the case.

141. In the instances that occurred was it a question of law on which the case was decided, or a mere matter of opinion? In this very case, do you mean?

142. Yes, in this very case? Do you mean in so far as the Minister's action was concerned?

143. So far as the decision of the Minister is concerned, was it a matter of law or opinion on which the decision was given? It was clearly a matter of opinion.

144. And do you think if it had been a matter of law the Minister would have given an opinion? He gave it clearly within the rights of a Minister, and expressed an opinion as to whether the section should be forfeited or not.

145. Do you think there is anything in this case to warrant any two men having different opinions respecting its merits? I cannot judge of that. I have not changed my opinion.

146. Do you think there is anything in the evidence which would justify any change of opinion? Personally I do not; but the same case does not present itself alike to the minds of two different men.

147. The statement made by Mr. Hartnoll to the effect that the labour clauses would be rigidly enforced, was that ever carried out? Do you mean did forfeiture take place?

148. Yes, and will do in this case I presume if Propsting and Robey are found to be in non-compliance at the end of the three months? In that case the matter would then come before the Minister, and forfeiture would probably be carried out.

149. Has the law in regard to the labour clauses ever been rigidly enforced? Not as a general rule. It does not follow as a matter of course, but there have been a great many forfeitures made on account of non-fulfilment of the labour clauses.

150. I suppose it would be right to say that for every section practically dummied which has been forfeited there would be at least three other sections equally dummied in which no action has taken place? The department does not move in the matter unless outside action is taken.

151. As a matter of fact, then, the labour clauses are not enforced unless some one applies for the forfeiture? No; this section would have gone on standing on the books as a reward claim unless somebody had moved in the matter.

152. Do you know that the reward claim might have been held by the present applicants, believing that they had quite sufficient without holding the others? I think it possible Propsting and Robey did not know they owned it.

153. Have you any reason to think so? Well, I base my opinion upon the fact that they owned the adjoining sections and let them slip, and the adjoining sections, so far as any one knows, are as good as the reward claim.

154. Have you never known it to occur that men have held reward claims and the adjoining sections and have allowed the others outside the reward claim to slip? Yes.

155. It is not at all unusual? No.

156. And this procedure is a very common one on the part of men holding reward claims? Yes.

157. Is that the only reason—that general one—upon which you arrive at the conclusion that they did not know they held the section? I have not arrived at that conclusion; I simply offer it as a reasonable presumption.

158. Although it is not at all an uncommon occurrence? No, it is not uncommon; it is possible for a person to hold leases and forget about them; in these reward sections it was easy for them not to know they held it.

159. *By Mr. Urquhart.*—Mr. Belstead, it is not the duty of your department to consider whether a man has the funds to work his section when he has taken it up or not? No.

160. It is the duty of the man who takes up a section to see that he has the funds? Yes.

161. When the rights of the Company were purchased you mean that they were the transferees of the section? Yes, Propsting and Robey.

162. They would become the transferees of the leases? Under "The Civil Process Execution Act" they would.

163. And before they could accept that they must accept the covenant of the leases as the transferee? Yes; but in the case of a sheriff's sale a man becoming a purchaser by that Act becomes transferee.

164. No, they have not entered into any covenant until they have accepted the lease, which ought to be an addendum to the transfer by the sheriff? As a matter of fact it is not done so.

165. Does not the Act distinctly say that leases may be transferred and shall be transferred in the form prescribed in the Schedule? That is so far as ordinary transfers are concerned, but not as to transfers under sale by the sheriff; they are different.

166. Do you not say the sheriff should give the same transfer as any other person? No, Sir; the sheriff gives what he is bound to give by law.

167. Excuse me, the sheriff will get you to sign any document his solicitors approve of? Well, I will not argue it with you, but, speaking as a layman, I do not think that is correct.

168. Is not the law prescribed by form for the sheriff? No.

169. He simply signs, and conveys to you what he sells? Yes.

170. That is a transfer? Yes.

171. And has the same effect as the transferee's signature? Yes.

172. And it does duty as a transfer, and can be accepted by another person, therefore it is the same as any other transfer? I do not think so.

173. Did they ever do that? You mean Propsting and Robey.

174. Yes? No.

175. Did they ever inquire what the Huxley Company held? No.

176. Is there any record of their having ever inquired whether they held a reward claim? No.

177. So they have made no inquiry in the office, and you came to the conclusion that so far as they were concerned, or so far as they knew, it might have been an ordinary lease, and they knew no better? Yes.

178. *By Mr. Gilmore.*—So far as the evidence of non-performance of the labour covenants was concerned, I think you say that all parties admitted those had not been complied with? Yes.

179. *By Mr. McWilliams.*—On any occasion previous to this has it ever occurred that a Minister has given a decision, not to say in opposition to your recommendation, but a decision not in accordance with your recommendations? Yes.

180. Does it frequently occur? Very infrequently.

181. *By Mr. Mulcahy.*—Mr. Belstead, I think you said the previous Minister, Mr. Hartnoll, had signed the recommendation for forfeiture before he went out of office? Yes, he made the minute which is on record.

182. And, although he made that minute, you did not consider when the papers were called for in the House that the matter was finally settled? No.

183. You considered that the matter was held in abeyance for further inquiry? Yes.

184. *By Mr. Urquhart.*—You said there was no further evidence? No further evidence.

185. *By Mr. Gilmore.*—You say there was no further evidence, so far as you were aware, to induce the Minister of Lands to alter the decision of his predecessor. I ask you, do you know of any case which has occurred in your office where a new-coming Minister of Lands has altered the decision of his predecessor without first having before him some further evidence? No.

186. *By Mr. W. T. H. Brown.*—Did Propsting and Robey know before you gave your decision that one of these sections was a reward claim? I think so.

187. Was it ever brought before you that they, being the owners of a reward claim, thought that they were safe, and, in their ignorance of the regulations, thought there was nothing necessary to be done on that section in the way of working? I did not know that they owned it before I made my recommendation.

188. Did they ever make you aware that they knew they were the owners of a reward section? No.

189. *By the Chairman.*—During the negotiations which have been going on between Propsting and Robey and the Department have they ever informed the Minister that they were of opinion that because there was no rent to pay there was no need to work on the section unless they wished? I do not think so. I do not think they had a knowledge of its being a reward section until after the proceedings were instituted. I believe they thought that all the leases had been forfeited.

WILLIAM HARTNOLL, *called and examined.*

190. *By the Chairman.*—Your name is? William Hartnoll.

191. You were the Minister of Lands at the time of the application of Henry Edwin Smith being lodged for the forfeiture of a reward section held by the Huxley Gold Mining Company? I was.

192. And you had to deal with that matter subject to this inquiry in your capacity as Minister of Lands, and are conversant with the whole of the facts of the case as they were presented to you and brought under your notice? Yes, and I wish to say that what the Secretary of Mines has detailed to this Committee is minutely correct.

193. *By Mr. Urquhart.*—Had you remained in office, Mr. Hartnoll, would that section have been forfeited? I should certainly have recommended the Governor in Council to have forfeited it.

194. The minute would have been sent on for his signature? Certainly. I might mention that I kept it in abeyance on account of a request made to me by Mr. Mulcahy, who informed me that he intended, when in his place in the House, to move that the papers be called for; and after he had so moved for the papers he saw me, and said, "I suppose you will not hurry on the question," and I said, "undoubtedly not if there is any fresh light to be thrown on it," and added, that "I would leave the matter in abeyance until the fullest enquiry had been made on the subject."

195. Was any fresh light thrown it? None whatever.

196. Is it usual for the successor of a Minister to reverse the decision of his predecessor on taking office? I have had no experience of that kind whatever.

197. Is it not a fact that you gave notice that you would enforce the fulfilment of the labour covenant? The statement made by me was, that I would enforce the covenants more rigidly than they had been before; not that they would be absolutely maintained.

198. Was there anything in this case entitling Propsting and Robey to any concessions? I do not know of anything whatever.

199. Did they act, in your opinion, in a *bonâ fide* manner. I will put it this way—did you consider their not registering their claim and their forfeiting non-payment of the rent on the paying sections quite straightforward? I expressed my opinion to Mr. Propsting. I told him that he had acted throughout the whole business in a most unbusiness-like manner; that if he had any claim he had slept upon it, in that he had taken no action to show that he owned the section, whilst as to the labour covenants there was ample evidence that he had done nothing.

200. At this time had they any *locus standi*. Had you ever seen their title? No.

201. Did they register themselves as the proprietors? Not that I know of.

202. *By Mr. Urquhart.*—Why did you help them if you did not think they had an equitable claim? I decided to re-open the case because after Propsting had interviewed me, from what he advanced I thought there were grounds for inquiry, and I told him I would have the matter very fully investigated. My only desire was that there should be a clean record in reference to the matter, and that I would not allow Smith or any one else to get special advantages out of the department; that I would have no collusion, and that so far as the labour covenants were concerned, if Smith did not get the section these covenants would have to be observed. The only investigation that took place was to find out if any collusion had occurred between Smith and the former directors of the Huxley Company, and in my judgment no such collusion was proved.

203. As a matter of fact, assuming that the Company suspend operations and the labour covenants are not fulfilled, it is quite legal for you to go and apply for the forfeiture of that section? Yes.

204. *By Mr. Urquhart.*—Suppose a party held it, do you mean to say that the directors of a company have not got the right to go and apply for the forfeiture. Would you think there was any attempt to strip these people of their property? Well, so far as I am concerned, I would be influenced purely by what I considered to be justice as between man and man. If he were a director who, while he was a director, allowed accounts to accumulate and innocent traders had thus been defrauded, and then subsequently applied for the forfeiture of a lease which had been purchased at a sheriff's sale by one of the directors, I should look upon it as a shady transaction, and I would not be inclined to regard it in the same light as I would if he were a *bonâ fide* applicant.

205. Can you explain what is a *bonâ fide* applicant? An honorable application, clean in every particular.

206. If one who is a director buys in £20,000 worth of machinery for £1000, would you as Minister of Lands not allow him to have his lease? I would let him have his lease if there was nothing suspicious in any of the transactions. I knew in this case—that is, assuming the complaint made to me was true—that there were circumstances which should be investigated.

207. Were they investigated? Yes.

208. With the result that you were perfectly satisfied that Smith's application was *bonâ fide*? I thought so.

209. Now, when the notice was given in the House of intention to move for the production of these papers you arrested the proceedings? Yes.

210. In your opinion as an expert don't you think it was the duty of the present Minister of Lands, when I gave notice that I would move for a Select Committee to enquire into the matter, to have arrested the proceedings then in train? I don't think I should be regarded as a ministerial expert. I have already

expressed my opinion about this in the House, and I express it here again. I think the giving Propsting and Robey three months in which they could carry out the labour covenants was practically giving them the section. It ought to have been arrested, for when Mr. Mulcahy called for these papers and requested me not to move in the matter, I dealt with it in that way. I certainly think the matter should have been put in the same position it was when I left office.

211. You do not believe, as Minister of Lands, in rushing a thing through? I would not have done it. I am, however, only the keeper of my own conscience.

212. You would have stayed your hand until Parliament had expressed an opinion one way or another? Yes.

213. *By the Chairman.*—The sending on of the minute to the Governor in Council did not dispose of the matter. There were thirty days to elapse between the time of the minute going on and the forfeiture of the lease? Thirty days from the time of the application for forfeiture being made.

214. *By Mr. Urquhart.*—Had the notice of intention to forfeit been gazetted for thirty days? That is a matter of record. I believe it had. I should like to say here, in explanation, having regard to what Mr. Belstead said concerning the papers being called for by Ministers, that I think it clearly the right course to pursue, all Ministers being part of the Cabinet, and having to advise the Governor in Council, I take it that anything relating to forfeiture they have a right to be conversant with.

215. The usual plan would be to call for those papers at the meeting of the Cabinet? I do not think so. I am of opinion if a Minister has any doubt about the matter he should take the papers to his colleagues and discuss the contents with them—I know I would be glad of the assistance of a colleague in any difficult question.

216. *By the Chairman.*—As a matter of fact, you have known many cases in which papers have been necessarily handed round to Ministers—I mean papers on matters of large importance? Yes. I should like to say here that some questions which have been put to Mr. Belstead evidently leading up to the question of non-forfeiture of the Lottah Sections at the Blue Tier, which it was sought to make applicable to this case. In my judgment they were in no way applicable. In the Blue Tier case it was shown that many of those at the time interested in the lease were the same men who were original proprietors, and had spent large sums of money in a *bona fide* endeavour to work the property, therefore that case was different.

217. *By Mr. Gilmore.*—On coming into office as a Minister of Lands, Mr. Hartnoll, would you feel yourself justified, without having before you fresh evidence, in altering the decision of your predecessor? Certainly not.

218. *By Mr. Mulcahy.*—What was the date on which you left office? I am rather in doubt,—some-time in the middle of April, I believe.

219. *By Mr. Gilmore.*—The 16th April? I believe it was.

220. *By Mr. Mulcahy.*—You were asked just now something in reference to the rushing through of the notices which were forwarded to Propsting and Robey: did you know these letters were not written until the 17th May? What letters do you refer to?

221. The letters notifying Propsting and Robey that they may have three months' extension of time? I don't know anything about those letters. I am not responsible at all.

222. *By Mr. Urquhart.*—After the notice of motion in the House, and my intention to ask for a Select Committee, notice was sent to Propsting and Robey giving them three months' extension of time. I want to know from you whether you think it was not the duty of the department to have stopped and waited until the result of the notice of motion was known? I would have done so myself; I had done so in the case of Mr. Mulcahy's motion.

223. *By Mr. McWilliams.*—In giving a ministerial judgment, Mr. Hartnoll, is it not the usual practice that the opinion of the Minister and his action is governed by what he believes to be right between man and man, rather than in any strict accordance with law? Certainly. He would, however, act, I presume, within the four corners of the law, and exercise his discretion as to what would be the proper thing to do under all the circumstances.

224. As a matter of fact, the question of forfeiture is one clearly within the option of the Minister? Clearly so.

225. If you found on going into office a memorandum left by your predecessor regarding a case, and decided to go into the case again, and as a result found that your predecessor's opinion did not accord with your judgment, what would you do? I would clearly carry out my own decision if I thought the previous Minister was wrong, but if, as in this case, it was being brought under the consideration of Parliament, I would undoubtedly withhold my hand.

226. I mean you would not follow a memorandum of a previous Ministry if it was not in accordance with what you thought right? If I thought it was wrong, I would not do a wrong act myself.

227. You mentioned the case of the Blue Tier. Was that judgment given in accordance with the recommendation of the Secretary of Mines? I think it was. It is very simple to find out, though. You can call for papers and see. I believe it was.

228. Would you consider a Minister was absolutely bound to follow the lead of his predecessor? Certainly not. I think there are instances where the Secretary has recommended one course and the Minister has followed out another. I know the case of the Mount Bischoff Company, where the rent was made seven times the former amount. The Secretary of Mines held a different opinion.

229. The Minister follows out what he thinks is in his judgment best, even if it is not in accord with the Secretary's opinion? I don't know any case in which the Secretary of Mines and myself, as Commissioner of Mines, differed in regard to the forfeiture of any leases.

230. But you would not hesitate to give a decision which was not in accord if you thought that decision to be one in the interests of justice? Certainly, I am master of my own acts.

231. The matter having been called before Parliament, would you, if you had been in the place of Mr. Pillinger, have altered the decision before Parliament had dealt with the matter? No; I would not.

232. Ought he not, when he came into office, the matter being before Parliament, to have stayed his hand? I decline to be a judge of Mr. Pillinger's acts. I will say, however, that if I had been in Mr. Pillinger's position I would not have done what he did.

233. *By the Chairman.*—Do you consider it was within the discretion of the Minister of Lands to act as he thought in accord with the public interest? Certainly.

WEDNESDAY, JUNE 13, 1894.

ALFRED THOMAS PILLINGER, *called and examined.*

234. *By the Chairman.*—What is your name? Alfred Thomas Pillinger.

235. And you are Minister of Lands and Commissioner of Mines for the Colony of Tasmania? Yes.

236. You are familiar with the facts connected with the case into which this Committee are enquiring? I am.

237. Will you inform the Committee how the matter first came under your notice? Yes. When I took office I found that an application had been made for the forfeiture of the Reward Claim first held under lease from the Department by the Mount Huxley Gold Mining Company, No Liability, and afterwards by Messrs. Propsting and Robey, but that the application had been suspended; and although the late Minister of Lands had given his decision he had, for some reason or other which was not very clear in the correspondence that came under my notice, suspended action. The matter was brought under my notice by the application on the one side by those who had made application for the forfeiture, and on the other side by Messrs. Propsting and Robey, who were objecting to the forfeiture. The one side wished me to at once carry out the decision of the late Minister of Lands, and Messrs. Propsting and Robey requested me to allow them to bring fresh evidence to contradict something that had been said in the evidence given before the Secretary of Mines. After consideration I eventually consented—not however without some considerable regret, I admit—to go into the papers connected with the case, which I had not seen up to that time. I felt then, in thus going into the whole of the papers, that whatever decision I might come to I should have to give effect to. I went into the papers and the evidence that had been tendered to the Mines Department, and I found that the old Huxley Gold Mining Company had contracted a debt with a firm in this town carrying on business, I think, as stationers and booksellers, and named Propsting and Robey; that this firm had been compelled, after attempting to obtain payment of that debt, to purchase the right, title, and interest of the Company in the leases held by the Huxley Gold Mining Company as being the only available asset they could obtain in compensation for the money owing to them by the Company. In looking into the papers I found the application for forfeiture purported to be signed by a well-known gentleman in this town, but the signature to my knowledge was not his. Upon further inquiry I found that this application for forfeiture had been signed by the largest shareholder, who was also one of the directors in the Huxley Gold Mining Company, in fact by the person who had contracted the debt with Propsting and Robey. On examining the evidence I could not see that this gentleman had any authority to sign that application. It appeared that Kennan, who was a director of the old Huxley Company, and who signed the application for Mr. Smith, had no direct authority from Mr. Smith to sign the application, but that such authority, if any could be held to exist, came to him through a third person. Now, Mr. Smith is a gentleman whose signature I thought could be obtained in a few minutes, if necessary, for this application, and I therefore looked upon the application as altogether irregular and improper. It was not signed by Smith's accredited agent, nor by any one having direct authority from Mr. Smith; and further, I believe that had such an application as that in question been submitted to me, I should have refused to have proceeded until the application had been signed by the person applying for the forfeiture, or by some accredited agent on his behalf. Passing over that, however, I found that the application was signed by the gentleman who had contracted the debt with Messrs. Propsting and Robey, and therefore he must have known in the action he was taking that he was going to deprive Messrs. Propsting and Robey of the only satisfaction it was possible for them to receive for that debt. At the date they bought the section it was apparently valueless, and I could not imagine either they or anyone else would buy it for any other purpose than a possible future asset. I could not imagine they meant to carry on mining on it as the Huxley Company had been wound up and was dead. Therefore I could only regard it that they had taken it in the hope of getting something for the debt owing by the Huxley Company; and it was a significant fact that although they held other sections acquired similarly, the whole of these other sections had been forfeited for non-payment of rent; and although they might be regarded as equally valuable from their location as this, yet no person had applied for them, and the only section applied for was this Reward Claim held by Messrs. Propsting and Robey. After consideration of all these circumstances and the contradictory evidence given, to which I would direct the attention of the Committee—that having reference to the signing of Smith's name and with reference to the other proceedings taken in this matter, I thought that if I forfeited the section I should be doing an act of injustice to Messrs. Propsting and Robey. I would here wish to say that the late Minister of Lands in giving his evidence said he had made a public statement to the effect that he would carry out most rigorously the conditions of mining leases in respect to the labour clauses; and in relation to that I would wish to state to the Committee that the only public promise I had ever made in that direction was on an occasion when a very large deputation, which came to me from Zeehan—at the time when one of our banks broke, and when there was a terrible condition of commercial depression, which deputation included a large number of representatives of the mining industry—and represented to me that they were without the means to carry on work, and sought protection against their claims being jumped, and I then promised that I would not, under the circumstances, forfeit any mineral leases until I had first given the holders three months' notice, thus giving them an opportunity to carry out the conditions of the labour covenants. On one occasion I had to reverse a recommendation of the Secretary of Mines merely

because, in the presence of the Secretary of Mines, I had given that promise to a large deputation, and my promise had been made public. I do not know that it is necessary I should enter into the political aspect of the question, as to what is right or wrong, or a strictly legal interpretation; but if it was wrong, I maintain that it has been the practice of the Lands' Office, and has been universally observed. I mean that I do not think during my time I have ever forfeited a section, where the lessees have been constantly paying rent, without giving them an opportunity of fulfilling the labour covenants. There may have been a special occasion, but, speaking from memory, I do not know of a case where I have gone away from that rule.

238. Did you receive any communication from any Member of Parliament in connection with this matter? I don't remember having received any: no, there were none to my knowledge.

239. Did you not receive a letter from me? Well, I cannot call that to my recollection; if I did the letter is in the correspondence before you. I omitted to say I am speaking from recollection, and so far as such a letter, if you sent it, is concerned, I do not remember it at all.

240. I was rather surprised at finding it was not amongst the correspondence, but if you do not remember seeing it you cannot speak of it to the Committee: you don't recollect it, then? No, I don't recollect it; I was rather astonished at hearing you, Mr. Brown, speak of having written to me on the subject; the letter must have come while I was away from office.

241. Well, if it is stated that political pressure was brought to bear on you in order to induce you to reverse the decision of your predecessor: is it untrue? Yes, perfectly untrue; there was no pressure brought to bear by any person except those interested. I would desire to say in reference to Kennan or the parties to this application having a knowledge of Propsting and Robey's claim, that it is quite evident from the evidence taken as well as from the correspondence that they had, and that Kennan waited on Propsting and Robey and offered them a share in this section if they would stand aside and allow the application for forfeiture to be acceded to.

242. Offered them a share? Yes, offered them a share in the Company if they would stand out and let the forfeiture be acceded to.

243. Whom did you say did this? Kennan, a late director of the Mount Huxley: that will be all shown by the correspondence. Some reference has been made to the fact of my having acted in the matter after action had been taken relating to it in the House of Assembly. The only action taken before I gave my decision was the calling for the papers, and these had been laid on the table of the House and had been lying on the table for a long time before any action had been taken on them.

244. How long? I cannot say, but they had been lying before the House some time; about six weeks I should say; and I understood from both parties that no fresh action would be taken, whilst there was Mr. Urquhart pressing me on the one side to give my decision, whilst the other side were pressing me to re-open the case. After I had gone into the correspondence and considered it, I gave my decision in accordance with what I thought the justice of the case, by suspending the forfeiture of the lease for three months, and I ordered the Secretary of Mines to at once send letters to the parties telling them my final decision had been given, and what it was. The letters were not sent out promptly, and in the meantime the parties interested—Propsting and Robey—waited on me, and I said that I had decided to give three months' grace before forfeiting the leases, and had ordered the Secretary of Mines to intimate that decision to them. That was before action was taken in Parliament to appoint a Select Committee, and as soon as I had made this known to the parties interested it became public, and after that the Select Committee was moved for by Mr. Urquhart. I could not suspend the matter after what I had done, although the letters had not gone out giving my decision, for I had made known what that decision was privately to the parties. One other matter I should like to refer to is that some reflection has been cast upon my colleagues as having influenced me in my decision and acted upon the instigation of some private parties. I desire to say I had never spoken to two of my colleagues regarding this matter before my decision had been given. Those two are the Premier and Treasurer. The Attorney-General, Mr. Clark, I did see on one occasion, when he just walked into my office, and keeping his hat on just said, "Here is Mr. Propsting, who has called in to see if you can settle this matter of the Huxley Gold Mining Company," and then walked out again. I desire to say that, in justice to my colleagues.

245. *By the Chairman pro tem., Mr. Dumaesq.*—Did any further evidence come before you beside that which was before the former Minister of Lands? No, only the letters of those who were contending against the forfeiture; no further oral evidence. I went through the evidence and I formed a different opinion.

246. You formed a different opinion on the same evidence? Yes. I came to the decision that it would not be fair to Propsting and Robey to deprive them of their rights through the action of a director of the old Huxley Company who had caused them to get these rights.

247. You considered Kennan was acting more on his own part—in his own interest—in influencing Smith to oppose that right? That was the inference I think anyone would draw from the whole of his action.

248. You considered then that, notwithstanding the papers were laid before the House, that your promise was binding on you, and that you could not go back? Yes, it was binding. Verbally I had communicated my decision to Propsting and Robey, and had ordered Mr. Belstead to see that letters were promptly sent to the parties. Had it been done they would have got them that day. Why, when I saw Propsting and Robey I told them "your letter has gone to you telling you the matter is settled."

249. *By Mr. Gilmore.*—I think you said, Mr. Pillinger, that, from your own knowledge of Smith's handwriting, you knew the signature to the application was not his own? Yes, I knew it at once.

250. And, in consequence, you made inquiries and found out who it was had signed it? I did. From the papers I learned that.

251. You found out that it was the man Kennan? Yes.

252. Then you suspected there might be collusion between Smith and Kennan? I thought it was a very improper action on the part of Kennan to be a party in any way to an endeavour to take away the section from Propsting and Robey.

253. You considered there was collusion? No, I do not say that. I did not consider Smith knew any debt was owing to Propsting and Robey. He seems not to have known anything about the matter.

254. Did you know Smith had authorised, or rather ratified, the signing of his name by Kennan? He said he gave instructions to some one to tell Kennan to sign it.

255. You were aware the object of Mr. Belstead's enquiry was to ascertain if any collusion had taken place between Smith and Kennan? Yes.

256. You were present when he was giving his evidence, and are aware that he said he found no evidence whatever of such collusion? I do not think there was any collusion in respect to Smith.

257. Of course there must be two persons in it to have collusion? I don't think Smith knew anything about Propsting and Robey's position in the matter.

258. But he ratified Kennan's signing his name? He only ratified it in his evidence; it was not ratified till the evidence was taken at Mr. Belstead's inquiry.

259. But, replying to Mr. Urquhart, he said this, "As a fact, Smith ratified the transaction, did he not? Yes." "And you know ratification holds good in law? Yes; in fact, I think he said he authorised Kennan to act for him." It is not so said in any evidence I have had.

260. But in taking Smith's evidence Mr. Belstead obtained that. We took that from Smith's evidence. I am only dealing with Mr. Belstead's answer to Mr. Urquhart? I believe the evidence by Smith was, "The signature was made by G. R. Kennan, it was not written by my authority;" and in another part of the evidence he says he never authorised Kennan, but he did authorise a man named Morgan; and he authorised Kennan to sign for him.

261. Is Mr. Belstead incorrect in saying Smith authorised Kennan to sign for him? There is nothing on the papers to show how or by whom it was written.

262. That is only a supposition of yours as to where Mr. Belstead got his evidence from. I am taking the answer given by Mr. Belstead to Mr. Urquhart in reference to the ratification; you refer to the evidence given by Smith, is that it? Yes.

263. Now you have told us, Mr. Pillinger, that you had no fresh evidence brought before you in this matter than that submitted to your predecessor, Mr. Hartnoll? No, Sir.

264. And that you simply took a different view of the facts? That is so.

265. You say that Mr. Fysh never spoke to you in reference to this matter? No.

266. Did Mr. Piesse see you about it? I think Mr. Piesse may have come in and asked me to go into the papers, and inquire into that.

267. Did Mr. Piesse show you a letter he had received from Propsting and Robey? I cannot say. Can you say what the letter referred to?

268. The purport of the letter was to ask Mr. Piesse to use his influence with Mr. Fysh in order to get Mr. Fysh to use his influence with you in this matter? I think that letter was sent over by Mr. Clark. I do not think Mr. Piesse ever brought it. I did not see Mr. Piesse on that occasion, and I do not know that it was sent by him.

269. Was it sent previous to the Buckingham election? I think it was after that.

270. Are you sure? I am almost certain.

271. You are not positive? No, but I am almost positive; but the date will tell.

272. Was it previous to the North Hobart election? I think it was after all the elections. I think it was after I came back from fighting my own election. I cannot be certain, but I think that was so.

273. As far as you are aware it was after all the elections were over? I think so. I fancy it came to my office while I was away. At that time the letters came and accumulated, and when I returned I could not say what was the exact date on which any of them came. I was away fighting my own election.

274. And seeing that Mr. Hartnoll had given one decision, Mr. Pillinger, did you feel justified in upsetting that decision on the same statement of facts? I regretted it very much, but I could not go against my own convictions. I had to act in the matter, and as Mr. Hartnoll had suspended matters for some reason—and what that reason was I did not know—that he had not carried out his original intention, I found myself in the position of having to go into the whole of the evidence, and of deciding it according to my own convictions.

275. Did you discuss the matter with Mr. Hartnoll? No, I did not.

276. Now, don't you think under the peculiar circumstances it would have been advisable and a just proceeding if you had discussed this matter over with Mr. Hartnoll how he arrived at his decision and his reasons for that? If I had thought of it I might have done it, although I must say I should have felt considerable delicacy in sending for my predecessor to discuss what he had done when in office. It would have been, to my way of thinking, a most unusual proceeding.

277. You would know he must have good reasons? He could have only had the reasons that I had. He could not have anything outside it.

278. Then, having only the same reasons, how is it you look at it in two such diametrically opposite lights? I don't know. We don't always come to the same conclusion.

279. Seeing there were the same facts before both of you and you gave different decisions, would it not have been fairer to have discussed matters? Well, it never suggested itself to my mind.

280. Well, you say you received some private letters although you had no additional evidence? The letter is in this correspondence before the Committee. It was asking me to re-open the case because they had fresh evidence.

281. They told you in the correspondence that they had fresh evidence, but as a matter of fact you took none? No, I did not think it necessary to ask for it.

282. You did not think it necessary? No, I was satisfied on the evidence that I could do no other despite whatever my predecessor might have done.

283. But you might have heard this evidence? No. You see I had decided in favour of those who offered it. If it had been for the other side now I would have heard it.

284. Mr. Clark called on you with Mr. Propsting? Yes.

285. Did Mr. Propsting have an interview with you? Yes, a short one.

286. Was that previous to your altering the decision of your predecessor? It was previous to my going into the case. He only asked me to go fully into it.

287. He pressed you? He pressed me. I said "at present I am disinclined to open the matter in any way." I did not go into it for some considerable time after that.

288. You said that no pressure was brought to bear on you to get you to alter your decision? None whatever.

289. Then what was the note of Mr. Propsting's? Simply to ask me to go into the papers, and not to let the matter rest as it was.

290. Then there was some pressure brought to bear? He asked me to go into the question.

291. Then there was some pressure brought to bear on you to get you to alter your decision? I had to perform a certain duty. Mr. Hartnoll, my predecessor, had left the matter unfulfilled, and his reasons for staying the carrying out what he had decided upon I did not know. I had to carry out an important part of the arrangement before his decision could be made final, and he had suspended his judgment on the request of Propsting and Robey, I believe, and then Propsting and Robey pressed me to go into the matter in the same manner that I suppose they had pressed the late Minister.

292. Then, I say there was pressure? Yes, of course, pressure of that kind made by the interested parties, but when I said there was no pressure brought to bear I thought you meant political pressure.

293. *By Mr. Mulcahy.*—Mr. Pillinger, you told us just now, when you were asked to go into the matter you expressed a disinclination to reopen it at all? Yes.

294. Did you make that reply to more than one person? To both parties.

295. When you went through these papers, supposing the position had been reversed, and you had been in Mr. Hartnoll's place at the time when he dealt with the matter, would you have acted as you subsequently acted? I would have done exactly the same. I could have done no other than have acted in accordance with my convictions.

296. And you thought you would be doing an injustice if you acted in any other way than as you decided? If I had carried out my predecessor's intention I should have considered I had done an injustice to Propsting and Robey. That thought would have been always on my mind.

297. It was from no action on your part that the delivery of those two letters notifying your refusal to forfeit was delayed? No.

298. You were away? No, I ordered the Secretary of Mines to intimate that I had settled the matter. I believe the letters were dated the day on which I gave these instructions, but I don't know why they were not sent out. In the meantime I communicated the fact to the parties that the decision had been made, and I added in all good faith that the letters had been sent out.

299. *By Mr. McWilliams.*—Did you meet Mr. Propsting before Mr. Clark introduced him to you in connection with this case? I don't remember; really I don't know which gentleman it was, whether it was Propsting or Robey.

300. It was merely an introduction? That is all. He merely walked in and, without taking off his hat, said he had brought him over to see me.

301. As to pressure being brought to bear, do you consider the application that you should consider the evidence before finally deciding as being pressure in the usually accepted sense of the term? I do not. Bringing pressure to bear would, I think, be an entirely different set of circumstances.

302. Was any reason given to you why Mr. Hartnoll did not give effect to his own decision? I was told at the interview that he suspended it through the application of Propsting and Robey or some of their friends in order that further evidence might be brought forward.

303. I understand that the Minister has to take entire responsibility in all questions dealing with the forfeiture of mineral sections? Quite true.

304. In that case do you not consider it would be very improper to consult with your predecessor as to the evidence placed before you? To do so never suggested itself to me.

305. Do you think it right that applications for forfeiture of mineral sections should be received from civil servants? I do think that it is very undesirable that civil servants should take part in mining matters in that direction. I do not say they should not take part in mining in any other way, but certainly in instances of this kind it is not desirable, and I have previously expressed this opinion.

306. As a matter of fact have there not been from time to time very serious complaints raised by the mining community and objections made to interference by civil servants, or rather, their application for forfeiture of leases? There have been, and on one occasion I know a civil servant in the Public Works Department was severely commented upon for his action in a matter of that kind.

307. When this application was received, signed in Smith's name, and which you knew was not Smith's signature, did that create any suspicion in your mind? It did, Sir. I thought it a very strange procedure, and possibly not a *bonâ fide* one.

308. And the fact of it having been signed by the largest shareholder in the old Company, who was also a director, and the one who was alleged to have made the debt with Propsting and Robey—did that have any effect on your mind at all? It did. It led me to believe that Propsting and Robey were suffering from a wrong.

309. And had you carried out the decision of your predecessor, Mr. Hartnoll, do you think you would have inflicted an injustice on Messrs. Propsting and Robey? I believed I should have assisted the person who contracted the debt to deprive the persons with whom he contracted it of any possibility of satisfaction for that debt.

310. Was any political pressure brought to bear on you in this matter? Not the slightest.

311. Did Propsting and Robey bring any political pressure to bear at all in the matter, so far as you are aware? No.

312. None was brought to bear on you? None at all.

313. And you gave your verdict on your own responsibility, and based it entirely upon the evidence laid before you? I did, Sir.

314. *By Mr. Gilmore.*—You said, Mr. Pillinger, that some letters were sent you by the Premier? Yes; I think some letters were sent to my office and afterwards returned.

315. Are those letters produced? They are not produced, being private letters.

316. At all events there were certain letters sent over to you by the Premier relative to this case? Yes; I could almost give you the purport of them if you will let me.

317. *By the Chairman pro tem.*—Was the principal reason for your altering the already given decision in this matter the fact that you believed there had been collusion, not between Smith and any person, but between others? Yes. In my own opinion I thought Smith knew very little of the circumstances at all. There was very little evidence that he knew anything about it.

318. *By Mr. McWilliams.*—Did you think Smith was being made use of by others? I did, for his knowledge of what he was doing appeared to be very small.

319. *By the Chairman pro tem.*—And that caused your decision to be what it was to a great extent? Yes. I felt myself bound to see into the whole thing before giving effect to my predecessor's decision, and after I had done so I think, no matter who were the parties affected, I should have been bound to have given the holders of the lease time wherein to put themselves in compliance with the labour covenants. You see it matters not to the Mines Department who pays the rent, but, at the same time, I should always feel disposed to give all possible chances to the man who had been paying rent all along, and this being a reward claim I put Propsting and Robey in that position, for, of course, they had no rent to pay.

320. You put the amount they had lost in the light of an equivalent—just as though they had been paying rent? Yes, as a certain equivalent.

321. *By Mr. Gilmore.*—According to you the forfeiture clauses are a perfect farce in that a man is to have three months' notice of forfeiture, and therefore if a mine be forfeited it is only accidental? There are always a number of persons who watch certain sections, and if any discovery takes place they immediately apply for forfeiture, even though a man has been paying the rent for years and years. Now, I do not feel called upon to help these jumpers.

322. But if they had practically abandoned their section, and some others came in? They had not done so in this case. Here it was a reward claim, which stood in the same position as if the rent had been paid.

323. *By Mr. McWilliams.*—The reward section being free of rent, stood, in your opinion, the same as if they had been paying the Government rent for it? Precisely.

324. *By Mr. Gilmore.*—As a matter of law, the sections that are not being worked should be forfeited? I suppose so, but that has not been our rule.

FRIDAY, JUNE 15, 1894.

ANDREW INGLIS CLARK, *called and examined.*

325. *By the Chairman.*—What is your name? Andrew Inglis Clark.

326. And you are Attorney-General to the Colony of Tasmania, Mr. Clark? I am.

327. And you are aware, are you not, of what is the purpose for which this Committee has been appointed? I am.

328. To inquire into and report upon the circumstances attending the application made for the forfeiture of a mining lease of a reward claim at Mount Huxley? Yes.

329. *By Mr. Urquhart.*—You know Messrs. Propsting and Robey, Mr. Clark? Yes.

330. Did either of them interview you about this matter? Mr. Propsting interviewed me repeatedly. He interviewed me, in the first instance, when Mr. Hartnoll was in office, and laid before me his views of the case, and asked me whether I would see Mr. Hartnoll and Mr. Belstead and tell them what I thought of it—that is, the facts of the case as he laid them before me, and of the case from his point of view. I promised to do so, but I found myself so busy that I never managed to see them.

331. Subsequently did you see Mr. Propsting about it? Then after the present Ministry came in office Mr. Propsting came to me again, and said he regretted that I had not seen Mr. Hartnoll, and asked me if I would interview Mr. Pillinger on the matter. I said that the first opportunity I got I would put before Mr. Pillinger the same facts that I would have put before Mr. Hartnoll; but at that time Mr. Pillinger was at Oatlands engaged in his election, and he remained away a week or ten days, and I saw nothing of him till he came back. In the meantime Propsting had drawn up a statement of his case, which he intended to send to Mr. Pillinger, and he sent it to me asking me if I would go through it and strike out anything I thought objectionable. I perused his statement of the case, and as there was not anything to object to in it, so far as I could see, I thought it might as well go on to Mr. Pillinger, and I told Mr. Propsting so. Then he came again after that, and I said to him, "Well, look here, Mr. Propsting, the best thing I can do for you is to take you round to Mr. Pillinger, and let you fight it out with him." I took him round, introduced him to Mr. Pillinger, and left him with him, and I don't know what took place between them.

332. Did Mr. Propsting know Mr. Pillinger before? No; he told me he did not know him.

333. Did any communications pass between you and Mr. Propsting? No, only as I have said, he spoke to me repeatedly on the subject. I could not undertake to remember every time that he spoke to me.

334. Did he write to you at all? Yes; he wrote to me a letter accompanying his statement of the case. You know that was the letter I sent to Mr. Pillinger, which was afterwards tabled in the House, and taken away by me.

335. Have you any objection to putting it in? No. It simply refers to this statement I have told you about.

336. And you have no objection to put it in? No, none, only in so far as that it is Mr. Propsting's letter. I have no objection. What I said in the House when I withdrew it from among the correspondence was that it was a private letter written by Mr. Propsting, and when I found it there I thought I was bound in honour to Mr. Propsting to remove it.

337. Did the Minister of Lands ever consult you on the matter—ever see you? No.

338. Did you ever give him any advice in the matter? No.

339. Do you remember Mr. Brown, Mr. Smith, and myself interviewing you? Yes.

340. Would you consider that interview a private interview, because if you consider it to be private I will drop that matter? I consider it to be a private interview in this respect, that as Attorney-General I had no official connection with the matter, and could not have done anything in the matter if you had come to me.

341. Did not Mr. Brown, Mr. Smith, and myself complain about the delay that had occurred in the matter, and the further delay that would follow if it was reopened? You complained about the matter being reopened; of course I know that.

342. Do you remember what you said? I told you the best thing you could do was to have a Select Committee.

343. Yes, and there was something else. Didn't you give me your opinion on the matter; what you had already advised in the matter? Well, I don't know that any opinion was given.

344. Mr. Brown was present, perhaps he could help you to recollect? Do you mean on the actual case as it stood on the Evidence before Mr. Belstead?

345. As to the case being re-opened and what action you took as a Cabinet Minister? No.

346. Did you ever see the papers in this case? Yes.

347. Under what circumstances? They were sent to the Premier, and when he was requested to go into the case he asked me to go through them, in fact, I took them away with me, I could not go through them at once.

348. Did you look through the papers? Oh, yes.

349. Did you come to any determination about them, or about the merits of the case? Yes, privately, but I did not advise Mr. Pillinger of that opinion.

350. Did you make any suggestions to the Premier in the matter after you had gone through them? Yes, I gave the Premier my opinion.

351. Would that be private? do you object to stating what that opinion was? I said that I did not agree with Mr. Belstead's memorandum about the forfeiture at all, because he went on the assumption that the evidence was all one way, and entirely overlooked the fact that there was a conflict of testimony.

352. *By the Chairman.*—As to the collusion? Yes, as to collusion, and also as to the general claim made by the applicants to have the section forfeited as against Propsting and Robey's right.

353. What do you say was the matter before the Secretary of Mines when he held his inquiry? The question before him was as to there being collusion to deprive Propsting and Robey of what they said was their rights, and also whether those rights existed.

354. *By Mr. Urquhart.*—Was not the matter before the Secretary of Mines as to whether the labour covenants of the lease had been complied with or not? No; I think not.

355. Was not the application one for the forfeiture of a lease? Yes.

356. Because the labour covenants had not been complied with? Yes, those were the grounds of it.

357. Then was not the subject before the Secretary of Mines the question of whether that allegation, that the labour covenants had not been complied with, was substantially correct or not? I don't know that it was all that was before him in this case.

358. In any case is not the question one of whether the labour clauses have been carried out or not? Yes.

359. And all matters outside that have nothing to do with the Minister in treating with such an application or complaint? Only in so far as the Minister might consider them if he was inclined to give three months' grace. You see he must have some facts to go upon in coming to a conclusion as to whether he would give three months' grace or not.

360. As a matter of fact, would not any man have the right to apply for the forfeiture of a lease? Yes.

361. *By the Chairman.*—In your opinion, Mr. Clark, is there, under our existing law, a discretionary power vested in the Minister of Lands as to whether he should enforce the penalty of forfeiture in relation to these leases or not? Oh yes.

362. *By Mr. Urquhart.*—Have you determined the legal interpretation if the law allows that? Well, that is the opinion I have formed.

363. But don't you know that in most, if not all, cases where the law says the officer may do a certain thing, it is held to be his duty to perform what is required of him by the directory Act? that the word "may" is interpreted as "must"? It is so in some cases.

364. I say that in a case where a public duty is imposed on a public officer the word "may" means "must"? Yes, where a duty is imposed on the officer he would act in the strict sense of the word, but I do not take it that that applies to a Minister of the Crown.

365. But invariably the word "may" means "must"? Oh no; I don't say that.

366. Has not every man in the Colony, under the present mining law, the right to apply for the forfeiture of a lease if the conditions regarding the labour covenants are not being performed? Yes, of course.

367. And has not a director of a company, if his company is not carrying out the labour clauses, the right to apply for forfeiture? Yes.

368. Do you consider the term "jumper," as applied to a man in connection with an application of this kind one likely to disgrace him? It might under some circumstances.

369. Can you define what a "jumper" is? I am told this word has very wide and different meanings.

370. If a man is to be described as a "jumper" because he applied for a forfeiture under this Act it seems to be absurd to have an Act that would cause him to come under a stigma of that kind. The Act provides that a man may apply for forfeiture. You see Mr. Pillinger says he did not feel himself called upon to aid these "jumpers." Do you consider that a man applying in accordance with the law is a jumper; his application, you know, may be refused. Do you think it right to call him a "jumper"? I can understand the word "jumper" can be applied to certain men in certain circumstances.

371. Do you consider that if a director applies for the forfeiture of the section formerly held by his company he is doing an unlawful act? He may be under some circumstances.

372. Suppose a man as a director of a company that has been dead for two years, and he knows it, do you think it right of him to apply for the section?—do you think that he ought to go and tell the company's directors he is going to do so? I think if he discovers anything to induce him to believe the mine is a valuable one, it would be morally incumbent on him to inform his former partners who have spent money on the property, and give them an opportunity to come in.

373. Even if he has been spending money and has had prospectors out, as had been done in this instance? Ah, now you are beginning to mention a special case; you asked me a broad question first, you see, and I answered it on broad principles.

374. Then do you say that whether a man has spent time and money prospecting a section which he believes to have been abandoned, that you believe he is not justified in applying for its forfeiture, the company that held it being practically dead, and the section having passed into other hands, this one shareholder who believed in it has got to go to all the others and tell them he intends to apply for the forfeiture, that is if he wants to act morally? He would not need to go to all the shareholders, but would only have to go to his fellow directors who would be acting for the shareholders in the company.

375. Suppose it belonged to another person, and the company is out of existence, would you deem it his duty to go round to the shareholders and tell them? If the other shareholders had spent a lot of money on the property I certainly should not feel quiet on my own conscience if I took the whole benefit of what they had done to myself merely because of some chance discovery.

376. If Mr. Propsting has no objection to the letter being put in, have you any objection? No. I thought it was a letter sent to me and was put in amongst the departmental correspondence by mistake, therefore I withdrew it; but, so far as I am concerned, I have not the slightest objection to its production.

377. Do you think it is right for a Minister of Lands to upset the decision of his predecessor without consulting him, and when that predecessor has left reasons for his decision? I think that an incoming Minister is quite entitled to look into the facts upon which the former Minister has given his decision before he takes steps which may result in the upsetting of the rights of certain people. Of course, in the case of a decision that has already interfered with certain rights the incoming Minister has no power to interfere, but in this case the responsible and final action, which absolutely would have deprived Propsting and Robey of their interest, rested with Mr. Pillinger, and, I think, before he or the rest of us as a Cabinet took upon ourselves to do that we were entitled to look into the merits of the case and to see what were the facts.

378. If Mr. Hartnoll had reviewed all the facts of the case, and brought it to the last stage that it only required the endorsement of the Governor-in-Council, do you think it right of this Cabinet to reverse the decision arrived at without any fresh evidence? Yes. I think that, as we had to take the final act which, if we followed out Mr. Hartnoll's intended course of action, would deprive these men of their possessions, I think it was but right and just that we should know all about it.

379. But if the responsible act had already been taken? Ah, but it could not have been, and had not in this instance.

380. *By the Chairman.*—In other words, the present Government had to take the final step—that of obtaining, on recommendation, the sanction of the Governor-in-Council—that they had to advise the Governor that this section should be forfeited? Yes, exactly.

381. *By Mr. Mulcahy.*—In cases of this kind the Minister has a discretionary power; he is not bound to forfeit on application? Yes, I consider he has such discretionary power vested in him under the Act.

382. And having that power, it was his duty to exercise it in the way he did, should he think that he was thus doing what he believed to be right and just? Yes.

383. You have read all the evidence, have you not? I read three sheets of it, which were lying on the table in the House last night.

384. I mean the evidence taken by Mr. Belstead, not that before this Committee? Yes, I read that through.

385. And your opinion as a lawyer was what? I came to the conclusion that Mr. Belstead had come to his conclusion erroneously, because he had evidently ignored the fact that there was a conflict of testimony.

386. *By Mr. Urquhart.*—Not as regards the non-compliance with the Act in relation to the labour covenants? No.

387. *By Mr. McWilliams.*—Having read the evidence, did you think there had been any collusion between the persons who made the application for forfeiture? Well, there was evidence of collusion—some evidence of it—what a court would say was some evidence; but I do not say it was conclusive. I don't think it could be regarded as being that.

388. Were you satisfied in your own mind that the application was a perfectly *bonâ fide* one—I mean Smith's application? No. My own private opinion, my own impression was, that these men never applied for themselves at all; that they were applying for some one behind them who would, perhaps, have to provide so much cash to work the section if they got it.

389. You say you read this evidence through: now I want to know if it was your knowledge of it that guided you in arriving at the conclusion that Propsting and Robey ought to be granted three months' leave in which to carry out the labour covenants? Yes.

390. After reading the evidence were you of opinion—had the decision arrived at by Mr. Hartnoll been given effect to—that it would have inflicted an injustice on the holders of the lease, Messrs. Propsting and Robey? Yes. I certainly would think that from one fact which does not appear in the evidence, but which, I believe, is a fact and can be abundantly proven, and that is that Propsting and Robey were told either by Mr. Belstead or some one in his office that reward claims were never forfeited for failures to comply with the labour covenants, and that therefore, in this case, they ran no risk of forfeiture for not working the section. Therefore I consider that they were to some extent misled, and that it would have been very unfair to take it away from them without first giving them a chance to put themselves right.

391. *By the Chairman.*—Was that in evidence before Mr. Belstead? No, it was not. It was Mr. Robey, I think, who told me that he had been assured that this, being a reward claim, would not be forfeited.

392. *By Mr. Urquhart.*—And do you think it probable that Mr. Belstead said that? It was some official in the Lands Department.

393. *By Mr. McWilliams.*—As regards the action of the Cabinet, I think you said, Mr. Clark, that the Cabinet having to accept the absolute responsibility, the decision given, that you considered it was, therefore their duty to enquire into it—to examine any memorandum left by their predecessors? Yes, in respect to any case where final decision has to be given, decidedly.

SIR EDWARD N. C. BRADDON, K.C.M.G., *called and examined.*

394. *By the Chairman.*—What is your name? Edward N. Coventry Braddon.

395. And you are Premier of this Colony, are you not? Yes.

396. Do you know the object for which this Committee has been appointed—to enquire into and report upon the application for forfeiture of a certain mining lease? Yes, I know that.

397. Will you inform the Committee how the matter first came under your notice? Well, the first I heard about Mount Huxley at all was from Mr. Guesdon, who waited upon me with Mr. W. T. H. Brown, and told me that he or the company to which he belonged had no concern, no interest in this application.

398. In this application for forfeiture? Yes.

399. What caused Mr. Guesdon to come and give you that information? I cannot attribute any cause. That was the first I had ever heard of Mount Huxley.

400. What occurred subsequently in regard to this application, so far as you know? Well, I knew nothing further until I was asked by Mr. Urquhart, who called upon me, accompanied by Mr. Brown and Mr. H. E. Smith, and asked me to enquire into it.

401. *By Mr. Urquhart.*—Were you ever interviewed by anybody in connection with this matter outside those whom you have mentioned? No.

402. Did Mr. Mulcahy wait upon you about it? No, I have no recollection of anybody waiting on me in relation to it.

403. The papers were sent to your office? The papers were sent over to the Chief Secretary's Office where I was.

404. Did that result from the interview which took place between yourself, Mr. Smith, Mr. Brown, and myself? Yes.

405. At that time Mr. Pillinger was away contesting his election? Yes.

406. It was after his return that the decision about the forfeiture was given? Well, at that time at any rate I think I was doing Mr. Pillinger's work for him.

407. It was represented to you at that time the interview mentioned that efforts were being made to get the Minister of Lands to reopen the question that had been settled—that had been determined upon by Mr. Hartnoll? I understood I was asked to reconsider an order of Mr. Pillinger's.

408. But Mr. Pillinger had not given his decision then? Well, I am not very well informed as to how the matter then stood. You see, I didn't look at the papers myself, I handed them over to Mr. Clark, and asked him to go through them and let me know what he considered the legal position.

409. Do you remember my protesting against the Minister of Lands interfering with a decision that had been made by his predecessor; I know I spoke strongly in relation to the matter? You spoke very strongly about it, I recollect that.

410. Do you remember my giving the reasons why I objected to Mr. Pillinger reopening the matter? Yes; you argued, if I recollect correctly, that the forfeiture ought to take place, in fact, the forfeiture of this lease was part of your platform, so to speak.

411. That that should be insisted upon? Yes.

412. Did Mr. Mulcahy bring Mr. Propsting to you and introduce him to you? I am not sure whether he did or not. I suppose if he says so he did.

413. You do not remember the circumstances under which Mr. Mulcahy brought Mr. Propsting to you, or what took place? As a matter of fact, Mr. Chairman, I had at that time a great deal to think about, and when the matter was broached I did not attach very much importance to Mount Huxley. I had never heard of it before.

414. *By the Chairman.*—And you did not give much attention to the matter? No. I had not time to give attention to the matter, and so when I sent for the papers I just asked Mr. Clark to look over them and advise me what he thought was the legal aspect of the case.

415. Then if it was stated that political influence was brought to bear upon the members of the Cabinet to induce Mr. Pillinger to alter the decision arrived at by his predecessor, is that true or untrue? Quite untrue so far as I am concerned.

416. *By Mr. Urquhart.*—Did you ever see Mr. Piesse on the subject? No.

417. Did you ever see any correspondence from Mr. Piesse or Mr. Propsting? Well, I believe there is a letter; there may have been a letter from Mr. Propsting or Mr. Piesse which I believe passed through my hands, was endorsed by me, and sent to the Lands Office. I really don't quite know what that letter was. I saw it was something about Mount Huxley, and that it belonged to the Mines Office, so I endorsed it "Minister of Mines," and sent it away. I had not time to deal with it, and I could not say from the cursory glance I gave it whether it was Propsting's letter to Mr. Piesse or Mr. Piesse's letter to Propsting and Robey; I really don't know.

418. *By Mr. Brown.*—When Mr. Guesdon came for you, if you will recollect, he said his object in coming to you was to know if the whole case was to be reopened again, because he thought it had been

closed ; that his company was defunct, and he would be very glad if he could get out of the company the money there was owing to him by them, but that the reason he came to you was that some accusation had been made against civil servants of collusion. You told him you had not the papers. Mr. Guesdon then said that a civil servant's character was at stake, and by reopening the case it appeared as if there was some collusion, to which you said that you knew nothing of the matter, and the papers were with the Minister of Lands. Is not that what transpired? Well, what I do recollect is that Mr. Guesdon laid particular stress on the fact that he was entirely unconcerned in the matter.

419. In fact, that he was more interested in vindicating the character of a civil servant than anything else, and that was the real object of his interview with you? Yes.

420. *By Mr. Mulcahy.*—Do you know Mr. Alfred J. Taylor, the Public Librarian, Hobart? Yes.

421. Do you remember the first day Mr. Samuels was here—the day on which he gave an address on Mount Huxley—do you remember meeting Mr. A. J. Taylor that day? I remember meeting Mr. Taylor certainly, I cannot say it was that day.

422. Do you remember meeting Mr. Taylor and telling him about Propsting and Robey having been awarded the reward claim? I may have told him. I did tell one or two people who spoke to me about Mount Huxley in passing.

423. Did you tell him that they (meaning Samuels and party) had not got the whole of the property? Yes, I said that the day before the meeting. I don't know whether I said it to Mr. Taylor, but I said it to somebody.

424. Is your memory strong enough to enable you to say whether that was before the tabling of a notice of motion for the appointment of this Select Committee by Mr. Urquhart, or not? No, I cannot say.

425. At any rate it was before the meeting about Mount Huxley? Yes, the day before, and I said it as a consequence of something that Mr. Samuels said to me in my office.

426. That meeting, I see by the *Mercury*, took place on Thursday, May 17th, consequently if you made that statement it would be before that date? Yes.

WEDNESDAY, JUNE 20, 1894.

HON. FREDERICK WILLIAM PIESSE, *called and examined.*

427. *By the Chairman.*—What is your name? Frederick William Piesse.

428. And you are a Member of the Legislative Council, and Representative of the District of Buckingham? I am.

429. You are aware what is the object of this Committee, Mr. Piesse, to enquire into the application for forfeiture of a certain mineral section at Mount Huxley? Yes.

430. Had you any connection with the parties interested either on the one side or the other, that is, those who applied for the forfeiture or those who attempted to prevent it? I am not quite sure whether the gentleman who came to see me was a representative of the applicant, but I should think, from what I know of the matter, that I held communication with both sides.

431. From the applicant for forfeiture and the parties who tried to prevent this? Will you tell me who was the applicant for forfeiture?

432. We only know him as being Henry Edwin Smith? Then I had no communication with him.

433. *By Mr. Urquhart.*—Had you any communication from Propsting and Robey? Yes, on the 5th April they saw me first.

434. Did you see them subsequently? I had a letter after this.

435. Have you any objection to relating what was in it; what was the purport of it? Well, perhaps I had better tell you what took place on the 5th April. On that date they left at my office copies of what purported to be correspondence they had had with the Minister of Lands in regard to this section. I took notes of the matter at that time.

436. Give us the purport of the notes you took? They are here, you can have them if you like.

437. No, never mind, speak as to the purport of them? I took down the date they purchased the section, 26th May, 1892, the date of the application for forfeiture, in February, 1894, on the ground that nothing had been done since they purchased, and then I made a side-note as to their not having taken any steps to assert their ownership, extracted from Mr. Belstead's letter. Then I noted on Propsting and Robey's side that money had been spent by owners whom by purchase Propsting and Robey represented, and secondly, the practice of allowing time wherein to bring themselves within compliance in relation to the labour covenants; and thirdly, that the application for forfeiture was not signed by the applicant nor was Kennan authorised to sign for him.

438. What did they want you to do in the matter? They wanted me to be ready in case the matter should happen to be discussed in the House.

439. As a matter of fact it never came on for discussion? No, not while I was a Member of the House.

440. Did you ever receive any other communication from them? Yes. I received a letter from them, which letter I believe has been produced in the House of Assembly.

441. Have you that letter? No, I have not.

442. Have you any objection to its being produced by any other person? Certainly not; it is not in my possession.

443. Do you know in whose possession it is? No, I cannot say who has it.

444. What did you do with the letter? The letter I believe was in the possession of the House.

445. When you got the letter why did not you put it in your own pigeon-hole? When I got this letter Propsting called upon me, or rather he stopped me in the street, and asked had I got the letter? I

said "Yes, I've got it, but I don't half like it; I don't care to do the kind of work you want me to do;" afterwards, however, I read the letter through, and I saw there was contained in it a statement which seemed to me to be worthy the consideration of the Minister—namely, that in which they asked that they should have three months' notice to go to work, and stated that this course had frequently been taken before in similar cases, and that Mr. Belstead himself had suggested it to the Minister in Mr. Propsting's presence, and that Mr. Hartnoll had promised to leave the matter to be dealt with by his successor. As a fact, I forgot about either having received that letter or handed it on to any Minister until the afternoon of the day it was produced in the House. I believe I gave it either to Mr. Fysh or the Premier, I am not certain which; but I took no further steps in the matter after I had passed it on to them.

446. I may tell you, Mr. Piesse, that Mr. Propsting has stated that he has no objection to that letter being produced? Neither have I any objection.

447. Then there is no objection to going into the contents of the letter? No.

448. Is it not a fact that the letter asked you to see Mr. Fysh and get him to use his influence in the matter with the Minister of Lands? I think the words were "to induce Mr. Pillinger to reconsider his decision" on the grounds which I have stated.

449. Did you personally interview any of the Ministers with Mr. Propsting? No, I did what I have stated in the matter, and nothing farther.

450. You did not introduce Mr. Propsting to Sir Edward Braddon? No.

451. Did you see Mr. Pillinger on the subject? No.

452. Did you see Mr. Fysh regarding it? No, only except in the manner I have told you.

453. You simply handed him the letter? I did, and I had quite forgotten the business until reminded of it, as I have said.

454. As a matter of principle, do you not think the Minister of Lands is quite able and should look after his own department without interference from outsiders? As a matter of principle?

455. Yes? Well I don't know, I am not a judge of what is a matter of principle in a case of this kind. Surely you gentlemen can judge that, while I may have my own opinion on the subject, I don't think I can be called upon to say what principle is or is not involved.

456. You know the object of the inquiry is to know if political influence was used? Quite so.

457. And you see the mere fact of your interviewing the Minister or communicating with him created a moral necessity for your presence here? But Mr. Propsting was not informed that I would see the Minister, in fact he left me with the impression that I would not do so. It was only after I read the letter that I thought I would send on the letter, and let the matter rest on its own merits. I have never seen either of the Ministers on behalf of Propsting and Robey since that.

458. You let the matter speak for itself? That is so. I sent it on because I considered the points I have referred to as worthy of a Minister's attention.

459. *By Mr. Mulcahy.*—You sent the letter on without any comment whatever? Without any comment whatever, except that I said here are what appear to be the facts which you ought to look into. I believe the letter bears an endorsement by the Premier, referring it to the Minister of Lands and Works for his consideration.

460. Were you approached regarding the matter by Mr. Morgan? I was.

461. Did you understand that he represented in some way the people who were applying for the forfeiture? Yes, I understood he was the man who was really moving for the forfeiture.

462. Did you get a statement of facts from him? I made a few notes. He called upon me in my office towards the end of April. I cannot recollect the exact date. He alleged he was the man who had instigated the whole of the movement for the forfeiture, and that Kennan only acted in his interest. He asked me to see Sir Edward Braddon and represent his claim to him, believing he would recognise that he had a better case or more *bonâ fide* claim. I saw Sir Edward Braddon and told him what this man had told me.

463. *By the Chairman.*—As a matter of fact you did as much for one side as for the other? I think I said more for Mr. Morgan than I did for Propsting and Robey, that is so far as actual words are concerned.

464. *By Mr. Mulcahy.*—You consider that as a matter of principle it was quite within your duty as a Representative to lay the matter before Ministers? I looked upon it in this light: a constituent comes to a Member and claims that he is suffering under an injustice, and if the Member thinks that to be the case then it is his duty to see that justice is done; but I resent, and always will resent, a man coming and asking me just because I am merely a Member of Parliament to go and get him a favour. I should resent anyone doing that. I don't care whether he is a constituent or not, if a man comes and asks me to set him right I feel I ought to do it.

465. *By Mr. Urquhart.*—Do you think the proper place to do that is in the House, instead of by private interviews with Ministers? These matters cannot always be dealt with in the House. The House was not sitting at the time this letter was sent me.

466. *By Mr. Gilmore.*—Can you remember the date of the letter? It was about the 16th of April. Propsting and Robey, I may say, sent the letter to me knowing I represented North Hobart, and wished me to pass my opinion on the letters, and then send them on to Mr. Fysh. I did pass the letter on to either Mr. Fysh or the Premier, I cannot say which.

467. The receipt of that letter was previous to the Buckingham and North Hobart elections? Previous to the Buckingham election, but neither Propsting nor Robey are electors of the Buckingham electorate.

468. But they are of North Hobart? Yes.

469. *By the Chairman.*—And Morgan, is he? Yes, Morgan is.

470. *By Mr. Gilmore.*—They worked on your behalf in the election, did they not? Not that I am aware of.

471. *By Mr. McWilliams.*—Did you use any political influence with the Minister of Lands to influence his decision? I have never discussed the matter with the Minister of Lands either by writing or verbally; the only interviews I have had with Ministers have been those I have related.

FRIDAY, JUNE 22, 1894.

HON. ALFRED THOMAS PILLINGER, *recalled*.

472. *By Mr. Urquhart*.—Mr. Pillinger, do you remember my waiting upon you with other gentlemen in connection with this matter? Yes.

473. Do you remember what took place on that occasion? Well, I cannot remember all that took place.

474. Perhaps I may be able to refresh your memory on the subject? You may do that.

475. Do you remember producing the *Gazette* with the notice of intention to forfeit in it? I do.

476. That *Gazette* was dated some time in February, I believe? I don't remember what was the date of it.

477. The purport of our interview was to get you to see that the forfeiture was carried out, was it not? Yes.

478. And I protested very strongly, pointing out that so far as I was concerned it was one of the planks in my platform that these labour covenants should be insisted upon? I think you confined yourself to the question of this particular section. I don't think you entered into the general question.

479. Did you tell us that you believed in ratifying the act of your predecessor in office, and that you would act as you would like your successor to do if you left anything behind you in a similar position to that occupied by this application? I said I should very much regret interfering in any way with his decision by a reopening of the case.

480. Do you remember distinctly stating that you believed in ratifying the acts of your predecessor in the same way that you believed in a successor carrying out yours? No, I do not remember saying that.

481. Are you prepared to state that you did not say so? No, I am not prepared to say that; I might have said it.

482. Did you not say that unless there was something radically wrong you would not alter the determination of your predecessor? I did not say that; what I said was, "I should very much regret to have to re-open the case."

483. Did not you tell me then that your present intention was not to disturb the existing state of affairs? Yes, I did.

484. And then, subsequently, you did disturb them? I did. I went into the papers. You see I had never looked into the papers when you interviewed me.

485. Did you consult with Mr. Belstead as to there being anything wrong in the evidence—was that what led you to re-open the case? He was present when I gave my decision to give three months' notice.

486. Did you ask his opinion on the case? I did, as to my suspending the forfeiture for three months, but not as to the evidence.

487. Do you remember meeting me in the House and telling me you had given Propsting and Robey three months' further notice? I do.

488. Do you remember giving any reason for giving them this three months' notice? No.

489. Did not you tell me that you had looked through the papers, and that there was something shady in the transaction, and that therefore you had gone back to the original suggestion of the Secretary of Mines in giving this three months? I may have said that I meant the suggestion made in previous cases.

490. *By the Chairman*.—Original suggestion? No, not original. I did not say "original," but to the suggestion previously made.

491. *By Mr. Urquhart*.—Would you be surprised to know that Mr. Belstead had given no such recommendation? I know he did not. It was a misunderstanding on my part.

492. Had I any private conferences with you over the matter? None that I remember.

493. Did I always come to you as a matter of business? You did.

494. Well, it was said in the House that I had made use of a private conversation when I said that there had been something shady in the matter: now was that a private conversation? I think it was said in my office. I am not absolutely certain, but I thought it was after you and the others had seen me, and after somebody had gone out, that I said "Oh, there is something shady in the whole transaction."

495. Will you tell me if I ever saw you in your office a second time? I think you did.

496. If I state positively that I never was, are you prepared to contradict me? No. I suppose if you said so it would be correct.

497. Well, I only had two interviews with you on the subject: the first was when I saw you with two other gentlemen in your office, and the next time was in the House of Assembly, when you gave me your answer as sent to Propsting and Robey, and at the same time you gave me your reasons for it: now, were not those the only times I saw you? Well, I should have thought my remark as made to you was outside your business interview, but perhaps I was wrong in saying it was a private conversation; at the same time when I said there was something shady in the transaction I thought it would go no further.

498. Was it not reasonable for me to presume that that was why you altered the decision of your predecessor? Well, yes, possibly.

499. And, therefore, it was right of me to assume that it was upon that you acted? I don't know about that.

500. Did you take any fresh evidence in the matter? I did not.

501. You are aware that Propsting and Robey at this time were using great efforts to get you to alter the decision given by Mr. Hartnoll? No. I know they asked me to allow them to produce fresh evidence.

502. Did not we when we interviewed you inform you that they were trying to bring political influence to bear? I do not remember your doing so.

503. You read the comments in the *Tasmanian News*, did you not? I did read them. My attention was called to an article in that paper, but I did not read them very carefully.

504. Did you know Mr. Propsting before? I may have met him, but I don't know him now only in so far as he is concerned in this case.

505. He had been frequently to the Mines Department? I had not heard anything about him.

506. Who introduced him to you? I believe it was Mr. Clark.

507. Did you see that letter of Propsting's to Mr. Piesse in which he asked him to use his influence with the Minister? I saw it in the House of Assembly. I have no remembrance of seeing it before it was tabled in the House.

508. You knew this section had suddenly acquired value? No, not at that time.

509. It was the time of the Mount Huxley *furor*? Oh, no, it had not commenced then; the first we heard of that was on the morning I gave my decision; at least I believe so.

510. Did not I tell you about it myself? I do not remember your doing so.

511. Did not I tell you that the Zeehan men had been to the expense of paying prospectors—Smith and party—to go there? I don't remember.

512. *By Mr. Gilmore.*—I think last time, Mr. Pillinger, you said that Mr. Clark called on you with Mr. Propsting? Yes, I did.

513. That was the time that Mr. Clark introduced Mr. Propsting to you? Yes, it was.

514. And he stated why Propsting wanted to see you? He said that he wanted to see me and speak to me about the forfeiture.

515. Did the fact of Mr. Clark coming with him have any influence with you? Not the slightest.

516. *By Mr. W. T. H. Brown.*—Did they ever make any plea to you that this being a reward claim they thought they were not bound to conform to the labour clauses, and that they therefore neglected doing anything? No, I did not hear that directly from either of them; I was told it by another party that they had been informed in the Mines office to that effect.

517. They did not urge it as a plea? No, not directly.

APPENDIX.

105, Elizabeth-street, Hobart, 26th February, 1894.

DEAR SIR,

REFERRING to our several conversations with reference to section 5-91 originally granted to the Huxley G.M. Co. as a Reward Section and afterwards purchased by us, and for which Mr. H. E. Smith, of the Chief Secretary's Department, has now applied for forfeiture under the labour clause, we beg to bring the following under your notice :—

That some of the ex-Directors of the Huxley G.M. Co. are acting in conjunction with Mr. Smith in trying to deprive us of this section (colloquially, to "jump our claim"), the ex-Chairman of Directors taking an active part.

That the Huxley G.M. Co. was indebted to us for supplying account books, script, &c., and, after many applications, being unable to obtain a settlement, (and seeing they had contested an action in the Court brought by the workmen employed at the mine for their wages), we sued the company, obtained judgment, and the bailiff took possession of the iron safe and other office furniture. In order to show the obstruction with which we were met we must state that, although the name of the company had been painted in large letters upon the safe, when the bailiff entered the office he found the name had been obliterated, apparently with the object of preventing him seizing it, and when it was identified, the landlord came forward and claimed for rent, so that we had to give up possession. The only course open then to the bailiff was to seize the four sections belonging to the company, which he did, and after being duly advertised, they were sold by auction by Burn & Son, and we became the purchasers, and we now enclose the bill of sale from the bailiff to ourselves. Three of these sections have been forfeited for non-payment of rent, the other, the reward section 5-91, is the one under consideration.

We respectfully request that you will not advise that this section be forfeited to Mr. Smith and party, as it seems to us that so doing would only be to encourage directors of no liability companies to take advantage of the No Liability Act to evade the payment of their just debts, get sections forfeited, and put some one forward to apply for the sections again.

We further ask you to take into consideration the fact that the Huxley Gold Mining Company spent some hundreds of pounds on the sections in tunnelling, &c., and that as we bought the right, title, and interest of the said company we stand in their position, and should have some consideration on account of the money already spent.

We further submit that it would have been almost impossible lately, owing to the great depression, to raise money for mining ventures.

We therefore, upon these several grounds, consider that the sections should not be forfeited.

We are aware of other cases where application for forfeiture was made under the same clause of the Act as the present case, notably the East Cumberland and Kapi Companies, and where time was given to get to work, and we hope that under the special circumstances a like consideration will be granted to us, seeing that we have lost not only the original amount owing to us by the Huxley Gold Mining Co., but also part of the amount paid for the sections and legal expenses, caused in a large degree by the tactics of the said Company.

We are, dear Sir,

Yours faithfully,

PROPSTING & ROBEY.

F. BELSTEAD, *Esq.*, Secretary of Mines.

THE lease referred to, No. 5-91, is held as a reward claim by the Huxley G.M. Co., N.L. Upon receipt of H. E. Smith's application for forfeiture I wrote the Manager, who informed me that no work had been done upon the section; that none was intended; that the lessee company is practically dead; and that the application for forfeiture would not be resisted. Now comes Messrs. Propsting and Robey's letter, asserting their claim to the lease in question, as to which, without in any way impugning its validity, I must point out that, although their purchase was effected so far back as 26 May, 1892, from that time to this Messrs. Propsting and Robey have not taken the trouble even to register themselves as the transferees of the lease, nor has any work been done upon the section. It is most undesirable in the public interest that leases should be thus held year after year unworked, and I see no reason to do otherwise than recommend forfeiture.

F. BELSTEAD, *Secretary for Mines.*

1. 3. 94.

The Hon. the Minister of Mines.

FORFEITURE approved.

WILLIAM HARTNOLL.

March 1st, 1894.

105, Elizabeth-street, Hobart, March 3rd, 1891.

SIR,

WITH reference to section 5-91, replying to yours of even date, and following up ours of 28th ultimo, we would respectfully urge that you should allow us one month to get to work on the above section, as the Company, having spent a large sum upon the property, places the section in question upon quite a different footing to other properties upon which little or nothing has been done.

Should you require proof that some of the Directors of the old Huxley Gold Mining Company are acting in conjunction with Mr. H. E. Smith, the applicant for forfeiture, we will be happy to supply the same. It seems utterly opposed to all fairness for Directors to avoid payment of their just and legal debts by taking advantage of the No Liability Act, and then to combine with others to deprive tradesmen of a mineral section which was sold by public auction and bought by them for the amount of their debt; and we respectfully urge that you will not allow so palpable an injustice to be perpetrated.

We are, &c.

PROPSTING & ROBEY.

F. BELSTEAD, *Esq., Secretary of Mines.*

P.S.—Since writing the above, we find that in the new Mining Act there is a clause giving the Minister of Mines the option of imposing a small fine in lieu of forfeiting sections, and we respectfully submit that ours is a case which could be met by dealing with it under this Clause.

P. & R.

105, Elizabeth-street, Hobart, 8th March, 1894.

SIR,

As requested, in order to prove that Mr. Kennan, who was one of the directors of the Huxley Gold Mining Company, is acting with Mr. H. E. Smith, the applicant for forfeiture of section 5-91, we desire to bring the following under your notice.

The writer met Mr. Kennan near the Telegraph Office, and told him I was surprised to find that he was not satisfied with doing us out of our account, but that he was now doing all he could to obtain the section which had been sold for non-payment of that account, and after some rather heated remarks he said that if I would only keep quiet he thought he could get me an interest in the Company; that they had a water right, and our section would not be of any use without the water; that he had supplied the information to his friend to enable him to obtain the section, and that he was to have an interest in it.

Some two or three days after he called at our business establishment and informed us that he was instructed to say that if we kept quiet we should have an interest. In reply to my question as to who sent that message, he said he came on behalf of Mr. Smith. We told him we should require something far more definite, and that it must be in writing. He replied that we ought to be satisfied to leave it at that, and that we could always call him as a witness. Upon our refusing, he said he would see again about the matter. About two days later he called a second time, and made the same proposal, but he could not give us anything in writing, again wishing us to keep quiet and we would be fairly dealt with. On the occasion of his first visit my partner and also an assistant were in the shop.

I told Mr. Kennan I would see Mr. Smith myself about the matter. I did interview Mr. Smith, who refused to put the matter into writing at that time, saying he did not know what he himself was to get at present. He wished me to leave it for the present, and he would see later on. At our first interview Mr. Smith suggested that if we had a claim they would consider it after they had got possession.

We feel that the above clearly proves that these gentlemen are acting in concert, and respectfully urge that you will not allow the forfeiture of the said section.

Yours faithfully,

N. H. PROPSTING (*Propsting & Robey*).

To the Honorable the Minister of Lands.

REFERRED to Secretary of Mines.

H. E. PACKER, *M. Sec.*

13. 3. 94.

Office of Mines, Hobart, 29th March, 1894.

Smith v. The Huxley Gold Mining Company, No Liability.—Application for forfeiture of Lease 5-91 held by the Huxley Gold Mining Company, No Liability, upon the ground of non-fulfilment of the Labour Covenants.

THIS application was enquired into by me this day. The non-compliance with the labour covenants of the lease for a period of two years was admitted on all sides, and the scope of the enquiry was mainly directed to ascertain whether or not the applicant for forfeiture had been instigated by former Directors of The Huxley Gold Mining Company, as alleged by Messrs. Propsting and Robey. The evidence which is attached does not bear out that allegation, on the contrary, the applicant swears that he was not influenced in any way by the Company to make his application; that though an agent, he employed and paid one Kennan to give him information and to lodge the application on his behalf, this Kennan having at one time been a Director of the Huxley Company, which has now been dead for upwards of two years, and there is no evidence to refute that statement.

Messrs. Propsting and Robey purchased this lease, among others, at a sheriff's sale, and have slept upon their rights for nearly two years, not even having troubled to register themselves as owners, and they have done no work upon it. In my opinion they have failed to establish such collusion as should in fairness deprive the applicant Smith of his rights.

I consider the lease should be forfeited, and recommend that course to be adopted.

F. BELSTEAD, *Commissioner.*

The Hon. the Minister for Mines.

In my judgment Messrs. Robey and Propsting have not clearly proved that the applicant is acting in concert with the original Directors of the Huxley Company, who appear to owe Messrs. Robey and Propsting a certain sum of money which is certainly an obligation that should have been honorably paid, and if I could assist in seeing this paid I would be glad to lend my aid; but as the application appears to be a *bond fide* one, disassociated from any collusion with the Huxley Company Directors, I concur in the recommendation of the Secretary of Mines, and hereby give my approval for the forfeiture of the section for non-compliance with the labour covenants.

WILLIAM HARTNOLL.
April 4th, 1894.

I HAVE given full consideration to this question, and though it is clear the labour covenants have not been fulfilled, I think the justice of the case will be met by suspending the forfeiture of the lease for a period of three months to enable the lessee to comply with the conditions of the lease; if at the expiration of this period he has not done so the lease will be forfeited; this course, I understand, has been previously recommended by the Secretary of Mines.

ALFRED T. PILLINGER.
16. 5. 94.

105, *Elizabeth-street, Hobart, 11th April, 1894.*

SIR,

I was rather surprised to hear from Mr. Mulcahy this morning that you consider I was not respectful to you upon the occasion of our last interview. I can only say that I had no intention of acting in any other way than respectfully, and I am at a loss to know how you could have come to such a conclusion. I may have spoken warmly, as I certainly felt that we had been wronged, but I had no intention of giving offence to either yourself or Mr. Belstead.

Trusting this explanation may be satisfactory,

I am,

Yours faithfully,

N. H. PROPSTING.

Hon. Minister of Lands.

105, *Elizabeth-street, Hobart, 16th April, 1894.*

DEAR SIR,

MAY we ask you to be kind enough to see Mr. Fysh, and ask him to try and induce Mr. Pillinger to rescind Mr. Hartnoll's recommendation for forfeiture of the Huxley Section 5-91, and give us three months to get to work upon the ground? This course has frequently been taken before when forfeiture has been applied for, and we may add that Mr. Belstead suggested it in our case to the Minister of Mines (in Mr. Propsting's presence) after he (the Minister) had first sanctioned forfeiture.

We understand Mr. Hartnoll promised to leave the matter to be dealt with by his successors.

We have copies of all the papers in the case, which we shall be glad to place at your or Mr. Fysh's disposal.

Yours truly,

PROPSTING & ROBEY.

Mr. F. W. PIESSE.

REFERRED to Hon. Minister of Lands and Works for consideration.

E. BRADDON.
17. 4. 94.

105, *Elizabeth-street, Hobart*, 30th April, 1894.

DEAR SIR,

As you were kind enough to say you would see Mr. Pillinger on our behalf over the Huxley matter we send the following in order that you may see before we forward to the Minister, so that if there is any part which you consider best omitted we will gladly do so. We have not as yet addressed Mr. Pillinger at all upon the subject. Our Mr. Propsting will call and get these papers from you again in the morning.

Yours faithfully,

PROPSTING & ROBEY.

Hon. A. I. CLARK.

[Copy.]

21st April, 1894.

DEAR SIR,

HAVING been requested to communicate with you on the subject of a certain claim made by Messrs. Propsting & Robey to be placed in possession of a section of land known as the Huxley Reward Claim 5-91, near Mount Huxley, I have to say that a perusal of the papers connected with the case has left on my mind the impression that justice to Messrs. Propsting & Robey requires a very careful consideration of the whole matter before effect is given to the decision arrived at by your predecessor.

I remain, &c.

N. J. BROWN.

The Hon. A. T. PILLINGER, Minister Lands and Works.