

Recognizance of Bail: Benjamin Ewins

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Ballarat

To Wit(M)

(11 and 12 Vic., c. 42)

DEPOSITIONS OF WITNESSES

The Examination of Patrick O'Keefe, Samuel Stackwell Furnell, and James Fitzgerald, Robert Rede, George Porter, Bryan Fannery, and James Johnston of Ballarat in this Colony of Victoria taken on oath, this 30th day of November, in the Year of our Lord one thousand eight hundred and fifty-four at Ballarat in the Colony aforesaid, before the undersigned one of Her Majesty's Justices of the Peace for the said Colony, in the presence and hearing of

Benjamin Ewins

Who is charged this day before me for that he the said Benjamin Ewins on the 30th day of November 1854 at Ballarat in the Colony of Victoria aforesaid did with others riotously and tumultuously assemble and did thereby cause a breach of the Peace,

This deponent Patrick O'Keefe on his oath saith as follows,

I am a Private in the 40th Regiment. Sworn before me at ballarat this 30th November 1854 I was ordered out on duty this morning the 30th November – I saw the Prisoner Benjamin Ewins running away. I saw a shot fired, I would have shot the Prisoner but I saw that I could have taken the Prisoner without firing the shot was fired before "before I saw the prisoner ran away from where the shots was fired – Two men ran way. Prisoner Benjamin Ewins was one of them.

Patrick O'Keefe This Deponent Samuel Stackwell Furnell on his oath saith I am Sub-Inspector of Police.

A Detachment of Police went this morning about 10 or 11 o'clock by order of the Resident Commissioner.

for unlicensed Diggers.

I went down to assist the Civil Authorities with the execution of this Duty I heard the Riot Act read by the Resident Commissioner twice the people did not disperse after, the military did not come down until the act had been read.

Samuel Furnell

Sworn before me at Ballarat this 30th November 1854 And this Deponent Jeremiah Fitzgerald on his oath saith I am a private with the 40th Reg.

I was ordered down to the Riot. This day I saw the Prisoner there I saw him fire a pistol I do not know at whom he fired it, he was outside a tent when he fired the pistol I saw Keefe arrest him I arrested him, he made no resistance in being taken.

By prisoner – you fired outside the tent Door I could not say at whom he fired the pistol the shot was fired before the troops returned into camp.

Jeremiah Fitzgerald X his mark

Sworn before me at Ballarat this 30th November 1854 And this deponent Robert Rede on his oath saith I am Resident Commissioner Ballarat When I read the Riot Act I think it was about eleven o'clock in the forenoon of this day I read the Act in Consequence of the Police being pelted with stones and resisted with execution of their duty which Duty was the Collection of the License fee – Subsequent to this I sent for the troops as the mob would not Disperse

Robert Rede

Sworn before me at Ballarat this 30th November 1854 And this Deponent George Porter on his oath saith I am a Private in the 40th regiment – I saw the Prisoner Benjamin Ewins now before the Court raise his hand in the direction of an Officer of Police who was endeavouring to take a Prisoner, I heard a pistol shot fire O'Keefe afterwards took him prisoner there was no prison near to the prisoners at this time but one woman I have seen the Officer, that was fired at but I cannot now recognise him

G Porter

Sworn before me at Ballarat this 30th November 1854" And this Deponent Bryan Fannery on his oath saith I am a Private of the 40th Regimt. I went to the Riot this day with my Detachment I saw the Prisoner there I heard the report of a pistol I turned around and saw the prisoner run with a pistol in his fist.- I saw "O'Keefe run after him and took him prisoner, I saw no Police officer near him at the time the only person I could see near him was a woman, a tent was open yards off he ran in and O'Keefe took him prisoner

Bryan Fannery X His Mark

Sworn before me at Ballarat this 30th November 1854

Charles P. Hackett PM" And this Deponent James Johnston on his oath saith I am Asst. Gold Commissioner. This morning about half past 10 o'clock I went with a party of police to collect licences, the people commenced Jeering and hooting. The man ran out and cried to the other people that he would see the Commissioner Damned before he would shew them his licence. I saw Mr. Farnell running after a Digger, who went in the direction of a line of [skirmishes] I heard a shot fired I saw smoke . There was a man and woman at the place Two soldiers ran down the Hill here apprehended him the Riot act was read about an hour previous to the shot being fired

J. Johnston

Sworn before me at Ballarat this 30th November 1854" "VICTORIA

(N)

STATEMENT OF THE ACCUSED

11 & 12 Vic, c.42

Benjamin Ewine stands charged before the undersigned one of Her Majesty's Justices of the Peace in and for the Colony of Victoria, this thirtieth day of November in the year of Our Lord one thousand eight-hundred and fifty-four for that he the said Benjamin Ewins on the thirtieth day of November 1854 at Ballarat in the said Colony,

did with others riotously and tumultuously assemble, and did then and there cause a Breach of the Peace and the said charge being read to the said Benjamin Ewins and the Witnesses for the Prosecution Patrick O'Keefe, Samuel S. Furnell, Jeremiah Fitzgerald, Robert Rede, George Porter and Bryan Fannery and James Johnston being severally examined in his presence, the said Benjamin Ewins is now addressed by me as follows. Having heard the evidence do you wish to say anything in answer to the Charge, you are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing , and may be given in evidence against you will be taken down in writing, and may be given in evidence against you upon your Trial, whereupon the said Benjamin Ewins saith as follows:-

I and my Brother two years younger than myself were together, a Soldier ran and Caught hold of me I was close at the time I saw the soldiers first I was coming out to see them going by, I had no intention of anything, I heard no shots go off then, there were shots fired all morning.

B. Ewins

Taken before me at Ballarat in the said Colony, the day and year first above mentioned.

The prisoner Benjamin Ewins is committed trial at the Supreme Court of Criminal Sessions Melbourne on the 15th December 1854." "19 Jan 1855

A`Beckett H.C

March ?

Not Guilty

Queen v Benjn. Ewins

Witnesses

Patrick O'Keefe – soldier

Samuel Stackwell Furnell –Sub-Insp.

Jeremiah Fitzgerald – soldier

Robert Rede – Comm.

George Porter – soldier

Bryan Fennery-

James Johnston –comm.