The first point is that the Act itself under which the petitioner was tried was ultra vires the Dominion parliament to enact. That parliament derived its authority for the passing of that statute from the imperial statutes, 34 and 35 Vic., c. 28, which enacted that the parliament of Canada may from time to time make provision for the administration, peace, order and good government of any territory not for the time being included in any province. It is not denied that the place in question was one in respect of which the parliament of Canada was authorized to make such provision, but it appears to be suggested that any provision differing from the provisions which in this country have been made for administration, peace, order and good government cannot, as a matter of law, be provision for peace, order, and good government in the Territories to which the statute relates, and further, that if a court of law should come to the conclusion that a particular enactment was not calculated as a matter of fact and policy to secure peace, order, and good government, that they would be entitled to regard any statute directed to those objects, but which a court should think likely to fail of that effect, as ultra vires and beyond the competency of the Dominion parliament to enact.

Their lordships are of opinion that there is not the least colour for such a contention. The words of the statute are apt to authorize the utmost discretion of enactments for the attainment of the objects pointed to. They are words under which the widest departure from criminal procedure as it is known and practised in this country have been authorized in Her Majesty's Indian empire. Forms of procedure unknown to the English common law have there been established and acted upon, and to throw the least doubt upon the validity of powers conveyed by those words would be of widely mischievous consequence.

Now, sir, we are not legislating at the present time under the provisions of section 4 of the Act of 1871. We are legislating under the provisions of section 2 of the same Act, where we find exactly the same words as are used in section 4. Section 2 reads :

> The parliament of Canada may, from time to time, establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may at the time of such establishment, make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order and good government of such province and for its representation in the said parliament.

These words, in the opinion of the law lords, absolutely authorize 'the utmost discretion of enactment', to quote the expression used by Lord Halsbury, the present Lord Chancellor. Let us look again at section 2 of the Act of 1871.

Mr. HAGGART. He is begging the question.

Mr. FITZPATRICK. I do not think that the law officers of the Crown in England begged the question in 1871—Sir Robert Collier and Sir John Coleridge. Let me say here that the construction of a statute is no great secret. A statute is intended purely and simply to give effect to the intention of the legislature which enacts it; and as a rule the legislature uses ordinary plain English words in grammatical form, and the words in a statute are to be construed in the same sense as they would be in ordinary conversation. That is the intent of the law. Let us read the section again and see what mystery there is in it :

> The parliament of Canada may, from time to time establish new provinces . . . and may, at the time of such establishment, make provision for the constitution and administration of any such province.

Can words be clearer ? What is there ambiguous about these words ? I hold that section 2 expressly gives power to the parliament of Canada to establish new provinces in any of the Territories forming part of the Dominion, but not included in any province thereof, and for the passing of laws for the peace, order and good government of any such province, and its representation in parliament. Bear in mind that this Act was passed at the request of the Canadian government, and remember what I read a moment ago from the report of the late Sir John Macdonald, in which he asked that the Act be passed and said that it was the desire of the Canadian parliament to be empowered from time to time to establish other provinces in the North-west Territories, with such local government, legislatures and constitutions as it might deem fit to give them. That was the request made by the Canadian parliament, and section 2 is one of the provisions of the law which was passed in answer to that request.

It seems to me that there is another argument to be drawn from this. The Act of 1871 not only contains the provision which I have just read—and bear in mind the circumstances under which it was passed—but it also contains a provision to confirm the Manitoba Act, that is to say to confirm an Act which contains these clauses of which I spoke a moment ago, among which are the educational clause and the clause with respect to the ownership of public lands. The imperial authorities, having had notice from the Canadian parliament that it construed its powers to mean that it had the right to deal with these two questions in the way in which it had dealt with them, confirm what the Canadian parliament did and give it power to go on legislating on similar lines in the future. It seems to me impossible to find a case in which the intention of the imperial parliament to give this parliament the power to do in a case like the present which is in all fours with the Manitoba case what was done by the Manitoba Act could be more clearly expressed.

This Act, the British North America Act of 1871, marks a long step in advance of the powers which the Dominion parliament