

In the Supreme Court of the Colony of Victoria

The Queen V

James Francis Bentley

Catherine Bentley

William Henry Hance

John Farrell

James Francis Bentley

Sworn states I am the landlord of the Eureka Hotel about 2 o'clock this morning October 7th I heard a great noise & knocking at the door I enquired what it was & was told that it was some drunken men wanting drink about an hour or $\frac{3}{4}$ after that we were aroused and told that Dr. Carr wanted to bring a person in who was supposed to be dead the man was brought in & I went & reported the circumstance to the Police.

You did not leave your room when first disturbed

No not until aroused by Dr. Carr

Did you hear any noise between hearing the first disturbance to when Dr. Carr came

No

Was any one sleeping in the Bar

I believe the Barman was

Archibald Carmichael

Sworn states I am a Digger & have a Butchers shop near the Eureka Hotel I was called upon between one and 2 o'clock last night by the last witness Martin he said he thought Deceased was murdered I went to where deceased was lying I looked at him and said I thought he was gone Deceased was lying in a smooth open place within 3 yards of a tent and about 6 or 7 yards from the Eureka Hotel. I went for Dr. Carr leaving the last witness with the body no one was there when first arrived on the

spot Dr. Carr came back with me & we removed deceased to the Eureka Hotel the door was opened for us at once by two men I do not know

William Duncan

Sworn states I am Barman at the Eureka Hotel after going to bed last night October the 6th I heard a noise outside & Mr. Bentley called out to know what it was I went to the door that led to the bar to see & found that it was caused by some drunken men who wanted to get in they went away about an hour afterwards Dr Carr came and asked me to bring in Deceased no one left the house or came into it during the time that elapsed between the first disturbance by the drunken men to when Dr Carr came

Barnard Welch

Sworn states I live within 30 yards of where Deceased was found dead Mr Bentley Mrs Bentley & 3 or 4 other men came last night between 1 & 2 o'clock & stood by the corner of our tent for about 3 minutes & then went on after picking something up which I thought was a spade I do not know which of the party picked it up they went a little way on when I heard a scuffle and a blow

Will you swear positively that you saw me last night at your tent

No I will not swear positively but I believe it was Mr & Mrs Bentley I saw & heard I do not know who the other parties were they returned in about 5 minutes after I heard the blow struck and came towards Mr Bentley & in passing our tent they threw down what they had taken up on first passing no horse was passing at the time but about 10 minutes after a horse passed.

Thomas Mooney

Sworn states I am watchman at the Eureka Hotel I was on duty last night I heard some men knocking at the door & heard Duncan the Barman speak & one of the men answered "all right" the men then went away there were 2 of them some time afterwards Dr Carr came with the deceased & asked to bring him in to the house I heard no noise between the time when the men made the first noise to when Dr Carr came no one left the house after the men made the disturbance

Peter Martin

Sworn states I am a Gold Digger I was in company with Deceased last night October 6th between 12 & 1 o'clock we were coming across the Gully & saw a light in the Eureka Hotel and came to the window intending to get drink but the house was closed & we went away we were not sober I do not know whether Deceased knocked at the door or not we went towards Deceaseds tent & when we had gone about 100 yards we heard a noise behind us Deceased said let us turn back we came back a short way & met a number of men & one woman one of the parties said this is the man who was at the window I was knocked down then I got up almost immediately & ran 30 or 40 yards and then

returned and found deceased lying upon the ground I considered him dangerously injured after examining him & went towards the butcher & called him he came and looked at Deceased & then went for Dr. Carr I waited with deceased until the Doctor came

Who were the parties who knocked you down I do not know but the party consisted of 4 or 5 men & one woman I have known Deceased about 12 months but have never worked with him we were always on good terms I was taken into custody by the Police about 4 o'clock this morning

Mary Ann Harriet Welch

Sworn states I live in a tent near where deceased was found last night I was awake about one o'clock by a noise of men quarrelling & a blow given I looked through the tent I saw a man lying down and another man standing over him who fell on the body of the man lying down & burst into tears before looking out I heard voices of several people but could not recognise them I heard a horse pass about 10 R v Bentley & ors.

for Murder of Deposit

Peter Martin

cautions witness -

never said ""broke the ?"". Broke the window.

Mary Ann Welch

&

Barnard Welch

Edward John Davy

Michael Welch all four there

takes ? laugh

Thomas Mooney

identification

all ?

[various scribbles - illegible]

Kicks

Standing ?

[deleted] can -

some person ?

Martin had kicked his mate

who had any reason

a object in defending

his house

Forbone allows to kick until it had been proved

malice

woman. That's the ? ? Those sweeps

six to two

aggravated the woman the substance of the brain caused in all probability by a blow the state of the stomach from food & spiritous liquor would render a blow more dangerous & more likely to cause a rupture of the blood vessels I think the injury was produced by a kick & not by the spade now produced

Peter Martin

Sworn states I am a Gold Digger and live at Ballarat I knew a man named James Scobie he is Dead I saw I saw him last on the morning of Saturday the 7th of October instant between one and 2 o'clock he was then about 100 yards from Bentleys Eureka Hotel it might be 150 I am not positive I was not very drunk I was going at this time with him to his tent about 400 yards off I was sensible enough to know what I was doing & was sensible of what happened we called at the Eureka Hotel I saw Deceased in a few minutes he Died in a few minutes afterwards I called a butcher named Archibald Carmichael he got up & came to the place as we were going towards Deceased tent I found people coming after us we both turned round he heard them before I did I saw 4 or 5 men & one woman but I cannot swear whether they were walking or standing when we saw the men we both went back about 10 yards to meet them we met each other the woman I think said this is the man that broke the window I understood that she said this to Deceased 2 of the men made a move backwards to my right one of the party was moving towards me I had my eyes turned another way I was"

knocked down I think Mr Bentley was one of that party I recognize him now in Court to the best of my belief I I swear Bently was one of those men I thought Mr Bently had a weapon like a battle axe the spade now produced is as large as the weapon I saw I cannot swear to it I knew Bently I did not see a blow struck I was knocked down I got up directly and ran away the party & Deceased were all together when I was knocked down I did not see them again I was not exactly frightened but was afraid of being struck again I left the Deceased & the party that met us together I do not know

the woman I ran about 30 or 40 yards & then came back slowly I found Deceased on the ground alive he did not speak I felt pulsation I tried to raise him & found he was helpless I spoke but he did not answer I then went for Archibald Carmichael he came we raised him I went for a Doctor Dr Carr he said the man was dead Deceased I had spent the evening together at the tent of a man named Brown near the Black Hill on the opposite Hill to the Eureka Hotel me called at the Hotel as we came home it was lit up then Deceased went up to one of the windows and asked to get in & a blow was struck at the head of Deceased through the window as if by a mans hand I saw it struck I heard a fall glass there was a person inside at the window I did not hear voices I called to the Deceased to come away he went up to the door & tried to open it I went past the window and took him by the arm as I

"By Solicitor

passed the window a blow was struck through the window at me it struck me on the ear I got the blow on my forehead by a blow at the time the party caught us after we left the Hotel when Carmichael was bringing the body away I went to the tent of Deceased brother when I was raising the body after I returned from running away I saw 2 persons going to Mr Bentlys Hotel I cannot say whether they were men or woman they were in the shade of the Hotel

It was about 1 o'clock when we called at the Hotel we went along the front it was at the front door (Prisoner) called the window was in front I cannot say whether the blow was struck at the Deceased through the first or second frame of glass from the bottom it was a few minutes afterwards we left the parties came after us in the same track that we had followed from the Hotel they walked faster than we did & caught us I cannot swear whether the party came from the back or front of the Hotel but they came in the same track we had followed when we turned round & met the party Deceased was not struck before I was I saw the man what struck me but I cannot say who it was the man that struck me but I cannot say who it was the man that struck me was standing something on one side of me I heard the woman speak & I then looked round the party to see if I knew them I was then knocked down before I could distinguish who struck me they were all standing promiscuously the man that struck me was standing on my right hand side Mr Bently stood next my eyes were attracted towards him because he was the only person I saw with a weapon in his hand I saw the weapon raised I do not suppose Mr Bently hit me because another man was nearest me I cannot say whether this other man had a weapon the man who I think that struck me was a stout middle sized man with a jumper on with no coat I cannot say that I saw Duncan or Mooney there I swear positively to the best of my knowledge & belief that I recognised Mr Bently I think I have seen Mooney before I have often seen Bently in his house & at different places on the Diggings I know him well by ocular observations I cannot say whether the people were running or walking that came after us I was drunk & at the Coroners Inquest I was excited & I believe I said I could not recognise Mr Bentley & I did not wish to express my real feelings till I was more cool I am cool now I did not require to find out at all that Bently was the man it was the conviction of my eyesight I was not collected at the Coroners Inquest on Saturday the 7th

Instant I have been on the camp since kept by one of the Police I believe I was sober at the Inquest but I was greatly excited I had got sober by that time I believe it was on Monday the 9th I told Captain Evans & Mr Simenes that Bently was one of the men they asked me if I thought I knew any of the party at all I said "none" "except I thought I knew Bently was one" I do not recollect that any one mentioned Bentlys name to me at this time before I answered I am not quite certain I am not dressed as I was on that night I have the same shoes on I have worn them ever since when I got the man up first he was not dead when Carmichael came we raised him & I said I thought he was dead the Doctor came I went to the tent [Taken before John Dewes & others This 12th October 1854 at Ballarat

of Deceaseds brother & then to the butchers tent I staid there till I believe I was brought here I did not want to go with the body when Dr Carr came I think I saw the body on Saturday evening again I was brought here the same night I cannot say whether I saw Scobies brother when I went to his tent I was so confused I sould see through the line of tents from where the body was to the Hotel.

There were no fences to hinder the sight it was a clear moonlight night

Edward John Davy

Sworn states I am in the employ of Daniel O'Connor I recollect the night of Friday the 6th instant I know pretty nearly where Scobie was found dead I think it was about 12 or 1 o'clock that Scobie was found dead I was a few yards off at the time I heard a noise of more persons than one I first heard 2 people I believe they were standing near the Eureka Hotel they moved from that and passed by the corner of O'Connor's store they got about a few yards ahead of the back of our store I heard a blow struck then before the blow was struck I heard more than 2 people there the blow appeared to be inflicted in the face they were about 10 or 20 yards from the tent at the time I heard a man's voice both before & after the blow was struck I did not look out I was lying in bed I do not recognise the voice I heard it was a bright moonlight night & one calculated to convey sounds clearly to a long diHance after the first blow was struck I heard another blow & I heard [By Solicitor

Taken as beforeteeth distinctly grate I also heard scuffling the first blow was as if of a fist after this I heard steps in the front corner of the tent & I heard a woman say "it serves him right" this was in the front corner of our tent the corner toward the hotel

The voice I heard was not Mr Bentley I know Bentley's voice I did not know the woman's voice I have heard it before but I do not know whose it was.

Barnard Welch

Sworn states my fathers name is Benjamin Welch he is a digger I am 10 years of age my fathers tent is near the Eureka Hotel I recollect last Friday night or Saturday morning it was rather a dark morning but it was a moonlight night I heard a voice outside our tent that morning I looked through the crack of the door this was between 1 and 2 I was in bed I did not get up as my bed is close to the door I saw 2 men one picked up a spade from the corner of our tent the spade now produced is the one I also saw a female I had heard a disturbance at the Public house before this one man was rather stout I cannot say which of the men picked up the spade I believe I have seen the men at the Public house I believe Mr Bentley was one & the other was Mooney I had often seen Bentley at the Hotel over the way & I have seen Mooney there too I have seen them several times some one of the men stooped down & one of the others said "don't throw anything at them I distinctly saw 2 men & one female but I believe there were 3 I did not recognise the voice I heard or the others they went on as if away from the Public House they stood in the corner of our house for about 3 minutes I first after that heard a scuffle I then heard a violent blow after this I heard people return to throw down the spade on the opposite tent of our tent they were then going towards the Eureka Hotel I swear I

heard their footsteps going in that direction my mother was with me in the tent when I went out of the tent in the morning I found the spade on the opposite side of the tent I had placed it in the corner where it was taken from myself I did not see the mens faces

I heard a disturbance at the Hotel our tent is about 50 yards from the Hotel further than the length of this room the noise I heard our tent sounded like fighting

This was on the side of our tent away from the Hotel the door of our tent is towards the Hotel when I looked through the cracks of the door I then saw 2 men & a woman they were then standing close to the door of our tent they stood about 5 yards from my bed there is a square tent in front of ours & I could see through it because the outer door of the square tent was not down that night they stood at the corner of the tent for about 3 minutes & then went away from the direction of the Public House about $\frac{1}{4}$ of an hour after I heard Mr Bentley's voice he went out on horseback I could not exactly see the men's dress they were standing with their backs to me one had a coat on like Duncan's a Gray Coat I cannot swear to their hat's I cannot swear to the woman dress I will not swear she had a bonnet on

Mary Ann Welch Mary Ann Welch

Sworn states I am the wife of Benjamin Welch a Gold Digger I am the mother of the last witness I recollect last Saturday morning the 7th instant a noise occurred to attract my attention I believe between 1 & 2 o'clock my son was in the tent with me & 2 babies I was disturbed by a noise at Mr Bentley's house there were about 2 or 3 men passed about the left hand side of my tent I did not see them I heard them they went a short distance and appeared from the sound to be returning when I heard 2 or 3 people there might have been more come from the back of Bentley's house out of the back entrance some voice said "don't throw anything at them" our tent is about 10 yards from the back of the Hotel I heard the people pick up a spade distinctly as they passed the spade now produced is the same they went on & from the sound they met the other men I heard footsteps returning a scuffle ensued like men fighting I heard a tremendous blow as if given by an instrument all was then quiet & I heard 2 or 3 people return before the blow I heard a voice say "how dare you break my window" the voice was familiar to me & I believe it was Mr Bentley's after the blow was given they returned towards the Hotel and as they passed they threw down the spade & one of them said that is the way to treat these sweeps this was a man's voice I will not swear to the voice but to the best of my belief it was Mr. Bentley's voice I then heard a man call for assistance & say "in the name of God go for a Doctor all was then quiet in Bentley's House then I got up & looked out of hole in my tent I saw a man lying on his back apparently dead it was very near my tent a man was standing on the right hand side of the body said something but I cannot say what to someone standing on the opposite side the man on the right hand side of the body fell down on the body and burst out crying I heard steps round my tent which I imagined to be someone carrying the body in about a $\frac{1}{2}$ of an hour or 20 minutes I heard some one go out on horseback from Bentley's Hotel I did not look towards the Hotel I do not know whether it was lit up or not

It was not more than 3 or 4 minutes after the instrument was thrown at the back of my tent that I heard the cry for assistance

The spade was by the square tent other tools were with it & they rattled as the spade was taken up I heard the spade thrown down again I heard the people come from the back entrance of the Hotel I do not mean the entrance of the yard I did not hear the door open I often hear sounds at the Hotel to the best of my belief when the man went out on horseback I heard Bentley's voice say softly "open the door" I will not swear to any persons voice

Agnes Sinclair

Sworn states I am single I am Nurse maid to Mr Bentley I went to bed about 12 o'clock on last Friday night I do not know how many lodgers were in the house there were 2 Servants there besides me Mrs Gill & Mary Haines – Duncan is the barman there is a man named Sam there he is in the Stables the waiter in the Hotel is William then is George in the Bowling Alley the people were not all gone to bed when I went to bed

Archibald Carmichael

Sworn states I am a Digger & I keep a Butchers Shop near the Eureka Hotel I recollect last Saturday the 7th instant Peter Martin came and called me out and told me he considered James Scobie was murdered and he wanted me to come I went with him to where Deceased was lying he was James Scobie I said to Martin he is gone my tent is about 35 yards from Mrs Welch's I fetched Dr Carr he came and said the man was dead Martin said he saw no blows given he had been struck down himself he did not see James get a blow we took the body to the Hotel & left it there Martin went back to our tent & remained there for some time it was a clear moonlight night

I do not consider that Martin was sober I did not notice any blood Martin was able to take care of himself I was asleep when Martin called me

Gorden Evans

Sworn states I am a Sub Inspector of Police on hearing this case I deemed it necessary to take Martin in charge I enquired of him what he knew of the case and if he could identify any of the parties I did not mention Bentley's name I desired him to be cautious in giving me his reply & after a little hesitation he told me Mr Bentley was one of the Prisoners present that morning I asked if he was certain & he said to the best of my belief he did not mention any other name to me he could not recognise any one else

James Stewart

Sworn states I am a licensed Medical Practitioner on these Diggings I was called by the brother of Deceased to make a post mortem examination of deceased's body he states he believed Deceased had been murdered and wished to make an examination of the body on examining the external surface of the face on the right side I saw several slight contusions and bruises there was a contusion of the lips and of the right eye and eye brow there was a small contusion on the forehead near the temple bone on removing the scalp I found a considerable effusion of blood on the external surface of the brain there was no fracture of the skull on examining the brain I found considerable congestion of the membranes of the brain but not sufficient to cause death on examining the brain I found in the anterior lateral ventricle some clotted blood this was in my opinion the principal cause of death my opinion was that death was caused by apoplexy drawn on by a blow there was also a bruise & contusions on the back part of the right shoulder they could be caused by a fall if deceased fell on stones or hard ground I saw the spade now produced I compared it with the wound I scraped off a few hairs and upper skin from the spade the spade bore a slight comparison to the wound but it is difficult to swear to if the spade was the instrument causing death it must have been used lightly for such a spade would inflict a more serious wound than the one given the wound could not have been produced by one fall the blow in my opinion was the immediate cause of death

The blow which was the cause of death was not the one I referred to as being caused by the spade the blow which was the cause of death might have been caused by a fist but I will not swear as to what it was done by there was no gash or cut I have seen similar clotted blood in the brain caused by apoplexy the body was in a healthy state

Defence

George Bostock

Sworn states I live opposite the Eureka Hotel I remember night the deceased came to his death on Saturday morning I was not in bed I heard a great noise at the Hotel door I went out I seen 2 men at the door I do not know them one man was kicking the front door and making a great disturbance I saw Mr Bentley's watchman Prisoner Mooney come round from the back premises I heard him tell the men the house was closed & they had better go home and come for something to drink when it was open they went away towards the Gravel Pits they went away in 5 minutes or more they passed in the direction of Mr Welchs' tent they were wrangling about the Road and one seemed to be dragging the other away they were drunk they went on out of my sight and in about 5 minutes I heard a row as of 4 or 5 people together I heard something By Solicitor

Taken before John Dewes

Robert Rede

J Johnston

This 12th day of October 1854 at Ballarat like a blow or a fall I was standing in front of the Hotel I saw 2 women & 4 men come in the direction of the lower corner of Mr Bentley's fence as if they came from the gravel Pits I then saw 3 or 4 men standing in front of the Hotel carrying the body into the hotel from where I stood I could see the back entrance no one came out of that door I did not hear Bentley's voice till Dr Carr came I heard a noise as if glass or wood or a bottle was broken I swear no one came from Bentley's house until the time the body was brought to the place

If they had done so I must have seen them I did not go back to my tent during all this time previous to the scuffle I did not see any one coming from the direction of Bentley's fence

Nearly ½ an hour elapsed from the time I came out till the body was brought to the Hotel from where I stood I could see the front and side doors people could come out from the back door without my seeing them the 4 men and 2 women passed within a few yards from the back of the house the men could have gone into the back door without my seeing them the fence was paled in through the men could have got in at the door or through the gate

Henry Green

Sworn states I was at the Eureka Hotel on Friday the 6th instant I went to bed soon after 12 I slept above Mr and Mrs Bentley heard a noise at the front some one say the house was closed and they could not be admitted the parties for Prosecution went away quarrelling I heard Mr Bentley distinctly in his bedroom the parties went quarrelling away in about ½ an hour I heard Dr. Carr come and say someone was seriously ill Bentley called out loudly and Mr Gadd went down stairs to obey his orders you can hear if any one goes in and out of Mr Bentley's room I did not hear any one go in or out of Mr Bentley's room during that time

I swear positively Bentley could not have gone out of his room without my hearing him I am not digging now I have holes and men employed I swear positively Bentley did not leave the room from the time the men knocked at the door till Dr Carr came

Everard Gadd

Sworn states I am Manager at the Bar of the Bowling Alley at the Eureka Hotel I shut up the bar I shut it up on this night about 12 o'clock I then went through the dining room I saw Mr and Mrs Bentley going to bed I locked the door of the Ally I tried all the doors the back door and the front door I went to bed I was awoke in about an hour by a voice at the front door I heard Bentley ask what was the matter some one said some drunken men wanted to get in Bentley told them not to let them in I can hear what goes on in his bedroom I can hear if he moves about he did not go out of the room till he went for the Police when the body was brought I heard both Mr and Mrs Bentley speaking together in their bedroom when the body was brought Bentley called and said I had better come down we can hear from any part of the house I let Dr Carr in I am certain I did not go to sleep from the first alarm of men knocking at the door if any people had moved about I must have heard them

This was about 12 o'clock when I locked up the door I have a watch and I trust it sometimes I did not have the key of the back door but I could hear if any door was opened I know Bentley was in his room all the time because I heard him speak I swear Mr and Mrs Bentley could not leave that room without my knowledge

Alfred Carr

Sworn states I am a licensed Medical Practitioner I examined the body of Deceased death was caused by the rupture of one of the blood vessels of the brain and the effusion of blood consequently thereon the rupture was caused by a blow Deceased had received numerous blows I cannot swear which of the blows caused death the external surface of the nose was injured the nose at the junction with the cheek was injured I am of opinion that if the spade was used it would have caused more serious injury and of a different character than those made the bruise on the head was so slight that it was not detected until the removal of the scalp the opinion formed at the time that the blows were inflicted from the fist or kicks there was no appearance of a fracture of the skull I was in bed reading on the evening of this night I heard a disturbance about the Hotel about 1 o'clock I heard persons passing in 2 parties and talking in an elevated voice I was called up in about 25 minutes afterwards I had deceased taken to the Hotel and I requested the Police to be sent for Bentley sent for the Police

My impression is that a blow caused death it is possible that the blow on the head might have been given by the spade but the probabilities are against it

Thomas Mooney

Sworn states on the night of the 6th or morning of the 7th instant I was on watch at the Eureka Hotel I was employed by Mr Bentley as a watchman about 1 o'clock at night I was called by William Duncan the barman I was between the stable and the bowling alley I was told to go round to the front of the House to get some men away that were making a noise I went round I saw 2 men there and told them they would get no drink at that time of night I returned back to the yard Duncan

asked if they were gone I told him they were Bentley came out & Mr Bentley the Prisoner Farrell and the Clerk Farrell was stopping there at the Hotel some time I do not know the name of the clerk they went out at the gate of the yard and they said they had broken the windows and I was not looking after them the 2 men were by a tent below the House I went with these people and Mr Bentley said these are the men that have broken our windows the vagabonds Farrell struck Scobie and knocked him down I collared Martin and he was drunk and stumbled and fell the Clerk and Farrell both kicked Scobie while he was down I did not see Bentley strike the man but he had a spade in his hand he got the spade from near a tent I did not strike Martin but took him by the collar and he was so drunk he fell Deceased James By Solicitor

Taken before John Dewes Robert Rede

I Johnston

This 12th day of October 1854 at ballarat

For Prosecution did not get up after I saw Farrell strike him Mr Bentley said that is the right way to serve the vagabonds for breaking our windows they all went back to the House and I think they went to bed as the lights were put out in about ½ an hour an alarm was given and the body of Deceased James Scobie was brought to the Hotel Bentley got up and came out to where I was and went to the stable for his horse and said he would proceed to the Camp for Police before he went he told me not to say anything about it except that 2 men were in the front of the house and he was in bed himself and that the 2 men went away when Bentley said this Farrell was present the Clerk told me the day following not to say anything about it when Bentley returned from the Camp with the Police he called me in and again told me not to say anything more than he previously directed I am sure that Martin was not struck but it was from the fall he was hurt as he fell upon his face

Michael Welch

Sworn states that he was living in the House as Waiter that at ½ past 1 of the night of the 6th the man who was drunk came to the front door of the Inn and tried to get in he broke in a pannel of the door and glass of the window I heard Duncan tell him to go away that he should have no drink at that time of night I heard him tell the Clerk that he would give him a hiding if he would come out with Mrs Bentley Taken before E.P sturt This 22nd Day of October 1854 at Ballarat again told him to go away and he called her a whore I was in bed at the time in the Bar Bentley Farrell the clerk and Duncan the barman was in the bar at the time the man was trying to get in and also Mrs Bentley they all left the Bar I cannot say they went out but I heard them after a few minutes return to the dining room Mrs Bentley was laughing when Duncan came in I asked him what she was laughing at so hearty he said that fellow got a clip that was at the Door shortly after this the body of the deceased Scobie was brought in Dr Carr was called in and Farrell assisted him when the man was trying to get in I heard another man some little diHance off call him to come away and never mind them

Thomas Mooney

Sworn states I am a Labourer and live at Ballarat I have a recollection of Friday the night that a man of the name of Scobie was killed I was on Watch at the Eureka Hotel at Ballarat and was employed by Mr Bentley I was on watch between the bowling ally and the stable and the barman William Duncan came out to me and told me to go round as there were 2 men knocking at the door I went to the front of the House and saw 2 men there and they went away I then went back to the yard and Mr and Mrs Bentley came out and the Prisoner William Henry Hance and John Farrell came out with them and asked where were these men Mr Bentley said this all of them went out of the yard and I went with them to where the men were standing at a tent a little way off from the Hotel it was moonlight at this time and the 2 men they were the same that had been knocking at the front of the House I saw Mr Bentley take a spade from the tent and then I saw Farrell strike the man who is since dead named Scobie in the face with his fist and knock him down the Prisoner Hance and Farrell kicked Scobie while he was down in the back and on the head both of them kicked Scobie on the head and shoulders when he was down Mr and Mrs Bentley were present at the time Scobie was struck and kicked and Mr Bentley said at the time he was struck that is the way to serve them to break in our windows we then all went back and left Scobie lying on the ground & I went on to my watch again and the next thing I knew about it was the Doctor and 3 or 4 other men bringing Scobie to the Hotel and Mr Bentley and Farrell came out and Bentley went to the stable to get a horse and should go to the Camp and Bentley said to me don't say a word about this "but that you saw 2 men at the front of the house and that they went away and that I was in bed" the Police came afterwards and Bentley came to fetch me in and told me to be sure to say what he told me before and after that he desired me to stand to what I had said at first as far as I can judge it was about 1 o'clock that Scobie and the other man came to the House I should say that this was about 3 weeks ago I saw the body of James Scobie when it was brought in

When we left the yard Scobie and the other man was advancing towards the Hotel I did not offer Scobie any assistance when he was knocked down Michael Welch

Sworn states I have been living as a Waiter at the Eureka Hotel as Ballarat I remember the night that Scobie was brought in dead to the Hotel this was about 1 or 2 o'clock in the morning of the 7th of October I remember being in bed in the bar from 1 to ½ past 1 o'clock that morning I remember a man knocking at the door of the Hotel 2 or 3 times and the Prisoner Hance came to the bar and told the man who was knocking that the House was shut up the man broke one of the panels of the door in knocking the man who was knocking at the door then called Mrs Bentley who was in the bar a "whore" there was a light in the bar Mrs Bentley was then in the bar in her usual dress a man named Farrell Mr Bentley the Prisoner Hance and another waiter named Bennett were also in the bar a few minutes after this the 2 men outside the House went away and all the persons who were in the bar except myself and Bennett left the bar and went into the dining room I did not hear any noise there I afterwards heard them again in the dining room about 10 or 12 minutes after they left the bar and went into the dining room I did not get up till the morning at all after I heard the footsteps on the return to the dining room the barman Duncan passed through the bar on his way to bed when Mr Bentley was in the bar he was in his shirt sleeved but had his trousers on By Solicitor

Taken before William Henry Bonsey This 26th day of October at Geelong

Sworn states I am the wife of Benjamin Welch of Ballarat Gold Digger I remember the morning of the 7th day of October between 1 and 2 o'clock in the morning I was in bed in my tent about 25 yards from Bentleys Hotel and I was awakened by hearing the noise of persons quarrelling either at or close to Bentley's Hotel I heard the footsteps of 2 or 3 persons passing by my tent and they went a few yards beyond my tent away from Bentley's House I then heard the footsteps of those who had first passed the tent as if they were returning to Bentley's House and I then heard the voice of a

female and the words "how dare you break my windows" I believe that to have been Mrs Bentley's voice as I have often heard her speak I heard then the rattling of tools and they went only a few yards away from the Hotel and I heard blows given and I then heard a very heavy blow given as if by an instrument and all was then perfectly quiet and they then went towards the Hotel and I heard a voice say "that is the way to treat those sweeps" and I heard the spade thrown down at the same time this was the voice of a man the voice was familiar to me as the voice of Mr Bentley I next heard a man calling for assistance and in the name of God to fetch a Doctor and I got up out of bed and looked through a hole in the tent it was a bright moonlight night and I saw a man lying on his back apparently dead and a man standing by his side who threw himself on the body and began to cry I then heard the body carried past my tent and after that I heard a horseman rode by I heard no cry when the blow was given as if from a wounded man

Peter Martin

Sworn states I am a Gold Digger at Ballarat I was in company with James Scobie on the night of the 6th of October about 1 o'clock on the morning of the 7th of October we were returning together to Scobie's tent and on our way we came near to the Eureka Hotel and went there and Scobie went to the window and I stood about 20 yards off it was bright moonlight Scobie went to a front window of the Hotel I did not hear what was said but I saw a person strike at Scobie from the inside of the House and at that time I heard the noise as if of breaking of a window I called to him to come away but Scobie went to the door of the House and I went to him and took him by the arm and took him away in the direction of Scobie's tent we passed the right of the front of the Hotel we had got about 100 yards from the Hotel when we heard a noise behind us and Scobie said what's this let us see and we turned back about 20 yards towards the Eureka Hotel when we met 4 or 5 men and one woman I saw the faces of these people and to the best of my belief one was Mr Bentley but I cannot recognise either of the 2 Prisoners Catherine Bentley and William Henry Hance as being among them when we came up the woman who was standing" [notes during hearing - not transcribed] in the front of Scobie said this is the man that broke the window this woman was of the height of the Prisoner Catherine Bentley I cannot say that the Prisoner William Henry Hance answers the description of any of those men after the woman spoke I was knocked down by one of the men and I got up and ran away in a direction from the Hotel about 30 or 40 yards I did not see any of the men follow me when I stopped I turned round and saw no one at the place where I had been knocked and I walked slowly back and saw Scobie lying on the ground on his right side and I took him by the shoulder to rouse him but he seemed helpless and gave me no answer I put my hand on his chest and his heart was still beating and I heard him breathing and I noticed blood about the mouth and nose I then went towards one of Scobie's mates tents and called a man named Archibald Carmichael and he came out and dressed and went with me to where Scobie was lying and we then thought that he was dead Carmichael then went for a Doctor and I stopped with the body until Dr Carr came the place where the body was lying was about 60 or 70 yards to the right of the front of the Hotel and was something under 100 yards from the back of the Hotel between the Eureka Hotel and where the body was lying was a tent the person among them whom I took for Bentley had a dark shooting coat and a hat on the man whom I knocked me down had I thought a jumper on I did not notice any of the persons sufficiently as to be able to identify them or to describe them further than I have done the person [notes during hearing - not transcribed] "who I thought was Bentley had a weapon over his shoulder similar to a battle axe I was knocked down but I do not know with what it was sufficiently moonlight at the time to recognise a person by the features I had seen Bentley occasionally I saw no one strike Scobie I did not hear Scobie cry out I do not know how long I was on the ground I was

struck in front on the forehead the skin of the forehead was broken by the blow when I got up I ran away at once I believe I remember every thing that recurred from the time I took Scobie by the arm to being knocked down

(By bench) I may have omitted some circumstances in which certain circumstances might bring to my recollection

Barnard Welsh

Sworn states I am the son of Benjamin Welch and am of the age of 10 years I remember the night when James Scobie was found dead on the morning of Saturday I was in bed and I heard 2 men pass our tent near the Eureka Hotel this was in the middle of the night it was a moonlight night after the 2 men had passed I heard three other men pass I looked through the crack of the door of the tent and I saw 2 men and a female and one of the men picked up a spade which was outside our tent this was rather a short man they stopped a minute or 2 at the tent and then went on I believe one of these men was the watchman whom I saw here this morning I am not sure but I believe so and the other I believe was Mr Bentley but I am not sure I heard a scuffle and then a violent blow"

[notes during hearing - not transcribed] "as if with a spade for when I got up in the morning I found hairs on the spade as they returned they threw the spade down at the opposite side to which they had taken it up I looked at the spade as I wished to see what they had taken up at the tent saw no blood on the spade I do not know whom the female was but I believe it was Mrs Bentley by her voice as I heard the woman say "how dare you break my window" I do not know how these people were dressed I saw these people through the crack of the door but I could not see distinctly I could see as I laid in bed I did not get out of bed I do not know the Prisoner William Henry Hance I had seen Mr and Mrs Bentley and the watchman before that night I heard a mans voice say as they returned "that is the way to serve those sweeps" I am not sure it was a man's voice when they were standing at the corner of the tent I heard one person say "don't throw (Taken before William Henry Bonsey This 25th day of October 1854 at Geelong)[in margin]

anything at them" I do not recollect the dresses of the people it was very moonlight it was as light as day almost there was dark hair on the spade rather dark it was human hair" [notes during hearing - not transcribed]