

The accused was tried before him, at a sittings of the County Court Judge's Criminal Court, on the charge of unlawfully conspiring with one Morden to defraud the Hamilton Steel and Iron Company by falsely increasing the weight of scrap-iron sold by the accused to the company.

The case stated that the principal evidence against the accused was given by Morden, that the learned Judge believed his evidence, and was of opinion that it was sufficient to convict without corroboration.

It further appeared from the stated case that the learned Judge was of opinion that Morden's evidence was corroborated in material particulars, and there was some evidence in support of this view.

Two questions were submitted by the learned Judge: 1. Had I the power to convict the prisoner on the evidence of an accomplice alone? 2. If not, was there sufficient corroborative evidence?

The case was heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, JJ.A.

E. E. A. DuVernet, K.C., for the prisoner.

J. R. Cartwright, K.C., for the Crown.

MOSS C.J.O.:—A perusal of Morden's evidence leaves little question as to the sufficiency of his testimony to prove the offence, if given by a witness as to whom no question of corroboration could be raised. It was argued on behalf of the accused that according to modern views no conviction can be had on the uncorroborated evidence of an accomplice. But that does not appear to be the rule of law. An accomplice is a competent witness, and there is no rule or statute which says that his evidence must be corroborated. The consequence is inevitable that if credit be given to his evidence it may be sufficient of itself to convict the accused. And certainly the case is not to be withdrawn from the jury because there is no corroboration.

In the case *In re Meunier*, [1894] 2 Q. B. 415. the rule was stated by Cave, J., as follows: "It is not the law that a prisoner must necessarily be acquitted in the absence of corroborative evidence. for the evidence must be laid before the jury in each case. No doubt, it is the practice to warn the jury that they ought not to convict unless they think that the evidence of the accomplice is corroborated; but I know of no power to withdraw the case from the jury for want of corroborative evidence, and I know of no power to set aside a verdict of guilty on that ground."