

the petitioner's advisers that there was no possibility of such a mistake as would account for the triple coincidences with regard to these pieces of paper, until this matter came before you. They have admitted that that was so. The petition itself shows this conclusively. Now, no doubt, they modify their suggestion. Substantially, they attempt to withdraw the charge of perjury, and say there was a mistake. I desire to say nothing more with regard to the evidence, as I have already pointed out that an analysis of it has been given by Mr. Bell, in which he draws all the fair inferences that ought to be put before you so far as they make against the prisoner. I have only to add that it is of vital importance that the administration of justice should not be unduly interfered with. If this Committee adopt the suggestion that they ought to be an irresponsible Court of Criminal Appeal, I would like them to consider where it is to end. If Chemis is entitled to destroy, or to attempt to destroy, the whole of the proceedings of all the law-courts of the land, then every other convict in Her Majesty's gaols will be entitled to the same privilege. It may be, if this Committee, looking at the whole of the evidence, were forced to conclude that there had been a flagrant miscarriage of justice, they would be within their function in recommending to the Executive that the prisoner should be pardoned. I do not think this should be so; but, at all events, unless you are satisfied there has been something of that kind brought before you—something more than mere doubt as to the weight of testimony given before another and a competent tribunal—you should, I submit, use the utmost caution before even assuming a right to disturb and reverse the decision of Judge and jury. Even where the evidence is fairly balanced it would be most dangerous to set up a tribunal such as this is as an ultimate Court of Criminal Appeal. Even if you are prepared to exercise this function I put it to you that there is nothing in this case which amounts to such a flagrant failure of justice as to call for the intervention of this Committee. The case has already received full attention from the Executive Government; it has been submitted to the Governor in the usual way, and the prerogative of the Crown has been already exercised. Probably, until recently the Committee would have said that it had no business with questions of the Crown's prerogative. It seems to me utterly out of place that a Committee of the House should not only Act as a Court of Appeal, but also usurp the function of deciding that which is purely a question of the Crown's prerogative. There is, however, no doubt that recent regulations alter the position. I understand that now the Governor in exercising his prerogative acts upon the advice of the Executive. Therefore it may be said that you are performing a function of the Executive of the colony, as it were, by deputy. But, even if you go to that length, I still say it is of vital importance to the administration of justice that you should not constitute yourselves final judges of law and fact, forming conclusions upon inadequate material, and upon an inquiry necessarily conducted in a loose and unsatisfactory manner. You should not reverse the decisions of the legal tribunals of the colony at all, and certainly not unless there is a case of absolute emergency made out before you. I have only one more observation to make. With regard to the evidence itself, some witnesses have been called before who have given testimony as to the various theories which have been formed as to the manner in which and the persons by whom this crime was committed. First, I say it is beyond your function to re-try Chemis, or any one else, upon the charge of being concerned in the murder. Theories as to the manner in which Hawkings was killed can be of not the slightest importance.

*Mr. Jellicoe*: It would be admissible before a jury.

*Mr. Gully*: Undoubtedly the main evidence against Chemis is the evidence of these papers. There are certainly corroborative circumstances which would receive due consideration. That all depends upon evidence of fact. It seems to me carrying the thing to absurdity that you should be expected to carefully consider theories as to what might, or might not, happen, when you have evidence of fact as to what did happen. I have nothing more to say, except again to ask the Committee, in considering this matter, to carefully bear in mind that they are asked to interfere with the conclusions, and overturn the decisions, of all of the recognised established, and, I may say, competent legal tribunals of the colony, and to usurp the prerogative of the Crown.

*Mr. Jellicoe*, addressing the Committee, said: In addressing you, in reply, on this case, I accept the position to some extent which *Mr. Gully* has pointed out. He says, as I understand him, that the Crown Prosecutor relies on the analysis of the evidence and arguments submitted to the Committee by *Mr. Bell*. It will therefore be necessary for me to review, as briefly as possible, some of that evidence, and certain portions of *Mr. Bell's* argument. First let me deal with the shot-pouch and knife found by *Mr. Low*. *Mr. Bell* said on the 13th of September, "We were able to prove that they were Chemis's." He is referring to the period when he was defending Benjamin on the perjury charge. He goes on to say, "Now, you must not take that as from me; the sheath and the knife can be proved, as I understand, to be Chemis's; both shot-pouch and knife are perfectly well known in Kaiwarra. The question is, if this knife is Chemis's; not whether it is the knife with which the murder was inflicted, but whether it is Chemis's. Both Chemis and his wife say that Chemis had no sheath-knife." Now, *Mr. Bell*, on the perjury charges, said the same thing, with this difference: that he then claimed that the articles found by *Low* were genuine, and were the articles used by the murderer in the commission of the crime. You will remember that *Mr. Gully* threw out a similar suggestion on the examination of *Mr. Richardson* (page 27, paragraph 26). I met the challenge as I met it in the Resident Magistrate's Court. I handed to *Mr. Richardson* the knife referred to, who, after stating that he had seen a drawing of it before in the hands of *Sir Harry Atkinson*, said that the knife could not have made the cuts in the deceased's collar or at the back of the neck in the coat. [Paragraphs read.] You will remember that *Mr. Bell* did not give evidence here on this point with reference to this knife (page 37) for at least a fortnight after *Mr. Richardson* had given his evidence, and that circumstance, I venture to suggest, accounts for the change of front in reference to this knife. How was *Mr. Bell's* suggestion met during the investigation in the Magistrate's Court in the perjury charge against Benjamin? It appears at page 99 of the depositions. That on the 28th August, 1889, *Frederick Greaves* was cross-examined by *Mr. Bell* in reference to