

stances—as it was fixed at the prosecution of Meikle in 1887—then, I submit, the error becomes vital. As to this matter, might I read the direction of Mr. Justice Williams to the jury on the point?

*Mr. Justice Cooper:* He directed that the error in the date did not make any difference—the material fact to be determined there was whether Lambert did commit perjury in the facts spoken of.

*Mr. Atkinson:* I will just read the statement of His Honour:—

“If Lambert swore wrongfully as to the date but rightly to the sheep having been removed, it would be absurd to suggest that fixing the date wrongfully was other than a mistake, if it was true that on some date or other about that time he saw Arthur Meikle drive the sheep. The matter of fixing the date was material in this particular: if he fixed the date positively, and if it was now shown that it could not have been on the date he so positively fixed, the fact of his having fixed an impossible date would show that his evidence as to the sheep having been removed at all was to be distrusted.”

I submit that the unfortunate Templeton was entitled to the benefit of the same saving clause as His Honour inserted at the opening of these remarks. From the circumstances I have endeavoured to put before you, the error in chronology must surely be regarded as vital. Of course, error as to place—that is in ordinary cases a more certain mark than time as marked by the calendar, though here it is to be remembered. Even so, I might point out that Lambert was a detective, made a note of the date, and had special reasons for care. But let me now apply the test of place. He met young Meikle, as he says, on the night of the 17th October. Now, as I say, Lambert was not a casual passer-by—he was a private detective, out to get his £50—and he says he passed Arthur Meikle on the road. These are the depositions of 1887. He says, “I passed him (Arthur Meikle) on the road.” Page 19 of the Supreme Court evidence, he says:—

“Shortly after—I had just got across fence and on to a road-line—I met Arthur Meikle with a mob of sheep. It was not very dark. I spoke to Meikle.”

Then, a little lower down,—

“Road they were on was between turnips and Meikle’s house. I went past his 30 or 40 yards towards my hut; then turned back and followed him.”

Then the young fellow, he says, goes on to Meikle’s property. That is clear; that agrees with the depositions. Cross-examined (page 20):—

“Met Arthur Meikle 300 or 400 yards from hut. He was off turnips into road-line, going towards his house, 300 or 400 yards from junction of roads. I could recognise him; spoke to him and passed on; then turned and followed him 30 yards behind. He went along by gate.”

That is all perfectly plain. Now, taking first of all the depositions before Mr. Rawson, S.M. (page 32), Lambert states:—

“I met Arthur Meikle on the company’s ground, on the turnips. It was a large paddock close to road-line.”

Cross-examined, two pages further on, he states:—

“He had to drive the sheep about 300 yards to get to the road. I waited till he came up to fence—about half an hour.”

That is pretty clear, your Honours. I think that is all that appears of dates in the 1894 depositions. In 1895 is a similar story to 1894 (page 44):—

“Coming away from Gregg’s I met Arthur Meikle with some sheep. When I saw him first I was on the turnips. I think it was October anyhow.”

And further down he says:—

“From the turnips he drove them along to the fence, and then along the fence to the corner and up to his father’s house.”

It is surely perfectly plain from these two references that Lambert was on the turnips when he first saw young Meikle, and young Meikle also was on the turnips. I submit, if your Honours have the map there and will remember that Lambert’s hut was at the junction of these roads, that the sheep were on the turnips to the north of the road running east-and-west, that the north side of that road was fenced—Lambert describes with circumstantial particularity how he met Arthur Meikle on the turnips, and that he had to drive the sheep about 300 yards to get to the road. He was out there to get his money; the expected hour had arrived. He sees this youngster looming through the darkness, and is it possible that he can mistake the place where he met him? He describes in 1894 in detail that Arthur Meikle was on the turnips and had to drive the sheep all this way round, and it took him such a time that, although Lambert met him on the turnips, he had half an hour’s wait on the road while the sheep were brought around by the corner at the fence. That is what he swears in 1894 and 1895, yet it was on the road-line 300 or 400 yards from the hut that he met him (young Meikle) according to the story told in 1887. The difference in time is also serious, because in the later version Lambert said he waited half an hour for the lad to come up. Surely, your Honours, such a discrepancy as that is only to be attributed to improvisation or deliberate invention. The advantage of the improvisation is to get something, however, handy for the moment; but it does not stick in the mind as facts really impressed through the vision on the mental retina. I submit it is very natural to account for such an extravagant discrepancy as that on the theory of invention, but it will surpass the ingenuity of Mr. Lambert or anybody else to account for the discrepancy on any other hypothesis. There is another point which is material, but which is not of such high importance, though I submit that these things by the time they are added together are fairly overwhelming in weight—another point is the incident of driving the sheep into the smithy, which, according to the statement of experts, is not the lightest job in the world. As I pointed out, one expert said it was madness to attempt it. However, Lambert stuck to his story that the sheep were driven through the narrow door. That must have been an impressive spectacle, seeing that the toils were closing on the game. How do Mr. Lambert’s different stories stand the test? It would appear from the notes in 1887 that the point was not