

Recognizance to give evidence: Maurice Frederick Kemenes

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Recognizance to give evidence: Michael Murphy

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Recognizance to give evidence: Edward Laylor

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Victoria Ballarat(M.)

(11 and 12 Vic., c. 42)

DEPOSITIONS OF WITNESSES

To Wit

The Examination of Maurice Frederick Kemenes, John Dogherty, Gordon Evans, Robert Pulley, Cornelius Sorell, Michael Murphy and Edward Layton of Ballarat in the said Colony of Victoria taken on oath, this 27th day of October, in the Year of our Lord one thousand eight hundred and fifty-four at Ballarat in the Colony aforesaid, before the undersigned two of Her Majesty's Justices of the Peace for the said Colony, in the presence and hearing of

Henry Westerby alias Yorkey

Who is charged this day before us for that he the said Henry Westerby alias Yorkey, on the Seventeenth day of October 1854 at Ballarat in the Colony of Victoria aforesaid, together with other persons did tumultuously and Riotously assemble, and did then and there burn pull down and destroy the dwelling House of one James Francis Bentley.

This deponent Maurice Frederick Kemenes on his oath saith as follows

I am Sub Inspector of Police at Ballarat. On the 17th Instant I was ordered to proceed, to Bentley's Hotel a meeting had taken place in the Neighbourhood a crowd assembled in the front of the Hotel They were shooting and shouting, Prisoner Henry Westerby advanced to the front of the House by himself he struck the house with his clenched hand. He addressed the people, and proposed that Bentley's House should belong to the Diggers – immediately after the mob commenced throwing stones

Maurice Frederick Kemenes

Sub Inspector

Sworn before us at Ballarat this 27 October 1854 And this Deponent John Dogherty on his oath saith I am Constable On this day 17 October Inst. I was on duty at the Eureka Hotel, at this time the house was burned. I saw the prisoner Westerby there, acting as a Ring leader to the mob in destroying the Hotel, he made answer to a request made by Mr Rede Resident Commissioner, that he was as good an Englishman as him, that they had looked long enough to the Courts for satisfaction that they did not get it but now that they would take it. He proposed pulling down the House and called to those who were up the ? ? to hold up their hands he then advanced towards the Hotel and commenced pulling off the Boards

By ? Counsel. I was there, he was standing along side the prionsner. I saw Prisoner pull the Boards off the House. I distinctly swear that prisoner did pull the Boards off the House – I did not see him strike the House . I saw him pulling the boards off the House and heard him say that the House should belong to the Diggers. Mr Rede was near to prisoner, at this time

John Dogherty

Sworn before us at Ballarat this 27 October 1854 Deponent Gordon Evans on his oath saith as follows I am Inspector of Police at Ballarat

I was present at a Riot at the Eureka Hotel on the 17 Inst I saw Prisoner Westerby there he was trying to disturb the procedures of the meeting, he was very noisy. I think he was sober at the time, when the crowd advanced to the Hotel prisoner ? took an oppty. when my back was turned, to excite the mob. I heard him say Diggers I propose that this House belong to us I saw him in the afternoon he was drunk his conduct throughout was such as tended to excite the people I saw prisoner strike the House.

By prisoners Attorney – He might have pulled the Boards at the House without my seeing it. I saw prisoner, from the commencement of the Row there

Gordon Evans

Sworn before us at Ballarat 27 October 1854 This Deponent Constable Robert Pulley on his oath saith as follows-

On this 17th Inst I was on duty at the Eureka Hotel there was a great Crowd assembled there, the people commenced to pelt at the Building with missiles of various sorts the Prisoner Westerby was one of the first I observed doing so I saw him throw several times ? bottles and old boots (?) he picked up he was encouraging the people round him to throw also When a missile struck the house He said Well done boys'

Shortly after this I saw him pull the weather boarding off the house at the side and commenced smashing the Windows with one of them, I observed him a full hour destroying the place and encouraging others to do the same

By prisoners Attorney I was continuously moving about I was sometimes rubbing against the prisoner in the Crowd I was two or three yards from the Prisoner when he shouted "Well done" boys I swear he said so: I am quite sure he did say so. I swear that during one hour I saw him half that time

There was a great crowd assembled there and they burned the house to the Ground

Robert Pulley

Sworn before us at Ballarat this 27th October 1854 And this deponent Cornelius Sorrell on his oath saith – I am a private of the 40th Reg On Tuesday the 17th Octr. When under the Command of Lieut. Broahurst I was marched to Bentley's Eureka Hotel, I arrived there about two o'clock in the afternoon – I saw a great Crowd collected there, a portion of the number were in ? of the Hotel, the Windows were broken I saw Mr Rede Resident Commissioner with a man with no shirt standing close to the window, shortly after Captn. Evans came to Lieut. Broahurst stating it was (text deleted) I saw prisoner at the Hotel amongst the Crowd I saw the prisoner try to make the fire blaze when the police were extinguishing it he was also – breaking in the sides of the House he seized my musket and tried to take it from me he did not ? I heard him say he could 100 such as were there

By prisoners Attorney – I never saw prisoner before. I distinctly swear to the prisoner being the man I saw endeavouring to burn the House.

Cornelius Sorrell

40th regiment

Sworn before us at Ballarat this 27 October 1854 And this Deponent Michael Murphy on his oath saith I am a private of 40th Regt. On the 17th Inst by Command of Lieut. Broahurst I was marched to Bentley's Hotel. We formed round the Hotel I saw the prisoner Westerby seize the firelock of Private Sorrell and try to take it from him – he was pushed away by Mr. Commr. Rede

By prisoners Attorney

I was close to the prisoner at this time I was only the length of firelock from him

Michael Murphy

Sworn before us at Ballarat this 27 October 1854 And this Deponent Edward Layton on his oath saith I am a Tent Keeper. On the 17th Inst. I went up to the meeting at the Eureka Hotel when the Crowd was dispersing I went into the Hotel prisoner was in, and raised up his hands and proposed that the house be pulled down I begged of him to go out he went out immediately after, a stone struck my face through the Window afterwards I saw prisoner with a Rail in his hands Striking the House with it – I saw him throw several stones at the House

By prisoners Attorney – It was something like a Rail ? in his hand, I saw him strike the House – he assisted to knock the House down

Edward Layton

Sworn before us at Ballarat this 27 October 1854

The Prisoner Henry Westerby declines to make any Statement and is committed for trial at the Supreme Court of Criminal Sessions at Melbourne on the 15th Day of November 1854 Queen v Henry Westerby alias Yorkey

Witnesses

Edward Layton

Michael Murphy

Cornelius Sorrell

Robert Pulley – constable

Gordon Evans – Insp Police

John Dogherty – con:

Maurice Frederick Kemines – Sub-Insp