

refuse it, and report to the Minister of Education only such information as is within the witnesses' own cognisance.

I am happy to meet my venerable friend, the Inspector for the County. I know that for some years he has endeavoured to do his duty faithfully. I have a good deal of sympathy for any gentleman in his position, and he may depend upon being treated honourably, fairly and courteously throughout the investigation. I may say the same to all other parties concerned.

We shall confine ourselves to the charges just read, and if the Complainant has other charges to make, they must be put in writing. The order of proceedings agreed upon by the Commissioners is, that Mr. Loucks shall call his witnesses first, when the other side will have an opportunity of cross-examining them. Then the witnesses for the defence will be called, and the same latitude allowed as to their cross-examination.

Mr. Bigg, Commissioner, then read the formal charges lodged by Mr. Loucks with the Department, from which it appeared that the charge made against the Rev. Mr. Fergusson and Mr. W. A. Whitney, was, that the first-mentioned, at the suggestion of the last mentioned, broke the seals of examination papers on the evening previous to the examination, at Winchester Springs, in July, 1874. This charge was first taken up, Mr. Tyrrell, barrister, Morrisburg, appearing by consent of the Commissioners, on behalf of Mr. Loucks.

The prosecution then called upon W. A. Whitney to give evidence.

*Rev. Mr. Fergusson, Defendant :*

I cannot see that a gentleman who is at the bar of this court to answer to charges which have been preferred against him can be called as a witness. Mr. Whitney is put down in the same indictment as myself, and I object, as a matter of law, to his giving evidence.

*Dr. Hodgins, Chairman :*

There may be facts in regard to which the party against whom the charge is preferred may give evidence. Mr. Whitney is at perfect liberty to speak with regard to anything affecting his own conduct, and offer whatever explanation he may see fit. There will be no objection to any person giving evidence who has evidence to give in connection with the case. Of course, Mr. Whitney must be sworn, and, while giving evidence, may refuse to answer questions which he deems likely to incriminate himself, or he may decline to give evidence at all, as he chooses.

*Mr. Whitney, Co-Defendant :*

To make the matter plain, permit me to say I have no objection to giving any evidence.

*Dr. Hodgins, Chairman :*

If Mr. Loucks has any other witnesses present, it might be as well that he should call on one of them now rather than either of the defendants.

*Mr. Tyrrell, Counsel on behalf of Mr. Loucks :*

We have no objection to taking the evidence of witnesses in any order that may seem best to the Commissioners. We, therefore, call upon Mr. James Mallen.

James Mallen sworn : examined by Mr. Tyrrell (Counsel on behalf of Mr. Loucks.)

Q.—You are a Public School Teacher? A.—I am, Sir.

Q.—Were you so engaged in 1874? A.—I was—in the fall of 1874.

Q.—Do you recollect an examination of Teachers taking place at Winchester Springs in the year 1874? A.—I do recollect it.

Q.—Were you present at that examination? A.—I was.

*By Dr. Hodgins, Chairman :*

Q.—Were you a candidate at that examination? A.—I was a candidate, Sir.

*By Mr. Tyrrell :*

Q.—Do you know Mr. Fergusson, Inspector of Public Schools for this County? A.—I do, Sir.

Q.—And Mr. Whitney? A.—I know Mr. Whitney also.

Q.—Were they examiners upon the occasion to which we are referring? A.—I believe they were.

*Dr. Hodgins :*

Q.—You must be positive in your evidence. We do not desire to know what you think or believe, but what you are positively aware of. Were they examiners upon that occasion? A.—To the best of my knowledge they were.

*Dr. Hodgins :*

Q.—But you say you were present at the examination, and surely you know positively who were the examiners, and whether Mr. Fergusson and Mr. Whitney were acting in that capacity or not? A.—The examinations, I ought to say, were conducted partly in the school upon that occasion, and partly in Conner's Hall.

Q.—Were the questions delivered to the candidates in printed form partly in one place and partly in another? A.—They were delivered to us all together in the school-house the first day.

Q.—How did part of the examinations take place in one place and part in the other? A.—Because there was not sufficient room in the school to conduct them all together.

Q.—How, in that case, could the papers possibly be opened in the presence of the examiners and all the candidates, as required by the law? A.—I cannot say as to that.

Q.—Were the papers opened in both places? A.—I do not know, I was not in the hall.

Q.—Were the papers opened in the school and in Conner's Hall too? A.—I do not know as to the hall.

Q.—Before the examinations commenced, were all the candidates in one place, and the envelopes opened in their presence? A.—I think so; and I am under the impression that a portion of them after being so opened was sent to the Hall.

Q.—Can't you be positive; it is no use telling what your impressions and thoughts are? A.—I cannot be positive.

Q.—Is that not somewhat extraordinary, especially as the opening of the papers was a subject regarding which you were presumably, or at least ought to be, somewhat deeply concerned? A.—The seal on the large packet was broken in the school, and to the best of my recollection the teachers were all then present. Afterwards a portion of the papers was sent to the hall, where one section of the candidates was being examined.

Q.—How long was the interval between the opening of the papers and the commencement of the examination? A.—It was very brief.

Q.—Who carried the examination papers from one place to the other? A.—I do not know.

Q.—Who presided at the examination in the lower place. A.—Mr. Whitney.

Q.—Did he distribute the examination papers among the candidates while in the school, or after they went to the hall? A.—I think Mr. Fergusson distributed the papers in the school.

Q.—Mr. Fergusson presided in the one place and Mr. Whitney in the other? A.—Yes, Sir.

Q.—Which examiner were you under? A.—Mr. Fergusson.

Q.—Then the other examiner must have carried the papers in an open condition from the school to the hall? A.—I do not know.

*By Mr. Bigg :*

Q.—Did I understand you to say that all the papers were opened in the presence of the whole of the candidates? A.—Only one paper, I think.

Q.—Were they sent for from the hall to see the other papers opened in the school? A.—I really could not say positively.

*By Dr. Hodgins :*

Q.—You surely remember whether you were all collected together when the papers were opened on the different subjects? A.—The teachers were not all together in the school after the first morning. After having been separated the first morning they were separated all through.

*By Mr. Bigg :*

Q.—And they were not all present when the first paper was being opened? A.—Exactly so, sir.

*By Mr. Tyrrell :*

Q.—Upon what day of the week did this examination take place? A.—Upon Tuesday, I think, it began.

Q.—Were you at the Springs on the Monday before—that is the day before the examination began? A.—I am not certain.

Q.—Were you there on the Monday evening before the examinations commenced? A.—I think I did go there on Monday evening.

Q.—Did you see Mr. Fergusson on Monday afternoon or Monday night? A.—I could not say positively whether I did or did not see him.

Q.—Do you recollect having seen any of the packages containing the examination papers open on Monday evening? A.—I did not.

*By Dr. Hodgins :*

Q.—Did you see them at any time during the examination? A.—I saw one paper.

Q.—What paper was it? A.—The paper on Arithmetic.

Q.—When did you see that paper? A.—On Tuesday evening.

Q.—When was the examination on that subject to take place? A.—The next day after I saw the paper.

Q.—Do you mean to say that the paper upon which you were to be examined on Wednesday, was opened on Tuesday night? A.—I think so.

Q.—Are you not positive? It is important on a point of this nature that you should be certain? A.—I am not positive, but I think this was the night before the examination. To the best of my knowledge and recollection it was.

*By Mr. Bigg :*

Q.—Are you sure you saw a copy of the examination paper before the time allotted for the examination to take place? A.—I am certain upon that point, sir.