

the appeal. This section also enacts that the mode of the appeal, and all particulars relating thereto, shall be determined from time to time by ordinance of the Lieutenant Governor in Council, *i. e.*, of the North-West Territories.

No such regulations have been made, and this court has no power to compel the making of them.

The appellant desires to know upon what proceedings his appeal is to be heard. We are of opinion that the original papers should be before us.

If the prisoner has applied for them and they have been refused to him, the Court will receive as sufficient, sworn copies, or copies properly certified.

The prisoner does not show that he has made any effort to get these papers, or that they have been refused to him.

Counsel for the Crown say they are ready to go on now, and argue the appeal upon the papers already transmitted by the stipendiary magistrate before whom the prisoner was tried.

Counsel for the prisoner decline to concur in this mode.

We are of opinion that the original papers, *i. e.* the proceedings and evidence taken and had on the trial, should be transmitted to this court. If it be shown that these have been demanded and cannot be had, then the court will receive verified copies of them.

It is the duty of the person appealing, to supply this court with the necessary papers upon which the appeal is to be heard, or to do all in his power for that purpose. The statute before cited has given the prisoner the right to appeal to this court, which has no power to send its process outside the limits of the province. We are, therefore, of opinion that we cannot send a *habeas corpus* to bring the prisoner before us; nevertheless, we are by law obliged to hear his appeal.

Counsel for the prisoner have given the stipendiary magistrate notice of their intention to appeal, and he has sent to this court certain papers, which upon inspection appear to be copies, but are certified to as a true and correct record of the proceedings at the trial of Louis Riel upon the charges set forth therein; and after evidence and address of counsel, he concludes as follows: "Certified a true record," and he annexes thereto copies of the exhibits. Again is appended a certificate—"Certified true copies."

If the prisoner desires time to procure the original papers, the Court will adjourn for a sufficient length of time to enable him to get them.

THE QUEEN *vs.* RIEL.

Treason.—Jurisdiction of North-West Court.—Information.—Evidence in shorthand.—Appeal upon fact.—Insanity.

SUMMARY

1. In the North-West Territories a stipendiary magistrate and a justice of the peace, with the intervention of a jury of six, have power to try a prisoner charged with treason. The Dominion Act 43 Vic. c. 25 is not *ultra vires*.
 2. The information in such case (if any information be necessary) may be taken before the stipendiary magistrate alone. An objection to the information would not be waived by pleading to the charge after objection taken.
 3. At the trial in such case the evidence may be taken by a shorthand reporter.
 4. A finding of "guilty" will not be set aside upon appeal if there be any evidence to support the verdict.
 5. To the extent of the powers conferred upon it, the Dominion Parliament exercises not delegated, but plenary powers of legislation.
- Insanity, as a defence in criminal cases, discussed.

J. S. EWART, Q. C., and F. X. LEMIEUX and CHARLES FITZPATRICK, of the Quebec Bar, for the prisoner.

C. ROBINSON, Q. C., and B. B. OSLER, Q. C., both of the Ontario Bar, and J. A. M. AIKENS, Q. C., for the Crown.