

865. Taking the whole thing together, the evidence of those four persons goes to show it was doubtful whether or not it was actually past 11 when they did arrive there?—If their evidence was accepted as true.

866. If it was not past 11 when they arrived there, of course, the law would not be broken?—No.

867. Nor would the action of Constable Durbridge have been improper?—No, I would not think it would, if he and the rest were sober and quiet.

868. The landlord, Mr. Woodward, said, did he not, "they were perfectly civil and not troublesome"?—Yes, he said so—when they came in.

869. Then, there was no improper conduct if they were perfectly civil and not troublesome?—Well, jumping over the gate that was locked was hardly proper conduct.

870. But is not a licensee practically bound to supply liquors to any person who may demand them?—Not in every case. If he has reason to believe they are noisy, for instance.

871. But he says these men were not troublesome?—They were noisy. The evidence for the defence says that they were singing all the way until they got to the hotel.

872. What I wish to point out is this: If these men honestly believed it was not 11 o'clock when they arrived at the Bush Tavern they were perfectly justified in going there and calling to get drink: is that not so?—Yes.

873. And does not the evidence go to indicate that if it was actually past 11 it could only have been a very little past 11?—Well, the evidence for the defence would lead you to believe that if you believe it.

874. Now, considering there are three people independent of the constable against whose veracity you have nothing to advance, do you not consider that I was bound to attach importance to what they said?—Well, you were justified in doing so.

875. Well, now, do you know what my finding was in that case?—Yes, I remember it fairly well.

876. I will read it to you: "Notwithstanding the conflict of evidence as to time, I am of opinion that it was past 11 o'clock when the party reached the Bush Tavern, and that finding the place closed the constable, although not on duty, acted improperly in going with the others to obtain drink after the place was closed. The evidence, I consider, shows that the constable was not the person who demanded or paid for the drinks. Had the constable been on duty the matter would have been more serious. It shows to me, however, that the constable has not a proper appreciation of his position of police constable. He is reprimanded and cautioned, and will perhaps be removed to some other station, where he had better not become quite so intimate with the persons amongst whom he has to perform police duty. The punishment in this case would have been more severe had it not been the first record against him." Now, Mr. Macdonell, do you consider that a finding not justified by the evidence?—There is something in the finding I wanted to point out, some point or other. I forget what it was. I think the finding on the whole was reasonable.

877. You think it was reasonable as a whole?—Yes, I think the finding was. This is one thing that I was unsatisfied on: that it was true that it was not Constable Durbridge. I was satisfied that it was Constable Durbridge.

878. You believe that?—Yes, I do, and from the evidence given there I still believe it.

879. Well, whose evidence? Whose evidence do you rely upon?—The evidence of the man that says he saw the man who came in first and get over the gate.

880. You mean Mr. Woodward, the licensee?—Yes, I think so.

881. Mr. Woodward says here the constable himself did not ask for any drink for himself or the others?—Yes; but what does he state at the start? I believe he gave way at the end, but I think he said at the start of it the constable asked for drink.

882. "When I reached the passage the man I saw had struck a match, and from the light I could see it was Constable Durbridge. He was in plain clothes. I asked him what he was doing there, and while I was asking him the other men came into the passage. I asked them if they knew the time. One said, 'It will be all right; give us a drink.'" He does not say Constable Durbridge asked for the drink?—No.

883. He says the constable himself did not ask for the drink?—Yes.

884. Does not the evidence go to show that Constable Durbridge was not the man who asked for the drink—even your own evidence?—Yes.

885. One of the other men, I believe, goes so far as to name the man who did ask for the drink and paid for it?—Yes, I believe so.

886. And that was not Durbridge?—So he said.

887. Do you not admit that instead of Durbridge paying for the drink it was quite the reverse?—It was not quite satisfactory to me.

888. He did not convince you?—No.

889. Charge No. 2—that is, being asleep at the Nelson Police-station at various times of the night during the evening of the 18th November. That rested entirely on the uncorroborated evidence of Constable Williams, did it not?—Yes.

890. Do you agree or do you not agree that I was quite right in considering that case not proven?—On the evidence, as I said before, I did not think the investigation was sufficient to ascertain what was the truth. On the evidence given I think that is so.

891. I asked you before whether you could indicate to the Committee by what possible means any evidence could have been obtained to prove that—that is, in February; my report is about the 26th February. What possible evidence could have been ascertained upon the question of whether or not Constable Williams saw Constable Durbridge asleep in the station on the 18th of the previous November? Can you tell me what possible evidence I or any other human being could have obtained in February upon that particular point?—I think so; that there was a good chance for getting it.