

trate have been justified in impannelling twelve, when the statute directs him to impanel six only?

It was further complained that this power of life and death was too great to be entrusted to a stipendiary magistrate.

What are the safeguards?

The stipendiary magistrate must be a barrister of at least five years standing. There must be associated with him a justice of the peace, and a jury of six. The court must be an open public court. The prisoner is allowed to make full answer and defence by counsel.

Section 77 permits him to appeal to the Court of Queen's Bench in Manitoba, when the evidence is produced, and he is again heard by counsel, and three judges re-consider his case. Again, the evidence taken by the stipendiary magistrate, or that caused to be taken by him, must, before the sentence is carried into effect, be forwarded to the minister of Justice; and sub-section eight requires the stipendiary magistrate to postpone the execution, from time to time, until such report is received, and the pleasure of the Governor thereon is communicated to the Lieutenant-Governor. Thus, before sentence is carried out, the prisoner is heard twice in court, through counsel and his case must have been considered in Council, and the pleasure of the Governor thereon communicated to the Lieutenant-Governor.

It seems to me the law is not open to the charge of unduly or hastily confiding the power in the tribunals before which the prisoner has been heard. The sentence, when the prisoner appeals, cannot be carried into effect until his case has been three times heard, in the manner above stated.

Counsel then rest the prisoner's case upon the ground of insanity, and it is upon this latter point only that the prisoner called witnesses.

The jury by their finding have negatived this ground, and the prisoner can only ask, before us, for a new trial, we have no other power of which he can avail himself. The rule at law in civil cases is, that the evidence against the verdict must greatly preponderate before a verdict will be set aside; and in criminal cases in Ontario, whilst the law (now repealed) allowed applications for new trials, the rule was more stringent—a verdict in a criminal case would not be set aside if there was evidence to go to the jury, and the judge would not express any opinion upon it if there was evidence to go to the jury, if their verdict could not be declared wrong. I have carefully read the evidence, and it appears to me that the jury could not reasonably have come to any other conclusion than the verdict of guilty; there is not only evidence to support the verdict, but it vastly preponderates.

It is said the prisoner labored under the insane delusion that he was a prophet, and that he had a mission to fulfil. When did this mania first seize him, or when did it manifest itself? Shortly before he came to Saskatchewan he had been teaching school in Montana. It was not this mania that impelled him to commence the work which ended in the charge at Batoche. He was invited by a deputation, who went for him to Montana. The original idea was not his—did not originate with him. It is argued, however, that his demeanor changed in March, just before the outbreak. Before then he had been holding meetings, addressing audiences, and acting as a sane person. His correspondence with General (now Sir Frederick) Middleton betokens no signs of either weakness of intellect or of delusions, taking the definitions of this disease, as given by the experts. And how does his conduct comport therewith? The maniac imagines his delusions real, they are fixed and determinate, the bare contradiction causes irritability.

The first witness called by the prisoner, the Rev. Father Alexis André, in his cross-examination says as follows:—

Q. Will you please state what the prisoner asked of the Federal Government?—
A. I had two interviews with the prisoner on that subject.

Q. The prisoner claimed a certain indemnity from the Federal Government. Didn't he?—A. When the prisoner made his claim, I was there with another gentleman, and