

1880-81.
VICTORIA.

KELLY REWARD BOARD.

REPORT OF THE BOARD

APPOINTED TO ENQUIRE INTO AND REPORT UPON THE PROPER
MODE OF DISTRIBUTING THE REWARDS OFFERED FOR
THE CAPTURE OF THE KELLY GANG ;

TOGETHER WITH THE

MINUTES OF EVIDENCE.

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY HIS EXCELLENCY'S COMMAND.

By Authority :

ROBT. S. BRAIN, ACTING GOVERNMENT PRINTER, MELBOURNE.

REPORT.

KELLY REWARD BOARD.

TO HIS EXCELLENCY THE GOVERNOR IN COUNCIL.

MAY IT PLEASE YOUR EXCELLENCY.

This Board was appointed under an Order in Council dated the 19th day of July 1880, but owing to the fact that the principal outlaw was awaiting his trial it was deemed advisable to postpone further action until his fate had been decided.

For this reason the Board did not meet for the purpose of this enquiry until the 17th of November 1880.

In order to give every publicity to the subject, advertisements were inserted in the gazettes of the Governments of New South Wales and Victoria, and in the daily and weekly papers of Melbourne and Sydney, inviting those who considered themselves entitled to participate to forward their claims before the last day of the year 1880.

In response to the advertisements, ninety-two claims were received; and in order to verify the statements made by the claimants the Acting Chief Commissioner of Police, Mr. Nicolson, was requested to report upon each claim, either personally or through such officer as he might consider best able to decide upon the merits of the claims.

On receipt of the above-mentioned reports, the Board proceeded at once to examine and classify the various claims submitted.

They found, upon careful consideration of the circumstances attending the capture and death of the outlaws, that no information could be said to have been supplied (within the terms of the Proclamation) leading (directly) to that result with the exception of that furnished by Aaron Sherritt, and it is on account of Detective Ward's connection with the employment of this man that the Board have, after much deliberation, decided on including him in the number of those entitled to participate in the reward.

The following are the results arrived at by the Board:—Schedule A contains the names of those claimants whom the Board do not consider entitled to participate in the reward. Schedule B contains the names of those claimants whose right to participate has been recognised by the Board, and the amount awarded to each has been set opposite his name. The Board regret that adherence to the terms of the Proclamation has compelled them to exclude from any share of the reward some meritorious claimants in the service of the Government, whose names will be found in Schedule C, and whom they desire strongly to recommend to the respective heads of their departments as worthy of special recognition for the zeal displayed by them, at all times, in their several positions during the long period of the search for the outlaws.

In apportioning the reward one moiety has been distributed as nearly as circumstances would admit in accordance with the regulations in force in the Imperial service.

A further distribution has been made to the parties under Superintendents Hare and Sadleir and Sergeant Steele, who took part in and performed special work, accompanied by much risk.

Some rewards have also been recommended for the individual service of certain claimants whose names will be found in Schedule D, but beyond these the Board have not thought it within their province to distinguish further between members of a force all of whom appear to have done their duty.

In dealing with the claims of the Queensland and Victorian native trackers, the Board has not intended in any way to depreciate their services, but they feel that it would not be desirable to place any considerable sum of money in the hands of persons unable to use it ; and they therefore recommend that the sums set opposite to their names be handed to the Queensland and Victorian Governments to be dealt with at their discretion.

The only witnesses whom the Board deemed it necessary to examine were the Honorable Robert Ramsay, late Chief Secretary ; Mr. Melvin, reporter for the *Argus* ; Mr. McWhirter, reporter for the *Age* ; Mr. Allen, reporter for the *Telegraph* ; and Mr. Rawlins, a resident in the neighborhood of Glenrowan, a volunteer who was with Mr. Hare.

These gentlemen, with the exception of Mr. Rawlins, were not claimants ; and we desire to express our opinion that the gentlemen of the press above-mentioned, with Mr. Carrington, who was also present, are deserving of the best thanks of the community for the able assistance they afforded the police at Glenrowan throughout the whole period of the encounter, and under circumstances of very considerable danger during the early part of the morning of the 28th of June 1880. Had these gentlemen preferred claims, the Board would have considered them entitled to participate.

The Board desire to draw your Excellency's attention to a minute by the late Chief Secretary, the Honorable Robert Ramsay, dated the 19th of July 1880 (appended hereto), and in connection therewith to urge that some suitable acknowledgment should be bestowed upon Superintendent Hare, the leader in the capture of the outlaws, for the severe injury sustained by him in the discharge of his duties.

C. MAC MAHON.

JAS. MACBAIN.

ROBT. MURRAY SMITH.

ENCLOSURE.

[COPY.]

Chief Secretary's Office, Melbourne.

Having with some difficulty induced Mr. Hare to take charge of the entire arrangements for the capture of the Kelly gang on the distinct promise from me that, as he did so at the imminent risk of his life, that he should be substantially rewarded if successful, I feel it only due to him to place on record that, had the Ministry remained in office, Mr. Hare would have been promoted to the first vacancy in the forces, and a substantial sum would have been placed on the Estimates as some acknowledgment for his most valuable services.

The great energy he displayed, the risk he ran, and the serious and, unfortunately, permanent injury he has sustained, all render this duty so incumbent on those who follow that I feel assured my successor will have no hesitation in adopting the same course.

(Signed)

ROBERT RAMSAY.

19 July /80.

SCHEDULE A.

CLAIMANTS not entitled to participate in the Reward.

No. Claim.

5 Wicks, Antonie
 3 Rule, Richard
 35 Stephens, George
 57 Sherritt, Anne
 34 Sherritt, Ellen
 7 Walsh, Patrick, senior-constable
 7 Coghlan, John, constable
 7 Griffin, Robert, constable
 7 Bunker, Robert, constable
 7 Waldron, Thomas, constable
 7 Perkin, ex-constable
 21 Brown, J. W., constable

No. Claim.

22 Parker, W., constable
 38 Burton, J., constable
 45 Shahan, senior constable
 52 Stewart, Hugh, constable
 10 Skeham, constable
 13 Kirwin, Lawrence, police agent
 33 Williams, B. C., police agent
 11 Falkiner, constable
 4 McIntyre, constable
 63 Lang, Mr., stationmaster
 65 Saxe, Mr., postmaster
 50 Stephens, Mr., stationmaster

SCHEDULE B.

No. Claim.	Name.	Amount.	No. Claim.	Name.	Amount.
		£ s. d.			£ s. d.
2	Hare, superintendent ...	800 0 0	64	Burch, fireman, pilot engine ...	104 4 6
9	Curnow, Thomas ...	550 0 0	1	Ward, detective-constable ...	100 0 0
47	Kelly, senior-constable ...	377 11 8	12	Johnson, senior-constable ...	97 15 9
30	Steele, sergeant ...	290 13 9	44	Bowman, enginedriver ...	84 4 6
18	Bracken, constable ...	275 13 9	44	Hollows, fireman ...	84 4 6
50	Sadleir, superintendent ...	240 17 3	51	Bell, guard ...	84 4 6
2	O'Connor, Stanhope ...	237 15 0	43	Coleman, enginedriver ...	68 3 4
61	Dowsett, Jesse ...	175 13 9	43	Stewart, fireman ...	68 3 4
14	Whelan, sergeant ...	165 13 9	14	Mullane, senior-constable ...	47 15 9
20	Canny, constable ...	137 11 8	39	Glenny, constable ...	42 15 9
48	Gascoigne, constable ...	137 11 8	26	Armstrong, constable ...	42 15 9
31	Phillips, constable ...	137 11 8	28	Meagor, constable ...	42 15 9
40	Barry, constable ...	137 11 8	14	McCull, constable ...	42 15 9
46	Arthur, constable ...	137 11 8	54	Dowling, constable ...	42 15 9
58	Rawlins, Mr. C. L. ...	137 11 8	53	Duross, constable ...	42 15 9
36	Kirkham, constable ...	137 11 8	14	Alexander, constable ...	42 15 9
14	Smyth, senior-constable ...	125 13 9	23	Alexander, R., constable ...	42 15 9
16A	Kelly, P., constable... ..	115 13 9	10	McHugh, constable ...	42 15 9
15	Dixon, constable ...	115 13 9	55	Wickham, constable ...	42 15 9
17	Dwyer, James, constable ...	115 13 9	41	Sherritt, John ...	42 15 9
16	Wilson, constable ...	115 13 9	14	Dwyer, constable ...	42 15 9
14	Milne, constable ...	115 13 9	49	Stone, constable ...	42 15 9
14	Stillard, constable ...	115 13 9	37	McDonald, constable ...	42 15 9
14	Ryan, constable ...	115 13 9	2	Hero, native tracker ...	50 0 0
14	Reilly, constable ...	115 13 9	2	Johnny, native tracker ...	50 0 0
14	Graham, constable ...	115 13 9	2	Jimmy, native tracker ...	50 0 0
14	Hewitt, constable ...	115 13 9	2	Jacky, native tracker ...	50 0 0
14	Wallace, constable ...	115 13 9	2	Barny, native tracker ...	50 0 0
27	Walsh, constable ...	115 13 9	32	Moses, native tracker ...	50 0 0
29	Mountiford, constable ...	115 13 9	32	Spider, native tracker ...	50 0 0
25	Cawsey, constable ...	115 13 9	8	Cheshire, Mr. ...	25 0 0
19	Healy, constable ...	115 13 9	6	Osborne, Mr. ...	25 0 0
24	Moore, constable ...	115 13 9			
62	McPhee, guard, pilot engine ...	104 4 6			£ 8,000 0 0
64	Alder, driver, pilot engine ...	104 4 6			

SCHEDULE C.

CLAIMANTS recommended by the Board as worthy of Special Recognition for Services rendered during the period of the search for the outlaws.

No. Claim.	Name.
4	McIntyre, Thomas, constable.
59	Stephens, Mr., stationmaster, Benalla.
63	Lang, Mr., stationmaster, Wangaratta.
8	Cheshire, Mr., postmaster, Beechworth.
65	Saxe, Mr., postmaster, Benalla.
11	Falkiner, constable.

SCHEDULE D.

SPECIAL REWARDS.

Thomas Curnow, schoolmaster.
Kelly, senior-constable.
Bracken, constable.

Steele, sergeant.
Mr. Jesse Dowsett, Government railways.
Johnson, senior-constable.



MINUTES OF EVIDENCE.

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MINUTES OF EVIDENCE.

KELLY REWARD BOARD.

TUESDAY, 8TH MARCH 1881.

Present:

The Hon. Sir CHAS. MAC MAHON, M.L.A., in the Chair ;
 The Hon. Jas. MacBain, M.L.C., | R. Murray Smith, Esq., M.L.A.
 The Hon. Robert Ramsay, M.L.A., examined.

1. The principal object for which we wanted to see you was to find out from you the nature of the position in which you placed Mr. Hare—whether you placed him in an entirely independent and responsible position, acting on his own judgment in everything?—I will state the facts as briefly as possible. Shortly after the formation of the Service Ministry the question of the capture of the Kellys came up in the Cabinet, and formed the subject of several discussions. At that time there was evidently a very strong feeling in the public mind that the police were to blame in connection with the proceedings for the capture of these men. Articles appeared daily in the public press, in various portions of the colony, calling attention to the delay that had taken place and the want of organization in connection with the pursuit of these criminals. I had several interviews with the Chief Commissioner of Police on the subject, and communicated the result of those interviews to the Cabinet. At last the matter was put into my hands to deal with on my own responsibility, and, as the result of that, and of enquiries I made, I told Captain Standish that in my opinion Mr. Hare was the officer in the police who was most likely to effect a capture. I had instituted independent enquiries, and gathered information from various sources. I requested the Commissioner to send for Mr. Hare, and I saw him at the Chief Secretary's office either at the end of April or the beginning of May, and I told him that the matter had been discussed by the Cabinet, and the conclusion arrived at was that he was to proceed to Benalla and take the entire control of the pursuit of those men. I told him that in doing so he was to feel himself entirely untrammelled by any regulation of any kind—in fact, he was to assume the entire responsibility, and in whatever steps he took for that purpose he would have the entire support of the Government. In regard to money, he was to feel that he was unfettered, that the utmost confidence was placed in his judgment that his proceedings would not involve unnecessary expenditure, but that if money could be profitably employed in the capture of these men he was to feel himself entirely uncontrolled. He told me, in reply, that there were men in the force who were his seniors, and he felt himself in a position of difficulty on that account. He then referred to his health, and I told him that it was of the utmost importance in connection with the matter that he should take the responsibility. I then had an interview with Captain Standish, in which I briefly related these matters to him. I afterwards saw Superintendent Nicolson, and he asked that he might be allowed a still further time in order to pursue his own line of action with reference to the capture of the Kellys, and I allowed him a month further, and Mr. Hare's proceeding to Benalla was delayed for that time. At the expiry of the month Superintendent Hare proceeded to Benalla and took entire charge, with my full concurrence, and that of the Government.

The Hon. Robert Ramsay, M.L.A.,
8th March 1881.

2. I understood you to say responsible to no one but the Government?—Responsible to no one but the Government. There is another matter that perhaps I should mention. Mr. Hare mentioned, in connection with his state of health, that he felt he was taking a great responsibility in going, that he was going at the risk of his life, and that his determination was not to come down until the men were captured. He spoke of having been engaged in the capture of Power, and of the promise that had been made by the Chief Secretary of promotion in the event of that capture, which promise remained unfulfilled up to that time; and he showed me a letter, signed by Mr. Moore, who was then Under Secretary—Sir James McCulloch being the Chief Secretary—bearing on the subject, and he said he hoped that if his life was sacrificed this matter should be considered. I assured him that, in the event of the Government remaining in office, that should certainly be done, and in the event of any changes taking place I would leave a minute with my successors, whoever they might be. This is the minute that I left:—"Having with some difficulty induced Mr. Hare to take charge of the entire arrangements for the capture of the Kelly gang on the distinct promise from me that, as he did so at the imminent risk of his life, he should be substantially rewarded if successful, I feel it only due to him to place on record that, had the Ministry remained in office, Mr. Hare would have been promoted to the first vacancy in the force and a substantial sum would have been placed on the Estimates as some acknowledgment for his most valuable services. The great energy he displayed, the risk he ran, and the serious and unfortunately permanent injury he has sustained, all render this duty so incumbent on those who follow, that I feel assured my successor will have no hesitation in adopting the same course.—19th July 1880."

3. The promise you made as Chief Secretary, on behalf of the Government, was with reference to promotion—giving Mr. Hare a reward for his services if he succeeded?—Distinctly so—promotion and a substantial recognition. It was fully my intention to have promoted him if any vacancy had occurred, because it was a matter in which the whole public of the colony was concerned.

The Hon. Robert
Ramsay, M.L.A.,
continued,
8th March 1881.

4. And if his health was injured, you would give a substantial recognition?—Certainly. With regard to the Kelly gang, it was a matter affecting the whole of Australia; it was the common talk whenever two people met.

5. Would it be a fair question to ask what sum you contemplated putting on the Estimates?—I have not the slightest doubt that if £5,000 had been proposed at the time, there would not have been a dissentient voice. I feel it would be a very small recognition; in fact the proceedings of those men were a heavy incubus on the entire colony, rendering life and property unsafe.

6. From your experience as a public man, you are still of opinion the State should recognize Mr. Hare's services?—I am.

7. What change was made in the mode of proceeding after Mr. Hare went up?—It seemed to me that Mr. Hare was a man who had a wonderful faculty of infusing his own spirit into his men—that instead of being trammelled by regulation, he selected the men in whom he had confidence, and he allowed them a considerable latitude. In the next place, he was thoroughly acquainted with the country—he had the means of getting information that no one else had at the time. In fact, if I were to go into some matters within my own knowledge, I could satisfy the Board on the point; but of course a great deal of the information was confidential, involving a great many people in the district. There was such a reign of terror that those who were resident in the district were afraid of giving the slightest clue to the police, for fear their lives might be sacrificed. All these matters were gone into between Mr. Hare and myself; in fact, from the time Mr. Hare was appointed, there was a spirit of energy displayed in the pursuit of those men that was altogether unknown up to that period.

8. Did the Chief Commissioner of Police coincide in your judgment?—He did.

9. How long was Mr. Hare up there before those men were taken?—He was up on the 2nd of June, and they were taken on the 28th of June. In relation to that, that is one of the matters to which Mr. Hare referred. He told me that those men were in fear of the black trackers, that so long as they remained there they were not likely to break cover, but immediately the trackers were removed they would be at once heard of, and his plan of operations was such that their capture was certain immediately they made their appearance.

10. Was the reward spoken of to Mr. Hare as an inducement?—I do not know anything about that.

11. "I received a communication from you that Mr. O'Connor and his black trackers were to be sent back to Queensland"—was that Mr. Hare's idea or the Government?—We had sent up to Queensland for black trackers; Mr. Chomley had gone up to Queensland to obtain them—in fact, they were on their way down at the time.

12. Why were they sending away Mr. O'Connor's men—were they of no use?—It was thought that others could be got down equally efficient—in fact, the Queensland Government were anxious to get those trackers back.

The honorable member withdrew.

Adjourned.

FRIDAY, 11TH MARCH 1881.

Present:

R. MURRAY SMITH, Esq., in the Chair;

The Hon. J. MacBain, M.L.C.

Joseph Dalgarno Melvin examined.

J. D. Melvin,
11th March 1881.

13. Will you tell the Board exactly what took place after your arrival at Glenrowan on the 28th June?—The train pulled up at the Glenrowan station about a quarter past three in the morning. Mr. Hare and Mr. Rawlins got out and proceeded towards the station master's house. The other men were getting the horses out of the van. Mr. Rawlins and Mr. Hare returned in a few minutes, and by this time everybody, except the ladies, was out of the carriages and on the platform. A little while after Mr. Hare returned Constable Bracken rushed into our midst and stated that the Kellys were at Jones's hotel. Mr. Hare, after understanding what Bracken had said, said, "Come on then, boys," and led the way up towards the hotel at a rapid pace, and in about a minute after about half a dozen shots were fired. I turned round and saw that they had been fired from the verandah of the hotel, where smoke was ascending. The police replied with a terrific volley; they seemed to be scattering in front of the house and getting round it at a distance of about twenty yards. I followed them and got into a ditch, where I could see indistinctly the black trackers, but could see nothing of the operations of the police on account of the smoke and the darkness, so after a minute or two I returned to the railway platform, and almost immediately afterwards Superintendent Hare made his appearance there with his wrist wounded.

14. Had the firing ceased then?—The firing was going on, but there was a lull, in which a voice called out inside the house—"Come on, you cannot harm us," or something of that kind. Mr. Hare's wound was bound up by Mr. Carrington with a silk handkerchief; it was bleeding very much, and the idea was to stop the bleeding. Mr. Hare returned at once towards the house and disappeared from our view at the end of the platform. In a minute or two afterwards he returned fainting, came staggering on to the platform, and fell down on to some bags that were there. We got some sherry, and gave him a little, and then he said that he would require surgical treatment. We got him into the compartment of the carriage where the ladies were, and it was understood amongst us that he would be taken down in that special train to Benalla. That train, however, could not do the journey quick enough; another special train was expected, and the railway officials were afraid that this one might not reach Benalla before the other one started, so the engine-driver said he could run Mr. Hare in ten minutes, provided he would come on the engine alone, so Mr. Hare accordingly left the ladies, got on the engine, and was run down to Benalla. When he had to retire Senior-Constable Kelly took charge. Kelly at all events kept visiting

the men, placing them all round the house, supplying them with ammunition, and calling on them every now and then, in fact making circuits round the house all the morning to see that things were right. About four o'clock, I fancy, he came on the platform with Ned Kelly's cap and rifle covered with blood. Of course the firing continued all the time, and we were waiting for reinforcements; just before daylight the Wangaratta police arrived.

J. D. Melvin,
continued,
11th March 1881.

15. That is Sergeant Steele's party?—Yes; we heard them challenged from the bush as they approached the house, and the reply was "Wangaratta police." Just as they were challenged the train from Benalla arrived with Mr. Sadleir and other police from Benalla, and Mr. Sadleir then took charge. Between seven and eight o'clock, I think it was, at all events in the grey morning, I saw the police suddenly turn round from the hotel—that is the police on the northern side of the hotel—and fire into the bush. Upon looking in that direction I saw a figure bearing down upon them, which, of course, proved to be Ned Kelly in his armour. Senior-Constable Kelly was on the northern side of the hotel at the time; Guard Dowsett joined him in the bush, and they both made towards Ned Kelly. One would advance to a tree while the other kept Ned Kelly covered with his rifle or revolver, and thus they approached Kelly. Meantime, other policemen were advancing and forming a semicircle round the bushranger. They fired at him for about fifteen or twenty minutes without making any impression; now and then he staggered, but still advanced firing.

16. What distance away was he?—When he first made his appearance I suppose he must have been 80 or 100 yards from them; but they closed and got within 20 yards of each other very quickly. He lay behind a log for a long time, and the police were getting nearer to him; then he rose and fired again. At this time I saw Sergeant Steele come from the north-west end of the house—the back of the house—and fire at Ned Kelly's legs, at all events the direction of his smoke was towards his legs. Ned Kelly staggered; Steele fired again, and Kelly fell. Steele rushed up and collared him. Constable Kelly and Dowsett were there very shortly afterwards.

17. Then Steele fired the fatal shot?—I cannot say that. I can only say I saw the direction of the smoke. I have heard it said it was not he who fired the fatal shot. It has been said his slugs were found in the log where Kelly fell, and certainly there were a large number of slugs found in the log.

18. They would not all have got into his legs?—No.

19. Did you hear what time the other bushranger was shot?—Only from what the prisoners told us.

20. How long was the firing kept up?—After Ned Kelly was caught the firing was kept up from the hotel. The police were now pretty strong; they wanted to get the prisoners out, 20 or 30 people who were inside the hotel. Mr. Sadleir visited Ned Kelly at the station, and endeavored to get from him a sign for his mates to surrender, but Ned refused to give anything of the sort; so the siege was continued. At ten o'clock in the morning a white handkerchief was held out of the door of the hotel, and Mr. Sadleir and Senior-Constable Kelly called out to the prisoners to come out at once. The prisoners came rushing out in a body, and were made to throw themselves on the ground till they were passed one by one. Then it was ascertained that one of the gang, Byrne, was lying shot inside the hotel, but that the other two were alive. Shots continued to come from the hotel until the afternoon. The last shot I saw fired was about one o'clock. After that I was occupied writing out my report. Then, at three o'clock, I was disturbed in my work by renewed firing, and, looking out, I saw that the police had congregated at one side of the hotel, and were pouring in a very warm fire into it; Senior-Constable Johnson rushed forward, under cover of this fire, with a bundle of straw, and set fire to the gable of the hotel.

21. Was there any firing from the hotel between one and three o'clock?—I cannot say.

22. The firing you saw at three o'clock was only from the police?—Yes.

23. You say you arrived at Glenrowan at 3.15?—About that time.

24. Mr. Hare and Mr. Rawlins went to the station master's house on their arrival?—Yes, I saw them going down to the station master's house.

25. And by the time they returned were the carriages all empty?—Yes, with the exception of the ladies, who remained in one compartment.

26. The ladies did not come on the station?—No.

27. When Mr. Hare left the carriage first the rest of the men were engaged in taking the horses out of the trucks?—Yes, out of the loose box.

28. When Constable Bracken came and informed Mr. Hare that the Kellys were in the public-house, who went first—did the whole of the police?—I heard him say "Come along then, boys," and he led the way.

29. Did they all go?—They all followed, except the reporters.

30. Did Mr. O'Connor and the black trackers form a portion of the party who went forward?—Yes.

31. You mentioned that when you went round to the outside of the hotel, in the morning, you got into a ditch, and you could see the operations of the black trackers?—I could see them firing, that was all.

32. What position was Mr. O'Connor and his trackers in?—In the ditch.

33. And were continuously firing?—They were replying to the shots from the hotel.

34. Had they good cover?—Yes.

35. You could not see very well the operations of the police, in consequence of the smoke?—No, I could only see the flashes.

36. Do you think the black trackers did behave themselves in a proper way under their commander?—Yes; the only thing that came under my notice was that one of them was grazed on the nose, and then he blazed into the house half a dozen shots indiscriminately.

37. What is the difference of distance between the ditch where they were and where the police were generally?—They must have been within 25 yards—I should say 25 yards, or 30 at the most—of the house. The police were taking shelter among the trees on the other three sides. Mr. O'Connor and his trackers were immediately in front.

38. Did you notice Superintendent O'Connor run to the front with Mr. Hare?—Yes.

39. Then did you notice him when Mr. Hare came back?—I never saw any more of him until an hour and a half or two hours afterwards, when he came on the platform to see his wife and tell her he was all right.

40. You did not see him in the drain?—He was further up, he was nearer the house than I was.

J. D. Melvin,
continued,
11th March 1881.

41. Was there any cover?—He was in the drain. Mr. Hare was only on the scene for a few minutes. Mr. O'Connor and his trackers were in the drain all the morning—a very good position.
42. Do I understand that the house was ordered to be surrounded by the police, and great care was to be taken that none of those men should escape from the hotel?—Yes.
43. You think that this ditch afforded a very good shelter and cover?—Yes.
44. For those men to watch the hotel?—Yes, to watch the front of it.
45. When Mr. Hare got out of the train and called out "Follow me, boys," Mr. O'Connor went with him—you are sure of that?—Yes, quite sure of that.
46. Did Mr. Hare go back again, as he states?—He returned to the fight after his wound was dressed, and then came back again.
47. What hour was that?—It might have been about half-past three.

The witness withdrew.

Charles C. Rawlins examined.

[*He produced a plan and explained the same to the Board.*]

C. C. Rawlins,
11th March 1881.

The Witness.—On Sunday afternoon I was in Benalla, and I heard about the murder of Sherritt, and I went down to the station, and, hearing a train was going away, I spoke to the station master, and he told me that the train had left Melbourne at half-past ten o'clock that evening. This was about eleven o'clock that I was there. He said a train would be at Benalla about half-past two o'clock. I went on to the station when it reached Benalla, and met Mr. Hare, and I told him that the station master said that providing Mr. Hare would allow me to go on the train he would have no objection. I have a free pass on all the Victorian Railways.

48. What is your occupation?—I have some land about eight miles from Benalla. I was formerly cattle dealing.

49. In virtue of what have you a free pass?—I got it for introducing cattle-trucking on the railways. Mr. Hare said, "You had better get into that carriage," pointing to the reporters' carriage. The train left Benalla at about half-past two, and travelled very slowly for about twelve miles. On the steep incline, after we got past the first gate from Glenrowan, we felt the train stop. We looked out of the window and saw the pilot engine coming back to the train, and I saw Mr. Hare jump out of the carriage and run along to the engine, which had stopped about 100 yards from where we were. Mr. Melvin, who was in the carriage with us, jumped out through the window—the doors were all locked—and ran up to the party that were on the other engine. The doors were then unlocked, and we all got out; at least a good many of us did. I saw Mr. Hare, and told him I knew all the country round there thoroughly, and if he would allow me to go, I would like to go. That was after hearing that the Kellys were at Glenrowan waiting for the train. He asked me if there was any place where we could get the horses out without going to the station. I said there was no place at all. He told me to go back, get into the carriage, and keep a warm look out, and he went on the engine himself, the first engine, with some men. We went back and got into a carriage. The train went through the railway gate where the station master lived; there was a light burning in the room. When the train stopped at the platform, I jumped out, and Mr. Hare came up to me and said, "What had we better do?" I said, "There is Jones's, that is the station-house, and there is Macdonnell's," that is, the other hotel. I said, "We are sure to hear of the Kellys at the railway gate, because of the horses having to cross; we will go down and see Stanistreet." He said, "You are not armed; I will give you my revolver." He was going to explain its working. I said, "It is a Webley, I know how to use it." He gave me about twenty-four cartridges. I said, "You can use the revolver better than I can, give me your double-barrelled gun;" but he said, "No, I will stick to the gun." We went down the line to the house, and I looked in and saw a woman sitting on the bed; she had the bedclothes up to her eyes, and she had four or five children cuddling round her. Mr. Hare knocked, and she said, "Who is there?" He said, "Police;" and she said, "Come in." Mr. Hare said, "No, I will not come in;" so she came to the door, crying. I said, "What is the matter?" She said, "The Kellys." Mr. Hare said, "What about the Kellys?" She said, "They have taken my husband away, and are going to kill him; will you save him?" Mr. Hare said, "Which way did they go?" She said, "Just at the back there," pointing to Jones's; "they were here five minutes ago, two of them, and they took him away." I said, "How many of them are there?" and she said, "Forty." We did not wait for her to explain what she meant. We ran up the line towards where we had left the others; we got to the station; all the horses were taken out of one truck—that would be eight or nine horses. Mr. Hare said to me, "I will have a horse for you; you had better come with us." I said, "All right." I stopped at the end of the station, opposite to Jones's, and when I was there I saw a rider come to Jones's and go in at the back.

50. You had a suspicion that they were at Jones's?—Mrs. Stanistreet told us they were there five minutes before. After I saw this horseman go round the corner, I saw a man jump the fence opposite the hotel. He evidently fell after he jumped the fence, and then I saw him come down the edge of the drain here—[*pointing to the plan*]. He came running up to me; he had no hat and no coat on—he was out of breath with running and excited; he said, "The Kellys are in Jones's, just going away; be quick, they will be off," in a whisper. Everything was very quiet, no talking. He ran up the platform, past where the ladies were. Mr. O'Connor was talking at the window, and he turned round to face him, and Mr. Hare came up and said, "Who is this?" I went up to hear what was going to be done, because I was thinking of cutting the fence to get the horses out, the gates being locked on Sundays. At this time they were getting the horses out one by one; then Mr. Hare said, "Let go the horses, come on, they are at Jones's;" so he started away and the horses were let go, and some of them were not out of the train then. He started to go up that track—[*plan*]—and I followed him closely. I was wondering what he was going to do. When he got to there—[*plan*]—I saw some of the men running across this way; that would be about 45 yards from there to there—[*plan*]—then five of us went through here. Mr. Hare led the way. There was an iron gate—a round gate that swings—the big gate was shut; only one could go through this gate at a time, and while we were waiting some of them jumped the fence, instead of going through the gate, and took up a position here—[*pointing to the plan*].

51.—Was this open ground?—No, timber.

52. Were the positions taken up under the directions of Mr. Hare?—There was not a word spoken; I understood Mr. Hare was instructing to rush the place.

53. There were no instructions given as to taking up any position or watching the hotel?—There was not a word spoken. He said "Come on, boys"—he did not walk, he ran. The moment he got through the gate he turned straight up towards the hotel, followed by Senior-Constable Kelly, Gascoigne, and there were two more men—there were five altogether that went through the iron gate—and I think Phillips went. I am quite satisfied that we seven went through the gate and over the fence; others may have gone through afterwards, but not at this moment, because I was thinking what would be done in the event of a rush, because I expected the Kellys to be at the back, just going away.

54. You did not expect them to be in the front?—I heard a noise in the verandah—I think it must have been a ramrod falling. I said, "Look out, there is somebody on the verandah;" and just as I spoke there was a shot, then a volley, from the verandah. Presently Mr. Hare doubled up and said, "I am hit; surround the place, boys." This was before we had seen anything of the others. A terrific volley was going on at this time from the police—from our party and from inside the railway reserve. I heard the bullets going through the fence.

55. Is the fence riddled from both sides, or only from one side?—Three or four shots had gone from the other side. Almost immediately after Mr. Hare was wounded, a man on the verandah called out, "Fire away, you —— dogs, you cannot hurt us." Immediately after that a man came out from the front of the building—right out into the open; he came down about six or eight yards, and commenced firing down this way—[*pointing to the plan*]. The moment he came out there was a terrific volley. The man stood up, and then Gascoigne fired two shots, and I saw that he was hit, because he turned round.

56. Before he went into the bush?—Yes, a long time before. Gascoigne had a Martini-Henry rifle. I saw him deliberately load and fire, and I am satisfied he hit Kelly. He turned back, and as he turned somebody hit him in the foot. Then somebody inside called out, "Do not fire—the place is full of women and children; stop firing." Senior-Constable Kelly sang out, "Lie down till daylight, every one of you." Then a woman screamed, and I called out, "Lie down; you will not be hurt if you lie down." Mr. Hare came through the iron gate and spoke to Mr. O'Connor, who was down the drain behind us. He was about twenty yards from the culvert, and he called to Mr. O'Connor.

57. What did he call to Mr. O'Connor?—I cannot remember what he said, but to the effect that he was hit. Senior-Constable Kelly called to the fellows in the drain to stop firing, because the people going across might be hit in the tremendous fusillade they kept up. When I went across I walked over a rifle. I suppose there was four or five feet of a ditch and a culvert. The rifles were laid down, and they were shooting close along the ground. I think Kelly must have been shot in the foot from one of those rifles through the fence.

58. What is your theory as to what he did after that?—I will tell you what he did do; he made off in this direction, a north-easterly direction from the back of the house—this is where his rifle and cap were found—[*plan*].

59. Is there a tree there?—No, no tree. There is a big tree here; there is a watercourse here coming down from Warby's range. This watercourse, in time of flood, has been worn away. There we found a track—he never went further than that; he was trying to get away; his mare was there; he told me that he was in these bushes; I went round here—[*pointing to the plan*].

60. You think he never went back?—He never went into the house again.

61. You think he went to look for the mare and fell down?—I am certain of that.

62. Then he must have got up again in the morning?—He got up when he found daylight was coming and he could be seen. If we had only known it, the man was perfectly helpless. He could not do more than this. He was staggering just like this—[*illustrating his meaning by gesture*—with a shot in the leg and two shots in the arm by Gascoigne—I don't state this positively. One of the bullets that he was firing went down the fence, went through two posts and stuck in the next one. Gascoigne was just about here—[*pointing to plan*].

63. When he felt he was wounded he wanted to bolt?—I think so.

64. When Mr. Hare returned to the station did you hear Constable Kelly cry out to him to send him some ammunition to the station?—Yes.

65. Did anyone go with Mr. Hare to the station?—Not the first time.

66. How soon after did you go down to the station?—About ten or fifteen minutes after the first shot was fired. Mr. Hare would be there about five or six minutes altogether. He left and came back again. I heard him speaking.

67. You went immediately after to the station?—I went this way—[*pointing to the plan*].

68-9. How long did you stop at the station?—I went down here, and went along the line and to the station, and got a lot of cartridges, and took them back. It was before Mr. Hare went away, because I got the cartridges from Mr. Hare. When I came down again Mr. Hare was here—[*pointing to plan*].

70. He went back again?—Yes, he came back again as far as here.

71. Did you go down before he came back?—No, not before he came back. He came back, and I heard him speaking, and I came down to see what was up, and I saw nobody. I arranged with him to take the men this way. I arranged with him to stop the train here and take the men this way—[*pointing to plan*].

72. You thought they would escape there?—That is where they would get away. That was the weak place. I told the engine-driver to unhook the train and take Mr. Hare on the engine. They did not seem to know what to do. I said, "You can take the engine quicker." When I saw that Mr. Hare was so faint, and naturally anxious that we should have some more assistance, I got the man to take him away on the engine. I arranged with Mr. Hare to meet the men and bring them round to the back of the building. All this time Senior-Constable Kelly pushed the men on from one tree to another round the building.

73. He seems to have behaved with great courage?—I tell you plainly he was the man that did it in my opinion. I know that he did everything that was possible.

74. Then Sergeant Steele walked round this way—[*pointing to plan*]?—He was not there at this time at all. The line from Wangaratta takes a curve round here—[*plan*]; Steele and the others came down here; and that is where he was challenged by Senior-Constable Kelly. I came down to this gate; and I was there when Mr. Keogh brought this girl Jones and her wounded brother out of the house.

C. C. Rawlins,
continued,
11th March 1881,

75. How long did the firing go on?—I think it ceased in about twenty-five minutes from the first shot that was fired—that is, the heavy firing. There was no more firing then for about two hours.

76. Was there much shooting after Ned Kelly was taken?—No, very little.

77. There was firing up till about seven o'clock?—Yes. After everything was quiet, about 3.35 a.m., I went down the line to meet the train that Mr. Hare promised with the police from Benalla.

78. Is there any particular statement you would like to make?—I was awfully disgusted with the place being set fire to. We had all the elements there for getting them out without doing that. The sister and the brother offered to go in. We had the Skillians and Steve Hart's brother; they all offered to go in.

79. What o'clock was that?—A quarter to three.

80. Whose notion was it; was it done by orders?—I do not know.

The Secretary.—Mr. Sadleir says it was by his orders.

81. When was it set fire to?—Three o'clock.

82. What is your opinion as to those two men who were found burned lying together?—They were shot about half-past one.

83. Do you think they were alive when the house was put fire to?—No; there had not been a shot fired from the place for two hours.

84. You think they were actually dead when the fire was put to the building?—I am sure they were. They had all the elements there for rushing the building; any amount of men were ready to rush it.

85. As regards Superintendent Hare—his desire, in your opinion, was to face the danger at once, and rush the house?—That is what he intended to do, I am certain, because no man would have dreamed of going up in the way he did unless he intended to do that. That is what I understood him to say when he left the platform. I noticed a great deal of firing going on from the drain, about ten o'clock. I knew there was a wounded man in the kitchen; I asked Mr. Sadleir if he would come with me if I went to the front of the house and tried to fetch them out. A flag of truce was put out; and the moment the flag of truce was put out they fired a shot from the drain. Mr. Sadleir came down with me to the tree; and I called out in a loud voice, "We will give you ten minutes to come out. If you do not come out in that time, we will riddle the place with bullets." And out they came. One of the constables came jumping over the fence, and he said, "Let us polish off this lot first." They were all down on their knees, with their hands up. I knew more than half of them; and I told Mr. Sadleir; and I called them by name one after the other, and we passed them. And every one agreed to this; they said, "The two survivors are standing with their hands by their sides, quite listless."

86. What o'clock was that?—Half-past ten in the morning then; and when I went down to meet the police in the morning the train came without them from Benalla; they told me another train had left Wangaratta for Glenrowan. I asked them if they knew where the gap was in the rails; the men said, "Yes, at the foot of the bank on the Wangaratta side of Glenrowan." I said, "No such thing; it is at the top of the bank." It struck me the engine-driver would not know where it was, so I went down and just got down in time to catch a man driving all our horses away. He had driven all the horses here—[pointing to plan]. When I was in the cutting here, before you come to the gap, he was driving all the horses along here. When I got to the gap there was a watercourse; the horses smelt this, and I lighted some matches, and that frightened the horses. Just as I did this the train came up full speed. When I was stopping the train I heard the troopers galloping up along here. The train had troopers on board. I sang out to them they were close to the gap; this was about 5 a.m.

87. What did you do to the man who was driving the horses?—He made off. When I came back to the station with those police I went across to those tents—[pointing to the plan]. When Ned Kelly came out in the morning I was on the station. There was any amount of police. I want you to understand that if you want any information as to the distance the black trackers were away, Mr. Montford and I stepped it.

88. You think they did not materially assist?—There is one thing, they kept up a very strong fire from this direction.

89. I fancy their idea was not to allow a single soul to escape from that house till morning?—Where Inspector O'Connor was standing, by stepping up you could see over the fence and fire. It is a pity that Mr. McWhirter is not here, because he was with Mr. O'Connor all the time. He was there the whole time. He was where Mr. O'Connor was standing.

The witness withdrew.

Adjourned to Monday next at eleven o'clock.

MONDAY, 14TH MARCH 1881.

Present:

R. MURRAY SMITH, Esq., M.L.A., in the Chair;

The Hon. J. MacBain, M.L.C.

George Vesey Allen examined.

George V. Allen,
14th March 1881.

90. What are you?—A reporter on the *Daily Telegraph*.

91. You came with the party from Spencer street?—Yes.

92. Do you remember arriving at Glenrowan?—I remember arriving at Glenrowan about three o'clock.

93. Were you aware of Mr. Curnow's stopping the train?—I was aware that he had stopped the train. I learned his identity after the scrimmage.

94. Did you get out of the train the same time as Mr. Hare?—Yes, at the Glenrowan station, as soon as the train pulled up.

95. Did you see Constable Bracken?—Yes.

96. You did not know who he was?—No, not at the time.

97. Did you hear him tell Mr. Hare?—I heard him tell the company generally "They are here," or something to that effect—"They have a lot of people locked up in the hotel."

98. What did you do then?—Immediately on the train arriving at the station, orders were given to take out the horses and saddle them. They were removing the horses from the vans when Bracken rushed into the company. Mr. Hare gave orders to let go the horses and come on. Some of the horses were in and some out. They were allowed to scatter as they pleased. The men picked up their arms, and collected round Mr. Hare at the Glenrowan hotel end of the station. It was a surprise—everybody was taken by surprise, and the men rushed hurriedly away with Mr. Hare.

99. Where did you take up your station?—At the first surprise, I got under shelter of a shed attached to the station, from which I was enabled to look over the fence on to the hotel. I had no arms. I picked up a rifle on the station, and stood on guard in the corner. One of the other reporters found a policeman looking for it, and I gave it to him.

100. Did you stay in the shed the whole time?—When the men commenced to move from the platform, I moved up to the corner from which they had gone, in company with Mr. Melvin of the *Argus*, Mr. McWhirter of the *Age*, and Mr. Carrington of the *Sketcher*. We all stood under cover as much as we could.

101. When the firing commenced did you see the position of the combat?—Yes. The men were moving rapidly, as I believed, to the railway gates, and when a few yards from them they were collected together in one body. They were just scattering out to make their way through the fences or gate when shots were fired from the hotel verandah. I distinctly saw four shadows in the verandah. I am quite positive about there being four shadows.

102. It was immediately after that that Mr. Hare returned?—Immediately after that shot. No; I think two or three charges were fired. Immediately the police fired in reply, within a few minutes, Mr. Hare returned.

103. Who bound up the wrist?—Mr. Carrington and the other reporters. By this time we had made a body guard of ourselves for some ladies in the train. We had got revolvers from the train, and had taken up positions on the platform. I was at the Glenrowan end of the platform when Mr. Hare returned. The other reporters bound up his wound.

104. Then Mr. Hare went back to the fight?—Immediately afterwards; but came back again and said that he was fainting from loss of blood. He was bleeding freely; and one of the reporters went down to the spare engine that was there to ask the driver to take Mr. Hare back. He moved up the line where Mr. Hare could get into it without being exposed to fire; but several volleys were fired at the moment, and he moved to Benalla without Mr. Hare. The other engine was detached from our train, and Mr. Hare was taken away.

105. Did you see Mr. O'Connor?—Yes.

106. Did he go to the front?—Yes, he advanced with Mr. Hare.

107. Do you know how far he went?—When first the volley was fired the police scattered for shelter, and Mr. O'Connor took shelter down near the railway gates somewhere. It was very dark. You could not see the exact position. You could only understand their position by the firing. There is a little creek running up there where Mr. O'Connor was. His wife was on board the train, and he sent up a message—after the first volleys had been fired, Constable Kirkham brought up a message to say he was all right; after Mr. Hare had been shot. I believe he kept pretty well under cover during the morning.

108. There was a ditch down there?—A broken creek behind the station and running down by the railway gates. I think Mr. McWhirter advanced in the first instance behind the police and got into that creek, and Mr. Melvin did so too, but they immediately returned and took up their position on the station.

109. Were you an eye-witness to Kelly's capture?—Yes.

110. Did you recognize the men who were in combat with him?—Senior-Constable Kelly had been encircling the hotel during the morning.

111. The command virtually devolved on Kelly, not on Mr. O'Connor?—Mr. O'Connor was understood to be in authority, but he did nothing, and it fell upon Senior-Constable Kelly to do the work. Mr. O'Connor doubtless thought he was in command, but as he did nothing the police acted under the direction of Senior-Constable Kelly.

112. Mr. O'Connor remained where he was?—Yes, he remained in ambush; but from the time of Mr. Hare's removal up to the time of Mr. Sadleir's arrival Senior-Constable Kelly did all the work, and did very hard work too. At the time of Ned Kelly's appearance in the bushes Constable Kelly had just left the platform, and was up on this side of the hotel somewhere between the outposts and the hut. He was bringing in his men, closing them in; and Steele and his party had arrived from Wangaratta, and had taken up positions on the outskirts of this bush here—[pointing to the plan]. I was on the railway station, and I moved up the bank when I heard the voices.

113. Did you see Ned Kelly walking along?—Yes; I went up the creek when the firing commenced. I could not understand what the firing was about. Constable Dwyer was on the station with us when this firing took place, and from something we said to him he ran up the hill too. Constable Kelly was on the inside, between the hut and Kelly. Sergeant Steele and his party were outside, and he came down between the two lines of fire.

114-5. Could you see who hit Kelly?—I would not like to say for certain; you could see the shots fired at him, and those who got close up could see the shots rebound from the armour. The after-examination would prove whose shots they were, because Steele was firing slugs, and Constable Kelly was firing bullets. I would like to point out that all the men engaged in the affair are as much entitled to consideration as any particular man, because it was a mere accident that Kelly came down that way.

116. Then you are of opinion that all the police force who surrounded the hotel are equally entitled to consideration?—Yes, except the man who saved the train, Constable Bracken, Mr. Hare, Sergeant Steele, and Constable Kelly, who deserve a little extra consideration for the dangers they ran. With the other men no distinction should be made.

117. What did Mr. Sadleir do?—When Mr. Sadleir came he brought an additional number of men with him, and took them out; it was then daylight or grey dawn. He placed them wherever he found a

George V. Allen, suitable position for them ; they all obtained shelter behind trees and stumps, and fired whenever they saw
continued,
 14th March 1881, any one exposing himself in the hotel.

118. Did Mr. Sadleir take an exposed position?—He moved about from tree to tree seeing and directing his men. Kirkham displayed great activity from the time of his arrival in exposing himself—needlessly I thought at the time—going from tree to tree, running about and firing into the hotel. He was armed up to the teeth with a hatchet and a knife and a pair of revolvers.

119. Did you see the operations of the Queensland blacks in the ditch?—Yes.

120. Were they actively engaged in the firing?—Yes ; they were firing the whole of the morning. They did the heaviest firing, but they never left their positions until after Kelly was caught.

121. Were they in a good position to guard the hotel there, covering the hotel to prevent escape if they came out that way?—They had a view of the whole of the front and side. Their position was a protection to the whole of that side and the front. They were placed down among the bushes in the creek.

122. Did Mr. Rawlins distinguish himself particularly?—What do you mean by distinguish himself?

123. Did he go forward with the men?—I saw him go forward.

124. Did he return?—He returned immediately Mr. Hare was shot.

125. Did he place himself in positions of danger?—Yes, frequently and unnecessarily ; he carried a rifle too.

126. Did you see the occasion when the man came out from behind the house and fired ; it would be just after Mr. Hare was wounded?—A single shot fired from the verandah.

127. Mr. Rawlins said he saw a man come out in the front of the house and fire?—No ; I did not see that.

128. Have you any statement to make regarding the whole of the circumstances?—It occurred to me that the men were very badly officered ; that they were very active themselves, and very anxious to come in contact with the Kellys. The men appeared to me to care little for themselves as long as they met the gang face to face.

129. You are aware that the desire of Superintendent Hare was to go straight to the hotel?—I understood his intention was to storm the hotel.

130. Do you apply your strictures to his conduct in going right to the hotel at once?—No, I do not ; I make allowances for the start, because, not knowing exactly where they were, it was the first thing a good officer would do to come down on them at once.

131. Mr. Hare wanted to storm the place?—Yes.

132. And went straight away without any delay?—Yes, immediately.

133. It was only his wound that made him retreat?—That was all. But if he had succeeded in storming the hotel there would have been very great slaughter.

134. You think that Mr. Sadleir ought to have instructed the men to rush the place long before he did?—I think so. Mr. Sadleir's motive seemed to be to expose his men as little as possible to the fire from the hotel ; to place them in as slight danger as he could while he fired the gang out. He said he did not intend to expose the valuable lives of his men to those guns.

135. Do you remember any of the men who expressed a desire to rush the house?—Johnson I think, of Violet Town, desired to rush it.

136. Anybody else?—Constable Dwyer wanted to rush the hotel and several others.

137. Was it Johnson who set fire to the hotel?—Yes. At one time the press men collected for the purpose of waiting on Mr. Sadleir and persuading him to rush the hotel ; but one of them, I think it was Mr. Melvin, stated he had already spoken to Mr. Sadleir and he had refused.

138. When did Mr. O'Connor emerge from the ditch?—Soon after Kelly was shot. I think the black trackers and Mr. O'Connor maintained their position there till Kelly was taken. The press men were up at Kelly's fall. Immediately on his falling, as soon as they could run up with security, they got up and assisted as well as they could in warning the police not to expose themselves to the fire from the house. The police all collected round Kelly and forgot the fire from the house. I took Senior-Constable Kelly's rifle and filled his position at his tree, while he went down with Ned Kelly. I wanted to understand how the firing was going on. I found for the half hour I was there that all the firing that came up, that was understood to be from the hotel, came from the black trackers at the other side. Fully a hundred bullets passed through the trees in a line with their fire.

139. They were firing at nothing?—At nothing. I think this was in compliance with an order to fire high. I am not sure, but if they had fired low in the direction of the house I believe they would have shot the police opposite to them. I could hear the ping of the balls above me, and that was the experience of all the men on that line. I would like to mention, without prejudice to the other men, that Constable Kelly did the hardest portion of the work from the time of Mr. Hare being shot up to the capture. He did all the work round the hotel up to that time. He was very nearly shot two or three times. Dowsett also rendered very valuable services at the time of the capture, and earlier in the fight, when he brought away some women ; he assisted Mrs. Reardon over the fence. Moore, Bracken, and Steele were also very active at the capture—Steele particularly. I may mention that we were all bound for Beechworth originally. It was intended that the ladies should remain at Beechworth while the party went out tracking. Speaking generally, all the police there worked in a most praiseworthy manner ; there was no desire to get unnecessarily under cover.

140. Showing that our police force should not have blame attached to them for want of courage?—Not for want of courage, but want of generalship. The whole of the command devolved upon Senior-Constable Kelly, who was himself out in the field working. He had only a few men ; he could not form the complete circuit. All the men worked very hard. The black trackers did a lot of firing.

141. It is quite possible that that may have had the effect of keeping the men in the house and preventing them from going away?—Yes.

The witness withdrew.

Adjourned.

MONDAY, 21ST MARCH 1881.

Present:

R. M. SMITH, Esq., M.L.A., in the Chair ;

J. MacBain, Esq., M.L.C.

John McWhirter examined.

142. What are you ?—A reporter of the *Age*. [*The witness examined the plan of the station.*] John McWhirter,
21st March 1881.

I was in the special train that went up that morning. Immediately on landing—
143. I suppose you remember the train stopping ?—Yes ; I should commence about one mile from the Glenrowan station, we were stopped by the pilot engine, and, looking out, I saw the pilot waving a red light. The police got out of the train, and some of the reporters. We then understood that a man had stopped the pilot engine, and stated that the Kellys had torn up the lines below Glenrowan, and taken the people of Glenrowan prisoners. I heard Mr. Hare ask who the man was, and the person in charge of the pilot engine replied he did not know, that he had run off into the bush. Mr. Hare then directed some men to keep a look out on each side of the line, and we then proceeded to the Glenrowan station slowly. On reaching the platform the police got out of the engines, and commenced to take their horses out. I noticed Mr. Hare with someone else go down the line towards the station master's house. From there they came back quickly, and I heard that the station master had ten minutes previously been taken into the Warby ranges. Superintendent Hare, with Senior-Constable Kelly and one or two more, started towards Jones's hotel, but on the road Constable Braeken met them, and said something which caused them to quicken their pace, and Mr. Hare sang out to come on. Some of the men did not hear his order, as they were engaged saddling the horses, but I noticed a flash from the verandah of the hotel, the corner nearest the station. That was immediately followed by three more flashes. Mr. Hare and his companion seemed to be across that gutter—[*pointing to the plan*]. Immediately afterwards I saw some one lying on the ground firing rapidly.

144. You mean one of the police ?—I mean one of the police ; and then the firing was taken up all round. Then the police ran towards the drain. On reaching the drain I heard Superintendent Hare say he was hit. He called out "Stop firing," and Senior-Constable Kelly, who was further down on the right, cried out "Stop firing" also. The men ceased firing. One of the bushrangers then commenced to use very bad language from the hotel, calling on the police to come on. I went to Mr. Hare and asked him where he was shot ; he replied, "In the wrist." He was bleeding very much from the wrist ; at the time the blood was running down his leg. Someone advised him to go to the station and have the wound bound up, and I ran back to the station and stated that Mr. Hare had been wounded in the wrist. A few minutes afterwards he came back to the station, and Mr. Carrington, myself, Mr. Melvin, and Mr. Allen bound the wound up. Mr. Rawlins wanted Mr. Hare's rifle, but Mr. Hare said he was going back, and as soon as the wound was bound up he went back again, staggering as he went. I called after him and advised him not to go. He went away, and returned at a slow pace. I lost sight of him ; I do not know where he went. When he returned he complained that he did not think the bandage had been properly put on. When we were about to look at the wound again, he turned faint, and we supported him into one of the railway carriages, where we gave him some sherry. When he had somewhat recovered, someone advised him to take the engine back to Benalla, and bring on additional police, and also a doctor, and have his own wound attended to. He objected, but we pointed out that he could come back with the train after having his wound attended to. Before this I should have stated I heard him call to Senior-Constable Kelly, "Kelly, for God's sake, surround the house properly, and do not let one of them escape." He departed in the train, asking the gentlemen on the platform to have a look out on the Greta side of the line to see that no assistance went to the Kellys. I saw Senior-Constable Kelly taking the men singly from their position in the drain and posting them round the house. About a quarter of an hour after Mr. Hare departed, Senior-Constable Kelly came to the station and showed us a rifle stained with blood and a skull-cap. He expressed the opinion that it must be the rifle of one of the bushrangers who was wounded, and appeared anxious on the subject, fearing that one of them had made his escape. We advised him that he could do nothing till daylight, when the black trackers would take up the wounded man's tracks, as the men at his disposal were very limited—he had only five or six men. Just then Mrs. Reardon, who had been screaming hard outside the doorway, screaming about her children and her husband, was called upon to come towards us. One of the policemen called upon her to "come this way, Mrs. Reardon."

145. Did they know who she was ?—Some of them knew her. I believe it was in consequence of the statement made by the station master. We knew who she was by what he stated. When she came to the station she was questioned as to what members of the gang were present in the house. Her husband and son attempted to follow ; at least two men attempted to follow. They came out of the doorway of the hotel, and commenced to run with their heads down towards the police. Some one fired from the drain, and they ran back to the house ; that is where the black trackers were posted. It was stated subsequently that young Reardon was at that time shot in the shoulder. Mrs. Reardon stated that the whole of the members of the gang were in the house at the time she left.

146. What time was that ?—This was about three quarters of an hour after the firing commenced.

147. About four o'clock ?—Yes. Soon after the order to cease firing was given, Stanistreet, the station master, came out of the hotel, holding his hands up. He approached the police, who challenged him, and he replied, "Stanistreet, railway station master." He then passed through the police.

148. He came out in the front ?—He came from the hotel. I saw him coming from the hotel, and heard him challenged, and heard what he said in reply.

149. Could he give any information ?—He did give information. What the nature of it was I do not know. He seemed dazed at first. He went to his office and opened the office door as if he was about to commence operations. Braeken of course was the first man to escape. He appeared very much excited when he came on the platform, and I held him against the wall in order to get his story from him, that he should explain what was the matter, and all that we could learn from him was that he had escaped death, and that the Kellys were in the house, and had taken him prisoner. I asked him how he got out. He said, "I stole the key, to save my comrades." He then sprang off the platform, that is on the other side of the railway, and I really did not know what he was going to do. He ran down the line to where the police

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horses were. He got a police horse saddled, and galloped right down the line towards Wangaratta as hard as he could go over the railway sleepers. Mrs. Jones got out before Mrs. Reardon. She got out with the boy, and some man carried the boy. I could not tell exactly when that was. The police remained in their positions around the hotel, the bushrangers occasionally firing from the back portion of the hotel. You could see flashes from the front verandah, but they were evidently firing from the room inside beyond. The police replied several times to the fire. We lost sight of Mr. Rawlins in the morning. This was before Mr. Sadleir's arrival. We remained at the station. I heard some one amongst the horses. I called on Mr. Melvin that I thought some one was trying to drive the horses away. They were snorting and jumping about. I went down the line and got behind a bush, and after a few minutes I saw Mr. Rawlins coming from amongst the horses with Mr. Hare's rifle over his shoulder. The police remained in their positions until it was getting on for six o'clock, when I told Senior-Constable Kelly there were some men coming down the side of the hill. He at once ran up to intercept them, to get between the house and Morgan's look-out. He challenged the men, and they replied Wangaratta police. They were Sergeant Steele and his party, who had been brought by Bracken. About three minutes afterwards the second detachment of Benalla police arrived with Mr. Sadleir. There were then a considerable number of police on the ground—I forget how many. At daylight in the morning, just grey daylight, we noticed a figure coming down the side of the hill. The figure approached the police in a very stately manner, walking very erect. The figure walked towards Constable Arthur, who was stooping behind a log lighting his pipe. When close to Arthur, I suppose about twenty-five yards from Arthur, Arthur turned round towards him. I do not know what passed between them. I was too far away to hear, but the man in the helmet fired towards Arthur. I saw the bullet from the revolver cut up the ground in front of Arthur, who dropped on his knees and fired three shots. At least two of those shots struck the figure, because I saw him staggering just as the flash came; but he still continued to walk straight towards Arthur, who ran round to a tree. I saw Senior-Constable Kelly, with Dowsett, the railway guard, closing in rapidly on the man. They both fired in turn at him. Phillips also and Healey came up, they all fired; but Dowsett and Senior-Constable Kelly got very close up to him, two trees closer than the others. Ned Kelly had retreated from the tree to a log, where he was better protected from the bullets of Kelly, Dowsett, and the others.

150. It was to shelter his legs?—His legs were sheltered, and the whole of his body. It was a very large log. It was guarding him on three sides almost. Constable Kelly was on one side of the log, and Dowsett was within twelve yards at another log. After a number of shots had been fired I saw a man running down from towards the house, down the side of the hill. He was running very fast, and came up to within about ten or twelve yards of Ned Kelly at the rear. He stopped at the side of a stump, and fired twice. Kelly staggered backwards and fell, disappeared behind the log as if hit. I ran up along with the police, and saw them strip the armour off the man, and Sergeant Steele pronounced him to be Ned Kelly.

151. You did not mention who this man was who rushed from the hotel?—When I reached the log I saw that the man who fired the shot was Sergeant Steele. We were not standing very far away at the time, though I could not tell who it was. I was a stranger to Steele at the time. Ned Kelly asked who was it that shot him, and Steele said, "I did." Kelly said he had been shot by the first bullet fired by the police on the previous night through the arm. One of the policemen present claimed to have fired the first shot. Senior-Constable Kelly said, "I fired the first shot." Kelly and Mr. Hare were in advance of the others.

152. We have had some difficulty about determining Mr. O'Connor's position; when Mr. Hare and the constables ran forward at first, did Mr. O'Connor go with them?—When the firing commenced I heard Mr. O'Connor say something to the ladies in the train and move off from the station, and the black trackers ran with him. This was after Mr. Hare and the others left the platform.

153. Where did he take up his position?—I saw a figure and was told that he was standing in the drain. The drain took a little turn just where he stood; I should say it was about there—[pointing to the plan]. I walked through the drain to see the position the men had after the firing was over.

154. He did not occupy at any time a position in front of the hotel with Mr. Hare and Constable Kelly?—If he did, it could only have been for a minute or so, it could not have been longer; he may have taken this position subsequently. Mr. Hare went away and Constable Kelly was never in the drain afterwards.

155. In fact the command devolved upon Kelly?—Most decidedly.

156. Do you remember what Mr. O'Connor and the blacks were doing all night; did they keep up a continuous firing?—There was a black man posted on the southern side of the hotel with Gascoigne. I recollect asking who this black man was, because he seemed to be especially vigilant watching the house. I noticed the blacks here in the drain behind the house a number of times.

157. Who was this black man who kept this watch?—I think it was Hero. The other blacks were in the drain behind the house.

158. Do you think they did good service?—They appeared to be very bloodthirsty at the outset of the contest. They ran like men willing and anxious to fight; they ran straight towards the house; they outpaced the white men, because, I think, they could see better in the dark.

159. You mention that after Mr. Hare was shot he ordered firing to cease—how long did that cessation continue, as near as you can say?—It might be fifteen or twenty minutes before another shot was fired—whenever a shot was fired, they watched the flash, and fired at the flash. When the new police came on the scene in the morning they fired a little more rapidly for a while.

160. Were there any of these men, policemen or civilians, that you could single out as being worthy of notice?—Mr. Rawlins seemed to be very willing to do anything—he took ammunition to the police. That was subsequently attended to by Mr. Melvin. He and I sorted out the ammunition for the police. Mr. Rawlins seemed anxious to do all he could.

161. You think Senior-Constable Kelly showed great activity?—He did; he kept on the move the whole time, round and round the house. At that time he had only a very few men, and they had to be scattered round the house at considerable intervals. He had to go round to see that they were all at their posts; he had only six or seven men.

162. All the police you think showed activity?—That man Dwyer, from Wangaratta, ran about in a perfectly reckless manner. I heard him stating his anxiety to be allowed to rush the house. Armstrong (I heard that he was one of those who were in Sherritt's hut the night he was shot) and two or three more

took up a position close to the hotel, and when the place was fired they rushed into the place at once to drag out the body of Cherry, and also the body of Byrne; he was one of the few police who were in the house.

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163. Did you hear anything, or do you know anything at all, of the instructions that Mr. Sadleir gave when he took the command?—I recollect, when he took the command, I heard that Armstrong, Dwyer, Johnson, of Violet Town, and some other men, had offered their services to rush the place, but that he had refused, and had stated that he would take the outlaws' lives, and would not sacrifice a single life among the police.

164. Do you remember at what hour the police first became aware of Byrne's death?—I heard of it either soon after or immediately before Kelly's capture.

165. After Mr. Sadleir's arrival?—Yes.

166. Was it stated in the light merely of a rumor?—It was stated as a rumor at first; I do not know how it came about. Then the prisoners from the hotel arrived, about ten o'clock in the morning, and they were questioned on the subject, and said he was shot about five o'clock in the morning.

167. It was not known as an absolute fact till ten o'clock in the morning?—That is all. I do not know how it got about, but I did hear that Byrne was shot. There was one thing—the firing from the hotel up to five o'clock was pretty constant; after that it was not nearly so constant.

168. Did you hear of a man coming out of the hotel and showing himself in front of the hotel, about a quarter of an hour after the fire commenced?—No, but we heard them barricading the place immediately after the police stopped firing.

169. It was reported that one of the men came out and exposed himself, and the police fired, and they think that was the time that Byrne got shot?—I saw a man in the corner of the hotel when the firing commenced, then there were three more flashes from the verandah of the hotel, and these men, under cover of their own smoke, disappeared—they must have gone back into the hotel—the place was then closed up. I never heard of any person being seen in front of the hotel after that. It is stated by one man that a man made his appearance at the back of the hotel, and that he fired at him and saw him stagger into the place. The man who said that was Steele, who said that when he came up to the house he took up his position behind the stables.

170. As an observer, would you be inclined to say the police exhibited all the courage you could expect under the circumstances?—Individually, I never saw one of them flinch; they stuck to their posts and obeyed orders. I can say that for the whole of them.

171. Is there anything else you would like to say?—No.

The witness withdrew.

Adjourned.