

(No. 128.)



1888.

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PARLIAMENT OF TASMANIA.

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SOLOMON CHILD'S CASE:

REPORT FROM THE SELECT COMMITTEE, WITH MINUTES  
OF PROCEEDINGS AND EVIDENCE.

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Brought up by Mr. Fitzgerald, and ordered by the House of Assembly to be  
printed, September 28, 1888.



*SELECT COMMITTEE appointed, on the 30th August, for the purpose of considering the Case of SOLOMON CHILD, with power to send for Persons and Papers.*

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MEMBERS OF THE COMMITTEE.

MR. CRISP.  
MR. GILL.  
MR. HAMILTON.

MR. SUTTON.  
MR. FITZGERALD (*Mover*).

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DAYS OF MEETING.

Wednesday, 5th September; Thursday, 6th September; Wednesday, 12th September; Friday, 14th September; Thursday, 27th September.

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WITNESSES EXAMINED.

Mr. S. Child; Mr. J. Rowland; Mr. W. Peacock, J.P.; Mr. W. W. Henwood, J.P.; Mr. H. B. Mugliston, M.H.A.; Mr. J. F. Young; Mr. D. H. Crisp.

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EXPENSES OF WITNESSES.

Mr. H. B. Mugliston, £2 2s.; Mr. J. F. Young, £1 1s.; Mr. D. H. Crisp, £1 1s.

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R E P O R T.

YOUR Committee has the honor to report that it has given its most careful consideration to the subject referred to it in the matter of Mr. Solomon Child; and, after having obtained and duly weighed valuable evidence, hereunto annexed, it has arrived at the following conclusions, herewith respectfully submitted to your Honorable House.

Your Committee has met three times, and examined eight witnesses, including Mr. Child, his Bondsman, Mr. Rowlands, and the several Lawyers and Magistrates concerned in the case.

Your Committee, while regretting the circumstances of Mr. Child's arrest under a charge of perjury, is undoubtedly of opinion that all due caution was observed by the Magistrate before issuing the warrant for such arrest; and that, upon the information sworn to, no alternative course could legally have been followed.

Your Committee has directed enquiry as to the liability of Mr. Child's Bondsman, Mr. John Rowland, and find that his Bond might have been discharged, on application, immediately after the decision not to proceed with the charge of perjury entered against Mr. Child had been arrived at.

Your Committee is of opinion that no charge of neglect can be sustained against any Government Officer in the matter of the execution of the order for the arrest of Kilner, every possible care being exercised by the Deputy Sheriff and those with whom he found it necessary to communicate.

Your Committee, while holding the opinion that there is no stain whatever on the character of Mr. Child, does not consider there is any necessity for Parliamentary interference in the matter.

G. FITZGERALD, *Chairman*.

*Committee Room, 26th September, 1888.*

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# M I N U T E S .

WEDNESDAY, SEPTEMBER 5, 1888.

The Committee met at 3.15 p.m.

*Present*.—Mr. Fitzgerald, Mr. Gill, and Mr. Crisp.

Mr. Fitzgerald was appointed Chairman of the Committee.

Resolved, That the following Witnesses be summoned to attend and give evidence at the following dates and times:—

Mr. S. Child, at 2.15 on Thursday, the 6th instant.

Mr. D. H. Crisp, ditto.

Mr. H. B. Mugliston, ditto.

Mr. J. Rowland, ditto.

The Committee adjourned until 2.15 p.m. on Thursday, the 6th instant.

THURSDAY, SEPTEMBER 6, 1888.

The Committee met at 2.30 p.m.

*Present*.—Mr. Gill, Mr. Hamilton, Mr. Crisp, and Mr. Fitzgerald (Chairman).

The Minutes of the last meeting were read and confirmed.

Mr. Solomon Child, having made the Parliamentary Declaration, was examined.

Mr. Child withdrew.

Mr. John Rowland, having made the Parliamentary Declaration, was examined.

Mr. Rowland withdrew.

Ordered, That the following witnesses be summoned to attend and give evidence on Wednesday, at 2.15 p.m.:—

Mr. Henwood, J.P., Sorell.

Mr. Peacock, J.P., ditto.

Mr. James Young, Hobart.

Mr. D. H. Crisp's attendance was excused on the plea of urgent private business.

The Committee adjourned at 3.45 p.m. until 2.15 p.m. on Wednesday, 12th instant.

WEDNESDAY, SEPTEMBER 12, 1888.

The Committee met at 2.15 p.m.

*Present*.—Mr. Gill, Mr. Crisp, Mr. Hamilton, Mr. Sutton, and Mr. Fitzgerald (Chairman.)

The Minutes of the last meeting were read and confirmed.

Mr. H. B. Mugliston, M.H.A., was called in, and, having made the Parliamentary Declaration, was examined.

Mr. Mugliston withdrew.

Mr. James Forbes Young was called in, and, having made the Parliamentary Declaration, was examined.

Mr. Young withdrew.

Mr. William Peacock, Magistrate, District of Sorell, was called in, and, having made the Parliamentary Declaration, was examined.

Mr. Peacock withdrew.

Mr. William Wedge Henwood, Magistrate, District of Sorell, was called in, and, having made the Parliamentary Declaration, was examined.

Mr. Henwood withdrew.

Ordered, That Mr. P. S. Seager, Deputy Sheriff, be summoned to attend and give evidence on Friday, the 14th instant, at 3 p.m.

The Committee adjourned at 12.40 p.m. until Friday, the 14th instant, at 3 p.m.

FRIDAY, SEPTEMBER 14, 1888.

The Committee met at 3 p.m.

*Present*.—Mr. Sutton, Mr. Gill, Mr. Crisp, Mr. Hamilton, and Mr. Fitzgerald (Chairman.)

The Minutes of the last meeting were read and confirmed.

Mr. P. S. Seager, Deputy Sheriff, was called in, and, having made the Parliamentary Declaration, was examined.

Mr. Seager withdrew.

Mr. D. H. Crisp was called in, and, having made the Parliamentary Declaration, was examined.

Mr. Crisp withdrew.

At 3.50 p.m. the Committee adjourned until Thursday, the 27th September, at 2.30 p.m.

THURSDAY, SEPTEMBER 27, 1888.

The Committee met at 3.30 p.m.

*Present*.—Mr. Crisp, Mr. Gill, Mr. Sutton, and Mr. Fitzgerald (Chairman.)

The Minutes of the last meeting were read and confirmed.

The Report was considered and agreed to.

The Committee adjourned *sine die*.

## EVIDENCE.

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THURSDAY, SEPTEMBER 6, 1888.

MR. SOLOMON CHILD *examined*.

1. *By the Chairman*.—What is your name? Solomon Child.
2. At the period to which this inquiry is directed you were engaged in the district of Sorell? Yes.
3. By whom? By Mr. Kilner.
4. You were engaged to perform certain work—what was that work? It was a contract entered into by myself and several others. I had engaged with Kilner to come over here as superintendent of a working party.
5. Were you so engaged? No; but as one of the working party.
6. There was some dispute between you and Kilner as to wages? Yes.
7. What was the matter in dispute? It was in regard to some moneys due to us. I claimed certain moneys which he disputed.
8. Did you sue him? Yes.
9. Out of that procedure circumstances arose which led to your arrest on a charge of perjury? Yes.
10. Do you know anything that would have warranted information being given that would have led to your arrest on that charge? No.
11. You cannot connect yourself with any set of circumstances that would have given any foundation for such a charge? Not the slightest.
12. How do you account for the charge being made? Out of malice, undoubtedly.
13. Why do you think that? Because I had not left the Court, where I had been giving evidence for the Crown, half an hour before I was arrested.
14. How did you come to give evidence for the Crown? The man Kilner was first prosecuted for perjury at my instance.
15. Then, while this case for perjury was being made, you were arrested on a similar charge? Yes, shortly after the trial; about half an hour afterwards.
16. Were you incarcerated? Yes.
17. In the gaol at Sorell? Yes.
18. How long were you there? About three-quarters of an hour.
19. Were you bailed out then? Yes.
20. The charge was not proceeded with? No.
21. The prosecution was stayed? Yes, the prosecution was stayed, only with the understanding that I was to have a public apology and my expenses.
22. The charge of perjury was not proceeded with against you? They would not allow me to appear.
23. The charge was withdrawn? No. The magistrates agreed for me to have a public apology.
24. But the charge was withdrawn, was it not? I do not know that; I cannot say.
25. Well, they did not go on with it? No. I was to have a public apology.
26. Yes, but the charge was withdrawn—I suppose the magistrates told you that? No. They would not allow me to go before the magistrates.
27. Who told you that you were to get a public apology? Mr. Clark told me that the magistrates had agreed I was to get a public apology.
28. Mr. Clark acted for Kilner? Yes.
29. And he, acting for Kilner, told you that the charge was withdrawn, and a public apology was to be given? Yes, and two of the magistrates were to sit and see what expenses I had been out of pocket.
30. Did you ever receive that public apology? Never.
31. Then, what was your action? I petitioned the House of Assembly for enquiry into the matter, and the Attorney-General (Mr. Dodds) stated to the House that it was my duty to proceed against Kilner.
32. You proceeded against Kilner? Yes.
33. What was the result? The jury gave me an unconditional verdict for £22, and £50 in lieu of a public apology.
34. What was your charge against Kilner in these proceedings? I instituted a civil action for out-of-pocket expenses and £200 for malicious imprisonment.
35. Then, the fact is you sued Kilner civilly for £200? Yes; I think £222 was the amount.
36. And the jury awarded you £50 and £22, that is, £72? Yes.
37. What happened then? In some way the verdict was set aside—in what way I do not know; it was by some legal process.

38. What were the circumstances which lead to the warrant being issued for Kilner's arrest? I found out he was going to leave the Colony, and I applied to have him bound in bonds to appear to answer at the trial.

39. The warrant issued for his detention was not executed? No.

40. How did that occur? The excuse was, that it was Launceston Regatta-day.

41. Did not this happen: the Court issued this warrant, and it was left to you and your solicitor to say when it should be put into force? I believe it was.

42. And you yourself failed to put it in force until a certain day; you did not stir the authorities to move in the matter until you heard that Kilner was going to leave the Colony? That was the wish of the authorities; they would not stir until they heard he was about to leave.

43. What was your course then? I went to the Sheriff and asked him to put the warrant into execution.

44. What day was that? I have not the day, but it was Launceston Regatta-day. I believe it was on the 26th or 27th January.

45. When you went on this Launceston regatta-day to the Sheriff and told him to execute the warrant, you and your solicitor went together? Yes.

46. Did the Sheriff communicate to you and say that he had failed to arrest Kilner? No; but he communicated to me through my solicitor.

47. When did he communicate this information to you? On the same day, and before the boat had cleared the Heads, some two or three hours.

48. Mr. Kilner was leaving by the boat leaving Launceston at 2 o'clock? Yes.

49. You heard between 1 and 2 o'clock that there was a failure to arrest,—that the Sheriff's officer was not at his office, it being a public holiday there? Yes.

50. Did your solicitor urge the Sheriff to attempt to put in force the warrant? Not after this.

51. There was no time to do so? I suppose so.

52. What has been your action since? I have taken no further action.

53. What did your solicitor advise you to do? He did not advise me any further.

54. Did he not tell you it was possible to pursue Mr. Kilner if you could get his address, and recover in another colony by civil process? No. He told me that if I would give up the claim for £50 Mr. Clark would no doubt pay the balance of £22, and supplement it by a £10 note.

55. That was after Kilner had left the colony, and after you had instituted proceedings in the Supreme Court and received a verdict for £72? Yes, and I declined.

56. Did your solicitor say you could pursue Kilner in the other colonies under the Federal Council Act? No.

57. You know you can do that? I have heard you say so.

58. That is an expensive matter, and you did not care to incur the expense necessary? No.

59. How much were you out of pocket by the proceedings? More than £200.

60. The Sheriff lost no time in giving information to your solicitor that the warrant could not be executed? No; but still he might have executed it; he might have sent up from Hobart.

61. How could you send anybody up from Hobart when the steamer left at 2 o'clock, and you only gave information between 1 and 2 o'clock? But the boat did not leave the Heads until 5 o'clock.

62. But even then it would be impossible to send anybody; you know that no train leaves during the day? I know that it was about twelve o'clock when we first telegraphed. The warrant was sent the night before, and the telegram next day was to have him arrested.

63. When you received information that the warrant was not executed, did you ask the Sheriff if it was not possible to have it executed by other means. I did not receive it myself.

64. Did your solicitor? I do not know.

65. If your solicitor received the information and did ask the Sheriff to do this, any charge for neglect is not sustainable? I thought the order from the Sheriff would have been sufficient.

66. What did you say you had lost? Between £200 and £300.

67. How do you estimate that?—what have you lost in legal expenses? I gave Mr. Crisp £21 15s. for defending me. I paid £16 to Mr. Lethbridge and Mr. Mugliston.

68. That is £37: what other expenses have you been at? I had five trials before the magistrates. I kept witnesses and paid all the fees of the various meetings. My accounts were nearly £60.

69. That is altogether £97? Yes, but I have been put to expense every week since. I paid £15 hotel expenses for one witness last year in the hope of getting an inquiry.

70. *By Mr. Gill.*—Your object is more to get your character cleared with your friends at home than a monetary consideration? I never made it a monetary consideration; from the first I simply asked for a public apology and expenses, and if the magistrates had seen that carried out the matter would have ended.

71. You spoke of malice—on whose part do you attribute malice? I should say the malice was due to the man Kilner; but then he could not have arrested me if the law had not allowed him.

72. Was the charge against Kilner proved? Yes, beyond a doubt; his name stands on the books now.

73. Did the authorities take any steps to compel you to plead to this charge against yourself? I was out on bail to answer to the charge. I wanted to appear, but they would not allow me.

74. Did you put the warrant against Kilner into execution when first issued? Very soon after.

75. How long? I think about next day.

76. *By the Chairman.*—Who was your solicitor? Messrs. Powell, Lethbridge, and Chambers, in whose hands the arbitrators award still remains.

#### ADDENDUM.

A judgment in connection with this case is standing against me. The unconditional verdict of the jury given me in the Supreme Court was set aside, and I am ordered to pay fees, &c. The jurymen who gave their verdict according to evidence are still prepared to stand by same.

The man Kilner, who is alleged by the authorities to have been the cause, does not appear in connection with the arrest, and it was only on the distinct understanding from Mr. Clark that himself and Magistrates should see me have a public apology and expenses that induced me to sign for the two Magistrates to arbitrate and adjudicate.

The arrest was made soon after coming from the Court, where I had been summoned by the Crown, which I had honestly obeyed and truthfully answered. The warrant which caused my arrest was subsequently proved by two of the Magistrates to have been issued maliciously, and in this the jury at the Supreme Court coincided.

After having faithfully served the purposes of the Crown, I was prosecuted and remanded at the instance of the Superintendent of Police.

That I have not been discharged, and Mr. Clark is to-day under an agreement to obtain the same, and he has made application to the Magistrates for it; and as I cannot leave my liabilities, I am unable to leave the Colony.

Lastly, my steps have been dogged by detectives, who have been in communication with the Attorney-General, as a letter in possession of the Chairman will testify.

#### MR. JOHN ROWLAND *called and examined.*

77. *By the Chairman.*—What is your name? John Rowland.

78. You are engaged in the Sorell District as a farmer? Yes.

79. You were bondsman for Mr. Child to ensure his appearance at the Court on a charge of perjury? Yes.

80. What led to your becoming bondsman to Mr. Child? Through knowing him, and hearing of him being locked up.

81. Were you acquainted with any of the circumstances that led to his instituting this charge of perjury against Kilner? Yes. I knew him during the time he was at work, and when he sued Kilner for his wages.

82. After the trial of Kilner for perjury we understand that Child was arrested on a similar charge? Yes.

83. That was not proceeded with? No.

84. Why? They could not substantiate it.

85. Then the matter was withdrawn? Yes, that is what I understood.

86. Mr. Child was told, on the charge being withdrawn, that some public apology was to be offered him? I heard him say to Mr. Clark, who asked him what he wanted, that he wanted what was due to him—a public apology and his expenses, and Mr. Clark said he would have it.

87. Do you know whether that was tendered in public Court? I never knew of it.

88. You do not know it was not tendered? No.

89. Were you called as a witness at the Supreme Court action? Mr. Henwood gave evidence, but I, though present, did not give evidence.

90. Do you know anything relating to the execution of this warrant against Kilner? I was with Mr. Child when he made arrangements with Mr. Lethbridge to issue the warrant to have Kilner apprehended.

91. You do not know whether there was any delay relating to the service of the warrant? No.

92. Has Mr. Child at all, in your opinion, suffered in reputation owing to these proceedings? Yes, he has suffered. I heard even a member the other day—Mr. Hodgson—who was wanting to make him out what he was not.

93. Then there is an opinion in the district unfavourable to Mr. Child owing to these proceedings? Yes.

94. I suppose most people sympathise with him? He has a certain number of friends, but there are others who do not know him so well, and those who know him very well believe he has been persecuted; others express their opinions very differently.

95. *By Mr. Gill.*—Have you ever heard any expression given by parties against Mr. Child? Yes.

96. In what way? They spoke of the man as a scoundrel and a fraud in every way.

97. Did the Court ever release you of your bond? No.

98. Do you, as bondsman, consider you would be liable if Mr. Child leaves the Colony? According to the advice I got I would be. I got advice from two firms. One advised me to cut out the Attorney-General's reply in the House of Assembly as a sort of evidence, and the other told me to go into the office and try and get the bail bonds.

99. Then you would not allow him to leave the Colony? No, unless I could get the authorities to cancel the bond.

100. *By the Chairman.*—You do not anticipate you will be troubled? I should say no.

101. It does not give you any anxiety, this bond? Oh yes, at times; I became a bondsman once before and it gave me a lot of trouble.

102. You quite believe there is no likelihood of it being exercised? I think not.

103. *By Mr. Crisp.*—Have you ever applied to have the bonds cancelled? No, I never did, the lawyers did not advise me.

104. If those bonds had given you trouble you would have made application for them to be cancelled? Yes.

105. Then they did not trouble you? I knew Mr. Child was in the Colony. I wrote once to a paper saying I would rather pay the bond than be troubled, but they did not put the letter in.

According to the advice given by the Select Committee *re* Solomon Child's case, I applied to the Registrar of the Court at Sorell to have my bail bonds cancelled. He informed me they were in the hands of the Government, and there is no such thing as cancelling bail bonds.

JOHN ROWLAND.

WEDNESDAY, SEPTEMBER 12, 1888.

MR. H. B. MUGLISTON *examined.*

106. *By the Chairman.*—What is your name? Henry Boyes Mugliston.

107. Your knowledge of Child's case dates back, I suppose, to your having a brief on his behalf? Before then.

108. What led to your taking an interest in the case? I first became acquainted with the case through having to revise a pamphlet, on behalf of the publishers, which Child was about to publish with regard to his grievances. I did not act for Child in that matter.

109. Was that the first of the case that was placed in your hands? Child came and requested me to act as solicitor on his behalf in an action he was about to bring against Kilner. I told him I did not act as a solicitor; he then asked me to recommend some one; I told him I did not care to do so, but, as he pressed me, I mentioned several names, from which he selected Mr. Lethbridge. I then said I would send for that gentleman if he wished. He desired me to do so. Mr. Lethbridge was accordingly sent for, and on his arrival the desirability of bringing an action against Kilner was fully discussed by us.

110. You consented to accept a brief on his behalf in the action against Kilner? Upon Mr. Lethbridge's arrival I advised Child that he had a good cause of action against Kilner for the amount of his wages, some £23, but that, in my opinion, he could not recover damages in lieu of the apology which had been awarded him by the arbitrators. I added, as Child seemed anxious that the question of damages in lieu of the apology should be raised, that a count could be added to the declaration for damages in lieu of the apology, but that, in my opinion, speaking as a lawyer, there was not the remotest chance of his succeeding on that point, although inserting such a claim could do no harm, as it might obtain an expression of opinion from the Judge, and so enable him to clear his character. A declaration was accordingly drawn by me in the manner I suggested, the case on behalf of Kilner being defended by Messrs. Clark & Simmons, which firm acted on his behalf up to the time of our going into Court, when, upon the case being called on and no one being present on behalf of Kilner, Mr. Lethbridge sent round to Messrs. Clarke & Simmons's office, when he was informed they had withdrawn from the case. The case then came on for hearing, when the Judge (Sir Lambert Dobson) raised the question whether I could maintain that part of my action which had reference to the public apology for which damages were claimed. I asked that the case should be left to the jury so as to get the damages assessed by them, and that the question of law as to whether we were entitled to recover such damages should be reserved for further consideration. The Judge consented to this course being pursued, and thereupon the case went to the jury, who awarded the amount claimed in respect to the wages, and assessed the damages at £50 in lieu of a public apology.

111. You acted as counsel in the claim wherein he sought to obtain judgment for wages? Yes.

112. He got a judgment? Yes.

113. Was it relating to that judgment that the warrant was issued for the arrest of Kilner? No; but it had reference to this action before judgment was obtained.

114. The action was subsequent to the arrest of Kilner? Subsequent to the order being issued.

115. You are aware a warrant was issued for Kilner's arrest? That was by my advice that the order was obtained.

116. Was it arising out of the judgment that you obtained against Kilner for wages? Speaking from memory, before I had got the verdict Child told me that Kilner was at Sorell, but was likely to leave at any moment. I said that being the case, the best thing you can do is to make an affidavit setting out what you have told me, and apply to the Judge for an order directing the proper officials to arrest Kilner. That order was obtained. Child then arranged with Mr. Lethbridge to see Mr. Seager and instruct him not to enforce the warrant until Kilner was leaving the Colony. Child subsequently heard that Kilner was in Launceston on his way to another Colony, and the warrant was sent by Mr. Seager to Mr. Hunt, Registrar at Launceston,

directing him to arrest Kilner, who was about to leave the Colony for Victoria. A reply came back that it was a public holiday in Launceston, and the warrant could not be acted upon, as Mr. Hunt was not at the office, it being closed.

117. Do you know whether Mr. Lethbridge was communicated with as to Mr. Hunt being absent from the office? Yes; a telegram was sent either to Mr. Lethbridge or to Mr. Seager.

118. Do you of your own knowledge know whether that information was communicated to Mr. Lethbridge in time to stop Kilner? He could not have been stopped. First, there was not an official to be had to arrest Kilner, and the reply was not sent to Hobart before one o'clock, the steamer leaving for Melbourne at 2 o'clock.

119. As far as you know, no delay occurred in sending that reply? No.

120. Is it not a fact that the order for arresting Kilner had been obtained some weeks before he left the Colony? It was obtained about a week before, but it was a matter of arrangement that the order should not be enforced until Kilner was leaving the Colony. Child requested that it should not be enforced until that time.

121. Have you given Child any advice as to other procedure in this matter, Kilner having left the Colony—I mean further procedure that will enable him to levy on Kilner in any adjacent Colony? Yes, I told him he could proceed against Kilner in Victoria to enforce the judgment under a Federal Council Act, as Victoria was one of the Colonies in which that Act would operate.

122. Child proceeded in Victoria? I do not know.

123. *By Mr. Gill.*—Were you connected with the case at the time Child was arrested? No; my connection with the case arose subsequent to that.

124. *By Mr. Hamilton.*—One feature of Mr. Child's trouble is that he cannot leave this Colony without being arrested. Is that so? Inasmuch as I have not the whole facts of what transpired at Sorell, I cannot say.

125. *By the Chairman.*—The case is this. A bondsman named Rowland is under the belief that if Child were to leave the Colony to-morrow the bail would be estreated. He has not applied to be released from his bond; but the information on the charge of perjury having been decided not to be proceeded with, there would be no difficulty, I suppose, with that bondsman if he applied to be released from his bond, being so released? There is so much informality in the whole case, that I cannot give an opinion one way or another. The ordinary practice is when a case is dismissed that the bondsmen are released from their bonds, and in this case I should think the same practice would apply.

126. *By Mr. Sutton.*—As a lawyer, is it not a fact that a bondsman is discharged and the bond becomes null and void after a case is withdrawn? Yes, when a case is dismissed.

127. When the charge was withdrawn the matter was referred to arbitration, was it not? Yes, I believe so.

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MR. JAMES FORBES YOUNG *examined.*

128. *By the Chairman.*—What is your name? James Forbes Young.

129. You are a solicitor, in Hobart? Yes.

130. You have acted for Child as solicitor in this case as against Kilner? My connection with Child commenced after his last action in the Supreme Court against Kilner.

131. After he had obtained a verdict? Yes.

132. Child consulted you then as to what? As to the whole matter, and also as to costs in that very action.

133. You refer to the costs his previous solicitors were pressing him for? Yes; Messrs. Powell, Lethbridge, & Chambers.

134. Were you in any way connected with the other previous connections of the case, except by hearsay? I know nothing about the case with Kilner except by hearsay, and what I have read in the public press.

135. Did you advise Child as to subsequent action in the case, Kilner having escaped the Colony? I told Child he ought to endeavour to get hold of Kilner, to see what Colony he was in, and see whether he could not get at him under the Federal Council Act, for instance.

136. Do you know anything, except by hearsay, of the failure of the warrant being served? Certainly not. I had a communication with the Sheriff about it on one occasion, but he simply told me that the arrest could not be made, as it was a public holiday in Launceston, and there was no one in the office.

137. As far as you know, no time was allowed to elapse that would cause the failure to serve the warrant?—as soon as the Sheriff got information he acted as promptly as he could? Yes, he certainly did. From the information I got I heard that the telegram was sent at 1 o'clock, and the steamer left Launceston at 2.

138. That, of course, is merely hearsay? Yes.

139. *By Mr. Gill.*—Had it not been a public holiday in Launceston there would have been time for the telegram to have been acted upon, I suppose? Yes. The telegram having got into the hands of some one officially, I was of opinion that it might have been executed. The case might have been one of murder, and an accused in such a case should not be allowed to escape on the grounds of a public holiday.

140. Do you think the warrant would have been executed had proper steps been taken? Yes.



141. *By the Chairman.*—What would be the ordinary procedure on the part of the Sheriff in Launceston respecting instructions to arrest? The Sheriff in Launceston would have order for arrest forwarded beforehand, ready on receipt of a telegram to arrest the person.

142. We understand that the telegram would go direct to the Sheriff's office? I should think it would do so.

143. Instead of them communicating to Hobart the fact that it was a public holiday in Launceston, and the Sheriff was not to be found, do you think some sub-officer should have been sent to enforce the warrant? The telegram was opened by some person having power to open it, and that person might have sought out the Sheriff, who would, I should think, take steps to arrest Kilner.

144. It was a mistake on the part of the person whose hands the telegram reached to send it back to Hobart without taking action? I cannot say that, because I do not know into whose hands the telegram fell, whether or not it was an officer sufficiently able to do that work without the Sheriff's authority to do so.

145. *By Mr. Gill.*—There is more than one officer entitled to arrest on warrant? I think so. Here, in Hobart, Mr. Seager could arrest. Mr. Edwards, sen., the Bailiff, frequently arrested in these matters.

146. *By Mr. Crisp.*—The Sheriff may have been somewhere else? I believe the answer to the telegram was that he was away at the regatta, it being a public holiday.

147. *By Mr. Sutton.*—It is only hearsay that the warrant got to Launceston at all. Can you say that the warrant did get there? I understood from the Sheriff that the order for arrest had gone to Launceston the night before.

148. *By Mr. Hamilton.*—Supposing the Sheriff had arrested Kilner without the warrant, would you consider he had done his duty? He could not arrest without a warrant or Judge's order in any case.

149. *By the Chairman.*—The only fact you are in possession of is from the Sheriff here, that the warrant was forwarded to Launceston? Yes.

150. *By Mr. Crisp.*—Supposing Child's evidence was true, do you think the Sheriff did his duty? I think if the order had gone to Launceston the night before, and if the Sheriff's officer had got the telegram in time to see the Sheriff, wherever he was, then, the Sheriff once having been communicated with, it should have been executed notwithstanding it was a public holiday, that is, provided there was time to execute it before the steamer left.

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MR. WILLIAM PEACOCK *examined.*

151. *By the Chairman.*—What is your name? William Peacock.

152. You are a magistrate in the District of Sorell? Yes.

153. You are familiar with the case of Child, and the difficulty which arose? Yes.

154. You are the magistrate who was called upon to grant the warrant? Yes.

155. Who made that declaration? One George Wilson.

156. What was that declaration to the effect? That Child committed wilful and corrupt perjury.

157. In the evidence given in the case that was being tried as against Kilner for wages due, was it not? Yes.

158. And you had no alternative but to issue the warrant for Child's arrest? I had no other. I put the question to the man in the first place. Before I issued the warrant I said to him "Why not take out a summons in the first instance, as I object strongly to go to extreme measures."

159. When the case came on for hearing were you on the bench? Yes.

160. The case was not proceeded with? No.

161. Mr. Clark was counsel for Wilson? Yes.

162. He announced that the case would not be proceeded with? Yes, and requested that the charge might be withdrawn.

163. The charge was withdrawn? Yes.

164. There was something mentioned about a public apology being made to Child, was there not? I had nothing to do with it. It was submitted to arbitration. Mr. Clark appeared for Wilson, and Mr. Crisp offered no objection to the case being withdrawn, and said they would consent to its withdrawal on certain conditions, and that a public apology should be made. The case was not entered into.

165. You had nothing further to do with it? No.

166. *By Mr. Sutton.*—The arrangement was virtually between the two counsels? Yes, the bench had nothing further to do with it.

167. *By the Chairman.*—Did you hear the case in which Child and others sued for wages? Yes.

168. The bench gave a verdict in their favour? Yes.

169. There was some counter charge on the part of Kilner against Child, was there not? I do not know,—it was such a muddled up affair altogether.

170. Your knowledge of the case is simply confined to the fact that this verdict was given in favour of Child, Mayer, and others, and that subsequently on the declaration of Wilson you issued a warrant for Child's arrest on a charge of perjury? Yes.

171. *By Mr. Gill.*—Was there a remand asked for in the case? On reference I find that the accused—Child, Orme, and Mayer—were remanded from the 3rd to the 5th March.

172. Was that warrant legally or illegally drawn up? I believed it to be legal.

173. Do you think Child's character is damaged in any way? I do not know.

174. *By the Chairman.*—Was the bond entered into by Rowland for the appearance of Child taken before you? Yes; there was a bond for bail taken by Rowland before me.

175. After that case was withdrawn would you consider the bond still in force? No, I should consider the bond null and void, as the case had been disposed of.

176. *By Mr. Sutton.*—Of course you, as a magistrate in this case, had it entered on the books or records of the court showing it had been withdrawn? Yes, it is in my record book as having been withdrawn. I saw the entry of it this morning.

177. *By Mr. Gill.*—Did Child appear himself? He did not. Mr. Crisp appeared for him.

178. *By Mr. Sutton.*—In a case like that, where the bail has been taken, the man may appear or can answer by counsel, and the magistrate will take that as sufficient answer to the bond? I have always done so.

179. *By Mr. Crisp.*—Rowland is evidently under the impression that his bond should have been cancelled. If he were to apply to you to-morrow, would you allow his bond to be cancelled? Yes.

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MR. WILLIAM WEDGE HENWOOD *examined.*

180. *By the Chairman.*—What is your name? William Wedge Henwood.

181. You are a magistrate in the District of Sorell? Yes.

182. You were one of the presiding magistrates when Child sued Kilner and others for wages due? Yes.

183. Was the verdict recorded in Child's favour? Yes.

184. It was while that case was in process that a warrant was issued for the arrest of Child on a charge of perjury? It was subsequent to the hearing of this case.

185. Were you one of the bench when that warrant was applied for? No, not against Kilner.

186. There was some counter charge against Child for perjury? Yes.

187. That charge was made by Wilson? Yes.

188. Did you sit on the bench the day that charge was called on for hearing? Yes.

189. The case was withdrawn? Yes.

190. The present Attorney-General appeared, and stated he would withdraw the case, did he not? Yes.

191. He gave no reason for withdrawal? No other than recommending that the case should not be proceeded with.

192. The counsel for Child in the case agreed to the withdrawal on certain conditions? Yes.

193. What were the conditions? That the matter should be subject to arbitration. I was appointed one of the arbitrators in the case.

194. There was some mention of a public apology? Yes.

195. That arbitration was awarded in favour of Child? Yes.

196. Did Kilner at that time leave Sorell? No.

197. Was he a consenting party to the arbitration? Yes.

198. Proceedings were eventually taken in the Supreme Court? Yes.

199. Were you a witness? Yes, merely to confirm the fact that I had been an arbitrator.

200. You know nothing relative to the failure of the warrant in Launceston? No.

201. *By Mr. Gill.*—Was Child in Court when the case was withdrawn? He was not in Court, but was standing outside.

202. He could have been in Court had he chosen? Yes.

203. Did the magistrates on the bench fully agree to the public apology? They agreed that the whole matter should be left in the hands of the arbitrators. One of the special conditions asked for by Child was that a public apology should be made.

204. Was Mr. Hildyard one of the arbitrators? Yes.

205. Were you, when arbitrator, acting as a magistrate? No.

206. *By Mr. Hamilton.*—You acted in a friendly way in order to settle the trouble? Yes.

207. *By Mr. Gill.*—Has Child's bondsman been released? I do not think so. There has been no application for a release, but there is certainly no obstacle in the way of the bonds being cancelled.

208. *By Mr. Sutton.*—As a magistrate have you ever known anybody who when acting as bondsman has had his bond cancelled after the case was withdrawn? I do not think I have.

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MR. DAVID HENRY CRISP *examined.*

209. *By the Chairman.*—What is your name? David Henry Crisp.
210. You were acting as solicitor in the case in which Child sued Kilner and others for wages due? Yes.
211. While that case was in process, or shortly after, a warrant was issued for the arrest of Child on a charge of perjury? Yes.
212. You appeared for Child in that case? Yes.
213. When the case came on for hearing it was withdrawn, was it not? Before the case came on, Mr. Clark, who acted for the prosecutor, and myself had a consultation, and, with the consent of our clients, it was referred to arbitration.
214. The case was called on for hearing? Yes, and it was recorded as withdrawn.
215. In the arbitration case the verdict was given in favour of Child? Yes.
216. Kilner afterwards left the district? I know nothing of that.
217. That charge of perjury against Child was an absurd one? There was not the slightest case against him. I have always wondered at the magistrate issuing a warrant for his arrest. I do not think Mr. Tarleton or any experienced magistrate would have done it. I think the country magistrates only did it because the case was prepared by a lawyer.
218. You are surprised at the warrant being issued? Amazed.
219. There would be no difficulty in the bondsman being released. None whatever.
220. There is no ground for the belief that Child stands in any danger of being arrested? Not the slightest.
221. *By Mr. Gill.*—There was nothing to prevent Child being present with you when the case was withdrawn? My presence was his. I have tried to understand his grievance, but have failed.

FRIDAY, SEPTEMBER 14, 1888.

MR. PHILIP SAMUEL SEAGER *examined.*

222. *By the Chairman.*—What is your name? Philip Samuel Seager.
223. You are Deputy Sheriff? Yes.
224. Do you recollect putting into motion an order for the arrest of Kilner, the order being issued by Child? Yes. The order was left with me on 24th January, 1887. It was an order for arrest under "The Debtors Act."
225. It was to remain in abeyance until they moved in the matter? I had a letter of instructions with it, which told me to take no steps to arrest until further instructed by Mr. Child or his solicitor.
226. At a subsequent date did he instruct you to enforce the warrant? On the 26th of the same month I was instructed to send a copy of the order to Launceston. I did so. Mr. Lethbridge wrote on that day to the Deputy Sheriff at Launceston giving a description of Kilner.
227. Was the certified copy of that order sufficient authority to arrest? Yes; it was under "The Debtors Act."
228. It left Hobart on 26th January? Yes.
229. You heard subsequently to that that the order could not be enforced—that the arrest could not be made? On the 27th, Mr. Child and Mr. Lethbridge, his solicitor, waited on me about 12:30 o'clock, and as they did not bring written instructions for me, I wrote them down myself, as I never take verbal instructions. They informed me that they thought Kilner was going away to Melbourne by steamer that day from Launceston or Hobart, and instructed me to wire to Launceston and have the warrant put in force if he was leaving per *Flinders*.
230. You wired to Launceston? Yes, by "urgent" telegram. I said to Mr. Child and Mr. Lethbridge they would have to be sharp if they wanted to catch their man. I believe Mr. Lethbridge took the telegram himself. On my return at 2 o'clock to my office I found a message from the counter clerk saying it was a public holiday at Launceston and the Deputy-Sheriff was at the regatta. The next morning I received a letter from the Deputy-Sheriff saying the telegram did not reach him till 7:30 P.M. that day. I communicated with Child's attorney as soon as I received word that the Deputy-Sheriff was at the regatta. I put the other copy order in the hands of my bailiff in Hobart, who proceeded to the wharf accompanied by Child, who was to identify the man.
231. That was the wharf here? Yes; there was a steamer leaving for New Zealand.
232. The telegram, you say, did not reach Launceston until seven o'clock? It reached Launceston before that, but did not reach Mr. Hunt.
233. The steamer had gone when he got the wire? Yes.
234. *By Mr. Sutton.*—What would be about the probable time the telegram left the Hobart Telegraph Office? It was given in here at 12:53, and the time sent was 12:55.
235. Did you receive a telegram from Launceston at 2 o'clock? I received a memorandum at that time stating the Deputy-Sheriff was away at the regatta.

236. In your opinion, I suppose all expedition was used on the Launceston side? The offices were closed, and nothing could be done, as it was late when the telegram was sent. After the Deputy-Sheriff received it the steamer was gone, and there was no use of troubling further.

237. *By the Chairman.*—The office being closed, what would be the procedure of the counter clerk? He sent me a memorandum, which I have not copied, but it was to the effect, as I have said before, that the Deputy-Sheriff in Launceston was away, and that the office was closed.

238. I suppose the Deputy-Sheriff's customary course would be to refer immediately to you? Yes.

239. There is no discretion left with him to engage a bailiff? He could not get one.

240. It must go to the Sheriff's bailiff? Yes; it was addressed to Thomas Prosser. He only could make the arrest. On the 27th I also received instructions in reference to Kilner leaving by a New Zealand steamer, and, as already stated, I sent my bailiff (Mr. Edwards) to the wharf here with Mr. Child. I handed the bailiff the written instructions of Mr. Child's solicitors, and I hold his (the bailiff's) memo. endorsed on such instructions as follows:—"After looking for some time for Kilner on 27th, plaintiff said he was informed that defendant had left Hobart by train express, 8 A.M., on Tuesday, 25th, two days before the date of this memo.;" and in another memo. of Mr. Edwards' which I hold, he says that Mr. Child said to him, 'We will give it up now, he has gone.' I asked him if he was certain—was he sure? He said, 'Yes, we will not lose any more time.'"

241. *By Mr. Sutton.*—As a matter of fact, do you know whether he went in that steamer from Launceston? They did not know. Child did not know himself.

242. *By Mr. Gill.*—Your telegram was addressed to Mr. Hunt, in Launceston? Yes.

243. No one else could have opened that letter supposing the office to have been open? I do not know what their office arrangements are.