

MINUTES OF ADDRESSES BY COUNSEL, AND EVIDENCE.

DUNEDIN, TUESDAY, 1ST MAY, 1906

(Before their Honours Mr. Justice Edwards and Mr. Justice Cooper.)

Dr. J. G. Findlay appeared for the Crown.

Mr. A. R. Atkinson appeared for Mr. Meikle.

Mr. Atkinson: May it please your Honours,—The question for your Honours to decide is one which must be rare, if not unique, in the annals of judicial investigation. Your Honours are asked in the year 1906 to decide whether a man was wrongfully convicted of sheep-stealing in the year 1887. That is the main question involved; but incidentally it involves others of still more serious import for my client, and, as I submit, of still graver public importance, for the alternatives between which your Honours are asked to decide really are these: On the one hand Mr. John James Meikle, whose conviction forms the subject of this inquiry, is not only a sheep-stealer, but something, and a good many things, a good deal worse. He is a perjurer; besides, he is a suborner of perjury; and also he is an impostor, who through a long course of years has disturbed the public peace. He has invaded the law-courts at every possible opportunity, he has besieged Parliament, and he has worried successive Ministries in season and out of season. He is the man who, in the year 1895, by perjury and subornation of perjury—his own perjury in that case being punishable by a life sentence—obtained the conviction of the chief witness against him at his own trial. Proceedings, by the way, for that perjury are not barred. And he is the man who is prepared to-day to repeat that perjury before your Honours, and he will bring all the witnesses, or all who are alive, whose assistance he had on the previous occasion before your Honours again to support him. Well, on that alternative it is quite clear that Mr. Meikle, at any rate, has this merit: he is entitled to be ranked with the Tichborne claimant as one of the grossest of public impostors. It is not quite so ambitious a flight he is attempting as that attempted by Arthur Orton, but it is more persistent, it is equally brazen, and it is far more prolonged. That is one alternative, your Honours, and I do not think I have exaggerated in a single respect the importance of it to my client. Now, on the other hand, the other alternative: if he is not a sheep-stealer, if he is not merely wrongfully convicted, but innocent, as I shall confidently submit to your Honours, then he is a man as grossly wronged as could be. His fate has been worse, we may say, than murder. He has been unjustly robbed of liberty and property and reputation—of practically everything that makes life worth living. He is the man who has performed the astonishing feat and the great public service of convicting, after serving a sentence of seven years, the false accuser, who was the chief instrument in getting him that sentence, and he has thereby, I submit, cleared every tittle of the evidence against him; and he is a man who, notwithstanding that, has been permitted to go for another eleven years with his wrong unredressed.

Dr. Findlay: From the opening we have heard, it is clear we are to have the whole of the witnesses heard in the previous trial, except, of course, those witnesses who are not now alive, and there will obviously be the greatest conflict, as has been the case in the previous trials. I think my friend will agree with me that all witnesses should leave the Court.

Mr. Justice Edwards: Very well. All witnesses are to leave the Court.

Mr. Atkinson: If the former alternative I have submitted is correct, then by all means let Mr. Meikle go back to gaol as one of the most hardened and persistent scoundrels who ever stole or lied, and spend the rest of his life there for a crime a thousandfold worse than sheep-stealing, aggravated by a campaign of deceit which, though the law may prescribe no penalty, certainly the conscience of mankind will visit with scarcely less unmeasured condemnation. If the second alternative is proved—that he is innocent—then I think neither my learned friend, nor your Honours, nor the Government, nor Parliament, nor the country will have much heart to haggle over the minor questions raised by the Commission, or to split legal or moral hairs over the precise measure of compensation or redress to which a man placed in that terrible position is entitled. Then, your Honours, I shall submit that Mr. Meikle was wrongfully convicted in 1887; not merely that there was insufficient evidence, but that he was innocent of the charge with which he was charged. I shall submit that William Lambert, his accuser, was rightfully convicted in 1895. There was, excluding the testimony of Lambert and the other evidence which his conviction discredited, nothing left to justify either the conviction of Mr. Meikle, or the sending of the case to a jury, or his committal by a Magistrate, or even any reasonable person in entertaining a suspicion. With regard to the onus of proof, as your Honours have ruled, it lies upon me, and hence it is that I begin; but I take it that the two questions of the guilt or innocence of the two chief parties are so mixed that it is really difficult to keep legal presumptions in the matter distinct. I assume, however, that as a matter of law the presumptions really are that Meikle was rightly convicted, and that Lambert was rightly convicted. The Crown may contend, as your Honours have already ruled to be open to it in some of the preliminary proceedings, that Meikle is guilty because Lambert is innocent; and obviously also it is open to maintain that Meikle is guilty though Lambert is guilty. The later alternative will certainly give me an easier task. In the former alternative, which is the assumption that Lambert is innocent, the onus clearly is put upon the Crown. As, however, according to my contention, the two questions are inseparable—the guilt of Meikle and the innocence of Lambert are the opposite sides of the same issue or different statements of identical propositions—the possibility of the Crown now challenging the verdict, which