offender may and shall be prosecuted and tried in the Court of the Province of Upper Canada." But this defect may perhaps be found to be remedied by the Imperial Act of 1874, 37, 38 Vict. c. 27, which provides:—

"Where by virtue of any Act of Parliament now or hereafter to be passed, a person is tried in a Court of any colony for any crime or offence committed on the high seas, or elsewhere, out of the territorial limits of such colony, and of the local jurisdiction of such Court; or if committed within such local jurisdiction made punishable by that Act; such person shall upon conviction be liable to such punishment as might have been inflicted upon him if the crime or offence had been committed within the limits of such colony, and of the local jurisdiction of the Court."

By the B. N. A. Act (s. 139) all laws in force in Canada (*i.e.*, Upper and Lower Canada) at the union, and all Courts of civil and criminal jurisdiction were continued in Ontario and Quebec subject (except with respect to such as are enacted by or exist under Imperial Acts) to be repealed or altered by the Dominion Parliament or the Provincial Legislature, according to the authority of the Parliament or Legislature under the B. N. A. Act.

This provision preserves the criminal jurisdiction of the Ontario Courts under the Imperial Act of 1821; and that jurisdiction is not, we think, affected by the "Rupert's Land Act, 1868," 31, 32 Vict. c. 106 (Imp.), which provides that after the admission of Rupert's Land into the Dominion, the Parliament of Canada may make laws and constitute Courts for the peace, order and good government of Her Majesty's subjects and others therein; "Provided that until otherwise enacted by the said Parliament of Canada, all the powers, authorities and jurisdiction of the several Courts of Justice *now established in* Rupert's Land, and of all magistrates and justices now acting within the said limits shall continue in full force and effect therein."

The Ontario Courts cannot be held to come within the definition of "Courts of Justice established in Rupert's Land;" and so the criminal jurisdiction of the Ontario Courts, under the Act of 1821, cannot be held to be affected by this enactment. Besides, unless authorized by an Imperial Act, no Colonial Legislature can vary or repeal Imperial enactments applicable to such colony.

This would appear to be the effect of the Imperial Acts, 7, 8 Wm. III. c. 22, s. 9; 6 Geo. IV. c. 105, s. 56; 3, 4 Wm. IV. c. 59, s. 56; and 28, 29 Vict. c. 63, s. 2, which latter Act condenses the former enactments and declares that Colonial Laws repugnant to any Imperial Act are to be read subject to such Imperial Act, and are "to the extent of such repugnancy, but not otherwise, to be and remain absolutely void and inoperative."

In 1859 another Imperial Act (22, 23 Vict. c. 26) was passed reciting the Acts of 1803 and 1821, and empowering the Crown to authorize justices of the peace appointed under those Acts, to try in a summary way all crimes, and to punish the same by fine or imprisonment or both; but, where the offence was one punishable with death, or should not be disposed of summarily, such justices might commit the offender to safe custody and cause him to be sent in such custody for trial in Upper Canada, as provided in the Imperial Act of 1821. The Act, however, does not extend to "the Hudson Bay Company's Territories."

It would seem, therefore, that in addition to the Local Courts referred to in our former article, a Criminal Court in Ontario, having jurisdiction in capital offences, may try Riel and the other leaders of the