The fifth section of the statute thus having been complied with as to the form of the charge, the law is, that inferior courts must show their jurisdiction on the face of their proceedings; but the contrary is the law in the case of superior courts. A court having jurisdiction to try a man for high treason and felonies punishable with death, cannot be called an inferior court; and this court has all the incidents appertaining to a superior court, and is the only court in the North-West Territories.

The court constituted under the North-West Territories Act of 1880, being a superior court, need not show jurisdiction on the face of its proceedings. The authorities cited to maintain the position were of inferior jurisdiction and are not applicable.

On the 7th may, 1880, the Dominion Government, by the North-West Territories Act, constituted the Court of the Queen's Bench of Manitoba a Court of Appeal in respect to offences punishable with death.

It is the prisoner, however, who appeals to us, not the Crown, and he can hardly be heard to object to the jurisdiction to which he appeals.

It is further urged that the stipendiary magistrate did not take, or cause to be taken, in writing, full notes of the evidence and other proceedings upon the trial.

It is true, the evidence produced to us appears to have been taken by a short hand writer; whether the stipendiary magistrate took, or caused to be taken, other notes in writing after the trial, in pursuance of sub-section 7 of section 76 of the Act, does not appear.

It is the prisoner, for it is his appeal, who furnishes this court with the evidence upon which the appeal is heard, and the Crown does not object to it.

Unless expressly required by statute, the judge who tries a criminal case is not bound to take down the evidence, and when he is required to do so, it is in order that it may be forwarded to the minister of Justice. Sub-section five, under which the trial took place, says nothing about the evidence, but simply that the stipendiary magistrate and a justice of the peace, with the intervention of a jury of six, may try any charge, against any person or persons, for any crime.

It is sub-section seven which directs the stipendiary magistrate to take or cause to be taken, in writing, full notes of the evidence and other proceedings thereat; and sub-section eight enacts, that when a person is convicted of a capital offence, and is sentenced to death, the stipendiary magistrate shall forward to the minister of Justice full notes of the evidence, with his report upon the case.

Suppose the notes of the evidence were taken by a short hand reporter, and afterwards extended by him, does not the stipendiary magistrate, in the words of the statute, "cause to be taken in writing full notes of the evidence."

I am of opinion that, *for the trial*, the stipendiary magistrate is not bound to take down the evidence, but he is bound to do so to forward the same to the minister of Justice.

In my opinion there is no departure from the direction of the statute. He does cause them to be taken. The directions, first to take them by short hand, and then to extend them by writing, is all one direction, or causing to be taken. This seems to me a reasonable compliance with the requirements of sub-section seven. Is it not too rigid a reading of the statute to say that the writing must be done whilst the trial progresses. Sub-section eight does not say a copy shall be sent to the minister of Justice, but "full notes of the evidenee shall be sent to the minister of Justice."

Suppose the notes of the evidence were burned by accident—would the prisoner be denied his appeal?

The Crown has not objected to the evidence as furnished by the prisoner. The exception is purely technical, and in my opinion is not a valid one.

A good deal has been said about the jury being composed of six only. There is no law which says that a jury shall invariably consist of twelve or of any particular number. In Manitoba, in civil cases, the jury is composed of twelve, but nine can find a verdict. In the North-West Territories Act, the Act itself declares that the jury shall consist of six, and this was the number of the jury in this instance. Would the stipendiary magis