

# Charles La Trobe, Victoria's Separation & Gold Tax – *'turning a wild colonial country into a civilised one'*



**Australia Day Council (Victoria) Inc.**  
**Oration by Gary Morgan**  
**May 9, 2011**

On July 25, 1839 Charles Joseph La Trobe arrived in Sydney. From October 3, 1839 to 1851 he was Superintendent of the Port Phillip District of New South Wales and on July 1, 1851, the first Lieutenant-Governor of Victoria until he left Melbourne on May 6, 1854.

During this period Victoria changed from a mainly agricultural society to a booming economy founded on one of the world's great gold discoveries.

La Trobe was a religious, well educated, sensitive person, with the highest ethical and social values; however he had little, if any, training or experience in administrating such a transformation which he was soon to be involved in.

La Trobe was a descendant of a French Huguenot family who in 1685 after the Revocation of the Edict of Nantes fled France. His protestant, non conformist, French ancestors originally moved from Europe to Ireland, and finally to the Moravian village of Fairfield near Manchester, England. The family became highly cultured Moravian missionaries – a family aligned with Wilberforce and anti slavery.

In October 1824, Charles La Trobe, as a young unmarried man, became the tutor to the oldest, 12 year old son (Albert-Alexandre) of the Comte Frederic de Pourtales family who lived in Neuchatel, Switzerland.

Of importance Frederic himself gained the honour of attachment in 1809 to Napoleon's household as Master-of-the-Horse to Empress Josephine. In due course, on November 18, 1811, Frederic married Josephine's lady-in-waiting, the Comtesse Marie-Louise-Elizabeth de Castellane-Norante.

La Trobe tutored Albert-Alexandre until February 1827 and from then kept in close contact with the de Pourtales family. La Trobe in 1835 married the Count's cousin Sophie de Montmollin.

On arriving in Melbourne on October 3, 1839, La Trobe was accompanied by his family and initially stayed at the ten-month-old Melbourne Club, at that time, occupying the Shakespeare Hotel (east corner of Collins St and Market St) owned by founding colonist John Pascoe Fawkner. (The Melbourne Club was established in



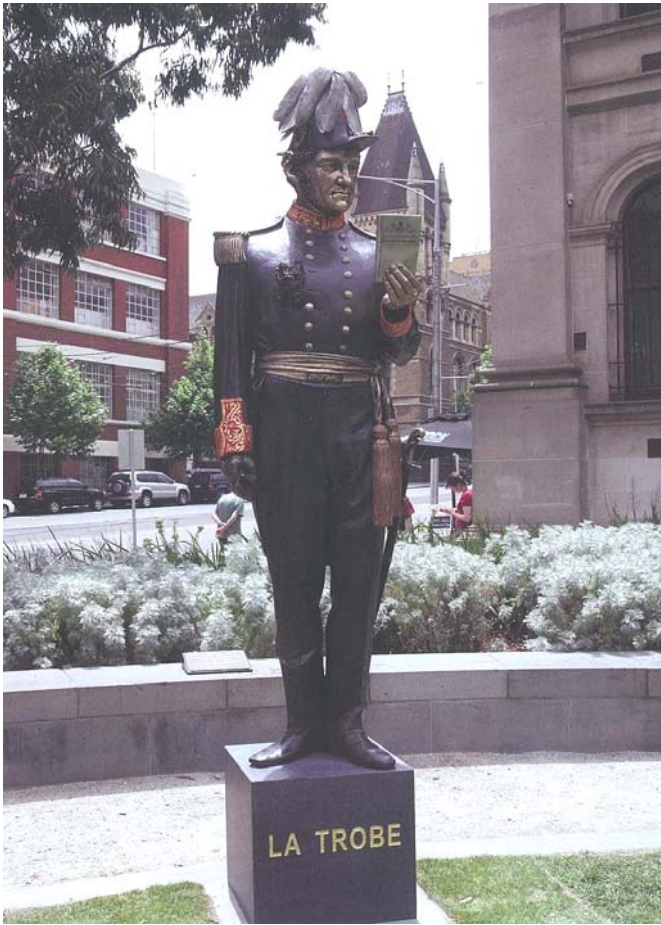
Joe Shneider OAM, Chairman Australia Day Council (Victoria) Inc and Gary Morgan, Executive Chairman, Roy Morgan Research

1839 to be run on the principles of London clubs. Bankrupts or those with a criminal record could not be Members.)

At the invitation of the Melbourne Club Committee La Trobe joined the Melbourne Club on October 12, 1844.

La Trobe was premature when he wrote at the end of 1840 that '*recent intelligence from home*' indicated separation in the near future.

Obviously La Trobe had not been opposed to the separation of the Port Phillip District from his beginning, but, like his superior officer, Sir George Gipps, La Trobe considered in his early years as Superintendent that the timing was not right due to the District having only been settled a few years before he arrived.



'The Statue' a 21<sup>st</sup> century bronze sculpture by Peter Corlett of a 19<sup>th</sup> century visionary administrator who laid the foundations for Victoria as it is today.

'The Making of a Statue, Charles Joseph La Trobe'  
by John Drury

Photo by Susan Gordon - Brown

It was to be a long, slow process to self-determination and La Trobe accepted progress in this way - his character was predisposed to gradual, orderly change. It was easy for the Port Phillip Colonists at the time to interpret La Trobe's gradualism as lethargy.

The Colonists became impatient and considered La Trobe's slowness to move on their behalf was due to his inactivity.

Personally I believe La Trobe's inactivity was more due to his lack of authority than desire. His wife's family had close ties with Napoleon's 'household' and as such I believe La Trobe was at least a sympathetic Napoleonite (Most would consider Napoleonite's to be Republicans – anti the French Monarchy) and in favour of separation like his 'friends' at the Melbourne Club.

The first separation meeting was held on May 13, 1840 – 14 of the 19 speakers were Members of the Melbourne Club.<sup>1</sup> The

<sup>1</sup> **Speakers at first Separation Meeting, Scott's School, Eastern Hill, May 13, 1840:**

The speakers were Messrs. H.F. Gisborne, A.M. M'Crea, C.H. Ebdon, James Montgomery, Arthur Kemmis, Arthur Hogue, J.D.L. Campbell, P.W., Welsh, A. Bolden, Redmond Barry, J.C Riddell, W. Verner, T. Arnold, W. Meek, W. Ryrie, R. H. Browne, Dr. M'Crae, and Dr. Greeves.

first public meeting was held on December 30, 1840 in Isaac Hind's Store in Flinders Lane near Queen St.<sup>2</sup> While the separation movement accelerated in the first few years that La Trobe was resident; the desired goal was no closer to achievement.

In 1842 those in favour of separation managed to persuade voters not to nominate Port Phillip District representatives for the Legislative Council in Sydney. This was maintained until mid 1843 when Henry Condell was elected Melbourne's first representative of Port Phillip District for the Legislative Council in Sydney – the first representative Assembly of Australia. (On December 9, 1842 Henry Condell was elected Melbourne's first Mayor.)

In January 1845 a petition requesting separation was sent to the Colonial Office in London from the six minority Port Phillip Representatives of the New South Wales Legislative Council in Sydney; however separation still eluded the Port Phillip District.

However, Governor Gipps believed La Trobe was convinced of the sense and the inevitability of a separate colony and, in 1845, stated in a confidential letter to La Trobe: “...and that I am not averse to separation”.

A year later (1846) Gipps formally recommended to the Colonial Office in London separation of the Port Phillip District. It was seen that Gipps had confidence in La Trobe as the Administrator, and in the future Colony of Victoria. La Trobe had every reason to be glad that his persistence and reasoned arguments for separation had at last prevailed upon the Governor, although the act of separation would not be proclaimed for another five years.

While it was reported in the press that La Trobe placed himself in the way of the people's yearnings for increasing political privileges and self-government it is difficult to believe the delays were due to La Trobe. La Trobe himself had made it known he was tired of waiting for separation to come. **However the administration in Sydney was not concerned with the delay in separation. The blame can be linked to the Colonial Office in London who was eager to use Australia as a 'dumping ground' for the 'undesirables'.**

In 1846 the residents of Melbourne made it clear that convicts, once they were emancipated, except for some squatters were not wanted in the southern areas of New South Wales (Melbourne).

It is important to understand from La Trobe's family and background as a young man in England and then the West Indies one of La Trobe's strongest characteristics was his desire for equity.

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<sup>2</sup> **The first Public Separation Meeting was held Dec. 30, 1840 in Mr Isaac Hind's store in Flinders Lane** near Queen St (Chaired by William Verner, Melbourne Club's first President, 1840). Other separation advocates were some members of the Port Phillip Association, a representative body of 15 squatters and businessmen from Van Dieman's Land, led by John Batman, who first settled Melbourne on May 29, 1835, Edward Curr (Prominent Irish Roman Catholic who contested Melbourne's first election for Mayor.), Henry Condell, Dec. 9, 1842 Melbourne's first Mayor (Brewer and publican from a Scottish brewing family.), and as mentioned many members of the Melbourne Club including: Major George Mercer (Separation Association first President, 1840.), Redmond Barry (Melbourne Club Secretary 1841, President 1844, 1846 & 1858.), Dr James Palmer (Second Melbourne Mayor, 1845.), A Bolden (Melbourne Club Vice President, 1840/41.), Henry Gibson, Dr Farquhar McCrae, Niel Black, William Stawell, George Cavenagh, Dr W. D. Bernard, A. F. Mollison and others.

Despite this desire for equity it appears that La Trobe favoured the squatters. He spent much of his time travelling the Port Phillip District including making sketches and water colour paintings of the places he visited. He knew many of the squatters personally, especially after 1844 when La Trobe was elected to the Melbourne Club, where some were members.

While the imperial policy protected squatters' rights, La Trobe was concerned that although squatters did not have title to their land they had a 'virtual monopoly' on land tenure.

The media world was La Trobe's greatest critic including Edward Wilson, an English journalist of radical views, who in 1848 bought the *Argus* newspaper.

There is little doubt La Trobe was afraid of making decisions in those areas which might be 'wrong in the eyes' of Governor Fitzroy in Sydney and the Colonial Office in London. However on August 10, 1849 La Trobe sent the following important note to Fitzroy:

*"The longer separation is delayed, the more difficult becomes the task of governing the district. Separation will remedy much, but any constitution which takes government away from a Governor, Executive Council and nominee Legislative Council (and substitutes a representative body for the latter) is unsuitable to the colony and will render its administration a task of great difficulty"*.

In the lead-up to separation, Wilson continued to insult La Trobe's manner of fulfilling his role as a representative of the Crown, calling him in the *Argus* on September 20, 1849 '*that ruler with whom Providence has thought proper to afflict us...this caricature of Royalty!*' Then a week later the *Argus* implied **La Trobe was a traitor** – a very unfair accusation.

The news of the UK Government agreeing to separation reached Melbourne in November 1849 with separation implemented on July 1 1851 just after gold was discovered at Clunes in June 1851!

La Trobe's overall general lack of action was being criticised by those elected to the Legislative Council, the press and by the 'man in the street'. Although George Cavenagh's *The Melbourne Morning Herald* on November 14, 1850 had a long editorial '*Our First Governor*' which referred to La Trobe's fallibility but sought to do La Trobe justice.

Victoria was soon to be a very different place with a massive population influx – mainly young men from all parts of the world but also many ex-convicts from NSW and Tasmania – many with radical views on how 'modern' governments should be run!

On August 15, 1851 La Trobe as Victoria's new Lieutenant-Governor issued a proclamation in the *Government Gazette* asserting the rights of the Crown to all minerals. A licence fee of thirty shillings per month would be levied on every gold seeker from September 1, 1851.

Turbulent times, and a constantly changing focus for La Trobe's attention as more and more problems came before him for resolution, eroded any decision-making ability La Trobe had remaining, and destabilised his judgement.

The Legislative Council under La Trobe as chief executive was advised by an Executive Council of four members appointed by the Crown. These were Captain William Lonsdale as Colonial Secretary, Charles Ebdon as Auditor-General, William Stawell as Attorney-General, and Redmond Barry as Solicitor-General. (All were Members of the Melbourne Club.)

Unfortunately it became 'too hard' for La Trobe and he submitted his resignation to the Secretary of State in London on December 31, 1852 although he did not leave the vibrant but turbulent Colony of Victoria until May 6, 1854. (Governor Hotham arrived in Melbourne on June 22, 1854.)

The height of the persecution of La Trobe was reached in April and May 1853 when Wilson ran a serial advertisement in the *Argus*: 'Wanted a Governor. Apply to the People of Victoria'. By this time there was little popular support from anyone for La Trobe.

In June 1853, an **Anti-Gold Licence Association** was formed at Bendigo where about 23,000, or nearly half the total number of diggers in the Colony were located. They gave voice to their many grievances, the central focus being the licence fee, which even at its original cost, was considered too stringent. The leaders of the Association were G. E. Thomson, Dr Jones and 'Captain' Edward Brown.

They drew up a petition (13 meters long) signed by 5,000 diggers which articulated their grievances and met La Trobe in his office on August 1, 1853.

Dianne Reilly, Secretary of the La Trobe Society in *La Trobe* Page 224 puts it this way:

*"The meeting was not a success. La Trobe responded defensively and coldly to each of the clauses put forward. He was aloof from the miners partly because of his own attitude regarding his position of authority as Lieutenant-Governor, but also because of his fear of the 'mob', the 'canaille' he had scorned in his earlier travels. He was the person in command, and by distancing himself from the miners, he maintained his authority. This moment of meeting with the miners could have changed history. Had La Trobe been able to act differently, perhaps the tragedy of Eureka would have been averted. But La Trobe could not put himself in the miners' shoes. He could not feel for them in their struggle for basic acknowledgement and rights. He did not have the force of personality, the experience of what it was like to really struggle to stay alive, nor the ability to place himself on their level - man to man."*

La Trobe on August 30, 1853, at the opening of the next session of the Victorian Legislative Council proposed new legislation to totally abolish the licence system, in its place imposing an export duty on gold. In this way, taxation on the precious metal would only be paid according to the actual earnings of a miner.

Dianne Reilly in *La Trobe* Page 226 puts it this way:

*"A select committee was set up to consider the matter, but it resolved to maintain the licence fee, albeit on a reduced and sliding scale: £1 for one month, £2 for three months and £5 for a year. The Goldfields Management Act was proclaimed in November 1853 after poorly handled debate in the Legislative Council which decided to introduce a sliding scale of fees from £1 for one month to £8 for twelve*

months, and gave the franchise only to miners who took out annual licences.<sup>3</sup> Geoffrey Serle described the outcome as ‘barefaced trickery, for as things stood almost no one was taking an annual licence as there was no financial incentive to do so’.<sup>4</sup>

Dianne Reilly concludes La Trobe’s history in her doctoral thesis this way:

*“La Trobe’s August 1, 1853 meeting with the gold miners changed Victoria’s history. Had La Trobe been able to act differently, perhaps the tragedy of Eureka would have been averted. But La Trobe could not put himself in the miners’ shoes, as he was fearful of anarchy on the goldfields. In fact, it could be said that La Trobe panicked before ‘the mob’. The time was not there for him to deliberate. He had to make decisions, quick decisions, and these were sometimes the wrong decisions.*

*“The historian Geoffrey Serle, in his definitive study of the gold rush, came to the conclusion that, when La Trobe was faced with the appalling difficulties of the times, La Trobe had tried to ‘govern chaos on a scale to which there are few or no parallels in British colonial history’.*

*“La Trobe had, in fact, managed to keep the colony for which he was responsible operating in circumstances ‘in which the archangel Gabriel might have been found wanting’.*”

The miners’ resentment of the ‘authority’ and tax: £1 for one month was never going to be accepted – resulting in the Eureka uprising on December 3, 1854, the subsequent Eureka Trials and ‘Not Guilty’ verdicts – **resulting in Victoria and Australia being changed for ever.**

Separation of Victoria and the involvement of the Melbourne Club is covered in more detail in my paper ‘*Victoria Day Council Oration*’, presented November 14, 2009.

What needs to be understood is the **role eminent Victorians** of the day played in the **separation of Victoria**, the **gold licence fee (really a tax)** through to **Eureka** and the **Eureka trails** (where juries’ delivered thirteen ‘not guilty’ verdicts). All these eminent Victorians were Melbourne Club Members,<sup>5</sup> including: Redmond Barry, John Leslie Foster, William Foster Stawell and George Cavenagh (Proprietor of *The Melbourne Morning Herald* and financial backer of *The Diggers Advocate – Friends I Shelter Foes I Crush*, first published October 28, 1853. In February 24, 1854 it became *The Gold Diggers’ Advocate and Commercial Advertiser*, published by George Black with contributions from H. R. Nicholls and support from John Pascoe Fawcner and Ebenezer Syme – both publications were the “voice of the gold diggers”.)

There were fifteen years from the first separation meeting held on May 13, 1840 in Scott’s School Eastern Hill to the last Eureka **‘Not Guilty’ verdict**. Redmond Barry

<sup>3</sup> Inglis, *Australian Colonists*, p. 228

<sup>4</sup> Serle, *The Golden Age*, pp. 116-17.

<sup>5</sup> During the Eureka trials Butler Cole Aspinall, a radical Liverpool barrister, acted gratuitously for Eureka prisoners charged with treason, he was instrumental in their acquittal. In 1854, before Eureka, Aspinall was Editor of *The Melbourne Morning Herald*. In 1856 he was elected to the new Legislative Assembly (seat Talbot) and soon afterwards became a member of the Melbourne Club. In 1856 Peter Lalor was also elected to the new Legislative Assembly.

played a significant role in the separation of Victoria from the first meeting through to the thirteen Eureka ‘Not Guilty’ verdicts.

While during the same period La Trobe played an important role in the foundation of Victoria it was **Redmond Barry and La Trobe’s fellow Members of the Melbourne Club** who we need to recognise as the ‘curators’ of Victoria as we know it today. They were responsible for – *‘turning a wild colonial country into a civilised one’*.<sup>6</sup>

**Gary Morgan, July 20, 2010 (Presented to the La Trobe Society), updated and presented on May 9, 2011 to the Australia Day Council (Victoria) Inc**

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3. **Victoria Day Council Separation Tree Ceremony Oration**, November 14, 2009
4. **“Change is needed by all”** Presented at Glen Eira Council Australia Day Council Breakfast, January 22, 2010
5. **La Trobe, The making of a Governor, 2006** by **Dianne Reilly Drury**
6. **Sir Redmond Barry KB KCMG, (1813-1880)** presented by **Stewart McArthur**, Melbourne Club, June 10, 2010

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<sup>6</sup>Quote by La Trobe’s friend, Hubert de Castella, *La Trobe, The making of a Governor*, Page 189



## “Distinguish Members”

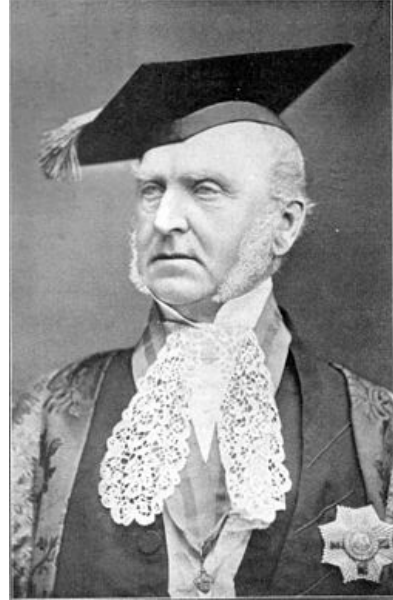
Presented by **Stewart McArthur**, President, Melbourne Club, June 10, 2010

### **Sir Redmond Barry KB KCMG, (1813-1880)**

Gentleman, Redmond Barry was one of our most distinguished Members. His contribution to the colony, the young and thriving village of Melbourne and the Club was amazing. He joined the Club on 7<sup>th</sup> October 1840, having arrived in Melbourne a year earlier. He remained a Member for 39 years and was President on three occasions.

Redmond Barry was born in County Cork, Ireland, was of upper class Anglo-Irish background, educated at Trinity College, Dublin and in 1838 called to the Irish Bar. Lack of legal work in Dublin encouraged him to seek fame and fortune in the Colonies, so he came to Australia.

A lot is known about Redmond Barry as he kept a Day Book, which was in modern terminology, his diary in which he entered many intimate details of his professional and private life.



Sir Redmond Barry  
1813 - 1880

Redmond Barry was always physically active, tall, fit, had well cut features and was not a little vain in his appearances. He had an amorous nature which manifested itself throughout his life.

His appreciation of the fairer sex became clearly evident on the 16 week voyage from Plymouth to Sydney on the HMS Calcutta when he had a very open and scandalous affair with a Mrs Scott, wife of a fellow passenger.

This did not enhance his reputation in Sydney with the Governor and the leading lights of the Colony.

Obviously he was active in the formation of the Melbourne Club and it is reported he was instrumental in developing the Black Swan as our emblem and motto, '*rara avis*'. The motto emerged from Barry's classical scholarly background and a casual interpretation of the motto could suggest that a black swan is as rare as a perfect wife.

Barry led a diverse social life, supporting the aborigines, being a Supreme Court Judge, a friend of the Governor, a senior Member of the Melbourne Club. The "cheery, cultured, convivial Redmond Barry, stalwart of the Melbourne Bar, attractive bachelor and could be relied on to charm the ladies". But there was another side to this public character.



His famous duel with Snodgrass in 1841 over a defamatory letter has attracted much attention over the years. Snodgrass is related to our immediate past President Bill Shelton.

In the duel, after both contestants stepped out 12 paces and turned to face one another, Snodgrass, with nervous agitation, discharged his pistol prematurely. Barry fired into the air and was declared the winner with honour.

Redmond Barry remained a bachelor all his life and lived in Carlton and East Melbourne frequented the Melbourne Club. However, he retained the affections of one Louisa Barrow, his mistress for 34 years. Louisa was the mother to his 4 children.

It's also noted in his day book that he had a number of assignations with a Caroline and other female companions. His four children took his name and his elder son attended Melbourne Grammar under Headmaster Bromby, which gave his family an air of respectability.

Redmond Barry's huge energy and commitment ensued that Melbourne's cultural institutions had solid foundations. He was the first Chancellor of Melbourne University in 1853. He was the driving force in the creation of the Melbourne Public Library and Melbourne Museum. He was the advocate and supporter of the Melbourne Exhibition in 1862. He was an active and conscientious Judge on the Supreme Court, often travelling through Victoria on horse back.

His range of interests was remarkable. First President of the School of Mines, Ballarat. First President of the Horticulture Society of Victoria, and active on his own property, Sabine Farm. He was also the first President of the Philharmonic Society, established in 1853 with Governor La Trobe as its patron. It remains active to this day.

Redmond Barry was extremely well read and had his own extensive library of classical literature, to which he had annotated extensively. He was ahead of his time in that he invited members of the public to his home to share his library and love of classical literature.

This idea formed the basic policy for the State library which allowed access to members of the public to read books. A controversial approach at the time.

Whilst Barry was a strong advocate of a classical university education he rejected the notion that women should be students although they were entitled to matriculate under the State Secondary system. Three years later, in Barry's absence, the University Council overturned the ruling and allowed females to attend University.

Redmond Barry could claim credit for the construction of the Wilson Hall. In December 1874, Mr Samuel Wilson, a Melbourne Club Member and squatter from Ercouldine, wrote out a cheque to Barry as Chancellor for £30,000.

It's reported that Wilson, like all pessimistic wool growers felt that his wool cheque would be down, but made an offer to Barry over a whisky and a glass of wine at dinner at the Club, that if the wool cheque was up, he would give a donation to the

University. The Melbourne University is forever thankful that the wool price was good that year and Melbourne Club Member Wilson kept his word.

He implemented the law often with a death sentence which was in accord with the convention and laws of the day. He participated in the Eureka Trials in 1855 and the controversial decision to free 13 of the accused miners.

Barry was active in the move to separate the Port Philip District from the Colony of New South Wales. According to my very good friend Gary Morgan, Barry should be given much credit for his influence and also that of other the Melbourne Club members in agitating for Separation and the creation of Victoria as a State in July 1851.

The public face of Sir Redmond Barry is inextricably linked with the trial of Ned Kelly. Ned Kelly was the last of the bushrangers, gentlemanly, polite to the women, a fine bushman and developed a legendary status in rural northern Victoria.

Sir Redmond Barry sentenced the prisoner to death in the usual form, and covering his wig with a black cloth, ended with the words:

“May the Lord have mercy on your soul.”

To which Kelly replied:

**“I will go further than that and see you there when I go.”**

Twelve days later Sir Redmond Barry KB KCMG died from a diabetic condition at the age of 67 years, weighing 16 stone.

History does not relate as to the conversation between Ned Kelly and Sir Redmond Barry at their final rendezvous.

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