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VICTORIA.

POLICE COMMISSION.

AD INTERIM REPORT

OF

THE ROYAL COMMISSION OF ENQUIRY INTO THE CIRCUMSTANCES OF
THE KELLY OUTBREAK, THE PRESENT STATE AND ORGANIZATION
OF THE POLICE FORCE, ETC.

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

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ROYAL COMMISSION ON THE POLICE OF VICTORIA.

AD INTERIM REPORT.

To His Excellency the Most Honorable George Augustus Constantine, Marquis of Normanby, Earl of Mulgrave, Viscount Normanby, and Baron Mulgrave of Mulgrave, all in the County of York, in the Peerage of the United Kingdom; and Baron Mulgrave of New Ross, in the County of Wexford, in the Peerage of Ireland; a Member of Her Majesty's Most Honorable Privy Council; Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George; Governor and Commander-in-Chief in and over the Colony of Victoria and its Dependencies, &c., &c., &c.

MAY IT PLEASE YOUR EXCELLENCY :—

The Royal Commission appointed to enquire into and report upon the present state and organization of the police of Victoria, have the honor to present the following ad interim Report respecting certain charges preferred against Superintendent F. A. Winch and Sub-Inspector Larnar.

Your Commissioners may premise by stating that, owing to their desire when conducting the examination of witnesses to adhere strictly to the recognised rules of evidence, the difficulties experienced in obtaining distinct and tangible information in support of many of the allegations made appeared for a time insurmountable.

In the course of the investigation grave imputations, orally and in writing, were levelled against the police. It was alleged that a wholesale system of black-mailing prevailed in Melbourne, of which publicans were the victims; that constables who discharged their duties conscientiously in enforcing the law for the repression of the social evil and against Sunday trading were summarily transferred to other districts; that certain officers were subsidized by traders carrying on the infamous traffic of purveying for establishments used for purposes of public prostitution; that subordinate members of the force purchased their promotion and afforded monetary assistance to their superior officers when pressed by creditors, and that certain officers were the intimate associates of persons of ill repute, to the scandal and demoralization of the entire force.

The discovery of the names of Superintendent Winch and Sub-Inspector Larnar in the books of a Mr. Rowe, licensee of the Princess Royal Hotel, Bourke street, afforded the Commission some prospect of securing direct proof of the general charges affecting those officers. At that time the Commission were anxious to close their labors, and they hesitated about taking any action that might have the effect of greatly protracting the enquiry. In the meantime, however, Sub-Inspector Larnar admitted having borrowed money from Mr. Rowe, and was reprimanded, while Superintendent Winch, denying the accusation, demanded a Board to investigate the matter. The Board, as requested, was appointed, and the conclusion arrived at was that "the evidence adduced did not sustain the charges made."

This finding, which was virtually the exoneration of Mr. Winch, was accepted by the Government, and your Commissioners considered that they had no other alternative than to abide by the result.

It was felt, however, that it now became a duty incumbent upon the Commission to prosecute their enquiry further, in order, if possible, to arrive at some definite conclusion as to whether there existed any justification for the other charges affecting the character and conduct of Superintendent Winch and Sub-Inspector Larner. The examination of witnesses was accordingly resumed, with the result which your Commissioners have now the honor to submit.

SUPERINTENDENT WINCH'S CASE.

Supertintendent Fred. A. Winch joined the Victorian Police as a cadet 6th September 1852. He is therefore the senior officer of the department, and, by right of seniority usually observed in the promotion of officers of the superior grades, he should, under ordinary circumstances, be occupying the position of Chief Commissioner. The reasons for Mr. Winch's non-promotion have not been satisfactorily explained, and the plain inference is that it was not deemed expedient, notwithstanding his claim by seniority, to entrust him with the duties of so high and responsible a position.

The several documents submitted to your Commissioners having a bearing upon this officer's career in the service disclose certain facts which, taken in conjunction with the general tenor of the evidence adduced, appear to throw some light upon the motives actuating the Executive in ignoring Mr. Winch's claims to preferment.

In the year 1861 a Board was appointed to enquire into certain alleged irregularities in connection with financial matters brought against Superintendent Winch while officer of the Depôt. On some of the issues he was acquitted, but the Board found that he had been guilty of the grave irregularity of borrowing money from a subordinate, for the purpose apparently of verifying his accounts. For this he was severely reprimanded, removed from the Depôt, and his salary for the period of his suspension from duty disallowed.

A document, dated 10th December 1880, signed by Jas. J. Brown, cab proprietor, East Melbourne, was forwarded about the date mentioned, in which Mr. Winch was charged with having been drunk and creating a disturbance at night near the Boundary Hotel, in close proximity to certain brothels. A memo., signed by Mr. C. H. Nicolson, and dated 9/3/81, written upon the document, is to the following effect :—"I have had several interviews with the Chief Secretary on this subject, and I do not think any further steps can be taken in the matter."

Many serious charges and insinuations reflecting upon Mr. Winch in his official and private capacity were contained in letters and statements received by your Commissioners from time to time. The verification of several allegations depended upon the evidence of individuals whose characters might be impugned, and whose testimony consequently would be regarded as unreliable or provoked by personal feeling. It was therefore decided to examine only such witnesses whose respectability was some guarantee of honesty and truthfulness.

The specific charges brought against Mr. Winch may be briefly formulated as follows :—

1. Borrowing money from Mr. H. Edwards, licensee of the White Hart Hotel.
2. Incurring obligations by taking away bottles of whisky and brandy and other articles of consumption from the same hotel without tendering immediate payment.
3. Inducing Mr. Edwards to advance £32 by means of a post-dated cheque.
4. Asking Mr. Andrew McCutcheon for a loan of £60.
5. Obtaining monetary assistance from Sergeant Bell, and bestowing special favors upon that sub-officer in consequence.
6. Being found in a notorious brothel under suspicious circumstances.
7. Transferring Sergeant O'Sullivan from Melbourne to a suburban station for his efforts against the illegal trading of publicans and in clearing the streets of abandoned women at night.
8. Suppressing a summons issued by a constable against a hotelkeeper named Martin Stobie.

As Superintendent of Police of the city, Mr. Winch was also held responsible, in a general way, for the existence of so many disreputable hotels in Melbourne ; for the immunity which led to the widespread, demoralizing influence of prostitution, and the systematic evasion of the law respecting Sunday trading.

Your Commissioners desire to refer briefly to those charges *seriatim*.

To the charges 1, 2, and 3, Mr. Winch substantially pleads guilty, urging in extenuation that Mr. Edwards and he were old and intimate friends. It must be self-evident, however, that such a plea is untenable in the face of the 165th Regulation, which expressly and without reservation prohibits members of the force from incurring obligations with publicans and storekeepers, as by so doing they necessarily trammel their own actions and weaken their usefulness in the discharge of their duties.

4.—The charge of having asked Mr. Andrew McCutcheon, licensee of the Horse and Jockey Hotel, for a loan of £60 is denied by Mr. Winch, and, being uncorroborated, it becomes a question of veracity between the two witnesses. Mr. McCutcheon alleges that Mr. Winch called at his place of business about five or six years ago, and left instructions with his barman (since deceased) for the witness to see him at his office on the following day. On keeping the appointment Mr. Winch asked him for the loan of £60, as he was then in difficulties, and did not care for going to the Jews, adding that he would give him more interest for his money than anyone else. The subsequent conversation, no less than all the facts leading up to the interview, are circumstantially related by Mr. McCutcheon, whose evidence upon this point remained unshaken. Mr. Winch admitted that he had had a private interview with Mr. McCutcheon about the time specified, but that his object was to warn him of the complaints that were being made respecting the manner in which his house was conducted.

Superintendent Winch, in dealing with this witness, stated that from first to last he impeached his veracity. The statement that he had asked him for a loan of £60 he declared to be totally false. On one occasion he called at his hotel, and told someone there that he wanted to see McCutcheon, who called afterwards at his office, when he administered the admonition above referred to. This, according to the Superintendent's statement, was not an uncommon practice with him. An attempt was made to shake McCutcheon's credibility by showing from documents that he had made conflicting statements regarding an enquiry into his (McCutcheon's) conduct when he was a member of the force. The witness alleged that in conducting the enquiry in question Mr. Winch had acted harshly towards him, but this opinion appears to have been based upon an erroneous impression formed at the time, and arose from the fact that McCutcheon had not access to the papers. The Superintendent further charges the witness with having contradicted himself in questions 1526-31. A close examination of those questions, however, shows that there is no absolute contradiction involved. In the former McCutcheon denies that his premises were used for immoral purposes, and in reply to queries as to whether he traded after hours with thieves and prostitutes, and as to his place being the resort of such persons, he declines to answer, as he said he might thereby injure himself. That he should allow objectionable characters upon his premises is one thing ; that he should cater to their immoral practices quite another.

5.—There is no direct proof of this charge, namely, that Superintendent Winch obtained monetary assistance from Sergeant Bell. The allegation rests principally upon the testimony of the witness McCutcheon, who states that he obtained his information from the lips of Sergeant Bell himself, coupling with it the statement that the accommodation was necessitated by the presence of bailiffs in the office at Castlemaine, and that all the men had not been paid their salaries at the time. Sergeant Bell denies having ever lent money to Mr. Winch, or having ever informed McCutcheon that he had done so ; nevertheless the belief seems to have been generally entertained by the members of the force that Superintendent Winch was under obligations to Sergeant Bell. The witness, Senior-Constable Coniffe, who cannot be regarded as other than a most reluctant witness, declared that he participated in the same opinion, giving as his reasons for so doing the marked favors and concessions allowed to Sergeant Bell by Mr. Winch. Sergeant Bell and Superintendent Winch endeavoured to damage McCutcheon's credibility by describing him as a man of low character, but they tendered no other evidence to support their statements. A reference to the witness's record sheet and testimonials did not bear out their assertions. McCutcheon was found to have borne a high character in the Irish Constabulary, and, when leaving the Victorian Police, Mr. Winch himself referred in commendatory terms to the man and his connection with the police.

6.—The charge against Mr. Winch of having been found in a notorious brothel by Constable Weldon under peculiar circumstances appears to be borne out by the evidence. According to this witness, while doing duty one morning between one and two o'clock in Lonsdale street, he was attracted by the cries of women to a house kept by a Madame Brussell, who informed him that she had been assaulted by two detectives. The constable entered the premises, and ascertained that the originator of the disturbance was then in the house. Thereupon he instituted a search. On approaching the door of one of the bedrooms Madame Brussell objected to his entering, but as Weldon persisted, she went inside, and, after speaking to someone in the room, re-appeared. Weldon, on entering, found Mr. Winch standing on the floor. The officer explained his presence by stating that his object was to see how the police performed their duty in putting down the nuisance. The constable informed the Commission that his impression at the time was that Mr. Winch was not there on police business. He further added that Mr. Winch told him not to say anything about the occurrence. In order to refute this charge, Mr. Winch brought forward Sergeant Dalton. The latter deposed to having been in company with the Superintendent on a certain occasion between two and three or four o'clock in the morning, when they heard the noise of women's voices proceeding from Madame Brussell's house, and on proceeding thither they were informed that two detectives had been there and were the cause of the disturbance. He (Dalton) went in and sat in the parlor, but Mr. Winch proceeded upstairs. While there Dalton saw Constable Weldon enter. The conversation about the detectives and the presence of Weldon are the only circumstances that point to the occasion deposed to by Dalton being identical with that sworn to by Weldon, but opposed to those are the facts that the hours at which the alleged occurrence took place are different, that Weldon did not see Dalton, as he must have done had he been present, and that Weldon was accompanied by several other members of the force whom Dalton states he did not see, as he must have done according to Dalton's statement. The cries also deposed to as having been uttered by the woman did not correspond. There seems good reason therefore to conclude that in calling Sergeant Dalton as a witness Superintendent Winch failed to shake Weldon's evidence, or sufficiently to justify his presence in the brothel. The original allegation, indeed, was that Mr. Winch himself was the cause of the disturbance created, but of this no proof was forthcoming.

7.—Sergeant O'Sullivan prefers a very serious charge against his superior officer when he states that Superintendent Winch cleared him out of Melbourne for having interfered with the illegal traffic of certain publicans. It is tantamount to accusing the police officer in charge of the city with being subject to personal influence, if not of being corruptly in league with certain licensees who kept their premises open after hours for the accommodation of loose women. This witness states that he was not allowed to remain in Melbourne because he looked after the publicans; that when he reported Mr. Mulcahy, of the North British Hotel, for having emptied foul water from his premises into the street channels, that Mr. Winch prevented a summons from issuing; that when the witness summoned Mr. Opitz, of the Golden Fleece Hotel, for a similar offence against the bye-laws, at a time too when fever was prevalent in Melbourne, he was ordered to withdraw from the prosecution; that he was interfered with for checking prostitution in Bourke street, and that he was cleared out of Melbourne by Superintendent Winch.

The whole tenor of this witness's evidence is to the effect that Superintendent Winch prevented the police discharging their duty when certain publicans were concerned, and that those members of the force who initiated legal proceedings for violation of the law were liable to be transferred to other districts as a punishment. In reply to these allegations, Mr. Winch submitted that "the statement regarding Mulcahy, made by O'Sullivan, may be perfectly true. When referred to me to direct, summonses are issued or warnings administered according to my own discretion upon the reports sent in. This is and has been for years the common practice. With regard to Opitz, it will be seen by the court records that two summonses were issued against him for pumping offensive water from his premises; I have no other knowledge of the matter. As to O'Sullivan's transfers, he was sent to Fitzroy during the Exhibition, as there was not sleeping accommodation at the Russell-street barracks. He was then attached to No. 1 Division of the city, and did duty at the Exhibition, which he did not consider as a punishment. So far as his removal to Richmond is concerned, I find by the official documents produced that on 10th July 1881 the sergeant in charge at



Richmond, O'Flaherty, applied for a sub-officer to be sent out to him, the same being greatly needed, and O'Sullivan, as the best man, was selected for the purpose." The conclusion arrived at by the witness in the first instance might, in the absence of these explanations, be considered as gratuitous, and perhaps unfounded; but, when confronted with the sergeant, and notwithstanding his (Mr. Winch's) written statement, he (O'Sullivan) reiterated the charge of having been cleared out of Melbourne as a punishment for performing his duty. It is obvious that gross individual injustice may be inflicted under cover of the requirements of the public service.

8.—The suppression of the summonses issued by Constable Cash against a publican named Martin Stobie for abusive language is admitted, subject to the explanation that he (Mr. Winch) did not consider Cash a reliable man, and accepted the statement of the circumstances which gave rise to the summons, made by Stobie, as more likely to be truthful than that given by the constable. The witness McCutcheon deposed in relation to this that he saw Stobie entering Mr. Winch's office, and on leaving had a conversation with him on the subject of his interview, when Stobie stated that he had arranged about the summons, and had put a nail in the coffin of the constable, or words to that effect. Stobie having been called by Mr. Winch as a witness, denied having the conversation alluded to with McCutcheon; but it was not satisfactorily explained how McCutcheon could have become aware of the result of the interview if he had not been informed by Stobie, as the matter was purely official, and was only known to those in the office and to Stobie himself. Upon the whole, the evidence of Stobie substantially corroborated that of McCutcheon.

In connection with their enquiry, your Commission have to complain of conduct on the part of Mr. Winch which at best appears highly disingenuous. When the respective ranks of the Police Force were called on to select delegates to represent them before the Commission, the Superintendent issued a memo. in which, without authority and contrary to the instructions issued by the Chief Commissioner of Police, he intimates that "should any sergeant or constable not wish to be represented before the Commission he can say as much in his report." The effect of this was that a large number of the sergeants in the Metropolitan district forwarded reports to Superintendent Winch in which they expressed themselves as perfectly satisfied with the existing state of things, and that they declined to be represented; yet, when several of those sub-officers were appointed as delegates, and appeared to give evidence before the Commission, they submitted many matters of importance relating to grievances under which members of the force at present labored. Mr. Winch, when asked for an explanation of his memo., stated that he had acted in accordance with what he thought was the intention of the Commission, as gathered from their Secretary's letter on the subject, in which the words appear—"the sergeants and constables are at liberty to nominate." Such an answer can only be regarded as seeking to trifle with the Commission.

Again, Mr. Winch seems to have invited interviews with witnesses who were summoned or were likely to appear to give evidence before the Commission. On the day Sergeant O'Shaughnessy of Brunswick was directed to attend, this sub-officer waited by express request upon Mr. Winch at his private residence, and conversed with him in respect to the evidence he was likely to give. Further, when one of the delegates—Constable Delany—declared that Constable McLiney was cleared out of Melbourne for having, in technical parlance, "blocked Cleal's Hotel," that constable was required to attend at Superintendent Winch's office, with the result that a wholly different cause was assigned for his removal from Melbourne. It may be added that when this witness was called his equivocal and unsatisfactory answers induced the Commission to cease examining him, believing that his evidence was wholly unreliable. In the one breath he denied having ever made the statement deposed to by Constable Delany, and yet he was prepared to show how his reports on Sunday trading had been disregarded.

Further recourse seems to have been had to a system of terrorism over the members of the force so as to deter them from giving evidence before your Commissioners. Sergeant O'Sullivan, whose testimony had a very important bearing upon the conduct of Mr. Winch, has, since his examination, been subjected to a species of persecution. Statements reflecting upon his honesty, and calculated to depreciate his merits as an officer of the force, have been made, unheard of previously, and having reference to circumstances which occurred more than twelve months ago. Those charges, upon enquiry, appear either frivolous or unwarranted and undeserving of attention. Sergeant O'Sullivan has proved a straightforward, truthful, and independent witness.

It is not safe, and in this case might seem unfair, to submit definite conclusions upon general assertions respecting a condition of things for which an officer under the regulations may be held responsible, and therefore the Commission do not undertake to pronounce an opinion at present as to whether Mr. Winch or the City Bench can be held the more blamable for the disgraceful state of affairs as disclosed in the evidence of Sergeant Dalton and Senior-Constable Bourke. At the same time, the following may be quoted from a written statement submitted by Inspector Secretan, who must have weighed well his remarks before laying them before the Commission. He says, in alluding to plain-clothes constables :—"It is difficult to see in what way the plain-clothes police system has worked so well in Melbourne proper. There seems to be the same number of improperly licensed hotels, the same number of disorderly brothels, the same number of disorderly prostitutes roaming about the streets, the same Sunday trading going on, and larrikinism as usual. Referring to hotels, it is nonsense to put all the responsibility upon the Licensing Bench. If the police always brought proper and clear evidence before the Bench, there would not be so many half-brothel hotels as there are now, and no receivers of stolen property as licensees." On the other hand, Mr. Winch throws the entire blame of this admitted state of things upon the Bench, who, he alleges, have granted licenses to persons whose applications were opposed by the police. Mr. Hare, P.M., formerly a Superintendent of Police, gave the following evidence, which, although no name is mentioned, possesses, in the opinion of your Commissioners, a peculiar significance which cannot be overlooked in this Report. The witness is asked :

4897. Who is primarily responsible for the conduct of hotels in the city?—The Superintendent of the district.

4898. A man may be ever so efficient and desirous of keeping those places right, but he must be backed up by his officers?—Undoubtedly, and unless that officer is free and untrammelled in every way to carry out the reports that he receives from day to day, I defy the police force to be carried on properly. I do not think any man in the Government service ought to be more independent and free of everybody than a Superintendent of police, because he has the control of every one, and reports of all offenders come in daily. He can put one aside, and order the other to be prosecuted; therefore he should be a man of unblemished character, and a man not afraid to hold up his head wherever he goes, and not be bound hand or foot to any one.

4899. Is it possible for any officer to be bound in that way?—I know officers of police are bound, and have been bound.

4900. Can you give any information as to by what means they are bound?—I judge only from my own eyesight, and my own knowledge. I cannot say, "Mr. So-and-so has borrowed money from So-and-so," but I can say, if I see scores of money-lenders about Mr. So-and-so's office, I know that Mr. So-and-so must be under the control of those money-lenders, and if a constable gets into any difficulty, and he goes to a money-lender who has power over that officer, the result must be well known.

4901. Can you fix that in any shape or form?—No, I cannot; I merely say I judge of things by what I see. I say if money is due to an officer at the Treasury, and half-a-dozen men rush up with H Orders to receive it some days before it is due, it shows that that officer must be in a very impecunious state, and I say that that officer cannot be in a position to conduct his district.

4902. Do you know of such things existing?—I know of cases. I have been told that certain money-lenders have been up to ask for moneys, and attended day after day until it was payable.

4903. Has he gone to the Chief Commissioner of Police for that money?—No, to the Treasury. If the money was coming through the Police Department, he would go there; and I say a police officer should be out of debt above everything.

4904. On your knowledge of what has occurred, do those statements refer to any officer at present in the police?—I must beg to decline to answer that.

SUB-INSPECTOR LARNER'S CASE.

The evidence against this officer of having, contrary to the 165th clause of the Police Regulations, incurred pecuniary obligations with certain publicans was direct, and allowed to go unchallenged. It was proved—(1) That this officer went on four occasions to the bar of the White Hart and borrowed on each £1; that the amounts have been erased from the books as bad debts, but that since the commencement of the Police enquiry the money had been repaid. (2) That Mr. Sheeky, of the Victoria Hotel, Lonsdale street, had lent Mr. Larner the sum of £9 in March 1880, £3 in March 1881, and by way of acknowledgment he gave his I.O.U. to Mr. Sheeky for £15, the £3 being added to the amount of indebtedness as interest. (3) That Mr. Edward Hynes, of the Devon and Cornwall Hotel, lent Mr. Larner £5, and that a constable subsequently asked him to discount Mr. Larner's bill for £32. (4) That Mr. James Tierney, of the Glasgow Arms Hotel, gave Mr. Larner £13 on a promissory note, which was subsequently dishonored. (5) That Mr. Michael Tierney, of the Galway Arms Hotel, lent Mr. Larner £3.

Sub-Inspector Larner, when called upon to answer those charges, and to confront the witnesses by whom they were preferred, pleaded guilty, and urged in extenuation the great expense to which he was subjected in consequence of his promotion, and that he had never allowed his transactions with publicans to influence him in the discharge of his official duties.

The Commission, after careful and mature consideration of the evidence adduced before them, are of opinion that it is not desirable in the interests of the public service, that Superintendent F. A. Winch and Sub-Inspector J. N. Larner should be permitted to return to duty.

Your Commissioners therefore recommend that these officers be called on to retire from the force, without prejudice to any superannuation allowance or compensation to which, by reason of service, they may have become entitled.

FRANCIS LONGMORE, Chairman,
EDWARD J. DIXON, *per* F. L.,
WILLIAM ANDERSON, *per* F. L.,
GEO. R. FINCHAM,
G. WILSON HALL.

JAS. WILLIAMS,
Secretary.

Melbourne, 11th October 1882.