

Henry Goodenough sworn. Examined by Attorney General.

You were a trooper stationed in Ballarat in November last? – Yes

Do you remember attending a meeting on Bakery Hill? – Yes

The first you attended was on the 29th November? – On Wednesday the 29th of November.

Was the prisoner there? – He was.

Mr Justice Barry – Are you acquainted with him? – I never saw him but once before. I saw him in October.

Do you know it is the same person? – It is the same person.

Mr Attorney General. – Was there a flag flying? – Yes, there was.

What is it? – A blue flag with a white cross on a long pole.

Do you remember the prisoner speaking at the close of the meeting? – After the close of the meeting he made a short speech. He said it was no use to petition the Governor any longer, but to come forward and stand up for their rights and liberties, and he for one would do so. I did not hear him make any other speech any more than that.

When did you next see him? – On the following day, Thursday afternoon, at the same place.

Before the meeting separated on the Wednesday was anything said? – I did not hear Hayes say anything.

Was anything said in Hayes's presence as to the meeting again? – There was to be a meeting on Thursday.

Mr Justice Barry. – Was this mentioned in his hearing? – He was at the side of him.

Who said it? – I did not know who it was They were all on the platform.

Mr Attorney General. – Did you hear any hour named? – No, I did not hear any hour named, but there was to be a meeting next day.

Mr Justice Barry. – The meeting next day was announced? – Yes.

Mr Attorney General. – Did you attend the next day? – I did.

At the same place? Yes.

Mr Justice Barry. – At what hour? – Between three and four in the afternoon; I saw the prisoner there present armed with a double-barrelled gun.

Where was he? – In among the crowd; at the same place there were a number of armed men there drafted out in different companies, and volunteers were called for.

How many persons were present? – About 1000 as near as I can guess.

How many had guns? – 200 or 300; there was different kinds of weapons; some guns; some pistols; some pikes.

Mr Attorney General. – How were they drafted out, with any reference to their arms? – Those that offered themselves as volunteers were drafted in companies – some hundred in a company. There were about 500 volunteers. There was a man speaking named Lawler. He went by that name. He stood on the stump of a tree. There was no platform on Thursday. He called for volunteers.

Mr Justice Barry. – What did he say? – He addressed them as gentlemen soldiers – to come forward – to volunteer – to stand up and fight for their rights and liberties. There were about 500 volunteers, and about five companies, 100 in a company, or somewhere thereabouts. I am not certain to a few.

Mr Attorney General. – How did they volunteer? – They came up to the stump of a tree, and had their names taken down by a man named Black, and when they had their names taken down they were placed in rows, and those that were armed with guns were placed in a distinct company, and those with pistols in another company. There was another meeting announced to be held the next morning at four o'clock, in the same place.

Before this announcement was made was there anything done? – Nothing more than drilling; and Lawler made two or three short speeches, and he called for volunteers to go to the different stores and shooting galleries to look for firearms and ammunition.

How was the prisoner Hayes engaged during the whole of this time? – He was walking about armed with a double-barrelled gun. He was walking at the side of those men that volunteered.

Did you see any of the men kneeling down this Thursday? – They all knelt down on Thursday in the afternoon.

Was that after they had handed in their names in this way and been drilled? – After they had given their names in before they were drilled.

Will you describe what happened then; was the same flag flying then? – Yes.

Mr Justice Barry. – Who knelt down? – All those who volunteered were to kneel down, and those that did not volunteer were to leave the meeting.

Who said this? – Lawler.

Lawler said, 'All you who volunteer, kneel down?' – Yes.

Mr Attorney General. – Did they do so? – They knelt down.

Did they uncover? – They took their hats or caps off.

Mr Justice Barry. – Did any persons retire? – A great many retired.

What did those that remained do? – They all knelt down.

Did you observe the prisoner? – I could not say I saw him kneel down. I saw him at the meeting before they all knelt down, and I saw him after they knelt down at the same place.

What did they do? – Lawler said, 'Now we are altogether, we swear to defend each other; fight and defend each other.'

What then? – Then there was 'Amen,' and they all rose.

How soon after this did you see the prisoner again? – I saw him directly the meeting was over; directly they rose. I saw him five minutes after.

Mr Attorney General. – What took place then? – There was a meeting announced next morning for four o'clock.

Mr Justice Barry. – Who gave that notice? – Lawler.

He said, 'There will be a meeting tomorrow at four o'clock?' – Yes; and all the arms and ammunition that could be got was to be produced.

How long was this after the swearing; what interval occurred between the swearing and the announcement of the meeting the next day; they were drilled, you say, until six o'clock in the evening? – Somewhere thereabouts. This meeting was announced after the meeting broke up.

I should suppose, from your statement, that it was between three and four when the persons knelt down? – somewhere thereabouts, your Honor.

It was said, 'there will be a meeting here to-morrow at four o'clock in the morning?' – Yes your Honor; and all the arms and ammunition that could be got was to be produced the next morning at four o'clock.

Who said so? – Lawler. He said, 'If the soldiers and police come out, we will meet them in the Flat.' 'Gentlemen soldiers', he said, 'remember the officers – take a good aim at the officers – mind the officers.'

Mr Ireland. – Was this still on Thursday? – On Thursday. He said, 'If they best us, we will retreat through the Gravel Pits to Canadian Gully, and there stand; but I do not think the soldiers will stand and fight us. They will be on our side, I think,' he said.

Mr Justice Barry. – Then did the meeting disperse? – The meeting broke up. On Friday I attended again at four o'clock in the morning.

That was December the 1st? – Yes.

At the same place? – The same place, your Honor.

This was at Bakery Hill? – At Bakery Hill, your Honor. There were about 80 or 100 collected. The police came up and they went away. They were all coming in different directions.

Do you know who were there? – There was no one that I knew.

Was anything said? – There was no time to say anything; the soldiers were coming and they all ran away. There was another meeting the same day at ten o'clock.

Where? – At the same place. There were a great many collected.

How many? – About 800 or 1000; I cannot say to fifty. This was on Friday at ten o'clock. Lawler was present, and Hayes was present. There was drilling all the morning.

Who were drilling? – The different companies were drafted out.

What was the prisoner doing? – He was walking at the side.

Of whom? – Of a company of men.

Do you mean that he was accompanying them in their evolutions? – I did not hear him give any orders; he was merely walking at the side, armed with a double-barrelled gun.

Were they all drilled in one mass, the 800 or 1000? – No; those that had guns were a distinct company by themselves, and there was a company of pikes, a different company.

How many companies were there? – There were about six companies, I think, on this day, the Friday.

Mr Attorney General. – And about five the previous day? – About five on Thursday.

How long did they remain there? – About two hours and a quarter. From about ten o'clock until twelve.

Was the prisoner there the whole time? – He was.

Did he remain beside the same company of men, or did he go to different companies? – He went to different companies. He was talking to Lawler and Black and two or three more of the leading men.

Then in addition to the men that were giving orders to each company, there were other men also? – Lawler, Black and Hayes, and there was one man called Vern.

How were they engaged, or what were they doing? – They were walking about and talking to one another. I could not hear the conversation that took place between them.

Were any of them armed besides the prisoner? – His company was armed with rifles.

But the others? – Lawler was armed with a double-barrelled gun and a brace of pistols.

Any of the others? – Vern was armed with a sword.

Any others? – I do not recollect any others than Lawler, Hayes, and Vern. Raphelo was armed.

Mr Justice Barry. – You have mentioned a person of the name of Black? – Yes.

Black was the person that took the names down; was he armed? – I did not see him.

Mr Attorney General. – What did this Raphelo do on Friday? – He marched in with a company of men, about twenty-five, about twelve o'clock.

Whilst the others were drilling? – Yes.

Were these men armed? – Yes, with different weapons; some with swords, some with long knives.

Was he armed? – Yes, with a sort of sword.

What country did they appear to belong to? – They appeared to be foreigners. When he marched them in he drew them up in a line, and he addressed them as gentlemen soldiers,

and he said, those that could not provide themselves with firearms, let them provide themselves with a piece of steel.

Mr Justice Barry. – Who said this? – Raphelo.

Mr Attorney General. – Was this whilst Hayes was at the meeting? – This was whilst Hayes was present.

At twelve o'clock they had dispersed? – About twelve o'clock Lawler announced that for the future the drilling would take place at the Eureka instead of the Bakery Hill.

Mr Justice Barry. – How far is that away? – About a mile, or a mile and a quarter. He said there would be another meeting on the Eureka at eight o'clock the same evening, where the men would know their orders from their officers.

Did you remain with them then, or did you go away? – I remained all the time.

Did you attend the meeting at eight o'clock? – I marched with them from Bakery Hill to the Eureka.

Did they march, using that word advisedly? – The flag was taken down, and they were drawn up and marched in a long file, some two abreast, some three, and some four. The flag was carried on a pole. Lawler was sometimes leading at the head and sometimes in the centre. Hayes was walking at the side of them.

Mr Justice Barry. – Ten they marched to this Eureka from Bakery Hill at twelve o'clock in the day? – At twelve o'clock in the day on Friday. There they were drilled till two o'clock, when I left. I attended again in the evening at eight o'clock.

Where? – At the Eureka.

Mr Attorney General. – Was the flag placed there? – The flag was placed as soon as it was taken there, and it was flying in the evening when I arrived there.

The same flag? – Yes.

Do you know where the stockade was subsequently built? – Yes; that was the place where the flag was planted.

That was enclosed afterwards, on the Friday evening; was there any stockade there then? – No, nothing whatever; there was about one thousand men there; I stopped at the meeting from eight to half-past ten; they were drilling all this time, gong through their different exercises; I left at half-past ten, and I did not see any more drilling afterwards.

Mr Justice Barry. – On your arriving there at eight o'clock did you see the prisoner? – I did not; I did not see him after Friday at two o'clock.

Cross-examined by Mr Ireland

How many persons do you say were present at the meeting on Wednesday, the 29th November? – About 1500.

Was there a platform then? – Yes.

Was there a chairman of the meeting? – I could not say whether there was a chairman or

not.

Who presided at the meeting? – There were four or six on the platform – Humffray, Kennedy and Holyoake.

Were there any resolutions put to the meeting? – There were by Humffray, Kennedy and Holyoake.

Will you swear that you did not say that on the 29th Lawler addressed the people from the stump of a tree?

Mr Justice Barry. – No, that was on Thursday.

Mr Ireland. – Who was there on the platform on the 29th speaking? – Holyoake, Kennedy, and Hayes; that is all I can mention.

Will you swear that Holyoake was there? – I never knew the man, I heard him called Holyoake.

Then you are not certain? – I was told so; I will swear that I was told his name was Holyoake.

Will you swear that he was there? – I will not; I do not know the man.

Then when you did swear that, you did not know what you were swearing? – I will swear that I was told that man was Holyoake.

Will you swear that he was on the diggings for eight days before that? – I did not know the man; I asked the witness who addressed the meeting and he said Holyoake.

Mr Attorney General. He does not say Holyoake was there, he says he saw a man that he was told was Holyoake.

Mr Ireland. Perhaps you were told a man named Kennedy was there? – I was.

Will you swear that he was there? – I know nothing about the man.

Then all you know is this man that is here; you know this man and nothing else? – I know him.

Will you say what Hayes said at that meeting, as you know him? – He said it was no use to petition the Government any longer, but come forward and stand up for their rights and liberties.

What more? – That is all.

You swear to that? – Yes, or words to that effect.

And nothing more in substance? – I did not hear anything more.

Then he did not say it was necessary to take the law into their own hands? – That is words to that effect.

Did you not say on Manning's trial, that Hayes used these words? – Hayes stood up and said that 'He for one would come forward and stand up for his rights and liberties.'

Anything more? – Not that I can say.

Will you swear that you did not on a former occasion swear that he said it was necessary to take the law into their own hands? – I say he said words to that effect.

What effect? – To stand up for their rights and liberties.

Will you swear that you did not swear that he said that they must take the law into their own hands? – That is the same words.

At a former trial did you state distinctly in terms, that Hayes asserted at that meeting that it was necessary to take the law into their own hands? – I may have said so.

So may I; but did you say so; will you say so now? – I will not swear he said so, but he said the same words.

The same words? – Words to that effect.

You will swear that? – What is the difference?

Never mind asking me what is the difference. At the last trial you stated that Hayes said it was necessary to take the law into their own hands; did he say that or words to that effect? – He said words to that effect.

Will you swear that? – I will swear that.

Why did you not say that to the Attorney General before being cross-examined; why did you not say that? – I did not think of it.

Did y hear that there was anyone here to-day to contradict your testimony on your last trial? – I did not.

Well, then, hear it now. Did Hayes say that he could tell you the result of the interview with the Governor about Bentley's affair? – No.

Did you not swear on the last trial, that Hayes told that meeting, on Wednesday, the 29th, that he would tell the result of the interview with the Governor about the Bentley affair? – I said at the last trial that interview was stated.

Did you state that Hayes said that to the meeting? – Hayes stated that after an interview with the other speakers.

What do you mean? – The other speakers had stated the interview with the Governor about Bentley's affair.

Did Hayes say that he, Hayes, would tell the result of the interview with the Governor about Bentley's affair? – He did not.

Then what you swore on the last trial is not true? – I will swear that Hayes said what I have said.

I ask you again, did Hayes state that to the meeting? – He did not.

Then if you said he did, did you say what was true or false? – I did not say so.

Will you swear that? – I will not swear that. I say he did not state the interview.

But you will not swear it? Do not you know that that interview related to an interview of deputies sent from the diggings? – That was what was alluded to.

Do not you know now that Hayes was not on the deputation? – I know he was not.

Is not that the reason you have changed your evidence? – I have not changed.

Will you swear that on the last trial you did not swear that Hayes said, at the meeting on the 29th, that he would tell the result of the interview with Sir Charles Hotham? – I will swear I never stated that.

And that you never stated that he did? – I will swear that.

Will you swear that Hayes did not state to that meeting, in your presence, and in that speech to which you refer, that nothing would do but constitutional and peaceful agitation for the attainment of the objects of the diggers? – He may have said so, but I did not hear him.

Did you take a note of what occurred at that meeting? – I did.

Have you got it about you? – I have not. I brought it here four or five times, and lost it.

Did you ever produce it on the former trial? – No, I was never asked for it.

Were you not asked for your notes last time by Mr Michie? – I had not them here then. I was not asked for them before that.

Did you not state then that they were at Dandenong? – I did.

Have you got them now? – No.

Why not? – Because I have lost them.

At what meeting was it you saw Hayes with a double-barrelled gun? – On Thursday.

With regard to the volunteers that were called for on Wednesday, at the conclusion of the meeting, what were they called on to do? – To stand up and fight for their rights and liberties.

Will you swear that persons were not called upon to come forward and enrol themselves as members of the League, and not one word was said about arms? – I will not swear what they were called for.

You will not swear that they were called on to enrol themselves and take up arms on Wednesday; you swear you did not hear volunteers called for to take up arms? – Not to take up arms.

Will you swear that you did not say, on Joseph's trial, that they were called on to take up arms in their defence? – I will not swear that I did not say so.

Mr Justice Barry. – I will not take down any evidence in that sort of way. I must insist upon its being given in the singular number, or in the first and third person plural, as the case may be, making use of the actual words as nearly as possible. 'Volunteers were called for' I will not take down.



Mr Ireland – That, your Honor, is what was given in evidence before, and taken down by another learned Judge. It was a public meeting, and the witness did not know every person, and was not asked to particularize every individual. (To the witness) – When the meeting broke up on Wednesday, an volunteers were called for, what was said? – I did not hear anything said, except that volunteers were called for.

Mr Justice Barry. – Whom by? – I cannot say; I do not know his name.

What did that man say; what were his words? – He said, 'Volunteers come forward.'

Mr Ireland. – To do what? – As they came forward there was very few people.

For what purpose did he say, 'Volunteers come forward?' – I did not hear him.

Did you hear him or any one else say, 'To take up arms in our defence?' – I will not swear that he said so.

Did you not swear so on Joseph's trial? – I will swear that volunteers came forward.

Did you not state on the trial of 'The Queen against Joseph,' that a person whom you did not know said, 'Volunteers, come forward to take up arms in our defence.' Did not you say that, on your oath, on that trial? – I believe I did say so.

Was that true? –Yes, it was.

Did you not swear a moment ago that nobody did say that? – Say, take up arms in our defence?

Yes, that will do. At this meeting on Wednesday was not the murder of Scobie discussed? – I did not hear it.

Were you not examined on Bentley's trial? – No.

Not about the burning of the Eureka? – No.

Do you remember the meeting before being broken up abruptly? – The meeting was broken up abruptly.

By whom? – I cannot say.

Did you not see Hayes come forward and seize a man with a double-barrelled gun, and dissolve the meeting, because arms were produced? – I did not see him do it.

Will you swear he did not do it? – I did not see him do it.

Did you see him dissolve that meeting? – I did not.

Did you see him disperse it? – I did not.

Did you hear him speak to the meeting about dissolving? – No.

Will you swear he did not? – No.

You went on Thursday to another meeting; there was no platform at that meeting? –Yes.

What brought you there; how were you dressed? – I was dressed in plain clothes.

What kind of plain clothes? – Light trousers and a blue jumper, and a wideawake hat.

Why were you dressed in that way? – Because I was ordered to.

For what purpose? – I cannot say.

Will you swear you cannot say? – I was ordered to go in plain clothes and I went to see and to be seen – to see what I could.

Will you swear you went to be seen? – I could not go unseen.

Did you go to be known? – I did not.

In fact, you went as a spy – was it not so? – If you like to call it so.

Was there a platform at the Thursday meeting? – There was no platform on the Thursday.

What was being done when you went there? – Men were being drilled all the afternoon.

When you first went on Thursday what was being done? – There was a meeting there.

What were they doing at the meeting; tell us what anybody said or did? – Lawler called for volunteers to come forward.

Mr Justice Barry. – What did Lawler say? – He addressed them as gentlemen soldiers, and called on them for volunteers to come forward.

What did he say; will you give us his words as nearly as you can recollect? – 'Gentlemen soldiers,' he said, 'come forward and stand up for your rights and liberties.'

Mr Ireland. – Did you see the military or police there on that occasion? – No.

Were they out on Thursday? – They were out in the morning – this was the afternoon.

Were you there in the morning? – Where?

At that place where the military went to? – No, I was not out.

You were not out on that occasion? – I was not in the morning.

Were you out in the afternoon? – Yes.

And then you saw those persons assembled? – Yes.

I think you said that Hayes was there on Thursday? – Yes.

Armed, I believe you said? – Yes.

With a double-barrelled gun? – With a double-barrelled gun.

Did you see anybody else with a double-barrelled gun on the diggings? – Yes; there were several others.

It is not a very unusual thing, I believe, to carry firearms on the diggings? – They may keep them in their tents, but they do not carry them about.

They never carry them about? – Sometimes they do.

You saw this process of kneeling under the flag; did you kneel down, as you were doing the hypocrite? – I did.

Did you swear allegiance to the flag? – No.

Did you pretend to do so? – I did not swear.

You knelt down? – I knelt down.

Perhaps you said 'Amen?' – No.

Are you sure of that? – Yes.

Will you swear that Hayes was there with a double-barrelled gun on Thursday? – I will.

You did not see him kneel down? – No.

But you saw him before the kneeling and after the kneeling? – Yes.

And he was walking about? – Yes.

And that was all you saw of him? – Yes.

And the oath that was taken as proposed by Lawler was to defend each other? – Yes.

To defend against what? – I cannot say.

Can you make any surmise at it; did you hear any one swear to attack anybody? – No; I never heard any attack was to be made.

Do you know what is meant by a digger hunt? – Yes; what they call a 'digger hunt.'

Which means hunting diggers, I believe? – Going to collect licenses.

Do you know what that consists in; do the police go into the tents? – They go anywhere.

As often as they please? – Once a week I believe it is. It used to be once a month.

Is it not frequently twice a week? – I do not think so often as that.

Was there not one of those digger hunts on Thursday? – There was a license hunt on Thursday.

How many men were usually employed in those hunts? – Sometimes three or four; sometimes six or seven – they go in different parties.

Armed, I believe? – Yes.

Did not they go with drawn sword on Thursday? – I did not see them; I saw them go out

armed with swords, but not drawn.

How often do you search a digger in one day for his license? – One man never searches him but once. He never searches him at all if he produces it.

Will you swear that? – He may be met by another man.

Or by six men, and every time searched? – They do not search him, they only ask him for his license.

Supposing he is down at the bottom of a hole, he is obliged to come up? – Yes.

Suppose the license is at his tent? – He is not allowed to go and fetch it.

He is sent to gaol? – To the lock-up.

Where murderers and thieves are sent, and this takes place once a week, instead of once a month?

Mr Attorney General. – Does your Honor think this is evidence.

Mr Ireland. – I wish to shew the motive, and I have a right to shew what the conduct of the Government is. (To the witness) – Was His Excellency on the diggings about that time or before? – Some time before this.

About how long before? – I cannot say exactly.

Mr Justice Barry. – You are asking whether His Excellency was on the Gold Fields; it is quite immaterial, as it seems to me.

Mr Ireland. – I think it very material to the defence of the prisoner, your Honor.

Mr Justice Barry. – Whatever movement is made for the collection of the revenue must be made by public order.

Mr Ireland. – I want to shew that this was a resistance to the irritation of a more frequent search, which was directed to be made by His Excellency when he was at the diggings.

Mr Attorney General. – Then I submit, your Honor, that this is not evidence.

Mr Ireland. – I certainly can go in to the state of the Gold Fields, and discuss the political question. In every political trial for high treason, the whole state of the locality is gone into.

Mr Justice Barry. – Clearly so; but I conceive the personal direction of the Governor's cannot be admissible.

Mr Attorney General. – I beg my learned friend's pardon; I have no wish to fetter him in any way.

Mr Justice Barry. – The subject is the collection of public revenue under a public Act of Council, which is framed by the constituted authorities of this country, and which must be considered as a public thing, and I do not see myself what relevancy a personal visit of the gentleman who is Governor of this country can have with that.

Mr Ireland. – Because he gave a public order.

Mr Justice Barry. – Where is this public order? – Do you think a policeman can give it? The witness has said the Governor visited the Gold Fields before; but anything emanating from the Government, with reference to the collection of the revenue, must be proved in the ordinary way.

Mr Ireland (To the witness). – Before this visit of the Governor's, was the collection weekly or monthly? – I do not know. I know it was collected weekly when I was there.

And that was after His Excellency's visit? – Yes.

On Thursday were you there when Mr Commissioner Rede went up amongst the people? – No.

Are you not aware that the troopers fired on the diggers on that day amongst the tents? – I do not know; I was not present.

Were you not present when Mr Rede was there? – No, I was not.

But those notes you left at Dandenong, and then lost, did you ever shew them to anybody? – I did.

To whom? – To two or three at Ballaarat. They could see them when I was writing them.

Did you ever shew them to anybody? – I never read them to any one.

Did you ever shew them to any one? – I never allowed any one to have them in his hand. I wrote them at the table.

You went to the meeting on Friday morning about four o'clock, when there were about eighty people, who were dispersed? – Yes.

You attended another meeting on the same day? – Yes.

Upon Friday did you see Hayes there? – I did.

Lawler, you say, was there? – Lawler was there.

Was drilling going on? – Yes.

You say that Hayes had a double-barrelled gun then? – Hayes had a double-barrelled gun.

But you did not see him drill or fall in? – I did not; I never heard him give any word of command.

Do you know General McGill? Do you know a man of that name? – No, I do not know his name at all.

Do you know any one of those who drilled? – There was one Ross, who went by the name of Captain Ross, he drilled.

As you went amongst these people, I suppose you said something yourself at these meetings? – No.

Did you ever state at these meetings that you yourself would stand up for your rights and

liberties? – That was in private conversation.

Mr Justice Barry. – Where? – At the meeting.

To whom? – Two friends; there was all of us together.

Mr Ireland. – Did they know you were a policeman? – Yes.

Why did you say so? – It would not do for us to talk anything else.

Then you said that you might be overheard; it was in order that some one might overhear you that you said this? – I did not know who it was behind us.

What did you mean by saying this? – It was said privately.

In order to be overheard? – I did say it.

Why? – Because I did not want to be bowled out.

What do you mean by that? – I did not want them to know that I was a policeman.

Then why did you not say it out loud? – I had my reasons for that.

Did you say that on more occasions than one? – No.

What did you say at the other places you were at; on Wednesday, what did you say then? – I always went alone after. This was the first meeting I was at; this was on Wednesday.

When you knelt down on Thursday what did you say? – I did not say anything.

Not a word? – Not a word.

Did you hear anything about the licence tax? – No. There might be, I cannot say what it was.

You never heard anything at any of the meetings about the licence fee? – No. All the meetings I attended was drilling.

But what was said? – There was nothing said about the licence fee that I heard.

We will begin with Wednesday? – There was nothing said that I heard.

Not on Wednesday? – No, I was not at the meeting all the time; there may have been something said before I went there.

You were not present, I believe, on Sunday morning? – No.

This stockade which you have described to the jury, was formed around the flag-staff at the Eureka? – Yes.

Mr Justice Barry. – When was this stockade made? – It was erected on Saturday afternoon.

Mr Ireland. – It enclosed the tents of many diggers who were resident on that spot, did it not? – Yes, six or seven tents.

And the oath taken was to defend themselves? – Yes.

Will you describe this stockade? How high was it? – About four feet high, made with slabs put across.

Could not you jump across it? – You could not stand and jump over it.

But a running jump? – I cannot say.

About how high was it? – About four feet high.

You could see a man over it? – Yes.

Do you know anything of the march of the military on Sunday morning on that stockade? – No I do not know anything about it. I know they went out, but I did not go with them, and I did not know they were going out.

Were you there when they marched out? – I was.

Did you see any grog given them? – I did not get out of bed.

Were the prisoners brought back to the barracks? – They were brought back to the camp.

Were you there when they were brought back? – I was.

I believe they were stripped when they came back? – They had their jackets taken off to be searched.

Re-examined by Mr Attorney General.

That is, to be searched in the usual way? – Yes.

On the Wednesday, had the meeting been commenced when you got there? – Yes.

Did you get there about the middle, or end, or when? – I got there about three o'clock in the afternoon. I believe the meeting commenced at two.

Before you gave any evidence on these trials, were you aware that Hayes had not formed one of the deputation to the Governor? – No, I was not aware of it.

When did you know he was not on the deputation? – I have heard since I have been down that he was not.

Before you gave evidence here? – Before I gave evidence.

Mr Ireland. – You have heard, since he was arrested, that Hayes was not one of the deputation? – Yes, since he was arrested, but before I gave evidence.

The witness withdrew.