

force of any inducement is obviously in proportion to the resisting-power of the person to whom it is offered, and the resisting-power is proportionate to the man's character and his earnings and means.

*Dr. Findlay:* I desire it to be distinctly understood that the company did not give £50 to secure the conviction in the case of an offence which had not yet been committed. All the evidence taken in the Courts shows that the £50 was offered in order to secure a conviction for an offence which had already been committed.

*Mr. Atkinson:* It is not in dispute that Lambert was employed at the time, and it is not in dispute that the crime which Lambert alleged was committed was committed on the 17th October, so that my friend's point appears to me to be a distinction without a difference. The first information was for the stealing of certain sheep on the 24th August, and the second information was for the stealing of sheep on the 17th October—six or eight weeks subsequent to the appointment of Lambert. As I submit, it is clear on the facts which I shall submit to the Court that the bargain was a grossly improper one, and that it was something like criminal negligence on the part of the company if they had not made the fullest possible inquiries as to the character of the men they employed, and in any case the company was morally responsible for any miscarriage of justice if such has taken place. The information was laid by William Stuart, who was also in the company's employ, apparently in a somewhat similar capacity to Lambert—viz., partly shepherd or station hand and partly detective. The information was laid on the 1st November, 1887. Mr. Meikle was committed by the Justices in November, and he was tried by Mr. Justice Ward. Mr. Meikle and his son Arthur were included in one indictment, but they were tried separately on the election of prisoner's counsel. The prosecution originated as a private prosecution on the information of Stuart, an employee of the company, but it was taken up by the Crown in the Supreme Court, and the counsel who appeared were the present Mr. Justice Denniston, Mr. Macdonald, of Invercargill, Mr. Harvey, who watched the case for the company, and Mr. John MacGregor appeared for the prisoner. Mr. Lambert was the chief witness for the prosecution, and, as I submit, he was practically the sole witness. He told a very singular story, of which I can give you a summary of the leading points from the report of the Judge who tried Meikle, which report he sent in to the Minister of Justice when the Ministry of the day determined to make some inquiry on account of the petition they received from Meikle, who was then in gaol. His Honour gave the following summary:—

“Large numbers of sheep having been stolen from Islay Station, the British and New Zealand Mortgage and Investment Company employed a private detective named Lambert to discover the thief, promising him a reward of £50 if he succeeded. Lambert visited repeatedly at the house of a farmer named Meikle, and apparently led him to believe that he intended ‘to sell the company and work with him.’ On the night of the 17th October Lambert went first to prisoner's house, and afterwards, about 9 p.m., to that of a farmer named John Gregg. The latter accompanied Lambert half-way to his hut, and just after parting from him heard him speaking to a person whom, from his voice, he believed to be Arthur Meikle, son of the prisoner. Lambert states that he then met Arthur Meikle driving a number of sheep from the direction of the company's land; that after passing he turned and followed him, saw him drive sheep into prisoner's yard, and saw prisoner kill and dress two of them. He (Lambert) could see by the light of the lantern used the brands and earmarks of the sheep. On the 2nd November Meikle's farm was searched by the police. Arthur Meikle, who was present, acknowledged that certain sheep of the company's were there, but said they had been there nine months. The number and condition corresponded with those which Lambert had seen Arthur Meikle driving, twenty being fat. It appeared that Arthur had a silent sheep-dog, which drives sheep without barking. On further search two sheep-skins bearing the company's brand were found among others belonging to prisoner. Of course, the mere fact of these sheep being on Meikle's land would only be a ground or suspicion in ordinary cases, but it was proved that all the fat sheep of the company were on turnips, and that in order to stray to the paddock where they were found by the police they must have left turnips for ploughed land or tussock, and have gone through two fences in order to reach very poor pasture where they could not possibly have fattened. It would be difficult to frame a clearer case for the Crown than the foregoing.”

That is His Honour's summary of the case for the Crown. It is far from accurate, as I shall presently endeavour to satisfy your Honours, but it is ample for my present purpose, which is to show that the case which the Crown depended upon was practically the evidence of Lambert, and Lambert only. Now, what are the corroborative points of Lambert's testimony as they appear from His Honour's report? In the first place, there is the evidence of Mr. John Gregg, farmer, of Tuturau. He was not called in the lower Court, but he was called at Invercargill in the Supreme Court. His Honour says in his summary:—

“On the night of the 17th October Lambert went first to prisoner's house, and afterwards, about 9 p.m., to that of a farmer named John Gregg. The latter accompanied Lambert half-way to his hut, and just after parting from him heard him speaking to a person whom, from his voice, he believed to be Arthur Meikle, son of the prisoner.”

Gregg does not say that the person was Arthur Meikle, or that he saw Arthur Meikle steal the sheep, but “it was a voice like Arthur Meikle's.” Now, what is the additional corroboration of a satisfactory character to which His Honour refers in his report?

“The number and condition corresponded with those which Lambert had seen Arthur Meikle driving, twenty being fat.”

That is to say, the number found on the 2nd November corresponded with the number Lambert alleged he saw on the 17th October. On the 17th October Lambert says he saw the sheep that were stolen. The first information was laid for the stealing of fifty-nine sheep between the 24th August and the 26th October. There is nothing there about the 17th October. According to my instructions the number “fifty-nine” was subsequently amended to “fifty-four.” As far as I am con-