

Report it is shewn that the extract from McNair's evidence was made precisely as ordered unanimously by the Commissioners; and further, that the words in question were in no way pertinent to the matter in which McNair's testimony was cited. The general charge against the Warden, under which his testimony appears, was "attempting to intimidate the inmates of the Penitentiary and otherwise trying to bias the evidence of officers and convicts expected to appear as witnesses before this Commission;" and the special charge as distinctly sworn to by guards of the prison, Wilson and Waldron, was, that McNair had been employed by the Warden in trumping up evidence from among the convicts to be elicited before the Commissioners. The evidence of the guards on this point is clearly stated in the Report, and the passage from McNair's evidence was given for the purpose of shewing the character of the man who was thus used in trumping up evidence. The reference to his obtaining food occurs incidentally only, and had no bearing on the charge at issue—that point being fully referred to elsewhere in the Report. Whether McNair got extra food was a matter of no importance to the point at issue, and Frank Smith's knowledge of the fact, if it was a fact, was of as little importance. Moreover, Frank Smith, at the date of McNair's testimony, had been dismissed from the Penitentiary several weeks before. Mr. Macdonald has quoted McNair's evidence in a way to deprive it of its full bearing. He should have quoted the whole passage, by which the object of the quotation would have been clearly shown.

Hon. *J. Sandfield Macdonald*, a Member of the House examined.

Ques. 820. [*By Mr. Brown.*] Were you a Member of Parliament and in attendance at the sittings of the House of Assembly during the Sessions of 1849, 1850, 1851?—Ans. Yes.

Ques. 821. Do you recollect the Hon. J. A. Macdonald moving in the House of Assembly, in the Sessions of 1850 and 1851, to refer to a Select Committee the petition of Mr. Henry Smith, Senr., complaining of the mode of proceeding adopted towards him by the Penitentiary Commissioners, and the debate thereon?—Ans. I recollect on two separate occasions Mr. Macdonald speaking and presenting a petition on the subject of the Penitentiary Commissioners.

Ques. 822. Did you on both of these occasions vote against the motion of Mr. Macdonald?—Ans. On reference to the Journals of the House I find that on the 5th August, 1850, and 24th June, 1851, I voted against Mr. Macdonald's motion.

Ques. 823. Were you Solicitor General for Upper Canada at both of these periods, and were you on terms of personal friendship with Mr. Brown?—Ans. Yes.

Ques. 824. Were your votes in any manner influenced on these occasions by Mr. Brown; did you advise him to consent to the appointment of a Committee, or did he urge you or the Government of which you were a member to resist the appointment of a Committee?—Ans. No conversation in relation to the Penitentiary took place between Mr. Brown and myself until after the debate in 1851.

Ques. 825. Were the charges preferred in Mr. Smith's petition and urged by Mr. Macdonald in his speeches on moving for its reference, aimed at the Commissioners generally, or at Mr. Brown alone as an individual?—Ans. Up to a short time ago I was under the impression that the charges then made had more particular reference to Mr. Brown, but since reading the debates of that period, I am now of opinion that they were directed at the Commissioners generally.

Ques. 826. Did Mr. Macdonald then profess to make any statement on his own personal knowledge or did he avowedly rest his whole case on the authority of Mr. Smith?—Ans. I am under the impression that Mr. Macdonald stated he "was instructed to say what he said," and that he did not pretend to say anything of his own knowledge.