

was at Mataura, and a great many other things which happened to make it impossible. Mr. Justice Williams, as my learned friend shows, pointed out to the jury that the date itself was not the one cardinal fact, although supposing the date to be wrong it might amount to suspicion. But the reason the 17th was fixed on definitely was that given by Lambert, and it is perfectly true. He said in the Court below that it was about the 17th. He kept no diary, and says he took a note of the day but not of the date. Between that time and the Supreme Court trial he went to Mr. Gregg and said, "Do you remember the night I called at your house and you accompanied me, what date was that?" and Gregg told him it was the 17th. He was assured that was the date, and Lambert swore definitely to the 17th in the Supreme Court. When it came to the perjury trial, seven years afterwards, Mr. Solomon established a strong alibi to show that neither Arthur Meikle nor Lambert could have been there that night. Well, sir, I do not know what answer was made by the solicitor who defended Mr. Lambert, and I am not going to say about his defence. All I am going to say is that the prosecution was conducted with that force and brilliancy for which Mr. Solomon among the advocates of South stands pre-eminent. But, your Honours, there was no need to allow the whole case to hang upon a date at all. The essence of Lambert's oath was:—

"I say the sheep were stolen on the night I called at Gregg's house. I say the sheep were stolen the night Gregg accompanied me from his house towards the pre-emptive right."

Was there such a night? There can be no doubt or question that there was such a night and that Lambert did call at Gregg's house and that Gregg did accompany Lambert some distance until Lambert was heard speaking to a man whose voice Gregg says was very like Arthur Meikle's. Who was Gregg? No one can suggest that Gregg was in this conspiracy. He was a respectable farmer. It is not suggested that there was any feud between him and Meikle. Gregg gave his evidence in the lower and the higher Court, and would have been here to-day if we could have found him. My learned friend concedes that. He cannot be found in the colony, and is probably dead. Mr. Gregg, a respectable farmer, accused of no bias, a man, I submit, absolutely fair in the circumstances, swears that on a night which he believed was the 17th October Lambert called at his house and he accompanied Lambert towards the pre-emptive right. That, your Honours, was the night of the theft. It is true Lambert fixed it as the 17th. But if your Honours sitting as a jury were satisfied that there was a night on which this man saw a theft, and fixed it by the visit to the friend's house, would your Honours discredit the testimony if you found out that the date was wrong and that it was the 18th or some other date? What I wish to impress on your Honours is that he did not fix the 17th as the essential point, but the night on which he visited Gregg's house was the test, the date ranged afterwards. Now, your Honours, it may be, and probably is, that the night he visited Gregg's house was the 18th, and not the 17th October. You will remember, too, he first said that it was about the 17th. I am now in a position, I believe, to place before you something which is almost conclusive that that was the date. Your Honours will remember how very much was made at the perjury trial by Mr. Solomon and his witnesses to show that on the 17th that young Meikle was ill, that Lambert was not there, and so on, and a whole string of circumstances to show that it could not have been on the 17th. But not one of these difficulties apply to the 18th. Now, was it the 18th? They fixed the date by the going-away of the old man McGeorge; and the question arises, what date did McGeorge leave? Meikle says he saw McGeorge leaving on Monday morning about 8 o'clock. Very well, Fraser says that he met McGeorge at dinner—that is the 12 o'clock meal—and that the team was in the stable, because he says he went out afterwards with McGeorge and saw the team in the stable. So we have this fact that between the time Meikle saw the man with his team and before midday he must have driven from his hut to Mataura. I will lead evidence to show that he could not have traversed the distance in the time. Further, the day was, as has been described by Meikle, one of the worst days he has known in the colony. This old man on a day of that character would never have left his hut to drive a team over those roads all that distance. You will be told by the manager that it would be absurd. There was no urgency about it, and no one suggests that there was. He could well have remained if he had chosen till the following day, if, indeed, he had arranged to leave on the 17th October. Now I will prove that McGeorge left the hut not to go to Mataura. He may have been at Mataura on Monday, because when a man living in a hut and having out-door work to do on a very wet day it is quite common for him to leave the hut and go to the nearest hotel and put in the time there; and if McGeorge was at Mataura on Monday he was there without his team and for the purpose of filling in time instead of reading literature, prohibition or otherwise, in his hut. At any rate I will prove from evidence that McGeorge left the hut with his team to go to the home station and brought from the hut to the home station the skins which he already says were at the hut. That is not all, your Honours. The manager kept the diary. I propose to produce that diary. Naturally enough, because Troup left the employ of the company years and years ago, the diary was found among the papers of the company on a search made since I came to this city. The diary has been found, and that diary will show that McGeorge left the hut on the 18th and left the home station for Waikōa on the 19th. I have seen the entry, and it is not one that could have been interpolated. It is the first entry made on the 19th, and is followed by other entries, and I think after you have seen it your Honours will be placed beyond all doubt that the day all took to be the 17th was indeed the 18th, and that Lambert was tried and convicted on the assumption that he had sworn to an impossible date—namely, the 17th—as the day that McGeorge went away. I put it this way: if this evidence I am now putting before the Court had been available to the jury on Lambert's trial that man would never have been convicted, because the whole burden of Mr. Solomon's case was to commit the man to a date which was an impossible one, and therefore contend that he had concocted the whole story. But if this evidence had been before the jury that tried Lambert he would never have seen the inside of a gaol. Now, your Honours, dealing with the probabilities of this expert Lambert fixing a false date: We are told he fixed the 17th as the date in a concocted story—that he fixed the 17th as the date knowing that he himself had gone to Meikle's house on the 18th and asked how young Meikle was. Meikle