

the same thing should be called the same name, even though done by different bodies, qualifying it wherever necessary by a word indicative of the body whose verdict it was. My impression is that most people would be astonished if they were told that the word verdict was misapplied when applied to anything but a finding of a jury; and referring to their dictionaries would find there among other definitions to justify such surprise the meanings, a decision, or opinion pronounced.

Something more real than mere literal accuracy, however, lies in the fact that unless the section applies to findings of a Court, Judge and magistrate as well as of a jury, there would be a right to apply for a new trial in jury cases, but none in any other under this section; and as neither Judges nor justices are infallible, any more than juries, the provision would seem to constitute an anomaly, and one which would require consideration before any one elected trial without a jury.

If the act had provided for any appeal against the finding of Court, Judge or magistrate in such cases, upon questions of fact, the case would be different; but it does not; it, as I think, puts them all on the same footing with the findings of juries in regard to new trials.

I am unable to see anything in Mr. Bartlett's contention that if either prisoner is entitled to a new trial both must be. The case is one in which one may be guilty and the other innocent; one in which there might have been a separate trial of each; and it is one in which the "verdict" found and recorded against the one is contrary to the weight of the evidence, whilst that found and recorded against the other is not.

I would dismiss the application of the prisoner Murray; and grant that of the other applicant.