

1871

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1871.

TASMANIA.

HOUSE OF ASSEMBLY.

ELECTION FOR KINGBOROUGH.

**REPORT OF THE COMMITTEE UPON THE PETITION OF
R. J. LUCAS AGAINST THE RETURN OF C. O'REILLY, ESQ.**

Brought up by Mr. Attorney-General, and ordered by the House to be printed,
November 21, 1871.



REPORT from the Committee of ELECTIONS AND QUALIFICATIONS in the matter of the Petition of RICHARD JAMES LUCAS, Esquire, against the Return of CHRISTOPHER O'REILLY, Esquire, as Member of the House for the Electoral District of Kingborough; with Minutes of the proceedings of the Committee and Evidence.

MEMBERS OF THE COMMITTEE.

MR. GIBLIN.
MR. LEWIS.
MR. J. R. SCOTT.

MR. GELLIBRAND.
MR. J. A. JACKSON.

DAYS OF MEETING.

17th, 18th, 20th November, 1871.

WITNESSES EXAMINED.

H. M. HULL, Esq., Clerk of the House of Assembly.
MR. JAMES LAFFER.
MR. ANDREW GEORGE POGUE.

EXTRACTS from the Votes and Proceedings of the House of Assembly, No. 4. 14 November, 1871.

5. A Petition against the return of Christopher O'Reilly, Esquire, as Member of this House, signed by R. J. Lucas, was presented by Mr. Rocher.

Which was read and received, and ordered to be referred to the Committee of Elections and Qualifications.

To the Honorable the House of Assembly of Tasmania, in Parliament assembled.

The humble Petition of Richard James Lucas, of Hobart Town, in Tasmania, Solicitor, a Candidate for Election of a Member for the District of Kingborough at the last General Election.

RESPECTFULLY SHOWETH :

THAT, on the twenty-second day of September last, Messieurs Christopher O'Reilly, John Lees Livingstone, and Henry Ivey, and your Petitioner were duly nominated as Candidates for the election of a Member to represent the Electoral District of Kingborough in your Honorable House; and Thursday, the twenty-eighth day of the same month, was duly appointed as the time for holding the said Election.

That the polling-places for the said District were appointed at Hobart Town, Ironstone Creek, Port Cygnet, Kingston, Oyster Cove, Three Hut Point, and Barnes' Bay respectively.

That James Laffer, Esquire, was appointed Deputy Returning Officer for Port Cygnet, and that the total number of votes polled at that place was considerably more than at any other of the above-named polling-places.

That your Petitioner having been informed that the polling-place at Port Cygnet was to be held at the licensed house of John Russell, who was then the duly appointed Election Agent of Mr. Christopher O'Reilly, sought and obtained an interview with Mr. Laffer, and requested him to have the Election conducted at the Police Office and not at the house of Mr. O'Reilly's Agent; but notwithstanding your Petitioner's request, and the reasons urged in support of it, that gentleman appointed the polling-place to be held at the house of the said John Russell, in which two rooms were engaged for the purpose, the outer room occupied by the Deputy Returning Officer and Scrutineers being in direct communication with the inner room in which a table and pencils were placed for the use of the voters, the table having been placed immediately under the window about four feet from the floor looking out on to the verandah of the house, and the blind of the window having been drawn up at the commencement of the poll and remained in that position until objected to by your Petitioner's Scrutineer, so that persons could see voters from the verandah in the act of preparing their ballot papers.

That the ballot box used at the last-mentioned polling-place was deposited by the Deputy Returning Officer in the said inner room, and out of the sight and supervision of that gentleman and the Scrutineers of the respective Candidates, contrary to the express provisions of the 69th section of the Electoral Act, 21 Vict. No. 32.

That Mr. Andrew George Pogue, as your Petitioner's Scrutineer at that place, at the commencement of the poll requested the Deputy Returning Officer to have the ballot box placed in the outer room occupied by himself and the Scrutineers, which he refused to do. Mr. Pogue then protested that the proceeding was illegal, and upon having referred to the Electoral Act, again repeated his protest.

That in consequence of the ballot box not having been kept in the room with and under the supervision of the Deputy Returning Officer and Scrutineers, your Petitioner had no protection against the supporters of Mr. O'Reilly obtaining and preparing the ballot papers of the illiterate voters who supported that gentleman and getting them deposited in the ballot box.

That the manner in which the Election was conducted at Port Cygnet was not only in violation of the 69th section of the said Electoral Act, but also of the 60th section of the said Act, which provides that there shall be as many rooms or compartments opening only into the room in which the ballot box is kept, and sufficiently supplied with writing materials, in which the persons voting shall be enabled to fill up the ballot papers as thereafter provided in *perfect secrecy* and with security from interruption.

That at the declaration of the poll, which was made at Kingston the following day, it appeared that Mr. O'Reilly had obtained a majority of 49 votes over your Petitioner, who was placed second on the list; and that the number of formal votes polled at Port Cygnet alone was 114, of which Mr. O'Reilly obtained 104, your Petitioner 8, and Mr. Ivey 2, being a majority for Mr. O'Reilly of 96, by which that gentleman's return was secured.

That at the declaration of the poll your Petitioner made a Protest against the return of Mr. O'Reilly, which was overruled by the Returning Officer.

Your Petitioner humbly prays that your Honorable House will be pleased to institute a full enquiry into the allegations contained herein;

That the votes polled at Port Cygnet may be struck out of the computation of the number of votes polled at the said Election; and

That the return of the said Mr. Christopher O'Reilly as Member for the District of Kingborough may be declared invalid, and your Petitioner declared the duly elected Member for the said District.

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

R. J. LUCAS.

R E P O R T.

THE Committee of Elections and Qualifications, duly appointed under the provisions of "The Electoral Act," to whom was referred on the 14th November, 1871, the Petition of Richard James Lucas, Esquire, against the Election and Return of Christopher O'Reilly, Esquire, as a Member for the Electoral District of Kingborough, have determined, and do hereby accordingly declare:—

1. That, the Petitioner having closed his case, the Committee are of opinion that there are no sufficient grounds for calling upon Mr. O'Reilly to produce evidence in answer to the Petition.
2. That Christopher O'Reilly, Esquire, was on the 28th September, 1871, duly elected a Member of the House of Assembly for the Electoral District of Kingborough.
3. That the Committee have had satisfactory proof adduced that the allegation contained in the Petition of Richard James Lucas to the effect that at such Election the Ballot Box at Port Cygnet was deposited by the Deputy Returning Officer in an inner room, and not in the same room with himself and the Scrutineers, is substantiated.
4. That the Committee determine that the neglect of duty on the part of the Deputy Returning Officer at Port Cygnet, in not complying with the directions contained in the 60th and 69th clauses of "The Electoral Act," though highly improper, did not affect the result of the Election.

Committee Room, 21st November, 1871.

W. R. GIBLIN, *Chairman.*

MINUTES OF THE MEETINGS.

FRIDAY, 17 NOVEMBER, 1871.

Present—Mr. Giblin (in the Chair), Mr. Jackson, Mr. Gellibrand, Mr. J. R. Scott, Mr. Lewis.

1. Petition read.
 2. Mr. Lucas addressed the Committee on his own behalf.
 3. The Clerk of the House was sworn and examined.
 4. Abstract of votes polled at the Election read by the Clerk.
 5. Mr. J. Laffer was sworn and examined.
 6. Ordered that Mr. Pogue be summoned on behalf of Mr. Lucas for Saturday, at 10 o'clock.
- The Committee adjourned at 5 minutes to 2 to 10 o'clock on Saturday next.
-

SATURDAY, 18 NOVEMBER, 1871.

Present—Mr. Giblin, Mr. Jackson, Mr. Gellibrand, Mr. J. R. Scott, Mr. Lewis.

1. Mr. A. G. Pogue was sworn and examined.
 2. Mr. Ball having objected to a question put by Mr. Lucas, the Committee deliberated with closed doors, and decided against the question being put; and a subsequent question having also been objected to, the Committee deliberated with a like result.
 3. Mr. Lucas was sworn and examined.
- The Committee adjourned at 1·10 P.M. until 10 on Monday.
-

MONDAY, 20 NOVEMBER, 1871.

Present—Mr. Giblin, Mr. Jackson, Mr. Lewis, Mr. Gellibrand, Mr. J. R. Scott.

1. *Resolved, nemine contradicente*, That, the Petitioner having closed his case, the Committee are of opinion that there are no sufficient grounds for calling upon Mr. O'Reilly to produce evidence in answer to the Petition.
 2. *Resolved*, That Christopher O'Reilly, Esq., was, on the 28th September, duly elected a Member of the House of Assembly for the Electoral District of Kingborough.
 3. *Resolved*, That the Committee have had satisfactory proof adduced that the allegation contained in the Petition of Richard James Lucas, to the effect that, at such election, the ballot box at Port Cygnet was deposited by the Returning Officer in an inner room and not in the same room with himself and the Scrutineers, is substantiated.
 4. *Resolved*, That the Committee determine that the neglect of duty on the part of the Deputy Returning Officer at Port Cygnet in not complying with the directions contained in the 60th and 69th Clauses of the Electoral Act, though highly improper, did not affect the result of the election.
 5. *Ordered*, That the four Resolutions above carried be embodied in a Report, to be brought up to the House on Tuesday, the 21st November.
 6. The Clerk read the Minutes of the former meetings.
- The Committee adjourn to half-past 3 o'clock on Tuesday, 21st November, to assess the costs in this case.
-

EVIDENCE.

FRIDAY, NOVEMBER 17, 1871.

HUGH M. HULL, *Esq.*, Clerk of the House of Assembly, was sworn and examined.

By the Chairman.—You are the Clerk of the House of Assembly? I am.

Do you produce the sealed packet of ballot papers used in the election of Christopher O'Reilly, Esq. for the District of Kingborough, in September, 1871, which have been deposited with you under the provisions of the Electoral Act? I produce a packet stated to contain them; it was sealed up when I received it, and is now sealed.

Will you open the packet? (Here the Chairman directed Mr. Hull to break the seals.) I have opened the packet.

Do you produce the abstract of the votes polled at that Election signed by the Returning Officer? I do.
Mr. Hull withdrew.

MR. JAMES LAFFER *sworn.*

By Mr. Lucas.—Your name is James Laffer, and you were Deputy Returning Officer at the last Election for Kingborough? I was.

Did you appoint the house of John Russell as the polling-place at Port Cygnet? I did.

Did you engage two rooms there? I did.

Will you describe the position of those two rooms? The plan I produce marked A. shows the position of these rooms.

Does that plan correctly show the position of the Scrutineers' tables, the ballot box, the table for the electors, the window, and the doors? It does not correctly represent them, but I indicate them by pencil marks.

What were the dimensions of those two rooms? The bed-room was a small room; the other, a tolerably sized one, about 12×14.

What was the size of the table? A very large one, coming inconveniently near the door.

Was the door always open? No.

Can you swear it was always open? No, for I had to open it myself several times when it was shut.

Did you see my Scrutineer, Mr. Pogue, at any time shut that door? I did not.

Did Mr. Pogue make any protest against the ballot box being out of the room? He did not.

Did Mr. Walter? He did not.

Did you receive a letter from me the day before the Election, objecting to the house of Mr. Russell being used as a polling-place? I received a letter from Mr. Lucas the morning of the Election.

Who gave you that letter? I do not know. I very likely got it at Ironstone Creek, but cannot swear to the fact. I never read it, having seen you before on the subject.

Did you see me the day before the Election? I did.

State what took place between us.—You stated that you had heard that I intended to hold the Election at Mr. Russell's public-house. I answered I did not know where to hold it. I had not had an opportunity to find a house. I was seeking for one when I met you. You requested me not to have it held at Mr. Russell's, as you were sure there would be bloodshed,—that there would be bloodshed at the Franklin that day, and the same parties were going over to Port Cygnet. I answered that if I could find a convenient place without going to Russell's, I would adopt it. This is the substance of the conversation.

Did I suggest the Police Office to you? I think you did.

What was your reply? Most probably that there being only one room that I could occupy was the objection I made to the Police Office.

Did I suggest any means for obviating that difficulty? I think you suggested putting up a sheet, or making a screen.

You are quite certain no protest was made by Mr. Pogue against the ballot box being placed in the inner room, and no reference made to the Act? I am quite certain.

By Mr. Ball.—When you had this conversation with Mr. Lucas, did he say anything about Mr. Russell being Mr. O'Reilly's Election Agent? He said nothing of the sort.

Did he give any other reason why he feared there would be a disturbance? He gave no other reason.

You have resided a long time in that District? I have.

You have been present at more than one Election? I have.

On occasions when you have been present, where was the polling-place? Twice out of three times in a public-house; once before this at Mr. Russell's.

From your position in the room could you see the ballot box, except when the door was shut? I could.

Was this door never shut except when the people went in to vote? No, at all other times the door was kept open, and I could see the box.

You remember the window opening on the verandah? Yes.

Is it the fact that the blind mentioned in the 4th paragraph of the Petition was drawn up? No, it was drawn down before the commencement of the poll, and remained so during the whole time of the polling; it was drawn down by Mr. Pogue before the voting commenced.

Did Mr. Pogue make any protest against the blind being up? He never said a word about it.

Do you recollect Mr. Pogue at any time asking that the ballot box should be placed in the outer room? He asked me,—“Should not this box be in the room with yourself and Scrutineers?” I replied,—“No, I do not think so; I have always seen it in the other room as it is.”

Did he either quote or produce the Act in support of his suggestion? He did not.

How long was Mr. Pogue there during the day? He was there about an hour,—certainly not all day, or anything like it.

Were you not very much pressed for time in making the necessary arrangements as Deputy Returning Officer? I was very much pressed.

When did you arrive at Port Cygnet? Late on Wednesday evening, the poll being held on the following day.

You have acted as Deputy Returning Officer before? Some time since; at the first Election.

Did you see anything different on this occasion to any former Elections? It was one of the quietest Elections that ever took place at Port Cygnet.

You have voted yourself on former occasions at Port Cygnet? Yes.

On those occasions where was the ballot box? In the same room where the table was for striking out the name as it was on this occasion.

Was there any complaint made to you during the day of any improper proceedings at the verandah window? Certainly not.

By Mr. Lucas.—When you had that interview with me are you quite sure that I did not object to the election being held at the house of Mr. Russell because he was Mr. O'Reilly's Election Agent? Quite certain.

By the Chairman.—Did you know when you had the ballot box placed in the inner room that you were contravening a provision of the Electoral Act? I did not.

Had you any motive for placing the ballot box in the inner room? Yes; I went upon precedent, and placed it where I had always seen it. I was so hurried I had not time to read the Act, but I was thoroughly convinced I was right in placing it there.

Was Mr. O'Reilly at Port Cygnet on the day of the election? I did not see him; he was represented by three Scrutineers, Mr. Powell, Mr. Jos. Thomas, and Mr. Thomas Reilly.

Was it at their instigation that the ballot box was placed in the inner room? No, I had not seen them; it was placed there before they came to the polling-place.

Did any one suggest to you placing the ballot box in that room? No one, it was entirely my own act.

From where you stood had you not to look across the table at which the voters struck out the names? No, I could see the ballot box, but not the table.

By Mr. Scott.—Was there any possibility of a voter holding the blind up while filling up his ballot paper, so as to get instruction from without? Not without my knowledge, if the door was not shut.

By the Chairman.—Was the front door open all the day? Yes.

Could you see the part of the verandah immediately in front of the window? No.

By Mr. Lewis.—Did Mr. Lucas's Scrutineers call your attention to anything of this sort going on? No.

By the Chairman.—Did you see the ballot papers put into the box? Most of them, not all.

Was the practice during the day to keep the door between the two rooms open? It was.

Did you, as far as possible, keep it open all day? I did.

Can you say whether the door remained closed for more than a minute or two during the day? Yes, it never was shut longer.

By Mr. Jackson.—Could you see the window of the room in which the ballot box was from your position? I could not.

How do you know then that the blind was kept down? By the light in the room.

Was there any other window in that room? No.

By Mr. Gellibrand.—What description of blind was it? A common white blind.

By Mr. Jackson.—When you engaged the rooms at Russell's were you aware that he was Mr. O'Reilly's Election Agent? I was not.

By the Chairman for Mr. Lucas.—How far do you live from Mr. Russell's house? About 3 or 400 yards across the Agnes Rivulet.

Did you stand at the end of the dotted line on Plan A. while the voter deposited his paper in the ballot box? That was my general rule.

By Mr. Lewis.—Was Mr. Walter in the room all day? He was backwards and forwards all day. Mr. Laffer withdrew.

SATURDAY, 18TH NOVEMBER, 1871.

MR. ANDREW GEORGE POGUE *sworn.*

By Mr. Lucas.—Your name is Andrew George Pogue? It is.

You were my Scrutineer at the last Election for Kingborough? Yes.

Were you in attendance at the polling-place and duly sworn in as Scrutineer? Yes.

At what hour? I arrived at the polling-place at a quarter to nine.

How long were you there? I left after half-past eleven, nearer twelve than eleven.

Had you any conversation with Mr. Laffer about the ballot box? Yes, after I was sworn I asked Mr. Laffer where it was.

What did he say? He said, "It is in the inner room."

What took place then? I went into the inner room, and I saw where it was placed.

Where was it placed? In the inner room at the side of a table.

Where was the table in the inner room? Immediately under the window.

How far was the window sill from the floor? The top of the table was about on a level with the lower part of the window sill.

Did you make any request then to Mr. Laffer? I said, "It is customary for the ballot box to be in the room with the Deputy Returning Officer and the Scrutineers."

What did he reply? "That it was placed as it now is on a former election."

What then took place? I said, "That does not make it legal."

What then? He declined to move the box.

Did you do anything then? No, we went into the outer room, and the Election almost immediately commenced.

Did you make any reference to the Act? Not immediately; after some of the Electors had voted I walked out into the verandah, and passing by the window the blind was up, and I saw an Elector inside the room recording his vote. I saw a man with his paper in his hand studying what he would do with it.

What did you then do? I returned to the room and requested Mr. Laffer to put the blind down, and he did so.

If Mr. Laffer says that you did not ask him to pull the blind down—is that true or false? (Question objected to.)

When you saw that man voting who was on the verandah? Mr. Russell, (Mr. O'Reilly's agent).

Where was he? He was standing with his back against the verandah railing, nearly opposite the window.

In what direction was he looking? I cannot say.

What was the width of the verandah? About 5 or 6 feet.

How was he occupied? He was holding a dummy ballot paper in his hand.

Were there two rooms engaged at that polling-place? Yes.

What kind of rooms were they? The bedroom was about half the size of the outer room, a small room,—the outer room about 12 × 14.

Does this plan produced (marked B.) show correctly the position of the 2 rooms, the table, seat of the Deputy Returning Officer, the Scrutineers, and Poll Clerk, the ballot box, and the table in the inner room; also the doors and windows? It does.

When you returned and asked the Deputy Returning Officer to put down the blind, did anything further take place? I asked him for the Act.

You asked him to lend you the Electoral Act? He did so.

What took place? I referred to it and found that my objection to the ballot box in the other room was correct.

What then? I told him again that the box ought to be in the room with us, and he replied that he was correct, and that he knew his duty.

What was the size of the table used by the Scrutineers? About 6 by 4.

Was the door between the two rooms closed or shut? It was invariably closed when the electors went in to vote, and remained so until they came out. I think one of Mr. O'Reilly's scrutineers stood by the door and closed it every time.

Could Mr. Laffer from where he sat see the ballot box if the door were open? He could not.

Was there anything in the inner room besides the table and ballot box? A bed and chairs; the usual furniture of a bed-room.

Did Mr. Russell (Mr. O'Reilly's agent) have any conversation with you about the election? Yes.

State the conversation. (Question objected to.)

What time did you leave Port Cygnet? About 11.30.

What caused you to leave? I left because I was threatened with personal violence by Mr. O'Reilly's agent and supporters.

Were you threatened by any other parties? Yes, I was hooted.

Have you any reason for remembering why the door between the rooms opened inwards? I was well acquainted with the room.

Did you attend at Kingston the day of the declaration of the poll? Yes.

What for? I rode through to give you an opportunity of protesting.

And you gave that protest? Yes.

By Mr. Ball.—Was it before nine o'clock that you objected to the position of the ballot box? Yes.

When you first told Mr. Laffer had you then looked at the Act? No.

How long after the first time you spoke to Mr. Laffer did you ask for the Act? About half-past nine, when some few electors had recorded their votes.

Where did you sit when reading the Act? On a sofa, behind Mr. Laffer.

How long were you reading the Act? About ten minutes.

When you found what you wanted in the Act, what did you say to the Deputy Returning Officer? I said that I knew my former objection was correct.

Was it before you consulted the Act that you went on the verandah? Before.

How long were you in the verandah? Not more than a minute.

Then the person who was leaving there as you have stated might have been only there for a minute?
Yes.

Did you go out into the verandah again? Many times.

Was the blind up at any other of these times? No; it was put down.

How long after the commencement of the polling was the blind pulled down? About half an hour.

Can you swear that the man you saw standing in the room had a ballot paper in his hand? I believe it to have been a ballot paper. Yes, I swear it was.

Can you describe the dummy ballot paper? It was the same size as a ballot paper, with the candidates' names printed on it.

Can you swear that the door between the rooms was shut on every occasion when an elector went in to vote? While I was there it was.

Is not a scrutineer's place at the table? No; where he likes in the room.

Where is the Deputy Returning Officer's place? Anywhere he likes in the room.

Did you see the Deputy Returning Officer walking up and down the room? He sat at the table when the electors came in and remained there, only getting up occasionally.

Did you know Mr. Laffer personally? Yes.

Did you not ask him about the ballot box before the poll commenced? Yes.

Did you ever tell Mr. Laffer after the Election that you did not know that the ballot box was in the wrong place until after reading the Act? I have no recollection of so doing.

Did you not also say that you did not call his attention to the irregularity, because you thought it your duty to take every advantage. I cannot remember; I will not swear I did not.

Name the agent of Mr. O'Reilly who threatened you? Mr. Russell.

Any others? It was a general yell.

Had you given any provocation for these threats? Not that I am aware of.

Did you not slam the door in one of the elector's faces? I did not, I closed the door when an elector came out for instructions.

Who were Mr. Lucas's agents at Port Cygnet? Mr. Walter and myself.

Did you see any act of violence inflicted upon these two agents or any of Mr. Lucas's supporters?
No.

Did you see any one canvassing for Mr. Lucas? No.

Do you know that Mr. Fisher was canvassing for Mr. Lucas? Yes. I now remember there was a man of that name canvassing.

Was he ill-used? No, it was not likely he would be.

By the Chairman.—Did you see what the man did with his ballot paper? No; I went in to have the blind pulled down.

How many had then voted? Perhaps about a dozen.

By Mr. Ball.—At what time did most of Mr. Lucas's supporters vote? I do not know.

By the Chairman.—Who was present when you asked Mr. Laffer for the Act? Mr. Thomas, Mr. Powell, Mr. Walton, Mr. Laffer, and myself.

Did you show Mr. Laffer the section of the Act? No. Nor did I see him refer to it.

Did you formally protest against the position of the ballot box? No; nor did I object to the Election proceeding on that ground.

In what way did you protest? I told him that the ballot box remaining where it was would render the election illegal. I told him it was illegal *after* reading the Act. Mr. Laffer said nothing except that he knew his duty.

Were any of Mr. O'Reilly's supporters instructed after receiving their ballot papers? Not that I saw.

Did you see any papers being deposited in the ballot box? No.

Who pulled the blind down? Mr. Laffer. I swear it.

Did you see it up again during the day? No; the blind did not fit tightly; it was too narrow, and it was quite possible to see in.

Did you see any communication between the persons outside and those in the inner room? No.

Were the people about the house? There was a crowd while I was there.

Was it possible that instructions could have been conveyed by Mr. O'Reilly's supporters to any large number of the voters through this window? It was possible without my detecting it.

Did you suspect that this was being carried on when you left Port Cygnet? I did not.

Had you suspected it would you have remained there? Yes.

By Mr. Jackson.—How often did you walk in and out of the house while you were there? I dare say about twenty times.

On any occasion when you went out did you see any body of persons loitering about this window in a suspicious manner? I did not.

By the Chairman.—What did you see suspicious? The fact of the box being out of my sight in the wrong place.

By Mr. Ball.—Could anything improper have occurred without being seen by both sides? I do not know.

Mr. Pogue withdrew.

RICHARD JAMES LUCAS, *Esq., the Petitioner, sworn.*

By the Chairman.—Your name is Richard James Lucas, and you are the Petitioner in this case? Yes. I met Mr. Laffer at Mr. Crawford's, on the Huon road, the day prior to the election. I stated to him that I heard he was going to have the polling-place at Mr. Russell's, and he said that it was usually held there. I said that in this instance, as Mr. Russell was the Election Agent of Mr. O'Reilly, and that there was a great deal of excitement about this election, that I thought it would be better not to hold the polling-place at a public-house. I told him that I had heard the previous night from one of Mr. Davies's supporters that they would have a very exciting day that day (Wednesday) at the Franklin. That from what I had heard I believed there would be some broken heads or bloodshed. I suggested then that it should be held at the Police Office. He stated that there was not sufficient convenience there, as there was only one room. I referred to Mr. Jackson's election at the Cascade, where a sheet or table-cloth had been put across one corner of the room. I said it would look better not to have it held at the house of Mr. O'Reilly's agent. He said he would consider about it. He then left.

[Mr. Ball admits that Mr. Lucas protested.]

By Mr. Ball.—Are the watch-house at Port Cygnet and the Police Office under one roof? I believe so.

Had any disturbance taken place, would not the watch-house have been required? Of course.

When Mr. Pogue first saw you after leaving Port Cygnet, did he tell you that he had been ill-treated? He said he had been yelled at; and that Mr. Russell would not let him speak to the electors or post a dummy ballot paper on the polling-place.

By the Chairman.—Where did you see Mr. Pogue? Just before the declaration of the poll on Friday.