

Answered 27/10/54

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27/10/54 Ballarat 23rd Oct 1854

To His Excellency Sir Charles Hotham K.C.B. Lieutenant Governor of the Colony of Victoria

We the committee for the prosecution of the investigation into the death of the late James Scobie, duly appointed at a public meeting, held here on the 17th inst do beg to forward to your Excellency the enclosed Petition.

Your Excellency having anticipated the object of the Petition, we desiring as much as possible to allay the excitement at present existing on these diggings have thought it unnecessary and impolitic to have signatures attached to the Petition.

We beg to tender our sincere thanks to your Excellency for the promptitude and vigour with which the case has been taken up by your Excellency's Government, and which is rapidly restoring the confidence of this community in that due administration of the law, which is necessary to the preservation of society. In any investigation which your Excellency may be pleased to institute into this matter, we feel confident that the conduct of the magistrates, and especially that of the coroner, will appear to your Excellency in its true light.

We beg to subscribe ourselves your Excellency's most devoted and obedient servants-

James R. Thomson Chairman Peter Lalor Secretary Thomas P. Wanliss Treasurer John Weightman Gray William Cork Alexander McPGrant (?) Archibald Carmichael To His Excellency Sir Charles Hotham K.C.B, Lieutenant Governor of the Colony of Victoria

The petition of the undersigned inhabitants of Ballarat, humbly sheweth: That your petitioners, feeling dissatisfied with the manner in which justice has been administered in regard to the death of one James Scobie who was brutally murdered near Bentley's Hotel, on the morning of the 7th instant, feel bound to lay some of the principal features of the case before your Excellency.-

The deceased James Scobie in company with one Peter Martin, seeing a light in the Eureka Hotel, when passing about one O'clock on the above morning, sought for admission, in order to have something to drink. In doing so, a portion of a window was broken; not obtaining admittance, they proceeded towards the tent of the deceased. When about eighty yards from the hotel, they heard a noise behind them, and turning back to see the cause of it, Martin states they met two or three men and one woman; that one of the men had in his hand a weapon which he supposed to be a battle

axe. The individual holding this weapon he believed to be Bentley, the landlord of the Eureka Hotel. He also heard the woman say, referring to Scobie, (the deceased), "this is the man that broke the window," At this time Martin was knocked down and rendered insensible.- On recovering he went up to the deceased, whom he found unable to speak; and on assistance being brought, he was found to be quite dead.

It may be necessary to inform your Excellency, that the night was perfectly clear and moonlight.

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Between the Eureka Hotel, and the spot where Scobie was murdered, and within about twenty yards of, and almost directly opposite to a back entrance of the hotel, lives a woman and her son, named Walshe. The boy is about ten years old and remarkably intelligent. He deposed that, having heard two men pass the tent, he very soon afterwards heard two or three men follow, apparently coming from the Hotel or some place near to it. Looking through a hole in the tent, he saw two men, one much stouter than the other. The stouter he believed to be Bentley. That he heard one of the party lift something, which he supposed to be a spade, from a corner of the tent, shortly afterwards he heard a voice say "how dare you break my window" or to that effect. Then he heard a scuffle and blow given. He swears to the best of his

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knowledge and belief, that the voice was that of Bentley's wife. The parties returning towards the Eureka Hotel, dropped the supposed spade. He then saw them proceed towards a back door of the Eureka Hotel.

The boys mother swears distinctly that she heard a voice say "how dare you break my window, and to the best of her belief this was the voice of Bentley's wife. In every other particular she corroborates the evidence of her son.

The evidences of these three witnesses was given with great reserve and caution, and, therefore, in the opinion of your petitioners, is entitled to particular weight and consideration.

Your petitioners consider that the evident tendency of these impartial depositions is to implicate Bentley, his wife and some person or persons connected with the Eureka Hotel.

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The only evidence brought forward to exonerate them, was that of three men, named, George Bassar, Everett Gad, and Henry Green.

George Bassar is a butcher, living near Bentley's Hotel. The value of this witnesses evidence may be known by the fact of his positively swearing that no person could leave the hotel without his seeing them; yet, on cross examination he was obliged to confess that persons could go in and out of the back door without his knowledge.

Everett Gadd, the second witness is the reputed brother-in-law of Bentley, manager of his bar and bowling alley, and lives in the hotel, and, of course, liable to suspicion as one concerned in the murder.

The third witness, Henry Green, has for a considerable time, been an inmate of the hotel, and was there on the night of the murder, and of course, equally liable to suspicion

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The Coroners inquest was held on the day of the murder. Your petitioners being dissatisfied with the proceedings at that inquest, a number of them waited upon the authorities the following day in order to have a further inquiry, On the following morning Bentley and two other members of his establishment were arrested, admitted to bail, and the case remanded for three days, during this period, the accused parties and their witnesses, had, every opportunity of communicating with each other. The decision of the bench of magistrates was that there was not the shadow of a case against "Against Mr. Bentley, and that "he was honourably discharged". The other accused were discharged at the same time.

Your petitioners are strongly of opinion that instead of the magistrates dismissing the case, it should have been sent to a jury. Your petitioners are borne out in this view of the case by the authority of Lord Denman,

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(Magistrates Manual, page 21) who states, "If witnesses for the defence contradict those for the prosecution in material points, then the case would be properly sent to a jury, to ascertain the truth of the statement of each party."

Your petitioners beg to state that not only the decision, but also the manner in which the case was conducted, both by the Magistrates and the Coroner, has strongly tended to destroy the confidences hitherto placed in them by the public

Your petitioners humbly trust that your Excellency will direct the necessary measures to be taken, to have a further and more satisfactory investigation of the case: and at the same time beg to express a hope that, in order to elicit the truth and further the ends of justice, your Excellency will direct a suitable reward to be offered for the apprehension of the murderer.

Trusting your excellency will be pleased

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to attribute the object of your petitioners to its real motive, namely a love of order and justice, and that your Excellency will graciously grant their request.

Your petitioners as in duty bound, will ever pray.

I am ? to acknowledge the ? letter dated October 23 – and to express his satisfaction that the measures ordered by the Govt are likely to [deleted] meet the views of the community of Ballarat: [deleted] you in thinking that a due administration of the law is necessary to the preservation of society and whilst ready to attend to the victuals of the military [deleted] he [deleted] wishes it the cheery understand that an essential preliminary to any investigation must be obedience to the law of the land