

ordinary course of the mails—a telegram was sent down to open the door of the prison and discharge this man. No one out of the many persons who signed the petition with respect to the sentence imposed upon this boy, except the Minister of Justice, seemed to think it was a case in which sentence should be remitted; one and all of them asked, either that the sentence should be commuted to one of imprisonment, or that there should be a new trial. His counsel puts forward the contention, so far as I can understand the affidavit, that there should be a new trial in the case upon the newly-discovered evidence, if you like to call it that, though it is not newly discovered so far as the prisoner is concerned—upon this statement which has been kept back by the boy during all this time, and is now brought to the attention of every one, including his counsel, for the first time. Then the Minister of Justice, in his report, proceeds to state that the boy was a stranger to Deron, and that therefore as is quite true the meeting must have been accidental. It may or may not have been true, because the evidence shows that the boy, about fifteen minutes before this shooting, was told that a pedlar was going up the road, and he was asked whether he would not like to have certain articles which were in the pedlar's possession, some musical instrument, a mouth organ, or something of that kind, and he made some profane remark about it. Then he proceeds to deal with what I have mentioned before, that none of the goods of Deron were taken, that they remained intact. Then he goes on and quotes the confession. I again point out that there must be something omitted in these papers, because he quotes two type-written pages of confession, and the papers brought down indicate that the entire confession is something less than one type-written page. I imagine, therefore, that there must be some other papers, because it is hardly conceivable that the Minister of Justice can have invented all this which he quotes. I cannot find it among the papers, it is not in the confession brought down, yet it is here in the report of the Minister of Justice. Perhaps my hon. friend will be able to explain that. Then he proceeds again:

The statement of the prisoner exactly coincides with the evidence given at the trial.

I have read the report of the trial judge, who says that it does not, who says he regards it as an improbable story, and points out in what respects it does not coincide with the evidence given at the trial. Then he concludes by saying

That he concurs in thinking—

I do not know with whom he concurs, with some person unknown—

—that the prisoner, upon the evidence submitted, was entitled to a verdict of acquittal, and

Mr. BORDEN (Halifax).

that his confession since made rationally accounts for the shooting of Deron, for which no motive at the trial was disclosed.

The whole question of motive is entirely foreign to the point with which the Minister was dealing. The question of motive has nothing at all to do with the case except as an element of probability on one side or the other for the jury. The Minister of Justice seems to indicate that in his opinion it was not murder unless there was a motive. I do not so understand the law nor the definition of murder in the Criminal Code. Now, what would be the position of this matter if it went before a court having power, as courts have in many cases, not civil cases, either to order a new trial or to order judgment for the defendant? Take a civil case. Suppose a party had put his case forward in court on one line, and on one line alone, and a jury, upon sufficient evidence, as this was sufficient evidence, had found against him, and then he went before a court upon affidavit, in such a way as would lead the court to believe in the probability at least of his statement, that another line of defence would have resulted in a judgment in his favour, would it be imagined for a moment by any person having the least knowledge of the principles upon which courts of appeal deal with matters of that kind, that a court would order judgment under those circumstances for the defendant? The very utmost that man could get—he would not get it in the civil case—but the utmost he could get under circumstances of that kind, even in a criminal case, would be a further investigation. It would be going very far, under circumstances of this kind, to say that he should be allowed even the privilege of a further investigation after he had taken his chances in the way in which, as I have indicated he did take his chances. But in view of the value of human life and the bare possibility that his story might be correct, it might be competent, and no one would complain if the Minister of Justice had availed himself of the provision found in the Criminal Code, in section 748, to direct a new trial and place this man in such a position that those things with which the Minister was not in a position to deal, could be dealt with by a jury—no one, I am sure, would have had the slightest criticism to make upon the Minister of Justice if he had adopted that course. I do not suppose there are many in the House who would have criticised him very much if he had commuted the sentence to one of imprisonment, although I do not think that would be a logical course to pursue under the circumstances. The circumstances, if they entitled this prisoner to any consideration, entitled him to a new trial; that would be a logical and proper course to pursue. But to say that under the circumstances of this case, this man is to be tried by the Minister