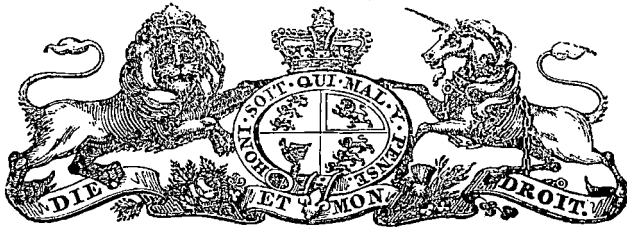


(No. 112.)



1892.

PARLIAMENT OF TASMANIA.

PETITION OF C. B. WEBB AND MORISS NOLAN :

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

Brought up by Mr. Conway, November 23, 1892, and ordered by the House of
Assembly to be printed.



SELECT COMMITTEE appointed, on Friday, 28th October, to enquire into and report upon the Petition of Charles B. Webb and Moriss Nolan, praying for thorough investigation into circumstances connected with their alleged wrongful imprisonment.

MEMBERS OF THE COMMITTEE.

MR. DUMARESQ.
COL. ST. HILL.
MR. BENNETT.

MR. M'CALL.
MR. CONWAY. (*Mover.*)

DAYS OF MEETING.

Friday, 4th November; Thursday, 10th November; Wednesday, 16th November; Wednesday, 23rd November.

WITNESSES EXAMINED:

Police-Sergeant Farrell; Mr. Conlan, Superintendent of Police; Mr. Norman Foote, Prospector; Mr. E. D. Dobbie, Crown Solicitor.

EXPENSES OF WITNESSES:

Nil.

R E P O R T.

Your Committee have the honor to report to your Honorable House—

1. That they have given their most careful consideration to the prayer of the Petition committed to them for investigation, and that they have obtained and duly weighed all evidence, oral and documentary, available.
2. That your Committee are surprised that the Petitioners were not present at the Inquiry to substantiate their case.
3. That your Committee are of opinion that the Petitioners did not suffer injustice at the hands of the Magistrates, who simply performed their duty in accordance with law.
4. That your Committee do not consider that any stain has been cast on the characters of the Petitioners by being incarcerated for an ill-advised action of no immoral, though of an illegal nature.
5. That your Committee are of opinion that an Action in the Supreme Court would have been a fitter mode of dealing with the case of the Petitioners than that of a Parliamentary Inquiry.

HARRY CONWAY, *Chairman.*

Committee Room, 23rd November, 1892.

MINUTES OF PROCEEDINGS.

FRIDAY, NOVEMBER 4, 1892.

The Committee met at 11.30 A.M.

Present—Mr. Dumaresq, Mr. Bennett.

1. On the motion of Mr. Dumaresq, seconded by Mr. Bennett, Mr. Conway was voted to the Chair.
2. The Chairman tabled the following documents—
 - (a) Petition from C. B. Webb and Moriss Nolan, praying for thorough investigation into circumstances connected with their alleged wrongful imprisonment. (Appendix A.)
 - (b) Letter dated 12th July, 1892, from Messrs. Dobson and Mitchell to Mr. C. B. Webb, Zeehan, *re* institution of inquiry into case.
 - (c) Letter dated 27th August, 1892, from Mr. C. B. Webb to Mr. H. Conway, asking him to have the prayer of the Petition investigated by a Select Committee.
3. Resolved, That the Hon. the Attorney-General be requested to forward the Depositions and all Correspondence and Documents in connection with the case, for the information of the Committee.
4. The Committee adjourned at 11.50 A.M. until 11 A.M. on Thursday, the 10th instant.

THURSDAY, NOVEMBER 10, 1892.

The Committee met at 11 A.M.

Present.—Mr. Bennett, Mr. Dumaresq, Mr. Conway (Chairman), Colonel St. Hill, and Mr. M'Call.

1. The Minutes of the last Meeting were read and confirmed.
 2. Letter read from the Hon. the Attorney-General, dated 10th November, 1892, requesting that the Crown Solicitor to attend the Select Committee upon Nolan and Webb's case during the taking of evidence (d).
 3. Resolved, That the request be acceded to, and that the Hon. the Attorney-General be so informed.
 4. The Chairman tabled the following documents, which were read :—
 - (e) Complaint for trespass, Zeehan Court of Mines, with evidence of Norman Foote and Charles M'Kie.
 - (f) Information laid by Mr. Conlan against C. B. Webb and Moriss Nolan, for obstructing the Police in the execution of their duty, with the evidence of J. W. Hudson, Solicitor; R. H. Clements, Police Constable; William Farrell, Sergeant of Police; C. B. Webb, Prospector; Moriss Nolan, Miner; and E. H. Fowell, Commissioner of Mines; and telegrams *re* case.
 5. The Committee deliberated.
 6. Ordered, That the following witnesses be summoned :—

Police Sergeant Farrell, New Town, Wednesday, 16th instant, 11 A.M.
Kent Johnson, Reporter, Hobart, Wednesday, 16th instant, 11 A.M.
Norman Foote, Sandy Bay, Wednesday, 16th instant, 11 A.M.
- The Committee adjourned at 12.30 P.M. until 11 A.M. on Wednesday, the 16th instant.
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WEDNESDAY, NOVEMBER 16, 1892.

The Committee met at 11.15 A.M.

Present—Mr. Dumaresq, Mr. Bennett, Mr. Conway (Chairman).

1. The Minutes of the last Meeting were read and confirmed.
2. The Crown Solicitor appeared on behalf of the Police Department.
3. The Chairman tabled the following documents, which were read :—
 - (g and h) Letter from Messrs. Dobson, Mitchell, & Allport, Solicitors, Hobart, to Sub-Inspector Farrell *re* his alleged arrest of Messrs. Nolan & Webb, and Sergeant Farrell's reply thereto.
 - (i) Indemnity from Messrs. Hudson & Kean, Solicitors, on behalf of Rev. D. S. Lindsay, to Sergeant Farrell.
4. The Committee Clerk informed the Committee that Mr. Kent Johnson had left the Colony.
5. Sergeant Farrell, of the Territorial Police, was called in and examined.
Sergeant Farrell withdrew.
6. Mr. Norman Foote, Prospector, was called in and examined.
Mr. Foote withdrew.
7. Superintendent Conlan, of the Territorial Police, Macquarie District, was called in and examined.
Superintendent Conlan withdrew.
8. The Committee deliberated.
9. The Crown Solicitor was then examined.
The Crown Solicitor withdrew.
10. The Committee adjourned at 12.25 P.M. until 11 A.M. on Wednesday, 23rd.

WEDNESDAY, NOVEMBER 23, 1892.

The Committee met at 11 A.M.

Present—Mr. Dumaresq, Colonel St. Hill, Mr. Bennett, Mr. Conway (Chairman).

1. The Minutes of the last Meeting were read and confirmed.
 2. The Chairman tabled the Draft Report, which was read and agreed to.
 3. Resolved, That the Chairman do present the Report to the House at 4 P.M. to-day.
- The Committee adjourned *sine die*.
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EVIDENCE.

WEDNESDAY, NOVEMBER 16TH, 1892.

WILLIAM FARRELL, *called in and examined.*

1. *By the Chairman.*—Your name is? William Farrell.
2. You are a Sergeant in the Territorial Police, I believe? Yes, Sir.
3. You were at one time stationed at Zeehan, were you not? I was.
4. We are now enquiring into the case of Webb and Nolan, who were sentenced at the Zeehan Police Court for having obstructed you in the execution of your duty when you were engaged executing a warrant upon M'Kie, and who were liberated by the then Attorney-General. Can you give us any information with reference to M'Kie's possession of the ground on which he had his hut, or his right to possession? No, Sir; nothing more than that the case has been tried in the Court at Zeehan, when Nolan and Webb were found guilty of obstructing me, and M'Kie lost his case.
5. Are you aware whether he had permission to occupy the land at any time? M'Kie told me on one occasion that he had permission, and that he had obtained it under a residence licence, but further than that I have no evidence.
6. You apprehended Webb and Nolan? Yes, Sir.
7. For obstructing you in the execution of your duty as a policeman? Yes.
8. What were you doing at the time of the obstruction? I was acting under a warrant of distress for costs issued by the Commissioner of Mines against Charles M'Kie.
9. The house on which you levied distress was on an allotment of land held by M'Kie under a miner's right or permit, was it not? M'Kie told me he held it under a residence area licence. It was at any rate held by M'Kie previously to the warrant of execution, and I believe also at the time the warrant was executed by me.
10. How came you to seize the house as M'Kie's, when it was stated that Nolan and Webb were interested in it? I seized it as M'Kie's because I did not recognise Nolan and Webb in the matter at all. I understood the house belonged to M'Kie, and seized it as such.
11. At whose instance? On a warrant of execution issued by the Commissioner of Mines, Mr. Fowell, stationed at Zeehan. The house was pointed out to me as Charles M'Kie's by Mr. Hudson, solicitor, who put the law in motion, and after taking possession of it Messrs. Nolan and Webb removed it some distance, although I told them not to do so.
12. Who was the plaintiff in the case? I think the Wesleyan Church—Mr. D. S. Lindsay—but I did not take any great notice of the matter, as the warrant of execution had been put into my hands, and I simply obeyed instructions in carrying it out. The case further than the warrant of execution given to me did not lead me to make much inquiry; as soon as I got the warrant Mr. Hudson pointed the house out to me, and I distrained upon it.
13. *By the Chairman.*—That is the point—Mr. Hudson. The local solicitor pointed out the house to you as the property of Mr. Charles M'Kie, and you put the warrant of execution into force upon that house? Yes, Sir, that is so. Mr. Hudson pointed the house out to me as the property of Charles M'Kie, and I seized it, but I had always known the place as belonging to M'Kie.
14. *By the Chairman.*—You produce a letter you received from Messrs. Dobson, Mitchell, & Allport calling upon you to let them know whether you were prepared to make some reasonable reparation for the alleged serious injury and injustice done to Messrs. Nolan and Webb by arresting them for obstructing you in the execution of your duty, do you not? Yes, Sir; the letter is produced, and also my reply. I told Messrs. Dobson, Mitchell, and Allport in my reply that I had simply done my duty, and I believe still that I only did my duty by enforcing the distress warrant which had been handed to me.
15. What became of the house eventually? I sold it on the 10th of May last for £10, and I paid the money into the Registrar of the Court at Zeehan as soon as I received it.
16. I think that shows clearly the fact that the house was M'Kie's property at one time? I understood it was M'Kie's property; at all events it was pointed out as such to me by Mr. Hudson, the solicitor, at Zeehan.
17. Mr. Hudson appears to have taken the responsibility of pointing out the house to you. Are you sure he pointed it out as M'Kie's property—did he say that Webb and Nolan had any interest in it? Mr. Hudson showed me this house and pointed it out to me as M'Kie's. I was always under the impression it was M'Kie's. I had spoken to him on several occasions, and he always lead me to believe the house was his. Mr. Hudson did not tell me Webb and Nolan had any interest in it.
18. *By Mr. Bennett.*—You knew nothing of Webb and Nolan having any interest in it; in fact, you thought it belonged exclusively to M'Kie? Quite so, Sir.
19. *By the Chairman.*—Was there any monetary transactions between Nolan, Webb, and M'Kie? Not that I am aware of, Sir, but I heard Nolan had money in this house.

20. *By Mr. Dumaresq.*—You don't know of your own knowledge that Nolan had money in the house? No, Sir, I do not know of my own knowledge, because I always believed that the house belonged entirely to M'Kie. I had never heard anybody else say they had an interest in it.

21. *By the Chairman.*—You cannot, I expect, inform us how we could get at the question of ownership?—What we want to know distinctly is who positively owned this house, and whether Nolan and Webb had any interest whatever in it? I can only tell you, Sir, that I was always under the impression that M'Kie owned the house, that it was pointed out to me by Mr. Hudson as M'Kie's, and that I had never heard that it was not his. I know of no way you can find out the question of ownership unless by the depositions as taken at the trial in the Court at Zeehan when Webb and Nolan were sentenced.

22. Oh yes, we have the depositions here. Did you ever caution Webb and Nolan about interfering with the house? Yes, I did. On three different days prior to arresting them I told them to knock off shifting the house, as I had a warrant of execution, and they were running a great risk. They did knock off shifting the house for three days, and on the fourth day I found they were shifting it at 7 o'clock in the morning. I went to them and told them they had no right to shift the house, as it was mine under a warrant of execution. They said they would shift it without consulting anybody else, and that if I attempted to interfere it would be the worse for me and my Government. I said "You won't shift it; if you want to claim the house you must go about it in the right way." They still persisted, and I told them that I claimed it under a warrant of execution. I then again told them that if they wanted to shift the house they must get possession of it first in the right way.

23. You say you told them the proper way to go about it if they claimed the house as their property? I told them their proper way to go about it was to obtain an interpleader summons. I also warned them and said I had no wish to get them into trouble, but if they persisted in shifting the house I would have to arrest them.

24. *By the Chairman.*—You mean their proper way to go about it was to apply to the Commissioner for an interpleader summons? Yes, Sir; I told them to apply to the Commissioner and he would decide whether they had any right to remove the house.

25. *By the Chairman.*—Was Nolan taking any active part in the shifting of the house? Yes; I saw him helping to remove it. I did not know Nolan or Webb in the matter at all; I simply seized on a warrant of execution which had been handed me by Superintendent Conlan.

26. *By Mr. Bennett.*—Did Nolan say why he was there to remove the house? He said he wanted his money out of it. When I seized these two men they said it would be a dear job for me or the Government, and that they would have justice done somehow. As I said before, I previously warned them not to move the house.

27. *By the Chairman.*—When you put the execution into force was the house in its proper position, or had it been shifted at all. What I mean is, was the house shifted before the execution warrant was handed to you? The house was in the proper position, I believe, at the time I executed the warrant.

28. After the seizure had been made, these men started to remove the house? Yes, Sir.

29. In your evidence at Zeehan I think that you deposed to the effect that you did not see Webb and Nolan amongst the crowd? That was on the first day.

30. Three or four days, then, before you arrested them they were shifting the house? Yes, and I then told them not to do so, but to go before the Commissioner and get out an interpleader. I would like to know whether if I get a warrant of execution? I am to stand quietly by and see what I have to restrain upon carried quietly away? If I am told to seize a house am I to stand by and see it carried away without doing something to gain it? That was the case in this instance: I held a warrant of execution on this house, and Webb and Nolan were carrying it away, although I believe they had nothing to do with it.

31. *By the Chairman.*—If you can establish the fact of ownership it will do away with everything? I cannot do that, Sir, further than that I believe M'Kie was the owner of the house.

32. *By the Chairman.*—After the men were apprehended and they got sentenced was there any application made to you to report upon the case? Yes, through their solicitors.

33. Did Messrs. Dobson, Mitchell, and Allport write to you calling upon you to let them know whether you were prepared to make reasonable reparation for the injury and injustice they alleged you had done Messrs. Webb and Nolan? Yes, and I replied to that letter stating that Nolan and Webb were not known to me in the matter further than that they obstructed me in the execution of my duty. I wrote to Messrs. Dobson, Mitchell, and Allport telling them that Webb and Nolan were damaging the house over which I hold an execution warrant, and I could not see that I should be accused of illegally arresting them. I considered that I had carried out my duty.

34. Do you think the Superintendent knows anything about this matter? Yes; he came to the place and cautioned them as well.

35. Would he be able to give us any information as to the ownership by M'Kie? That I do not know, Sir.

36. That seems to be the point that we want to find out. We must establish first the ownership. Can you suggest any person who could give us definite information on the point? M'Kie always claimed to be the owner of the house, and I did not recognise the others in it at all.

37. What was the general demeanour of the men during the time they were engaged in moving the house? They seemed to be removing it more for spite rather than anything else. They said they would make it hot for the Government, and also for me. I told them to do their best and not spare me, because I thought they were acting wrongly in removing the house, as I believed M'Kie owned it.

38. *By Mr. Bennett.*—They did not desist? No, they would not desist. I told them to knock off, and they would not do so.

39. When the case was before the Court at Zeehan was there an endeavour to find out the proper ownership of the house? Yes, Sir; it is shown in the depositions that it was M'Kie's house.
40. There does not seem to be any desire on the part of the Bench at Zeehan who tried the case to show who was the real owner? The Wesleyan people were the real owners of the ground.
41. You think, then, M'Kie was a trespasser? Yes, undoubtedly, so far as the land was concerned.
42. Was this land leased? I believe it was the property of the Wesleyan body.
43. *By the Chairman.*—I telegraphed to John M'Kie as the only person whom I knew likely to answer the question, and he says that only one permit for land was granted, and that by Mr. D. S. Lindsay? I know nothing about that.
44. *By the Chairman.*—That is the point: had M'Kie a permit to erect any building whatever on this land? He told me he had a residence area licence; he never had a permit for the land.
45. *By the Chairman.*—Do you know whether M'Kie ever had a permit for the land? No, Sir; he never had a permit for the land; after the case was tried he told me so.
46. *By Colonel St. Hill.*—Were there not two houses on the section? No, Sir.
47. One M'Kie's and one Foot's? There was a hut there.
48. And that was not sought to be removed? No, Sir; it was not intended to remove that at all. There was also a tent on the same section near the house.
49. Do you know where this man M'Kie is now? He is in the colony, I believe, now. I think he is prospecting somewhere on the West Coast.
50. You don't know where Webb and Nolan are? No; but I believe they are in the colony as well.
51. Is M'Kie in the colony? Yes; he was in the colony three months ago. I was speaking to him. He is somewhere about the Ring River, prospecting. I was speaking to him two months ago.
52. *By the Chairman.*—Are you quite sure he is in the colony? So far as I know he is, Sir; and I believe he would be found at the Ring River.
53. *By Colonel St. Hill.*—Can you give us any idea of where Webb and Nolan are? Somewhere about Mount Lyell, I think.
54. In Tasmania? Yes, in Tasmania.
55. *By the Chairman.*—I have information to the effect that they are both in Sandhurst, Victoria, gold digging: are you not aware that they left the colony almost immediately after they were liberated? No, Sir, I did not know that. I would like it to be understood that so far as I was concerned I did nothing further than place in execution the warrant which had been handed me. I enforced the warrant on M'Kie's property, because I did not recognise Webb and Nolan in the affair at all.

NORMAN FOOT, *called in and examined.*

56. *By the Chairman.*—Your name is Norman Foot, I believe? Yes.
57. Where do you reside? I reside at Zeehan, but I have my family at Sandy Bay.
58. You are a prospector? I am a mining superintendent.
59. What position did you hold with reference to the disposal of this piece of land on which Charles M'Kie built a house at Zeehan? I was agent for Mr. D. S. Lindsay.
60. You acted as his agent? I did, Sir.
61. Who was the original occupier of the allotment in question? I was. In about October, 1890, I wrote to the Minister of Lands asking him for a site upon which a parsonage could be built for a Wesleyan Minister, and in reply to the letter I had a wire from the Secretary of Mines to select a place. It was all bush land in those days. There were no cleared places like there are now. Well, on receipt of that telegram from the Secretary of Mines I selected the site on which M'Kie afterwards erected his house. I sent a plan down to the Secretary of Mines showing where I had secured a piece of land, and when the plan came up it was marked for the Wesleyan community. A man named M'Kie had tent there at that time. The Government subsequently sent out a surveyor to survey these blocks, but no one could go upon the ground at that particular time without a permit. The ground was held by lease.
62. Who was it leased to? To the Silver King Extended Silver Mining Company.
63. Then the piece of land in dispute was originally a portion of a mining lease? Yes. I may say that the Silver King ground is the only place at Zeehan that you must first obtain a permit before you can peg.
64. You held a permit? In the first place I got the authority of the Secretary of Mines that that ground should be granted for the Wesleyan Parsonage. Afterwards I found the Government had not the power to grant us that land in that way, so I went to the Secretary of Mines and got a permit. I pegged the land afterwards, and laid it out. M'Kie never laid any claim to the land then, but he did say something about it when the Primitive Methodist Church people had a dispute. In order that the Wesleyan body should be thoroughly well protected, we commenced to improve the ground so soon as we received the permit. We cleared portions of it, and effected improvements to the extent of about £60. It was not until we had so improved it that M'Kie laid claim to it. I never saw M'Kie, but I saw his mate Ford.
65. *By the Chairman.*—Who is his mate? A Mr. Ford.

66. Did you ever speak to Nolan and Webb about the claim which had been advanced by M'Kie? No, they were not in the matter at all.

67. *By the Chairman.*—Had you anything to do with Messrs. Nolan and Webb in the removal of the house at all? When M'Kie commenced to build I went and asked him what he intended to do on the land, and he said he was going to build a house. Nolan was with him helping to build. Webb was not there at all. In speaking to M'Kie Nolan answered me, as stated, with foul language, and told me I had occupied the township long enough, and said somebody else should now get a show. I told M'Kie if he built he would be doing so at his own risk. At this time the case did not come under the Commissioner, but subsequently it did, and we got a verdict against M'Kie. That was before Mr. Commissioner Fowell. They appealed against that verdict, and the matter came before the Chief Justice, and we also got a verdict there against M'Kie. When the case was taken into Court M'Kie acknowledged that Nolan had money in it, but he said nothing about the man Webb.

68. You cannot find that in the depositions? No, not in those exact words; but he said he had money in it.

69. *By Col. St. Hill.*—You had a house on the section as well? Yes, Sir.

70. Besides M'Kie's house? Yes. We had gone to a great deal of expense in order to be sure, as we claimed the section on the ground also that we had improved it.

71. *By the Chairman.*—From the time you pegged it out did you ever forfeit any of your rights to it? No; we cleared it and fenced it, and we erected these buildings on it. When we heard the ground was going to be sold we completed the buildings on it up to £50, and otherwise improved it. They built their house after we had built ours. They knew very well it was only just a "try on." I knew the men and spoke to them, and gave them all the information about us having taken the land up. I did not want to have any bother with them at all, and I told them so. I went about the thing straightforwardly, and I wanted them to do the same thing, but they did not seem disposed to do so. In those days things were very much mixed at Zeehan, and every man was looking after himself. I spared no pains to give them all the information in my power regarding the land. These men were banded together, some half dozen of them, in syndicate form.

72. You held a permit as well as a licence? I held a permit and residence licence as well.

73. To the best of your knowledge, who pegged the ground for M'Kie? I might say we pegged the ground three times. When I first got power from Mr. Belstead I pegged the ground, and then when we heard the ground was reserved I pegged it again; but I found that we had to get a permit first. I went to Mr. Fowell and asked him for a permit, and showed him the document I had received from the Minister of Lands, and then I pegged the ground again.

74. *By Col. St. Hill.*—Can you remember the days on which you pegged the ground? The first time, I think, would be about October, 1890.

75. And the second time? The second time, I think, would be early in January, 1891, and then after that I went and got the permit on 15th January, 1891. I am only speaking from memory. I got a permit then from the Commissioner and re-pegged it again when I found it was necessary to do so.

76. When did you settle on the section. Did you settle on the section before or after you pegged it out first? We started to clear it.

77. When? Just after the ground was thrown open in November of 1890. Somewhere about November or December we started to let a contract to clear it.

78. M'Kie says he pegged the section in November, 1890, and settled on the section in October? Yes, the tent was there; the man who was in the tent asked permission to leave it there, and no objection was offered.

79. *By Mr. Dumaresq.*—Who was the man? A man named Davis, I think, went on part of the section, and M'Kie on the other. I had a permit, and M'Kie could not get one.

80. *By the Chairman.*—Were you present when the apprehension took place? No, Sir, I was not present in Zeehan then, I was in Melbourne. You will notice in the depositions that Davis was one of the men on the ground. The ground had a peculiar shape; it ran off to an angle from the centre peg. Neither of the men pegged the ground, because they did not know its shape. I had the plans from the surveyors, and had all the information in regard to the matter. They had the same opportunity of getting that information as I had, but they never laid claim to the ground at all. When the difficulty arose with the Primitive Methodist Body we were in a bit of a fix, as, according to the rules of the Wesleyan Church, you cannot borrow money unless you have freehold security. I asked the Commissioner if he could arrange the matter for me, and he did so. We built this little place, and I lived there; when I was not there there was a man living on the ground.

81. *By Mr. Dumaresq.*—You see, according to the depositions, Nolan says he had money in it: do you know whether that is so? M'Kie said that, when pressed on his oath if anyone was in partnership with him.

82. You cannot say whether Nolan had money in the place? He said in his evidence that he had money in it, and he was told then to be careful, that he was on his oath, and trouble might arise from a mis-statement. He said he was sure he put money in the house.

83. *By the Chairman.*—Were you on Zeehan where an indignation meeting was held? No, Sir, I was not. I know there was a lot of indignation at the time. You know a man may cause a great deal of trouble and annoyance on a mining field, and there was a class of people in those days at Zeehan who would very soon get up an indignation meeting. They were very good hands at that at Zeehan. I was asked by some of these people to give them proof of our validity of our right to this ground, and I told M'Kie that Webb became very abusive to me one day. He tried to frighten me, but I would not be frightened away

from a right by any man, and I told them so. It was very bad for my business, this sort of thing, but I knew I was right, and I stuck by what I considered just. You can just understand what the state of things were in 1890. There was a hue-and-cry for land everywhere, and people were pegging out on top of one another. These complications have arisen since that time. We tried honestly to carry out the law, and so far as this was concerned our action was upheld by the Court.

SUPERINTENDENT MICHAEL CONLAN, *called in and examined.*

84. *By the Chairman.*—Your name is? Michael Conlan.

85. And your profession? I am a Superintendent in the Territorial Police.

86. Where at? Zeehan.

87. Do you know anything of the apprehension of Messrs. Webb and Nolan? I was not present at the time, but I know a warrant was issued under the hand of the Commissioner of Mines to levy on certain property.

88. Can you give the Committee any information as to the right of M'Kie to the land or the house over which the trouble arose? I know nothing about it other than my instructions came from the solicitor, Mr. Hudson, that the property—the house—belonged to M'Kie, and he Mr. Hudson, was entitled to it under an execution warrant.

89. Do you consider that the men Webb and Nolan suffered any serious damage to their character or otherwise at the hands of the apprehending constable? I do not.

90. *By Mr. Bennett.*—He simply carried out his duty, then? Yes, Sir. He had a warrant from the magistrate, and he was executing that warrant when these men Webb and Nolan obstructed him in the execution of his duty.

91. *By Colonel St. Hill.*—And claimed the property as their own? That I do not know.

92. *By Mr. Dumaresq.*—You don't know that of your own knowledge? No; but I have been told they did claim the house as their own.

93. *By Colonel St. Hill.*—Were you at Zeehan at the time? I was at Zeehan at the time. I received the warrant, and handed it to Sergeant Farrell to execute.

94. How do you account for the indignation meeting? I cannot account for it.

95. *By the Chairman.*—Were you referred to as to the legality of their being imprisoned before the Government released them? No; but the depositions taken in the Zeehan Court were forwarded to the Crown Law Officers.

EDWARD D. DOBBIE, *examined.*

96. *By the Chairman.*—Your name is? Edward D. Dobbie.

97. And you are Crown Solicitor? I am.

98. You are watching this case on behalf of Constable Farrell, who arrested Webb and Nolan? I am.

99. Can you inform the Committee why those men were released? The papers, consisting of the depositions, &c., were submitted to the Solicitor-General and myself, and from them and from enquiries I made of the committing Justices it appears that certain evidence tendered by the Defendants has been improperly rejected, and upon this state of things a doubt arose as to whether persons interfering with the execution of the warrant, without in fact interfering with and obstructing the police officer, could on technical grounds be convicted of the offence charged upon them. It was only because of our doubt on that technical point that we advised the Attorney-General that, as the men had already undergone a certain term of imprisonment, it might be as well to discharge them. There was no investigation of the case, such as this Committee has been making, and if there had been and the point of evidence had not arisen, the result might have been a different one. Our decision was based solely on the doubt on the technical question. We did not deal with the merits of the case in any way. If we could have been satisfied, as the Committee appear to be satisfied, that the property was M'Kie's, we would not have recommended the release. That is where our doubt arose. If that point had not been left undecided by the Justices excluding the evidence offered in respect to it we should not have recommended to the Attorney-General to dismiss those men.

100. No full investigation did take place? No; we simply read the papers. There was no investigation at all, but we simply based our decision on that technical question. When any doubt arises the benefit of it is always given to the subject, and Webb and Nolan were consequently given it in this case.

101. *By Mr. Dumaresq.*—Had you an idea Nolan had an interest in it? Yes, from the depositions; but we did not know the meaning of the words "had money in it." It was the evidence as to this part of the case which was tendered and rejected.

102. At any rate, Webb would have been out of it altogether? Yes. It appears the evidence as to ownership was offered and refused, and then we saw that it might have been possible that M'Kie was not the owner, and assuming for the benefit of the persons charged that it had been proved that M'Kie was not the owner, we thought it quite possible an error had been made. We look at it in this way. The constable is directed to levy on the goods of "A"; he levies on "B," and then in that event comes the question, can it be said he was resisted in the execution of his duty? We came to the conclusion there was sufficient doubt about the matter to justify us in advising the Attorney-General as we did. It was entirely on the technical question, and not on the merits of the case, that we came to this conclusion. It

was not necessary to go any further. There was a technical doubt in favour of the subject, and we advised the Attorney-General, and he let the men go. It is quite apparent to me that if it had been admitted in the evidence, as it seems now to have been brought out, that M'Kie was the owner, the men would not have been released.

103. *By the Chairman.*—Do you consider there is any great stain on their characters through their being arrested and dismissed in the way they were? I do not think so, because the nature of the charge, to begin with, is not one to disgrace a man, and the evidence was not serious as affecting character. It is stupidity which incites a man to resist the law, and that does not carry much odium with it. There is the fact that they were subsequently discharged by order of the Governor in Council, and that carries with it every relief from a stain on their character.

104. *By Mr. Dumaresq.*—Their being brought up in the future, and this being made a black spot against them, could be easily got over by their referring to the fact that they were discharged? Yes.

105. *By Mr. Bennett.*—They had better not refer to the Select Committee, then? No.

APPENDIX A.

To the Honorable the House of Assembly of Tasmania.

The humble Petition of Charles B. Webb and Moriss Nolan, of Zeehan, Tasmania.

Your Petitioners humbly pray that the Honorable House of Assembly will consider the case of Charles B. Webb and Moriss Nolan, who were recently sentenced at Zeehan to a term of imprisonment in Hobart Gaol.

Your Petitioners humbly pray to draw the attention of the Honorable House of Assembly to the following facts:—

1. On the 16th day of April, 1892, Sergeant Farrell, of the Territorial Police, stationed at Zeehan, arrested your humble Petitioners (Charles B. Webb and Moriss Nolan), and charged them with illegally removing a house claimed as the property of one Rev. D. S. Lindsay (but which actually belonged to Petitioner Nolan.) Your Petitioners were then and there remanded on bail to appear on Monday, the 18th day of April, but were again brought up later on of the same day (16th April) before Mr. Brewer, J.P., and then remanded until eight days later, when they were brought before Messrs. Brewer, Provis, and Elburn, and the Police withdrew the charge.

2. On the 29th of April your Petitioners appeared before Messrs. Brewer and Evans, J's.P, charged with obstructing the Police in the execution of their duty, and were ordered by the Magistrates to pay a fine of £5 and costs each, or serve a sentence of one month's imprisonment in Hobart Gaol (this charge being substituted for that withdrawn.)

3. Your Petitioners considered the sentence harsh (as the depositions will show), and in consequence disobeyed the order of the Court on principle.

4. Your Petitioners were duly conveyed to the Hobart Gaol and incarcerated therein for the space of five days, when, by order of the Honorable the Attorney-General, they were released, it being understood after a full investigation of the circumstances by the Crown Law Department that there was no case whatever against your Petitioners to warrant their detention.

5. In consequence of your Petitioners' incarceration they feel that they have suffered a great wrong, and that of necessity a stain has been cast on their hitherto irreproachable characters, and seek through your Honorable House the removal of that stain, and a fitting redress to their wrongs.

6. Your humble Petitioners in approaching your Honorable House do so with one desire, viz., in the interests of Justice, and therefore pray that your Honorable House will have the matter thoroughly investigated, and thus their wrongs redress.

7. In conclusion, your humble Petitioners ask the consideration of your Honorable House of the wrongs your Petitioners have suffered by the treatment above referred to, with a view to a redress thereof in whatever manner your Honorable House may direct.

And your Petitioners will ever pray, &c.

CHARLES B. WEBB.
MORISS NOLAN.

We, the undersigned residents of Zeehan, also humbly pray that the Honorable House of Assembly will take into consideration the serious matter referred to in the above-written Petition of the above-named C. B. Webb and Moriss Nolan, believing their claims as herein set forth are fully warranted: that they have, in our opinion, suffered a great and cruel wrong that needs redress.

[Here follow 60 Signatures.]