

the trial was proceeded with, and a large number of witnesses were called and examined. At the trial the appellant was defended by three gentlemen of high standing at the bar of the Province of Quebec. Judging from the arguments addressed to this court by two of these gentlemen on the present appeal, I have no hesitation in speaking of them as learned, able and zealous, fully competent to render to the appellant all the assistance in the power of counsel to afford him. On the 1st of august, the case having been left to the jury, they returned a verdict of guilty, and thereupon sentence of death was pronounced. From that lie brings his appeal.

It was not urged before this court, as it was on the trial at Regina, that the appellant should have been sent for trial to the Province of Ontario, or to the Province of British Columbia, instead of his being brought to trial before a stipendiary magistrate and a justice of the peace in the North-West Territories.

This point not having been argued, it is unnecessary to consider whether the Imperial Acts 43 Geo. III., c. 138 : 1 & 2 Geo. IV., c. 66, and 22 & 23 Vic. c. 26, are, or are not now in force. Only a passing allusion was made to them by counsel. The first of them was repealed by the Statute Law Revision Act, 1872 (35 & 36 Vic. c. 63), and part of the second was repealed by the Statute Law Revision Act, 1874 (37 & 38 Vic. c. 35). At all events, the Imperial Government has never, under the authority of these, appointed in the North-West Territories justices of the peace, nor established courts, while under other statutes hereafter referred to, wholly different provision has been made for dealing with crime in those Territories, so that they must be treated as obsolete if not repealed.

It was contended by the appellant's counsel that the Imperial statutes relating to treason, the 25 Edw. III., c. 2 : 7 Wm. III., c. 3 ; 36 Geo. III., c. 7, and 57 Geo. III., c. 6, which define what is treason, and provide the mode in which it is to be tried, including the qualification of jurors, their number, and the method of choosing them, are in force in the North-West Territories. And it was argued, that in legislating for the North-West Territories, the people of which are not represented in the Dominion Parliament, that Parliament exercises only a delegated power, which must be strictly construed, and cannot be exercised to deprive the people there of rights secured to them as British subjects by Magna Charta, or in any way alter these old statutes to their prejudice. Now of this argument against any change being made in rights and privileges secured by old charters and statutes, a great deal too much may be made.

That these rights and privileges, wrested by the people from tyrannical Sovereigns many centuries ago, were and are valuable, there can be no question. Were the Sovereign at the present day endeavouring to deprive the people of any of these, for the purposes of oppression, it would speedily be found that the love of liberty is as strong in the hearts of British subjects to-day as it was in the hearts of their forefathers, and they would do their utmost to uphold and defend rights and privileges purchased by the blood of their ancestors. But it is a very different thing when the legislature, composed of representatives of the people, chosen by them to express their will, deem it expedient to make a change in the law, even though that change may be the surrender of some of these old rights and privileges.

That the Dominion Parliament represents the people of the North-West Territories cannot, I think, be successfully disputed. It may be, that the inhabitants of these Territories are not represented in parliament by members sitting there chosen directly by them, but these Territories form part of the Dominion of Canada, the people in them are citizens of Canada, not, as it was put by counsel, neighbours, just in the same way as all the people of this Dominion are part and parcel of the great British Empire. The people of these Territories are represented by the Dominion Parliament, just as the inhabitants of all the colonies are represented by the House of Commons of England. Legislation for these Territories by the Dominion Parliament, must indeed precede their being directly represented there. Before they can be so, the number of representatives they are to have, the qualification of electors, and other matters must be provided for by the Dominion Parliament itself or by Local Legislatures created by that Parliament.

The question then is, what powers of legislation with reference to the North-West Territories have been conferred upon the Dominion Parliament by Imperial authority.