The Legal News.

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The case of *Sweeney* v. *Bank of Montreal* adds another to the list of cases in which the final judgment of the Supreme Court has only a minority of judges to support it. The original judgment, rendered by Mr. Justice Rainville in the Superior Court, dismissed the action (5 Leg. News, 66). That decision, after two hearings, was unanimously affirmed in appeal by the Court of Queen's Bench constituted with five judges (Dorion, C. J., Monk, Baby, Doherty, Caron, JJ.) Finally in the Supreme Court the judgment has been reversed, Strong, J., dissenting. So the smaller number prevail over the seven judges who ruled the other way. It may be added that the result has been to some extent a surprise to the profession, for although this case has attracted considerable attention from the bar during its progress through the Courts, we are not aware that any one not personally concerned in it anticipated the conclusion now arrived at by the majority of the Supreme Court.

The slave-making and slave-driving instinct is very strong in some natures, regardless of justice and humanity, and its developments, unfortunately, are more repulsive than rare. In *Larson* v. *Berquist*, before the Kansas Supreme Court, Nov. 7 (8 Pac. Rep. 407), a parent sued to recover damages for the wilful negligence and misconduct of the defendants toward his infant daughter while in their service. The plaintiff alleged that the daughter was an inexperienced girl of tender years, who was employed by the defendants as a house servant to do such work as was suitable to her years and strength, and that during her employment her menses began, causing her great pain and sickness, and that after gaining her confidence the defendants took advantage of her weakness, youth and inexperience, and in order that she might continue in their service, and perform a great and unusual amount of labor for them, they negligently, wilfully and wickedly advised her that menstruation was a dangerous disease, likely to cause insanity and death, and that the best and only known remedy therefor was hard and unremitting labor, and that by reason of this advice and the influence exerted upon her by the defendants, she was exposed to danger and hardship, and made to do work for them far beyond her strength, and compelled to perform the labor of two persons, by reason of which she became very sick, and was permanently crippled and disabled, and that ever since that time her father has been not only deprived of her assistance and service, but has been compelled to expend for her care and medical attendance a large sum of money. The defendants demurred, contending that the girl was under no obligation to perform labor beyond her strength, and might have declined the service exacted. The Court said this would be true if the person injured had been an adult of ordinary prudence and discretion, but in the case of a child of tender years a different rule applies. So the demurrer was held bad.

In referring to the veterans of the bench last week we might have added a reference to the retirement of Chief Justice Daly, of the New York Common Pleas, after a judicial service of forty-one years. The last case he heard was argued by an ex-judge who argued his first case before him in 1853. Judge Daly, like the ex-Chief Justice of our Superior Court, retires with the good wishes and respect of everybody, and with a well-earned reputation for learning and integrity.

The "Laws of Intestacy in the Dominion of Canada" is the subject of a learned treatise by Mr. Armstrong, Q.C., C.M.G., late Chief Justice of St. Lucia. The author has examined with care the law existing in the several provinces, and notes the decisions bearing upon points of difficulty. He regrets the lack of uniformity in the disposition of intestate property, and suggests that this might be remedied, if the Provinces did not thereby waive the right to legislate under sect. 94 of the B.N.A. Act. The pamphlet embodies the result of much independent investigation, and should be in the hands of every lawyer.

In an essay prepared lately by Mr. I. T. Williams, of Chappaqua, on "Arbitration vs. Suits at Law," some cogent facts are urged against arbitrations. Mr. Williams says "one arbitrator is invariably a blind and thoroughgoing partisan of one party; another arbitrator is the like for the other; and the third, even if impartial, always has to compromise to effect an approach to justice. Their disregard of the simplest rules of evidence alone is sufficient to condemn them. There is only one other legal tribunal so absurd and so unsatisfactory, and that is an ecclesiastical council." And he adds that there are one thousand disputes settled in courts of law to one settled by arbitration, a fact which he holds to be proof that "there are in the community one thousand intelligent men who believe that suits at law are a better method of settling disputes than arbitration, to one who believes that arbitration is a better method of settling disputes than suits at law."

*SUPERIOR COURT, MONTREAL.**

Prohibition — Jurisdiction—Cour des Commissaires—Ville—Interprétation législative.

JUGÉ:—Que lorqu'une partie du territoire d'une paroisse, où est établie une Cour des Commissaires, est érigée en ville, le fait de cette incorporation en ville n'enlève pas à la cour sa juridiction ni sur la paroissse, ni sur la ville. *Lemieux et La Cour des Commissaires de la Paroisse de Longueuil*, Jetté, J., 22 septembre, 1885.

Procedure—Judgment, Notice of—Taxation of costs—C. C. P.

HELD:—1. That when a judgment orders the delivery of certain goods within 15 days from the rendering of the judgment, and, in default of so doing, to pay a specified sum of money, service of the judgment is not necessary; the party condemned being put in default by the mere lapse of the 15 days.

2. That under art. 479 of the Code of C. P., where the prothonotary or his deputy has taxed the costs, without previous notice to the attorneys of the parties in the case, an opposition *afin d'annuler* on the ground merely of want of notice will not be maintained, unless the opposant shows that he has been prejudiced by the want of notice. *Samuel et al.* v. *Houliston et vir*, Mathieu, J., Nov. 20, 1885.

*To appear in Montreal Law Reports, 1 S. C.

Cautionnement judicatum solvi—Frais encourus et à encourir.

JUGÉ:—Que lorsque durant l'instance le demandeur laisse la province de Québec, pour résider ailleurs, le défendeur a droit au cautionnement *judicatum solvi*, non seulement pour les frais à encourir mais également pour tous les frais encourus.—*Gauthier* v. *Dupras et al.*, Mathieu, J., 4 nov., 1885.

Vente judiciaire d'immeubles—Opposition—Description—Tenants et aboutissants.

JUGÉ:—Que pour la vente judiciaire de partie d'un immeuble portant un numéro officiel, il est nécessaire dans les annonces d'indiquer les tenants et aboutissants. (Article 2168, C.C.)—*Cité de Montréal* v. *Lionais & Lionais*, oppt., Caron, J., 31 janvier 1881.

SUPERIOR COURT.

MONTREAL, Dec. 9, 1885.

Before MOUSSEAU, J.

CORISTINE et al. v. LIZOTTE.

Procedure—Amendment of Pleadings—Costs.

The plaintiffs sued defendant, P. N. Lizotte, and Dame Cecile Plante, his wife, as *communs en biens*, trading together and joint and several makers of the promissory note declared on.

The female defendant pleaded that she signed the note as *garant* for her husband, and was not liable. The case was inscribed for hearing at *enquête* and merits for 1st Dec., 1885, when the female defendant (7th Dec.) presented a motion setting forth that by a judgment of the Superior Court of 22nd April, 1885, separation of property had been granted her from her husband; that on the 18th Nov., 1885, she had renounced the said community of property, and praying that she be allowed to file an additional plea setting up the foregoing.

The plaintiffs' attorneys resisted this motion on the ground that such motion should have been made before the issues were completed; that the defendant had plenty of time between the 22nd April and the date of inscription to make such motion, but had not availed herself thereof; that no affidavit nor such additional plea accompanied said motion, nor were any exhibits, copies of judg-

ment or renunciation produced by female defendant with the said motion, and that under the holding in *Ducharme* v. *Etienne*, 1 Leg. News, 281, such a judgment and renunciation could not affect the right of the parties acquired anterior to the institution of the action *en séparation de biens*, and at all events plaintiffs should have full costs and costs of motion.

The Court gave judgment granting female defendant's motion without costs and without costs of motion.

Dunlop & Lyman for plaintiffs.
David & Laurendeau for defendant.
(F.S.L.)

SUPREME COURT OF CANADA.

Stock held in trust—Mandatary.—S. brought an action against the Bank of Montreal to recover the value of stock in the Montreal Rolling Mills Company, transferred to the Bank under the following circumstances;—S.'s money was originally sent out from England to J. R., at Montreal, to be invested in Canada for her. J. R. subscribed for a certain amount of stock in the Montreal Rolling Mills Company as follows: 'J. Rose, in trust,' without naming for whom, and paid for it with S.'s money. He sent over the certificate of stock to S., and subsequently paid her the dividends he received on the stock. Becoming indebted to the Bank of Montreal, R. transferred to the manager of the Bank, as security for his indebtedness, some 350 shares of the Montreal Rolling Mills Company, including the shares bought for S., and the transfer showed on its face that he held the latter shares 'in trust.' The Bank of Montreal then received the dividends credited by them to J. R. who paid them to S. J. R. subsequently became insolvent, and S. not receiving dividends sued the bank for an account.

Held, reversing the judgment of the Court of Queen's Bench, Montreal (Strong. J., dissenting), that there was sufficient to show that J. R. was acting as agent or mandatary of S., and the Bank of Montreal not having shown that J. R. had authority to sell or pledge the stock, S. was entitled to get an account from the Bank.—*Sweeney* v. *Bank of Montreal.*

W. H. Kerr, Q.C., for the Appellant.
Laflamme, Q.C., and *Robertson, Q. C.*, for the Respondent.

THE QUEEN v. *RIEL.*

[Continued from p. 400.]

Mr. Justice Taylor's conclusion is: "After "a critical examination of the evidence, I "find it impossible to come to any other con- "clusion than that at which the jury arrived. "The appellant is, beyond all doubt, a man "of inordinate vanity, excitable, irritable, "and impatient of contradiction. He seems "to have at times acted in an extraordinary "manner: to have said many strange things, "and to have entertained, or at least pro- "fessed to entertain, absurd views on reli- "gious and political subjects. But it all "stops far short of establishing such un- "soundness of mind as would render him "irresponsible, not accountable for his "actions. His course of conduct indeed "shows, in many ways, that the whole of "his apparently extraordinary conduct, his "claims to Divine inspiration and the pro- "phetic character, was only part of a cun- "ningly devised scheme to gain, and hold, "influence and power over the simple- "minded people around him, and to secure "personal immunity in the event of his ever "being called to account for his actions. He "seems to have had in view, while professing "to champion the interests of the Metis, the "securing of pecuniary advantage for him- "self."

And he adds, after reviewing the evidence: "Certainly the evidence entirely fails to "relieve the appellant from responsibility for "his conduct, if the rule laid down by the "judges in reply to a question put to them "by the House of Lords in MacNaghten's "case, 10 Cl. & Fin. 200, be the sound one."

Mr. Justice Killam says: "I have read "very carefully the report of the charge of "the Magistrate, and it appears to have been "so clearly put that the jury could have no "doubt of their duty in case they thought "the prisoner insane when he committed the "acts in question. They could not have "listened to that charge without understand- "ing fully that to bring in a verdict of guilty "was to declare emphatically their disbelief "in the insanity of the prisoner."

And again: "In my opinion, the evidence "was such that the jury would not have "been justified in any other verdict than

" that which they gave. * * * I hesitate " to add anything to the remarks of my " brother Taylor upon the evidence on the " question of insanity. I have read over " very carefully all the evidence that was " laid before the jury, and I could say nothing " that would more fully express the opinions " I have formed from its perusal than what " is expressed by him. I agree with him " also in saying that the prisoner has been " ably and zealously defended, and that " nothing that could assist his case appears " to have been left untouched."

The organization and direction of such a movement is in itself irreconcilable with this defence; and the admitted facts appear wholly to displace it. The prisoner, eight months before this rebellion broke out, was living in the United States, where he had become naturalized under their laws, and was occupied as a school teacher. He was solicited to come, it is said, by a deputation of prominent men among the French half-breeds, who went to him from the North-West Territories, and, after a conference, requested him to return with them, and assist in obtaining certain rights which they claimed from the Dominion Government, and the redress of certain alleged grievances. He arrived in the Territories in July, 1884, and for a period of eight months was actively engaged in discussing, both publicly and privately, the matters for which he had come, addressing many public meetings upon them in a settlement composed of about six hundred French and a larger number of English half-breeds, together with others. The English half-breeds and other settlers observed his course, and saw reason to fear the outbreak which followed; but the suggestion of insanity never occurred, either to those who dreaded his influence in public matters over his race, and would have been glad to counteract it, or to the many hundreds who unhappily listened to him and were guided by his evil counsels to their ruin.

If, up to the eve of the resort to arms, his sanity was open to question, it is unaccountable that no one, either among his followers or his opponents, should have called public attention to it. If the Government had then attempted to place him under restraint as a lunatic, it is believed that no one would have been found to justify their action, and that those who now assert him to have been irresponsible would have been loud and well warranted in their protest. It may be well also to call attention to the obvious inconsistency of those persons—not a few—who have urged the alleged mal-administration of the affairs of the North-West Territories by the Government as a ground for interfering with the sentence, without ceasing to insist upon the plea of insanity. The prisoner cannot have been entitled to consideration both as the patriotic representative of his race and an irresponsible lunatic. It may be asked, too, if the leader was insane, upon what fair ground those who were persuaded by and followed him could be held responsible; and if not, who could have been punished for crimes which so unquestionably called for it.

It has been urged, however, that his nature was excitable, and his mental balance uncertain; that as the agitation increased, his natural disposition overcame him, and that the resort to violence was the result of overwrought feeling, ending in insanity, for which he cannot fairly be held accountable—that, in short, he was overcome by events not foreseen or intended by him.

A simple statement of the facts will show that this view is wholly without foundation; that throughout he controlled and created the events, and was the leader, not the follower; and that the resort to armed violence was designed and carried out by him deliberately, and with a premeditation which leaves no room whatever for this plea.

The first collision with the troops occurred at Duck Lake on the 26th of March, 1885.

On the 3rd of March previous the prisoner was at a meeting where there were about sixty of his followers, nearly all armed. He spoke at that meeting, and said that the police wanted to arrest him. "But these" he said, "are the real police," pointing to those present. On the 5th he told Charles Nolin that he had decided to induce the people to take up arms, and he had begun to speak to him of doing so as early as December previous.

On the 17th of March he said to Dr. G. Willoughby, sixty or seventy armed half-

breeds being present, that they intended to strike a blow to assert their rights; and, pointing to the men, "You see now I have my police. In one week that little Government police will be wiped out of existence." He added that the time had come when he was to rule this country or perish in the attempt, and that the rebellion of fifteen years ago (in which he had also been the leader) "would not be a patch upon this one."

To Mr. Lash, whom, on the 18th of March, at the head of his armed followers, he arrested, he said that the rebellion had commenced, and they intended to fight until the whole of the Saskatchewan Valley was in their hands; that he had been waiting fifteen years, and at last his opportunity had come; and that he would give the police every opportunity to surrender, but if they did not do so there would be bloodshed.

On the same day he, with about fifty armed followers, came to the stores of the witnesses Kerr and Walters, and demanded the arms and ammunition, the removal of which he superintended.

On the 20th he said to Thomas McKay that this was Major Crozier's last opportunity of averting bloodshed, and that, unless he surrendered Fort Carleton, an attack would be made that night.

On the 21st, the prisoner sent a demand, written and signed by himself, to the same Major Crozier, then in command of the Mounted Police at Fort Carleton, demanding an unconditional surrender of the fort and of his force, and threatening a war of extermination on refusal. This demand was not presented as written, because his messenger who carried it, on conferring with Major Crozier's representative, saw that it would be peremptorily rejected.

On the 26th, the prisoner, with a force of between three and four hundred armed men, proceeded to attack the police and the volunteers, on their way from Fort Carleton to Duck Lake, and he himself gave the command to fire, when nine men were killed.

It has been made a question which side fired first on this occasion, but Riel's own statement to Capt. Young was, that they were endeavouring to surround the Government force while Major Crozier was engaged in a parley with one of Riel's people; and that it was part of his plan to capture the police force, or some high Government official, in order to compel negotiations, has been stated by him to the Rev. Mr. Pitblado and to others, as well as to Capt. Young.

From that time until the suppression of the rebellion by the taking of Batoche, on the 12th of May, he was the unquestioned leader of the movement. Being urged by Mr. Astley, after the second engagement, which took place at Fish Creek, to allow him to negotiate, he said to him, what he also repeated to the witness Ross, that they must have another victory first, when they would be able to make better terms with the Government; and to the end he remained, not merely in the ostensible, but in the actual control of the armed force, negotiating in that capacity with the commander of the troops, and with an authority never doubted by those who, being his prisoners, observed his conduct, or questioned by any one of those in arms under him.

It may be asserted with confidence that there never has been a rebellion more completely dependent upon one man; that had he at any moment so desired, it would have come to an end; and that had he been removed a day before the outbreak, it would, in all probability, never have occurred. A dispassionate perusal of the whole evidence will leave no room for doubt upon this point, and that this was his own opinion appears by his statement to Father André, to be presently referred to.

Finally, under this head, as regards the mental state of the prisoner, after his trial and before execution, careful enquiry was made into this question by medical experts employed confidentially by the Government for that purpose, and nothing was elicited showing any change in his mental powers or casting any doubt upon his perfect knowledge of his crime, or justifying the idea that he had not such mental capacity as to know the nature and quality of the act for which he was convicted, as to know that the act was wrong, and as to be able to control his own conduct.

3. It has been urged that the prisoner's crime was a political one, inspired by politi-

cal motives alone; that a rebellion prompted only for the redress of alleged political grievances differs widely from an ordinary crime, and that, however erroneous may be the judgment of its leader, in endeavouring to redress the supposed wrongs of others, he is entitled, at least, to be regarded as unselfish and, as in his own view, patriotic.

This ground has been most earnestly considered, but the Government has been unable to recognize in the prisoner a political offender only, or to see that upon the evidence there can be any doubt that his motives were mainly selfish. On the contrary, it seems plain that he was willing at any moment, for the sake of gain, to desert his deluded followers, and to abandon his efforts for the redress of their alleged grievances, if, under cover of them, he could have obtained satisfaction for his own personal money demands.

It is believed that many who have espoused his cause and desired to avert from him the sentence which the law pronounced, must have been ignorant of this fact, or cannot duly have considered its proper effect, for it seems incredible that any one knowing it could regard the prisoner as entitled to the character of a patriot, or adopt him as the representative of an honorable race.

It is to be remembered that the prisoner had left this country and gone to the United States, where he had become an American citizen. He was brought here, therefore, avowedly to represent the claims of others, although in his letter of acceptance to the delegates he mentioned his own grievances as enabling him to make common cause with them. It is clear, however, from the evidence of Dr. Willoughby and Mr. Astley, that from the beginning, his own demand, which he himself claimed against the Government, was uppermost in his thoughts, and as early as December he attempted to make a direct bargain with the Government for its satisfaction.

Father André was a witness called on behalf of the prisoner, and there can be no reason whatever to question the correctness of his statement. His evidence on cross-examination by Mr. Casgrain was as follows:

"Q. I believe in the month of December, 1884, you "had an interview with Riel and Nolin, with regard to "a certain sum of money which the prisoner claimed "from the Federal Government?"

"A. Not with Nolin. Nolin was not present at the "interview."

"Q. The prisoner was there?"

"A. Yes."

"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 he asked from the Gov-"ernment $100,000. We thought that was exorbitant, "and the prisoner said 'Wait a little; I will take at once "$35,000 cash.'"

"Q. And on that condition the prisoner was to leave "the country, if the Government gave him the "$35,000?"

"A. Yes, that was the condition he put."

"Q. When was this?"

"A. This was on the 23rd December, 1884."

"Q. There was also another interview between you "and the prisoner?"

"A. There has been about twenty interviews between "us."

"Q. He was always after you to ask you to use your "influence with the Federal Government to obtain this "indemnity?"

"A. The first time he spoke of it was on the 12th De-"cember. He had never spoken a word about it before, "and on the 23rd of December he spoke about it "again."

"Q. He talked about it very frequently?"

"A. On these two occasions only."

"Q. That was his great occupation?"

"A. Yes, at those times."

"Q. Is it not true that the prisoner told you he him-"self was the half-breed question?"

"A. He did not say so in express terms, but he con-"veyed that idea. He said: 'If I am satisfied, the "half-breeds will be.' I must explain this. This ob-"jection was made to him, that even if the Government "granted him the $35,000, the half-breed question would "remain the same, and he said, in answer to that; 'If "I am satisfied, the half-breeds will be.'"

"Q. Is it not a fact he told you he would even accept "a less sum than the $35,000?"

"A. Yes. He said: 'Use all the influence you can; "you may not get all that, but get all you can, and if "you get less we will see.'"

This evidence confirms that of Charles Nolin, a very prominent half-breed, at one time Minister of Agriculture in the Government of Manitoba, who had strongly sympathized with Riel and the movement, until armed rebellion became imminent, when he separated from him, and afterwards gave evidence for the Crown. This was his testimony:

"In the beginning of December, 1884, he began to

" show a desire to have money; he spoke to me about " it first, I think."

" Q. How much did he say he wanted?"

" A The first time he spoke of money I think he said " he wanted $10,000 or $15,000."

" Q. From whom would he get the money?"

" A. The first time he spoke about it he did not know " any particular plan to get it; at the same time, he " told me that he wanted to claim an indemnity from " the Canadian Government. He said that the Cana- " dian Government owed him about $100,000, and then " the question arose who the persons were whom he " would have to talk to the Goverument about the in- " demnity. Some time after that, the prisoner told me " that he had an interview with Father André, and that " he had made peace with the Church; that since his " arrival in the country he had tried to separate the " people from the clergy; that until that time he was " at open war almost with the clergy. He said that he " went to the church with Father André, and in the " presence of another priest and the Blessed Sacrament " he had made peace, and said that he would never " again do anything against the clergy. Father André " told him he would use his influence with the Govern- " ment to obtain for him $35,000. He said that he " would be contented with $35,000 then, and that he " would settle with the Government himself for the " balance of the $100,000. That agreement took place " at Prince Albert. The agreement took place at St. " Laurent, and then Father André went back to his " mission at Prince Albert."

" Q. Before December were there meetings at which " Riel spoke, and at which you were present?"

" A. Yes."

" Q. How many."

" A. Till the 24th February. I assisted at seven meet- " ings, to the best of my knowledge."

" Q. Did the prisoner tell you what he would do if " the Government paid him the indemnity in question?"

" A. Yes."

" Q. What did he tell you?"

" A. He said if he got the money he wanted from " the Government, he would go wherever the Govern- " ment wished to send him. He had told that to Father " André. If he was an embarrassment to the Govern- " ment by remaining in the North-West he would even " go to the Province of Quebec. He said also that if " he got the money he would go to the United States " and start a paper, and raise the other nationalities in " the States. He said: 'Before the grass is that high " in this country, you will see foreign armies in this " country.' He said 'I will commence by destroying " Manitoba, and then I will come and destroy the " North-West and take possession of the North-West.'"

Much has been made of the argument that the prisoner came here at the request of others, but for which he would have remained away, and that being here he desired to return to the United States, and would have done so were it not for the urgency of those who had induced him to come. As to this, Charles Nolin swore as follows:—

" Q. Was there a meeting about that time, about the " 8th or 24th of February?"

" A. A meeting?"

" Q. At which the prisoner spoke?"

" A. There was a meeting on the 24th of February, " when the prisoner was present."

" Q. What took place at that meeting; did the pri- " soner say anything about his departing for the United " States?"

" A. Yes."

" Q. What did the prisoner tell you about that?"

" A. He told me that it would be well to try and " make it appear as if they wanted to stop him going " to the States. Five or six persons were appointed to " go among the people, and when Riel's going away " was spoken about, the people were to say 'No, No.' " It wast expected that Gagnon would be there, but he " was not there. Riel never had any intention of leav- " ing the country."

" Q. Who instructed the people to do that?"

" A. Riel suggested that himself."

" Q. Was that put in practice?"

" A. Yes."

The counsel for the other half-breeds who pleaded guilty also stated in court that Riel had himself procured the request to him to come to this country; and on two occasions in court these learned gentlemen most earnestly and indignantly denounced the prisoner as one who had misled and deceived their clients, and to whom all the misery and ruin which this unhappy rebellion had brought upon them was to be attributed.

But if an unselfish desire could be credited to the prisoner to redress political wrongs even by armed rebellion, it would at least have been necessary to disprove the charge which lies against him, that in his own mind the claims of humanity had no place, but that he was prepared to carry out his designs by bringing upon an unoffending people all the horrors of an Indian rising, with the outrages and atrocities which, as he knew full well, must inevitably accompany it. That this cannot be disproved, but that it is beyond all dispute true, the evidence makes plain.

From the beginning, even before Duck Lake, he was found in company with Indians armed, and to the end he availed himself of their assistance.

In that engagement, the first occasion of bloodshed, according to the evidence of the witnesses Astley, Ross and William Tompkins, the Indians composed a large portion of his force—one-third, or thereabouts.

In a letter found in the camp of Poundmaker, an Indian Chief, in the prisoner's handwriting, and signed by him, after describing in most exaggerated language what is termed their victory at Duck Lake, it is said: "Praise God for the success He has "given us. Capture all the police you possi- "bly can. Preserve their arms. Take Fort "Battle, but save the provisions, munitions "and arms. Send a detachment to us of at "least one hundred men."

In a draft letter, also in his handwriting, and proved at the trial, addressed to the French and English Métis from Battle River to Fort Pitt, the following expressions are found:—

"We will help you to take Fort Battle and "Fort Pitt. * * * Try and have the news "which we send to you conveyed as soon as "possible to the Métis and Indians of Fort "Pitt. Tell them to be on their guard; to "prepare themselves for everything. * * * "Take with you the Indians; gather them "together everywhere. Take all the ammu- "nition you can, in whatever stores they "may be. Murmur, growl and threaten. "Rouse up the Indians."

Other evidence to the same effect was given at the trial, and it may be added that in the scouting reports and orders-in-council the active employment of Indians in carrying on hostilities clearly appears.

It could not be overlooked either, upon an application for executive clemency, that upon the trials of One Arrow, Poundmaker, White Cap and other Indians, it was apparent that they were excited to the acts of rebellion by the prisoner and his emissaries. Many of these Indians so incited and acting with him from the commencement were refugee Sioux from the United States, said to have been concerned in the Minnesota massacre and the Custer affair, and therefore of a most dangerous class.

It is to the credit of the Indian chiefs that their influence was used to prevent barbarity, but by individuals among them several cold-blooded, deliberate murders were committed, for which the perpetrators now lie under sentence of death. These crimes took place during the rebellion, and can be attributed only to the excitement arising out of it.

4. Whether rebellion alone should be punished with death is a question upon which opinions may differ. Treason will probably ever remain what it always has been among civilized nations, the highest of all crimes; but each conviction for that offence must be treated and disposed of by the Executive Government upon its own merits, and with a full consideration of all the attendant circumstances. In this particular instance, it was a second offence and, as on the first occasion, accompanied by bloodshed under the direct and immediate order of the prisoner, and by the atrocity of attempting to incite an Indian warfare, the possible results of which the prisoner could and did thoroughly appreciate. In deciding upon the application for the commutation of the sentence passed upon the prisoner, the Government were obliged to keep in view the need of exemplary and deterrent punishment for crime committed in a country situated in regard to settlement and population as are the Northwest Territories; the isolation and defenceless position of the settlers already there; the horrors to which they would be exposed in the event of an Indian outbreak; the effect upon intending settlers of any weakness in the administration of the law; and the consequences which much follow in such a country if it came to be believed that such crimes as Riel's could be committed, without incurring the extreme penalty of the law, by any one who was either subject to delusions, or could lead people to believe that he was so subject. The crime of the prisoner was no constructive treason; it was accompanied by much bloodshed, inflicted by his own direct orders; and the Government have felt, upon a full and most earnest consideration of the case, that they would have been unworthy of the power with which they are entrusted by the whole people, and would have neglected their plain duty to all classes, had they interfered with the due execution of a sentence pronounced as the result of a just verdict, and sanctioned by a righteous law.

A. CAMPBELL,

(*Minister of Justice during the proceedings against Riel.*)

OTTAWA, Nov. 25, 1885.