Legislature intended to confine the penalty to a portion only of the offences enumerated in the 66th section, or for holding, as suggested by Mr. Justice Gwynne, that the whole, viz., the *keeping open and the sale*, should be regarded as but *one* offence, complete only in the event of spirituous liquors being sold or given. In *Newman* v. *Beudyshe*, 10 A. & E. 11, a conviction for keeping open the house, for selling beer and for suffering the same to be drunk and consumed in the house, was held bad, as including three several offences in one conviction, for which the defendant might have been distinctly convicted.

It is said that if it had been intended to limit section 66 to hotel and shop keepers it would have been easy to have so expressed it. To my mind it is so expressed—the first part of the section over-riding and being the key to the whole. But if there is any doubt or ambiguity I have already intimated my opinion that in the construction of statutes it is not to be presumed that the Legislature intended to make any innovation upon the Common Law further than the case absolutely requires. The law rather infers that the Act did not intend to make any alteration other than what is specified, and beside what has been plainly pronounced; for if the Parliament had had that design, it is naturally said they would have expressed it. It is further argued, however, that the word "give" indicates an intention to extend the Act to other parties beyond the keepers of hotels, but it must be borne in mind that that word is to be found in the original Act, where the penalty was unquestionably restricted to the keeper of the hotel, &c., and, as Mr. Justice Gwynne suggests in the *Lincoln case*, was probably added to prevent the possibility of the party proceeded against for the penalty evading the statute by setting up as a defence that he did not sell but gave the drinks.

But there is an additional reason for concluding that the Legislature did not intend to effect so sweeping a change under a section which purports in its introductory clauses to deal only with hotels and shops where spirituous or fermented liquors are sold. In such a case we may fairly refer to and examine other parts of the Act for the purpose of ascertaining the intent of the Legislature. On referring then to the 61st section, we find that the candidate, or any other person, is authorised to furnish drink or any other entertainment to any meeting of electors, even on the polling day, at his or their usual place of residence. Here, then, we have a clause in the same statute expressly permitting what another section, in as express terms, prohibits, if the construction contended for by the petitioners be the correct one.

Now that the elections are all held in one day, a literal compliance with the first portion of the 66th section would be impracticable, there being no such exception as is to be found in the English Acts in favour of the reception of travellers, and in the amendment to the Act that has just been introduced, I see that it has been omitted; but, whatever may be meant by closing a hotel on the day of polling, it is directed, and the failure to do so made a distinct offence.

I will refer only to one other matter which confirms me in the opinion that in the construction of this clause we should give no further effect to the words than they clearly and unmistakeably bear, which is this: The Legislature, in what is popularly known as the Dunkin Act, has declared that no prohibitory law shall be passed by any municipal councils without the consent of the ratepayers, and, whilst declining to pass such a law themselves, have left it in the power of the ratepayers to make such an enactment. Are we to suppose that they intended inferentially to pass such a law, even for a limited period, when they re-enacted a clause which, when first passed, applied only to hotel and shop keepers selling spirituous and fermented liquors.

For these reasons I am of opinion that the person, and the only person, liable to the penalties imposed by the Election Act of 1868 is the hotel or hop keeper, or person acting in that capacity; that he, and he alone, is the person who is guilty of a violation of the Act, by selling or giving liquors, and so liable under the Act of 1873 to the additional penalties imposed by it if within polling hours; and whilst the investigation of this case has more fully confirmed me in the conviction of the correctness of the decision of the Court, which declared that a violation by the hotel keeper of this section, with the knowledge and consent of the candidate, avoided the election and entailed the penal consequences affixed by the statute, I am not prepared to hold that the agent of the candidate is guilty of a corrupt practice in treating at a hotel within the prohibited hours. To do so would be in effect to hold that there could be two penalties for the same offence, when the statute has imposed only one.

My conclusion, therefore, is that there has been no violation of the 66th section within the meaning of the Act of 1873.

Patterson, J.—[After stating the case and referring to the first ground of appeal as being removed altogether from their consideration].

The other grounds of appeal charge as violations of section 66 the giving of liquor to various persons by agents of the candidate during