

viz. : either, in the words of the statute, "to confirm the conviction, or to order a new trial." We can dispose of it only in one of these two ways.

Upon the argument before this court no attempt was, or could be, made to show that the prisoner was innocent of the crime charged ; in fact, the evidence as to guilt is all one way. The witnesses called upon the defence were so called upon the plea of insanity. The whole evidence was laid before us, and upon examining that evidence I think counsel very properly declined to argue the question of the guilt or innocence of the prisoner.

The argument before us was confined to the constitutionality of the court in the North-West Territory, and to the question of the insanity of the prisoner. As to the question of constitutionality, or jurisdiction, in my opinion the court before which the prisoner was tried does sustain its jurisdiction, under and by the Imperial Act 31 & 32 Vic. c. 105, s. 5, being The Rupert's Land Act, 1868, by which power is given to the Parliament of Canada to make, ordain and establish laws, institutions and ordinances, and to constitute such courts and officers as may be necessary for the peace, order, and good government of Her Majesty's subjects therein, meaning Rupert's Land, being the country embraced within that Territory within which this crime was committed. This statute alone confers upon the Dominion Parliament the power both to make laws and establish courts. Secondly, The Dominion Act 32 & 33 Vic., c. 5, intituled "An Act for the temporary government of Rupert's Land and the North West Territories, when united with Canada," passed in pursuance of section 146 of the British North America Act, 1867, by which both Rupert's Land and the North-West Territory were declared to be comprehended under the one designation of "The North-West Territories." Ample power is there given to make, ordain, and establish laws, institutions and ordinances, for the peace, order and good government of Her Majesty's subject therein ; and section 6 of that Act confirm the officers and functionaries in their offices, and in all the powers and duties as before then exercised. This Act, if *ultra vires* of the Dominion Parliament, at that time, was validated by the Imperial Act 34 & 45 Vic., c. 28, intituled "An Act respecting the establishment of provinces in the Dominion of Canada," in which the 32 & 33 Vic., c. 3, is in express words made valid, and is declared "to be, and be deemed to have been, valid and effectual for all purposes whatsoever, from the date at which it received the assent (22nd of June, 1869), in the Queen's name, of the Governor General of the Dominion of Canada." In my judgment, under both these Acts the courts in the North-West Territories are legally established, and whether the power were a delegated power or a plenary power, appears to me indifferent. The question is asked, could the Dominion Parliament legislate on the subject of treason ? That question does not arise, because the Imperial Act validates the Dominion Act, and thus the Act has the full force of an Imperial Act.

The Imperial Act has, by express words, made the Dominion Act "valid and effectual for all purposes whatever from its date," and it thus became in effect an Imperial Act, and has all the effect and force which the Imperial Parliament could give it.

The Dominion Parliament thus had power to make the enactment called "The North-West Territories Act of 1880," and the prisoner was tried and convicted in accordance with the provisions of this latter Act. Of the regularity of those proceedings no complaint is made except upon one point, which is that the information or charge upon which the prisoner was tried does not show that the information was taken before the stipendiary magistrate and a justice of the peace, and it is contended that this objection is fatal to the form of the information. By section 76 of the N. W. T. Act, the stipendiary magistrate is declared to have the magisterial and other functions of a justice, or any two justices of the peace. An information could not only have been laid before him, as it in fact was, but could have been laid before, and taken by, a single justice of the peace. But if what is meant by the objection is, that the charge, for that is the word used in that sub section of the statute under which the prisoner was tried, should show on its face that this charge was tried before the stipendiary magistrate and a justice, then it is answered by the fact that he was so tried before the stipendiary magistrate and Henry LeJeune, a justice of the peace.