

The Imperial Parliament has jurisdiction not only over all territories under the dominion of the Queen of England, but also over all persons who owe allegiance to Her Majesty. The Imperial Parliament is therefore competent to make provision for the punishment first, of crimes committed on British territory, though committed by a foreigner, and secondly, of crimes committed on any territory whatever, if committed by a British subject.

On the other hand, the jurisdiction of a Colonial Legislature is, with certain qualifications not now material, purely territorial. Such a Legislature is empowered by Parliament or otherwise to make laws for the peace, order and good government of a particular Colony; but it has no power over the person of a British subject when he is beyond the limits of the Colony. Such a Legislature is therefore legally incompetent to affix a criminal character on acts committed by any person, British subject or otherwise, beyond those limits.

This is no new or uncertain doctrine. It is a fundamental principle of Colonial Law, and has been repeatedly affirmed by Law Officers of the Crown, and acted upon by the Imperial and by Colonial Governments. It has been inadvertently violated in the Act of 1829, to which your Attorney General alludes, and very likely in other cases. But it is not the less necessary to bear it constantly in mind, and not to encumber the Colonial Statute Book with provisions which a Judge would be compelled to pronounce invalid.

I hope, with this explanation, your Government will have no difficulty in submitting to the Legislature the amendment in the Law required by my Despatch of October 7, 1864.

I have, &c.

(Signed)

EDWARD CARDWELL.

“New Brunswick.

“*Message to the House of Assembly, 25th June, 1866.*”

“ARTHUR H. GORDON.

“His Excellency the Lieutenant Governor lays before the House of Assembly, the copy of a Despatch, with Enclosure, from the Secretary of State for the Colonies, dated 7th November, 1865, referring to ‘An Act relating to Steam Navigation in this Province,’ which was passed by the Legislature of New Brunswick last year.”

A. H. G.

The Despatch and Enclosure, communicated by this Message, were read at the Clerk’s Table, and are as follow:—

STEAM NAVIGATION ACT.

The Secretary of State for the Colonies to the Lieutenant Governor.

Downing Street, November 7, 1865.

SIR,—I have the honor to transmit to you, for your information, a copy of a letter from the Board of Trade, on the subject of an Act passed by the Legislature of New Brunswick on the 8th June last, entitled Cap. 4, No. 3048, “An Act relating to Steam Navigation in this Province,” which was enclosed in your Despatch, No. 73, of the 6th September.

I feel confident that the Legislature of New Brunswick will see the importance of so amending this Act as to remove the objection to the 18th Section, which is pointed out by their Lordships.

I have, &c.

(Signed)

EDWARD CARDWELL.

[Enclosure.]

Sir J. E. Tennent to the Under Secretary of State for the Colonies.

Board of Trade, Whitehall, 1st November, 1865.

SIR,—I am directed by the Board of Trade to acknowledge the receipt of your letter of the 19th of October, forwarding for this Board’s observations, an Act of the Legislature of New Brunswick relating to Steam Navigation.