

programme and pointed out such a subject. He took up the package and caught the end as if about to open it. I objected, and he asked why. I said some of the candidates may notice it when they come in, and remark that it should have been opened in their presence.

Q.—Did you call his attention to the regulations? A.—I think I did.

Q.—And he laid it down and did not break it? A.—He laid it down.

Q.—Is this all you can remember? A.—It is all, just now.

Q.—Did you concur in the distribution of the paper spoken of out of its time? A.—I did. It was by the concurrence of the Board.

By Mr. McDowall, Complainant :

Q.—Are you aware that any papers thus opened were given to teachers before their time at any of the examinations? A.—Most decidedly not. Not one.

By Mr. Gibb (Counsel for Mr. Borthwick) :

Q.—You say Mr. Borthwick on this occasion, when you remonstrated with him, made a motion as if he was going to tear a piece off the end. Do you know whether the papers were opened by tearing off the end or breaking the seals? A.—The usual way is to tear the ends, but I have seen the seals broken.

Q.—I suppose there was nothing said at the time about making an improper use of it? A.—No. I think the reason was mere curiosity.

Q.—There were no other parties present at the time? A.—So far as I can remember, there was nobody but ourselves in the room, and I am certain none of the candidates were.

Q.—What year was it you saw the envelopes open? A.—On one occasion in 1874, and the other I cannot positively state.

By Mr. Le Sueur, Commissioner :

Q.—Who were the packages directed to? A.—Mr. Borthwick.

Q.—Who had charge of them? A.—Mr. Borthwick. They were locked up in a sort of cupboard, from which they were taken from time to time.

Q.—But who had charge of them? A.—They were left in charge of the janitor.

Mr. Borthwick asked permission to make an explanation. He said Mr. Rathwell was mistaken. He (Mr. Borthwick) felt he was entirely responsible for the custody of these papers. There was a small cupboard in which he locked them, and he kept the key himself. Mr. Swinburn, the janitor, had the keys of the doors leading into the room, but only unlocked them by his (Mr. Borthwick's) orders.

By Mr. McDowall, Complainant :

Q.—In the examination of 1875, Mr. Rathwell, did you notice particularly whether the envelopes were broken open? A.—I was not present at the opening of every paper. Mr. McMillan and myself entrusted a good deal of the examining to the Inspector, while we were engaged in examining the papers. I think we several times entrusted Mr. Borthwick to deal out the papers.

Q.—Was it the custom of the Inspector to visit the rooms and open the papers. A.—The candidates were all in one room, and the papers were generally given by Mr. Borthwick.

Q.—Did he distribute them always? A.—Always, except on one or two occasions.

Q.—And had you access to the papers? A.—Yes, for that short time. He said he would be a little late and gave us the key for that reason.

Q.—In point of fact, they were not always in his custody? A.—I think that was an exception.

Q.—And that was in 1874? A.—I think it was in 1874 or 1875.

By Mr. Gibb, Counsel for Mr. Borthwick :

Q.—Was that the last day of the examination? A.—I could not say.

Q.—Did you go near the papers before the time came round for distributing them? A.—Not in the least.

Q.—You did not notice when you took out your papers whether the seals of the others were broken? A.—As far as I saw they were not broken. I know the one we took out was not broken, and I think the others were in the same condition.

Signed in the presence of

P. LE SUEUR,
Commissioner.

SAMUEL RATHWELL.

John McMillan recalled and examined by Dr. Hodgins, Chairman :

Q.—During what years were you an Examiner? A.—Since 1871.

Q.—Every year? A.—Yes.

Q.—And you have attended every examination? A.—Yes, with the exception of the July examination of 1872.

By Mr. McDowall, Complainant :

Q.—Are you aware that during any of those examinations seals of envelopes were broken before the time appointed by the regulations for so doing? A.—No.

By Dr. Hodgins, Chairman :

Q.—In no one year and on no occasion? A.—None.

Q.—Were they broken in your presence when you were there on time to commence examinations? A.—Yes.

Q.—In all cases? A.—In all, so far as I know.

By Mr. McDowall, Complainant :

Q.—Were you absent on any occasion when the examination commenced? A.—I may have been, but I was very regular in my attendance.

Q.—Did you pay particular attention every time the seals were broken to see that they actually were not opened already? A.—I did not.

Q.—Could you swear that they were not open? A.—I can state distinctly that in every instance when I noticed the opening of the papers that the opening was *bona fide*. Mr. Borthwick's practice was not to break the seal, but to tear the end of the envelope.

By Dr. Hodgins, Chairman :

Q.—Do you know instances in which he broke the seal? I do remember such instances sometimes, but his practice was to tear the end.

By Mr. McDowall, Complainant :

Q.—Could the envelopes have been opened without your knowledge? A.—I could not swear that they had not been opened before, but I do not know that they were opened before. In no case during the whole examination, since 1871, do I know of a paper not being opened properly.

By Dr. Hodgins, Chairman :

Q.—Did you sufficiently observe, or is that just your impression? A.—Yes, I did very often, because I felt it was my business; but when the examiners were at work in the morning it was not my practice to watch whether Mr. Borthwick broke the seals properly, but I looked again and again just because I felt I was responsible.

Q.—You were sufficiently on the alert to observe if anything of the kind was done? A.—On one occasion, when the candidates were called in, and they filed into the room, Mr. Borthwick did, in my presence, open an envelope before all the candidates were in the room, I told him it would be better, for the sake of appearances, to wait until all the candidates were seated.

Q.—Did you call his attention to the regulations? A.—I did.

Q.—What did he say? A.—His remark was substantially this—the candidates were sufficiently in their places to meet the requirements.

Q.—Were the candidates present? A.—They were.

By Mr. McDowall, Complainant :

Q.—Were they all in the room? A.—They were in the process of filing in.

Q.—Had they an opportunity, while filing in, to look at Mr. Borthwick opening the envelope? A.—Yes.

By Dr. Hodgins, Chairman :

Q.—On your calling Mr. Borthwick's attention to it, did he assist? A.—He did.

By Mr. Le Sueur, Commissioner :

Q.—Did any one of your co-examiners call your attention to these envelopes having been broken too soon? A.—On this occasion only, Mr. Rathwell did, while the candidates were filing in. We spoke of it together.

Q.—Did not Mr. Rathwell confer with you as to the envelopes having been opened by Mr. Borthwick, and you concurred with him as to the impropriety of it? A.—I do not remember that he ever called my attention to anything of the kind, except on the occasion I have referred to. I never heard of envelopes having been improperly opened before.

Q.—Can you recollect no such observation? A.—I cannot.

By Mr. Gibb (Counsel for Mr. Borthwick) :

Q.—I understand you to say that yourself and Mr. Rathwell were with Mr. Borthwick when he was going to open the envelope?—Yes.

Q.—Was there any other gentleman present? A.—I think not.

Q.—Then there could have been no possibility of an improper use being made of it? A.—No.

By Dr. Hodgins, Chairman :

Q.—And you know of no case in which the envelopes were improperly opened? A.—No.

By Mr. Le Sueur, Commissioner :

Q.—Do you know of no case in which papers were found open when taken out of the cupboard in which they were kept? A.—I do not. If Mr. Rathwell ever called my attention to any impropriety, I am sure I would have spoken to Mr. Borthwick about