

*Mr. Justice Cooper:* Of course, Dr. Findlay's answer will be: at any rate, the claimant knew it, and chose with that knowledge to discharge the colony from any future obligation.

*Dr. Findlay:* That is so.

*Mr. Justice Cooper:* Again, taking the case of Adolph Beck, which was referred to just now, and which, of course, is public history, it was discovered he was wrongfully convicted. He received the King's pardon, and was discharged from gaol, and the Home Secretary offered him £2,000. Supposing he had taken that £2,000, and given a discharge, the House of Commons would not have considered any further claim for compensation. He refused to take it, and he obtained £5,000. You may differentiate that case from the present case, because you may say that both parties, when that £2,000 was offered—the Home Secretary on the one side and Adolph Beck on the other side—were of one mind, and were both satisfied he had been wrongfully convicted. In this case there was only one—namely, the man who receives, and not the man who gives.

*Mr. Justice Edwards:* And you say it is not given on the basis that he is innocent?

*Mr. Atkinson:* I simply quote to your Honour what the Premier said and on the faith of which Meikle signed the receipt, that in the opinion of the Judge who tried the action, and who was still of the same opinion notwithstanding Lambert's conviction, the Government were not justified in dealing with Meikle on the basis of innocence at all.

*Mr. Justice Cooper:* We shall have to weigh the question from Dr. Findlay's point of view on the one side and your point of view on the other. It is a very difficult point.

*Mr. Atkinson:* It is a difficult point. In the case of an appeal to bounty it is a sheer matter of gratuity—in other words, the control of the whole question rests with the person or body to whom the appeal is made. Of course, each case must stand on its own merits, and should be treated in a broad and liberal spirit, the circumstances surrounding each case being taken into consideration. With regard to one aspect of this case, there are a considerable number of instances in the Old Country. One case I had in my mind was that of a Mr. Barber, a London solicitor. The Court which tried him fell into the same mistake practically that has taken place in this case. He was charged with forgery and was transported, and he proved his innocence in the course of two or three years, and was given £5,000 compensation. That was in the year 1844. I desire now to put to your Honours what, in my opinion, is an exact parallel to this case. Suppose the case of one man who has saved another from drowning. In such a case there would be no law of human salvage on the analogy of the Admiralty procedure, no common-law action upon a *quantum meruit*, to avail the rescuer; his right to remuneration, if any, would depend entirely upon the honour and generosity of the man he saved. After rescuing the drowning man and pumping the water out of him, the rescuer sends him home in a cab, for which he pays 5s. Subsequently, the man who was saved being very wealthy, and his rescuer hard up, the latter asks for some recognition, and receives the following reply: "You are not the man who saved me—you are an impostor; but, seeing that you did pay 5s. on my account for cab-fare, I am prepared to pay you 2s. 6d. if you will sign a full receipt for all possible claims you might have against me." Under pressure of necessity the receipt is accordingly signed, and some months afterwards the man who signed it proves conclusively that he is no impostor, but the actual rescuer. In such circumstances could any man of honour plead the receipt as a bar to a further claim, or, if he did, would any court of honour sustain him in his plea? I submit that in all essential points the parallel is exact. The man who saves another has no legal claim for the work he has done; he is exactly in the same position in which Meikle was when he first approached the Crown. There is no legal obligation, but there is a moral obligation, and any one with a spark of honour would recognise that obligation. In that case a receipt in full discharge was given under what? I submit, are precisely analogous circumstances to the present case. There is conceded in Meikle's case the service of running a perjurer to justice, and there is conceded in the other case the payment for the cab—that it was not a payment on account of the rescue, but on account of cab-hire—and a full receipt for both was got. A month passes and the rescuer becomes importunate; he gets no redress. Some years pass, and then something turns up which re-establishes the identity of the man who paid the cab-fare with the man who saved the rich man from drowning. I venture to say that there is not one man in a thousand who would have the slightest doubt that an obligation of honour existed under the circumstances I have stated. I submit that if it is proved that the man is innocent, then the colony must not pay any attention to red tape, sealing-wax, stamps, or receipts, but must simply look at the broad aspect of the question and decide accordingly. Already this case is extraordinary and unprecedented in respect alike of the wrongs my client has suffered, the endurance which he has exhibited, and the pertinacity with which he ran his man down in the case of perjury; but I venture to submit that if the plea of this £500 receipt is allowed to prevail, then another feature will stand out more conspicuously still, and that is the meanness of the country whose institutions unwittingly did him so irreparable a wrong, but which nevertheless when the facts were proved sheltered itself behind that receipt as a full discharge. Now I come to the sixth issue, as to the financial position of Meikle. It is as follows:—

"As to the financial position of the said John James Meikle immediately preceding his arrest for the said offence of sheep-stealing, and during his imprisonment, and at the date of his release from prison and since; and whether, having regard to all the circumstances, the said John James Meikle is fairly entitled to further pecuniary compensation in respect of his conviction and imprisonment, or in respect of the loss and suffering alleged to have been maintained upon his family thereby, and, if so, to what amount."

The area of Meikle's property was, in round numbers, 800 acres, and its position is shown on the map before your Honours. It was divided into three sections, of which Sections 22 and 12 were in his own name, and Section 23, according to my instructions, was bought by him in the names of three of his children. The total works out at 588 acres in his own name and 206 acres in his children's names, making in all 794 acres. The value which my client put upon his property