

next morning by stating that he had been entirely mistaken in both the above particulars; by which retraction he saved himself from being committed for perjury, and enabled the jury to duly appreciate his testimony."

Your Honours will, of course, be perfectly familiar with the fact that an error as to dates is the easiest thing in the world to occur even in the case of the most accurate witness. For instance, your Honours would not like to be cross-examined without reference to a document as to the date of an ordinary or even an extraordinary event which actually happened during the last few months. Such an error on the part of a witness is obvious and pardonable; but an error as to the place or scene of a conversation between two people on a particular matter, when they had only one conversation, and there was no possibility of confusing the subject-matter—I say such an error would be serious and absolutely unpardonable, and would be only explicable on one of two suppositions—viz., (1) that the man was a deliberate liar who would not speak the truth, or (2) that he was a helpless idiot who could not do so. No other explanation is possible for such an error as that. But I rejoice—and at the same time I regret—to say that the unpardonable blunder is that not of the witness but of the Judge. As counsel for Mr. Meikle, I rejoice that the character of a witness so closely associated with his own can be completely cleared; in my general capacity of barrister of the Supreme Court I deplore that so cruel a misstatement should have found its way into a judicial report affecting the liberty, reputation, and happiness of a convicted prisoner. I am referring to the point as to the place where the conversation between Lambert and Templeton took place. Lambert does not name the place at all. Templeton was never cross-examined with reference to it. The question of the place was never at issue. The facts in regard to it are these: Templeton said that on a certain night—I may say that Mr. Templeton was and still is a storekeeper in Wyndham. He has been subpoenaed, and he has answered his subpoena. He is a substantial man, and I understand that he bears generally an excellent character. He was called to prove a very simple matter. I refer your Honours to page 24, where the following appears:—

"The first witness for the defence was Templeton, of Wyndham, storekeeper: Know Lambert and prisoner. On 24th September, Saturday night, Lambert put his arm round my neck and said, 'Look here, Jack, company wants me to go for poor old Meikle, but I'll stick to Meikle.' I was asking no questions about Meikle. Conversation put in interruptedly. I asked no questions. Lambert left then. I remember night, 17th September. Cross-examined: Saw Lambert in Railway Hotel, Wyndham, about 10 p.m. Fix date by transaction with Malcolm McDonald. Can find plenty of men to prove Lambert was in Wyndham. Saw McGillivray, in employ of company, that night. I will swear he was in Wyndham that night. I understood he was company's man, and was going to do some inspection at Malcolm McDonald's. I gave him two letters—one, John Livingstone. How should I know where he was going? I believe he was in employment of company. This was Saturday night, 24th September. Should be surprised if it was 24th August. Can't recollect any dates independent of books."

*Dr. Findlay:* I think it is due to the Judge whose observations are being attacked here to say that I do not for one moment accede to the statement made by Mr. Atkinson that there was not a deliberate statement as to the place and an alibi as to that place.

*Mr. Atkinson:* I say there is no conflict as to the place, but as to the time of the conversation.

*Dr. Findlay:* I only wish the Court to know that I do not admit this. Judge Ward is not represented here. He has an honourable name, and the inference might be drawn that I acceded to these statements if I did not state the contrary.

*Mr. Atkinson:* Let me take it that the question of place will be disputed now. But in the judicial record of the cross-examination of Templeton with regard to the error in his statement there is nothing to suggest there that the question of place was in dispute. I put it to your Honours that, seeing that an error as to time is an easy thing to make and an error as to place is a difficult thing to make—as I put it, it would be impossible for an innocent witness to make an error in regard to such a matter as that—surely it is an astonishing thing that the error in the cross-examination is reported in all these minutiae, yet there is not a suggestion nor was any question put as to the place being in dispute; and there is nothing in Lambert's evidence—either in 1887 or in 1895—to suggest that. It is an astonishing omission from His Honour's notes. What I submit to the Commissioners is this: that what His Honour failed to see is that the alibi was only material to disprove the possibility of the conversation. But the fact of a conversation is admitted. Lambert has admitted it in cross-examination. I will call your Honours' attention to page 20, towards the bottom of the page:—

"I know Templeton, of Wyndham. Had conversation with him. Can't say date. It was not about Meikle; it was about row in publichouse."

He refers to a row in a publichouse, and Templeton referred to it. The fact that those two men were together is admitted by both of them. I would draw your Honours' attention to the second line in Lambert's examination in chief—viz., "Employed by company about beginning of September." The evidence taken just a month before in the lower Court is, "He was appointed two or three months before the date of his examination, which was the 18th November." That is to say, according to the latter's statement it was somewhere between the 18th August and the 18th September, and according to the other statement it was about the beginning of September. I do not think that even after his mistake Templeton need fear the responsibility of being pitted against Lambert; but I submit before he had left the box he had cleared his character. He stated the 24th September as the date, and he appeared confident in cross-examination. His cross-examination was a skillful one, but I say that he cleared his character before he left the box. He says he fixed the date of one point, but he cannot recollect any other date independently of his books, and he had not got his books in Court. It is not disputed that it was part of the prosecution's case that every one of these facts applied to the 24th August. It is admitted that every statement he made was correct, but they applied to the wrong dates. It leaves the matter in this