

(No. 161.)



1890.

PARLIAMENT OF TASMANIA.

MR. JAMES NIMMO'S CHARGES AGAINST THE
PUBLIC WORKS DEPARTMENT.

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

Brought up by Mr. Burgess, October 10, 1890, and ordered by the House of
Assembly to be printed.



SELECT COMMITTEE appointed, on the 26th September, 1890, to inquire into and report upon Mr. James Nimmo's Charges against the Public Works Department.

MEMBERS OF THE COMMITTEE.

MR. BENNETT.
MR. SIDEBOTTOM.
MR. DUMARESQ.
MR. HAMILTON.

MR. DOOLEY.
MR. SUTTON.
MR. BURGESS.

DAYS OF MEETING.

Wednesday, 8th October ; Thursday, 9th October ; Friday, 10th October.

WITNESSES EXAMINED.

Mr. James Nimmo ; Mr. William Smith (Secretary to Public Works Department) ; Mr. Leventhorpe Hall (Chief Draftsman, Survey Office) ; Mr. W. H. Cheverton.

EXPENSES OF WITNESSES.

James Nimmo, £3.

MINUTES OF PROCEEDINGS.

WEDNESDAY, OCTOBER 8, 1890.

The Committee met at 11 A.M.

Present.—Mr. Sutton, Mr. Bennett, Mr. Dumaresq, Mr. Burgess, Mr. Sidebottom.

Mr. Burgess was voted to the Chair.

Ordered, That Mr. J. Nimmo be summoned for examination at 11 A.M. on Thursday, the 9th instant.

The Secretary was directed to interview Mr. Nimmo, and obtain from him the names of witnesses whom he desired to have examined.

At 11.15 the Committee adjourned till 11 A.M. on Thursday, the 9th instant.

THURSDAY, OCTOBER 9, 1890.

The Committee met at 11 A.M.

Present.—Mr. Bennett, Mr. Dumaesq, Mr. Sutton, Mr. Dooley, Mr. Sidebottom, Mr. Burgess (Chairman).

Mr. James Nimmo was called in, and having taken a declaration under the provisions of "The Parliamentary Witnesses Act," 35 Vict. No. 11, was examined.

Mr. William Smith, Secretary to the Works Department, was called in, and having made his declaration, was examined.

Mr. Smith having tabled correspondence and papers, withdrew.

Mr. Leventhorpe Hall, Chief Draftsman of the Survey Department, was called in, and having made his declaration, was examined.

Mr. Hall having tabled plans and charts, withdrew.

Mr. Smith was recalled, and requested to produce a receipt for £30 paid by the Government to Mr. Nimmo.

Mr. Smith undertook to supply the required document as soon as possible, and withdrew.

Mr. W. H. Cheverton was called in, and having made his declaration, was examined.

Mr. Cheverton withdrew.

The Committee adjourned at 12.45 until 11 A.M. on Friday, the 10th instant.

FRIDAY, OCTOBER 10, 1890.

The Committee met at 11.15 A.M.

Present.—Mr. Sutton, Mr. Bennett, Mr. Dumaesq, Mr. Sidebottom, Mr. Dooley, and Mr. Burgess (Chairman).

The Minutes of the last Meeting were read and confirmed.

Mr. James Nimmo was in attendance.

Mr. William Smith attended, and produced the receipt for £30 paid by the Government.

Messrs. Nimmo and Smith withdrew.

The draft Report was drawn up, and agreed to, and the Chairman instructed to present it to the House.

Mr. J. Nimmo's account for £3, for expenses for attendance, was allowed.

The Committee adjourned *sine die*.

R E P O R T.

YOUR Committee have the honor to report to your Honorable House that, having given the fullest consideration to the subject referred to them, and having taken the evidence of four witnesses, and perused all documentary evidence relating thereto, they are unanimously of opinion that the charges made by Mr. Nimmo against the Public Works Department are without foundation. The charges were unreservedly withdrawn by Mr. Nimmo in the presence of your Committee, and an ample apology tendered to the Secretary of the Public Works Department for their having been made.

W. H. BURGESS, *Chairman*.

*Committee Room, House of Assembly,
10th October, 1890.*

E V I D E N C E .

THURSDAY, OCTOBER 9, 1890.

JAMES NIMMO, *called in and examined.*

1. *By the Chairman.*—What is your name? James Nimmo.

2. Where do you reside? At Castle Forbes Bay.

3. This Committee has been appointed to make enquiry into a charge that you have brought against the Public Works Department. I will read you part of the document that you have addressed to the Hon. the Speaker and Members of the Assembly. It is as follows:—"I bought a piece or parcel of land under the 24th section of the Waste Lands Act of 1870. As delineated on the charts of the colony at the time of sale, in accordance with sub-section 34 of the said Act, a road runs through this lot, but it was sold to me as if no road or other public right-of-way existed on it. I now claim the road as my private property, and assume the Lands and Works Department has no right to trespass on it without my consent, or otherwise paying me for it. The Minister of Lands and Works contends that he is in possession of a document signed by me to prove that on the 14th of April, 1875, I agreed to give a right-of-way through lot 7705 for £30. I deny it. There is no such document in existence. The Minister's contention is, I got paid £30 and dedicated the road to the public. I deny this also; I never got paid £30 for it, and never dedicated it to the public. The Minister, on the strength of his document, contends that, having once accepted payment and dedicated it to the public, I have no claim for further consideration. I deny the genuineness of the document, and say, if such a document exists, it is either an absolute forgery or a document falsified for a fraudulent purpose: hence my requisition for a Committee of Enquiry." We limit the scope of our enquiry to that portion I have just read. Is that the charge you now make against the Public Works Department? Yes.

4. You deny ever having given a right-of-way through that property? I gave a right-of-way through it, but I deny ever getting any money for it. I got paid for a right-of-way through lot 2263, but not for the other.

5. We must confine ourselves to Lot 7705. You deny ever having received any payment for a right-of-way through that lot? Yes, I do.

6. Did you give a receipt for the £30 you received previously? Yes.

7. *By Mr. Sidebottom.*—What did you receive that £30 for? I got £10 for giving a right-of-way through Lot 2263, my freehold property, and £20 was allowed me for work I had done before the Government took charge of the road.

8. In all you received £30? Yes.

9. Did you give a receipt for that? Yes, it is very likely that I did.

10. *By the Chairman.*—That was for work and so forth on Lot 2263? Yes; I got nothing for the right-of-way through Lot 7705.

11. You received no payment in compensation for the road through Lot 7705? No.

12. *By Mr. Sidebottom.*—You say, in the document you sent to Members, "on the 14th April, 1875, the Hon. William Moore was Minister of Lands and Works; previous to this I had petitioned the Minister of Lands and Works to assist me with a portion of the waste lands subsidy money in making a road through Lot 7705 to Lot 2263 (my freehold property) for my own accommodation, and on the strength of that petition Mr. Cheverton, the then Inspector of Public Works, was sent down here to report thereon, and as his report went to show the road I was forming would be the only practicable route for a public road to back settlements, the Lands and Works Department offered to complete the road on condition I would allow them to go through Lot 7705 scot free. To this I readily consented, as I was in great need of the road." Is that correct? Yes.

13. Then what claim have you for compensation? I never got any payment for it. I allowed them to go through free.

14. Then you would not want any payment for it? I did not want any. I could not get it, in fact. I had petitioned for the road going through, and, under the provisions of the Road Act and Waste Lands Act, I was not entitled to anything at all for compensation for the road going through.

15. Then you do not claim any money from the Government? Not for the road going through there.

16. *By the Chairman.*—Do you make any claim against the Government for money? Yes, I do.

17. What is your claim, then? My claim is £80 for improvements; I make no claim for the land. I claim for the improvements according to the Act.

18. That is opening up another question altogether? I cannot help it.

19. We are going to limit the scope of our enquiry to whether or not the document in the Lands and Works Department is a forgery or not? That document will have to be produced.

20. You say that if such a document exists it is a forgery? I do say so. I never got a farthing of payment.

WILLIAM SMITH *examined.*

21. *By the Chairman.*—What is your name? William Smith.
22. What are you? I am Secretary of Public Works.
23. Can you produce the chart, or a copy of it, that was used at the time this land in question was sold? No, I cannot. I have nothing to do with the lands.
24. Have you in your possession the document to which Mr. Nimmo refers in the paragraph of his charge—"The Minister of Lands and Works contends that he is in possession of a document signed by me to prove that on the 14th of April, 1875, I agreed to give a right-of-way through Lot 7705 for £30?" Yes, I have.
25. Will you produce that document? I will. [Document produced, and marked A.]
26. Was this chart (marked B) attached to the receipt at the time that the money was paid? It is not a receipt; it is a consent form for the road. The chart was attached to it at the time that Mr. Nimmo signed it.
27. You witnessed Mr. Nimmo's signature at the time? Yes. There is my own signature on the document.
28. Does that refer to a road through Lot 7705? I cannot answer that question; it is a matter for the Lands Department.
29. Was this £30 afterwards paid? All I can tell you is that it left my office for the Treasury, because, as you know, payments are not made by us. It left our office on the 14th of April, 1875, certified as due to Mr. Nimmo. We can easily see by application at the Treasury whether he got his £30.
30. Will you produce the receipt form? Yes, I will.

JAMES NIMMO *re-called and examined.*

31. *By the Chairman.*—Is this document (marked A) the one you say is not genuine? I believe the words—"In consideration of the sum of £30 to be paid to me for the under-mentioned land required for road, and for work done in cutting and forming portions of the same"—were written in after I signed it. I do not believe that those words were in it at the time that the body was filled up.

WILLIAM SMITH *re-called and examined.*

32. *By the Chairman.*—Do you assert positively that the document was filled up, and has not been added to since Mr. Nimmo signed it? Yes, I do.

LEVENTHORPE HALL *called in and examined.*

33. *By the Chairman.*—What is your name? Leventhorpe Hall.
34. What are you? Chief Draftsman in the Survey Department.
35. Can you produce the chart or a copy of the chart referred to by Mr. Nimmo in the paragraph of his charges where he states he bought a piece of land under the 24th Section of the Waste Lands Act of 1870? I can produce the diagram of the original survey, but I cannot produce the chart mentioned there. The roads shown in red are the new Public Works roads; the roads that were there at the time it was surveyed are shown in brown.
36. When was the survey made the lines of which are shown in red? In August, 1885.
37. You say that this new road, shown here in red, was surveyed in 1885? Yes; that is a diagram of the survey of it.
38. Can you assist us with regard to this matter. In 1875 Mr. Nimmo dedicated a road through a certain block of land to the use of the public: what would be the number of the lot that the road shown on the chart marked B. passes through? There is no doubt that it passes through Lot 7705. The line marked in red on the plan attached to the receipt is on Lot 7705.
39. This was merely a rough line showing a proposed road, for which a certain sum was to be paid—a road for which there was no absolute necessity for immediate survey—and ten years afterwards you take action in the matter? Yes, that might have been, and probably was, the case; but the Public Works Department can explain that better.
40. That is practically the road delineated on the plan? Yes.

WILLIAM HENRY CHEVERTON *called in and examined.*

41. *By the Chairman.*—What is your name? William Henry Cheverton.
42. You are a builder and timber merchant? Yes.
43. About the year 1875 you were connected with the Public Works Department of this Colony? Yes.
44. In what capacity? As Foreman of Works.
45. Do you remember being connected in your official capacity with the opening of a road through Mr. Nimmo's Lot 7705? Yes, at Castle Forbes Bay.
46. *By Mr. Nimmo.*—Do you recollect coming down to inspect a road through my land on the strength of a petition that I sent to the Government? I recollect coming down, and, I think, marking out a road; but it is so long ago that I forget what took place.

47. Do you know my freehold property? Yes.

48. Do you recollect going through lot 2263? Yes.

49. Do you recollect me coming to town, and you and the Minister of Lands and Works and Mr. Smith collecting in the Minister's room, and talking about the matter. I was then to get £10 for the road going through this allotment? I think you were to get some payment, but I cannot recollect the amount.

50. *By the Chairman.*—Can you recollect the payment of £30 made to Mr. Nimmo, whether it was for the dedication of a road through Lot 7705, or was it for work done on Lot 2263? I cannot recollect, unless you give me some documents or some reference by which to refresh my memory. I know there was a new road formed through Mr. Nimmo's property.

51. It is quite possible, in fact probable, that you instructed that red line to be shown on the plan marked B? Yes, it is quite possible that I would do that.

52. On the chart which is attached to this receipt? Yes.

53. *By Mr. Nimmo.*—Was there any payment made for a right-of-way through Lot 7705, or did I allow you to go through without charging you anything? I really cannot tell; it is just possible that you may have given me permission.

Mr. Nimmo.—I see, gentlemen, that you are labouring under a little difficulty, so I should like to explain the position that things really stand in. I have held that piece of land twice. On the first occasion the Government owed me a sum of money, and I would not pay the instalments on this land until I got the Government to pay me. The land was then taken from me and disposed of to another person. Mr. Bird then brought the case before Parliament, and the Government was compelled to pay me, and when I got the money I went to Mr. Crouch, who had bought the land, and bargained for it back again. After I got it back, the £21 that had been paid on it was forfeited.

54. *By the Chairman.*—When did you buy it the second time? I think it was in 1883.

55. You say that the road had been dedicated in 1875? Yes, but I had nothing to do with that. I do not believe conscientiously that this document marked A was filled in when I signed it. The money that had been paid in instalments on the property should have been handed back to me, as I was never out of possession of the property.

FRIDAY, OCTOBER 10, 1890.

WILLIAM SMITH, *recalled and examined.*

56. *By the Chairman.*—You were asked yesterday if the sum of £30 referred to in connection with the document marked A, which was really a dedication of this road, had ever been paid, and you stated that you believed it had, and you were called upon to produce the receipt form for that money? Yes, and I now produce the receipt form. I would ask the Committee to look at it carefully and see if it bears on its face any indication of what Mr. Nimmo says that it has been tampered with. You will see that it is made out on the same day as the document marked A, and you will also see that every word of both documents is in my own handwriting. Mr. Nimmo came to my office yesterday, and I asked him if he had realised the position in which he had placed himself and had placed me by the action he had taken, and especially by the remarks he had made to the Committee. I pointed out to him that I was the preparer of every word of that document, and was the custodian of it on behalf of the Government. Mr. Nimmo said that he had no intention whatever of casting any aspersions on my character.

Mr. Nimmo.—I say so still.

Mr. Smith.—You said that you did not believe that I had done anything in the way of tampering with that document?

Mr. Nimmo.—If there was anything of the sort done at all, it was done without your knowledge, I am perfectly satisfied of that. If anything is wrong at all, I exonerate you entirely from any blame in the matter.

(The receipt produced by Mr. Smith was then marked C.)

MR. NIMMO, *recalled and examined.*

57. *By the Chairman.*—Do you admit now, after the production of these documents marked A, B, and C, that you were mistaken in the charge you made against the Public Works Department? Yes, I will admit that I am mistaken if Mr. Smith swears that these documents are genuine.

Mr. Smith has already done so? Well, I am perfectly satisfied that I was under a mistake.

The Chairman.—Well, gentlemen, that concludes our enquiry. Mr. Nimmo admits that he is under a mistake, Mr. Smith having produced the documents, and practically declared on oath as to their genuineness.

Mr. Smith.—If Mr. Nimmo would see his way clear to apologise, it is all the reparation I require for the very unpleasant position that I have been placed in.

Mr. Nimmo.—I believe that I was in error, and therefore I apologise with all good will.