

*Mr. Justice Edwards:* This was not a mistake of any officer of the Crown.

*Mr. Justice Cooper:* There is a precedent in that case of Beck's. There is also the previous case in which a man was convicted of burglary and suffered a portion of his sentence. After the conviction it was conclusively proved in a subsequent prosecution of some other person that he was not the burglar. The case was in connection with a burglary at a clergyman's residence. He was released from gaol, but was paid nothing like the sum of money paid to Beck; but he was paid a certain sum of money in consideration of his wrongful conviction. There in no sense was the administration of justice at fault, because there was ample evidence to justify the verdict of the jury; but, like your suggestion in this case, it was perjured evidence.

*Mr. Justice Edwards:* Upon what ground was the money paid? Was it a gratuity? There is a good deal of difference between giving a man a gratuity and saying, "This is a very hard case, and you have suffered extremely," and saying, "You are entitled to compensation."

*Mr. Justice Cooper:* I think in Beck's case it would appear on the estimates as a compassionate allowance.

*Mr. Atkinson:* It is a mere matter of words.

*Mr. Justice Edwards:* This case is quite different. In Beck's case the suggestion was that the man had been wrongfully convicted by reason of the default of servants and judicial officers of the Crown, and I suppose that whatever was paid was paid upon that view.

*Mr. Justice Cooper:* No doubt we shall be able to get particulars of that case, and there is the case in regard to the burglary of the clergyman's house.

*Mr. Atkinson:* I did not know, unfortunately, that your Honours would require precedents on this particular case. I have a few in my mind to supply to your Honours, and I can supply full particulars in Wellington; but I took it as a perfectly clear matter of public policy for which there was well-established precedent that the innocent victims of a miscarriage of justice, whether or not any officers of justice were responsible for the miscarriage, had a claim upon the bounty or compassion of the colony.

*Mr. Justice Edwards:* That is not a general principle in the administration of the criminal law, though, may be, it ought to be. But you see times out of number that a man is prosecuted in a remote country district for a crime which he has not committed. There is sufficient evidence, however, to justify the Justices in committing him for trial, and he is committed for trial. He may be brought many miles distant to be tried in Auckland, say, and perhaps it may cost him £100, and very likely involve the loss of his employment. When he comes before me I tell the jury there is no case against him. I have told them that over and over again. I have frequently stopped the Crown. I have said to Mr. Tole, "There is no use going any further. It is quite clear this man should not be prosecuted." In that case the Crown Prosecutor says, "No, your Honour, I do not propose to proceed with the case." Well, in such a case that unfortunate man may have lost his employment and perhaps been put to £100 expense, yet he receives no compensation whatever.

*Mr. Atkinson:* Of course, your Honour, this world is a human world, and it is not governed by abstract logic that prevails in exact mathematical proportions for injuries represented by £10,000, £1,000, and £1. It cannot be administered proportionately right through, and I am not concerned with trivial wrongs. There are certain grave wrongs which attract a large amount of attention and are considered worthy of a departure from the normal procedure. I can see no legal right on the part of any man, nor am I disturbed by the fact that practically there is no recognised moral right for compensation for every mistake caused by the errors of a Government officer.

*Mr. Justice Edwards:* I should not think it was a trivial wrong if I was committed, say, at the Bay of Islands, and brought in custody to Auckland, where I was unknown and unable to get bail, and perhaps held there in gaol for a couple of months, and then brought to trial and released by direction of the Judge. I might have lost my employment, and raised everything I could, and exhausted the compassion of my friends. In such circumstances I should not consider I had suffered a trivial wrong.

*Mr. Atkinson:* If in such a case your Honour applied to Parliament for redress, and I happened to be in charge of the Administration, or even a member of the Public Petitions Committee, I venture to say that your Honour's petition would receive the most careful consideration. But quite seriously, your Honour, I certainly think a man in that position, if he took the proper steps, would be entitled to receive some redress for the wrong he had suffered.

*Mr. Justice Cooper:* The only remedy is a petition to the House.

*Mr. Atkinson:* Yes. It must depend, as I put it to your Honours, not on an abstract consideration, but on the broad question of whether there was a serious wrong and whether it had been properly brought forward. In nine cases out of ten people who suffer in that way grumble a good deal about it, but keep their sufferings to themselves. I say that we should proceed on the hypothesis that a wrong so grave as this—putting the £500 out of sight altogether—entitles the man who has suffered it to some very substantial form of compensation for what he had suffered: not that a legal right would be conceded, but a moral right, which it is a matter of public policy and public honour to recognise, would be conceded—a concession for which there are ample precedents.

*Mr. Justice Cooper:* You say the public conscience would suffer if a man in such circumstances did not receive adequate compensation.

*Mr. Atkinson:* Yes, your Honour. Take the case of a Supreme Court Judge being grossly wronged by mistake of law on the part of somebody—we shall not say whether the interpreters of the law, or the makers of the law, or the Executive administering the law—but it was a case in the consideration of which I do not think any technical question ever entered anybody's mind, for obviously there was a grave substantial injury for which the law offered no redress. This was obvious to the sense of fairness and equity of everybody, and nobody set up a rigorous inquiry for precedents.