

Newspaper reports of Campbellfield incident

The Argus (Melbourne), 14 March 1850, page 2.

THE DREADFUL OCCURRENCE AT CAMPBELLFIELD –

The prisoners Mahoney and Sullivan were brought before Messrs. Sturt, Jacomb and Thomas on Tuesday on the charge of assaulting John Barry with intent to murder him. The witnesses examined were Price and Cummings, the two men who accompanied Barry to the prisoners' hut. Cummings stated that a little after sundown on Thursday evening, Price called at his home at Campbellfield, and at his request witness accompanied him and John Barry to the hut, which was about a mile distant; witness was not informed at the time of the object of their going, but afterwards understood that it was to settle some dispute between Barry and the prisoners; the dispute was, that Barry understood Mahoney had said he was an informer at home and left his country on that account. When near Mahoney's hut, Barry left witness and Price, and they remained at a distance of a couple of hundred yards whilst he came into the hut. After some loud talk Barry came outside; the witness then went to the hut, and after some altercation about Mahoney had said, witness was asked if he ever heard Barry say that Mahoney was an informer. He replied that he had not; Price was at the hut door, and the same question having been put to him, he also denied having heard the prisoner say so; Barry then proposed going to the hut of a man named Davey, but Mahoney refused. A scuffle ensued, but witness did not see a blow struck, nor could he tell who first commenced the struggle. Witness was himself struck by Sullivan, and made for the door; Sullivan followed him and threatened to murder him. Price was then outside the hut, and witness after running a little way, turned round and saw Sullivan strike Price; he then returned to the hut and heard Barry who was inside call out "don't murder me". They went away leaving Barry there but returned again, when in consequence of the threat held out against them if they interfered, they went away again. John Price was the next witness examined, and he corroborated the evidence of Cummings as to what had transpired at the hut. He stated positively however that Mahoney struck the first blow. Dr O'Mullane was briefly examined and deposed as to the condition of Barry. The prisoners were then remanded to Tuesday next. Barry was slowly improving, but the injuries are so serious that it is still doubtful that he will recover.

The Argus (Melbourne), 21 March 1850, page 2.

THE ASSAULT ON MR BARRY –

The two prisoners, Mahoney and Sullivan, were brought before the sitting Magistrates on Tuesday and were again remanded for a week. Bail was applied for but of course refused. The reports yesterday were that the symptoms were not as favourable, and the unfortunate man was still in extreme danger.

The Argus (Melbourne), 29 March 1850, page 2.

THE ASSAULT ON MR BARRY –

Mr Barry still lies at the Wool Pack Inn in a precarious state. On Wednesday evening his statement was taken before Mr Hull. The unfortunate victim gave a clear and consistent account of the occurrence; the chief points were, that Mahoney struck the first blow, that he returned it, and that he was then knocked down with an instrument which he believed to be an axe; that whilst he was on his back, Sullivan and Mahoney both struck him, and also two women, who were on the spot; it was by putting up his hands to save his head that his arms were broken. Mahoney and Sullivan were brought before Mr Payne and Captain Jacomb yesterday, and the whole of the dispositions having been read, the prisoners were committed for trial and refused bail. The two women, Julia O'Keefe and Johanna Mahoney, who were apprehended on account of the facts elicited in Mr Barry's Examination, were also brought before the Bench, and remanded for a week on bail.

The Argus (Melbourne), 17 April 1850, page 2.

SUPREME COURT

(Before His Honour the Resident Judge)

Tuesday, April 16

THE ASSAULT OF MR BARRY

William Mahoney, Matthew Sullivan, Julia O'Keefe, and Johanna Mahoney were indicted for assaulting Mr John Barry on the 7th March last. There were two counts in the information, the first charging the intent to murder, the second to do some grievous bodily harm.

On reading the indictment it appeared that the prisoner Mahoney was described throughout as James instead of William; and the prisoner Matthew Sullivan was in one place described as Matthew Smith.

Mr Barry appeared with the Crown Prosecutor in this case; Mr Stawell defended the prisoners.

Mr Barry having stated the nature of the information.

The Crown Prosecutor stated the circumstances of the case, which have from time to time appeared in the local journals, and are fully detailed in the following evidence. The first witness called was John Barry, whose appearance in Court excited strong emotion; his head was bandaged and both his arms were in splints. Having been accommodated with a chair near the jury, he was examined by the Crown Prosecutor and deposed as follows: I know the prisoners Mahoney and Sullivan and Mrs Mahoney but not the other female; I remember 7th March, on that day I saw John Price and James Cummings at my place at Campbellfield; this was between five and six o'clock in the evening; I went with them on that evening to the house of the prisoners Mahoney and Sullivan; I cannot say what hour it was I went into the house and Price and Cummings remained outside, about fifty yards off; Mahoney and Sullivan were both there; I asked Mahoney what he had been saying about me to

Price and Cummings; he said he had not been saying anything, and asked me who my author was. I replied, Price and Cummings; I then called them and they came; Cummings came in and Price stood at the door; they denied having heard Mahoney say that I was an informer at home, but a man named Davey had told them so; I then asked Mahoney to go with me to Davey's, and he said he would not go; some words passed, I scarcely recollect what, and then Mahoney struck me with his hand on the face; I then struck him; when Mahoney struck me Sullivan said "stick him with the fork"; Mahoney then picked up some sort of tool, which I took to be an axe, struck me on the forehead, and felled me to the ground; after Mahoney had thus brought me to the ground, Sullivan and two females gave me several blows; one of the females tore away part of the leg of my trousers; one of them was prodding me on the arms and legs with some sharp pointed instrument, and there were some severe wounds on my legs; both my arms were broken by blows received from Mahoney; in attempting to defend my head, I received several blows on the head, and do not remember anything after that.

By Mr Stawell – The house is about half a mile from my own; I had no stick with me; my shirtsleeves were no turned up; I considered it an insult to be called an informer, and therefore requested Price and Cummings to go with him to the hut to hear what the prisoners had to say. I never saw the two women before to my knowledge. I first noticed them when I was on my back; several things occurred I cannot recollect, before I got the blow; I think some such words as "stop them" or "part them" were used by one of the women. I do not know how I got to Mr Vinge's, which is about two miles from Mahoney's hut.

James Cummings, examined by Mr Barry – I know Barry and Price; on 9th March they came to my house and I went with them to Mahoney's hut; he and Sullivan and the two women were there; it was about dusk when we started and we had a mile to go; I stopped some yards distant from the house whilst Barry went in; he was having some argument with Mahoney; when Barry called out "Ahoy" and I and Price went to the house; I went in and Price stood at the door; Barry and Mahoney were disputing; when I went in Barry or Mahoney asked if I had heard what the latter had been saying about Barry; I said I had not; the same question was repeated to Price, and he answered the same as I did. Barry asked Mahoney to accompany him to Davey's hut; this Davey was the man who told Price Barry was an informer at home; I refused to go and so did Mahoney; Barry and Mahoney then closed with each other, and a scuffle ensued; Sullivan said "Stick him with a fork", and this took my attention; at the same time I got a blow from Sullivan, and I made the best of my way out of the hut. I did not see any blow struck except the one I received myself. I remained outside for half an hour, and heard someone shout out "murder", but can't say whose voice it was. After I ran away I returned to the hut in about a minute and a half; I was met by Sullivan, who threatened to kill me; he had a stick in his hand.

By Mr Stawell – I cannot swear positively to the two women; Mahoney was sitting down when I went into the hut; he did not get up until the scuffle took place with Mr Barry; I saw no blow struck; can't say who struck the first blow, it was a scuffle; they laid hold of one another. I have never said who struck the first blow. The blow that Sullivan struck me almost stunned me.

John Price examined by the Crown Prosecutor – I know all the prisoners by sight, I accompanied Barry and Cummings to Mahoney's hut; Barry went into the hut, and we remained at some distance; Barry called us and we went to the hut, Cummings went in and I remained at the door; there was a

candle lighted. Mahoney was sitting and Barry was standing; Mahoney asked Cummings whether he had ever said anything to him about Barry – Cummings said no; he then put the same question to me, and I said, no; Mahoney said he would not go to the house of Davey, and immediately jumped up and struck Barry; a tussle ensued and Mahoney pushed him behind the door; directly, Sullivan jumped up and said, “stab him with the fork”, and immediately struck Cummings; he also struck me across the eyes; I remained outside the hut and heard Barry say, “don’t murder me”; the two females ran out of the hut and said “part them”; Sullivan chased me away from the hut with a knife; the both came out and chased me 20 or 30 yards, and then returned to the hut; I went back and was chased a second time; altogether, I think we were an hour and a half at the hut.

In cross-examination by Mr Stawell, a somewhat new feature was extracted from the witness. He stated that he and Barry intended to have gone to Mr Vinge’s, and that it was not for the express purpose of going to Mahoney’s hut but that he accompanied Barry; they only called there on the way to Mr Vinge’s.

George Vinge, examined by Mr Barry – I keep a licensed Inn at Somerton; about 11 o’clock on the night of 7th March, Barry came to my house; he was sitting at the bar covered with blood; I saw a cut on the forehead, and had his head washed, and put him to bed; next morning I asked him whether he would like to go to his own place or to his brother’s in town; he said, to his brother’s; the servants then tried to dress him, and in so doing found one of his arms was broken – he fainted at this time; a bed was then placed on a dray, and an attempt was made to convey Barry to town, but he had two fits, and I then came to town for assistance; Mr Barry remained three weeks at my house, during which time he was attended by Dr O’Mullane.

In cross-examination by Mr Stawell, witness stated that he saw Cummings on the following day, who stated that he was afraid Barry was murdered, and was looking for him; witness said, he was at his house, and asked how it occurred, to which Cummings replied, well, if I must tell the truth, Barry struck the first blow.

Dr O’Mullane was called to attend to John Barry between twelve and one o’clock, on the 8th March; he found him in a fearful state; his body was one mass of bruises; there were several wounds too, of a very bad kind, one on the upper portion of his forehead; it was such a wound as might have been inflicted by an axe; both of his arms were literally livid; there was also a wound on the leg, inflicted by some sharp instrument, which laid the bone bare; had not the portions of broken bone been removed from the skull, to remove the pressure, death must have ensued; the fracture of the arms must have been inflicted with a blunt instrument.

By Mr Stawell – I believe the wound on the head was inflicted with an axe; great violence must have been used; the depression of the bone upon the skull was so great, that the brow has not yet assumed the proper form; Barry is a man of a remarkable constitution, and a very powerful man; this is the first occasion on which he has been out since the occurrence.

Mr Croke said his case was closed.

Mr Stawell submitted there was no evidence against the female prisoners.

Mr Croke here discovered that he had omitted to call one of the witnesses.

Mr Stawell objected to the witness being called after the case for the Crown had closed.

His Honour would allow Mr Croke to call the witness if he stated that he intended to do so, and that it was an omission on his part. Mr Croke stated that it was an omission on his part and called Serjeant Allworth, who apprehended the female prisoners on 9th March, he went to the prisoners' hut, and there saw the two female prisoners. They admitted having been in the hut at the time of the assault.

Mr Stawell submitted that this evidence did not alter the case; he still contended that there was no evidence against the women.

His Honour concurred with Mr Stawell for this reason, that they clearly did not participate in the capital assault charged in the information, and although there might be evidence to go to the jury in the common assault, it not being an assault connected with the capital charge, they could not be convicted under this information.

The two prisoners, Julia O'Keefe and Johanna Mahoney, were then discharged, the jury being directed to acquit them.

Mr Stawell then addressed the jury. The line of defence adopted was that the prosecutor went to the prisoners' hut for the purpose of seeking a quarrel; that he struck the first blow, and that however much he suffered he brought his sufferings on himself. Mr Stawell dwelt upon those circumstances detailed in the foregoing evidence, which seemed to favour this view of the case.

His Honour said the law of the case was this: the jury must be satisfied that the intent to murder was present in the mind of the prisoners at the time the blows were given, and of this they had to be perfectly satisfied by the evidence, and not be mere inference before they could convict the prisoners of the capital offence laid in the first count. Respecting the second count, the jury would have to consider the violence of the assault, and the only way in which His Honour conceived they could arrive at a verdict for a common assault would be by the supposition that the injuries had been sustained by some other manner, which, however, there was no ground to presume. Even if Barry had struck the first blow, the violence used was altogether disproportionate to that which self-defence would justify.

The jury retired, and upon coming into Court found the prisoners guilty on the second count.

Mahoney said he acted in self-defence, and was sorry for what had occurred.

His Honour in passing sentence, said if the prisoners had been convicted on the first count it would have been His Honour's duty to pass sentence of death; the case was one of a serious nature, and His Honour therefore sentenced them each to five years hard labour on the roads.

Jury – Messrs George Emerson, foreman; Peter Dredge, John Egan, Geo. Evans, John Dennis, Isaac Davis, Wm Donald, James Edwards, Wm Dall, Dennis Egan, Wm Eskine, Robert Forster.