

found in that part of the argument which is devoted to proving that the Privy Council is wrong in saying that the terms used are "very general terms". It would have been a little out of place there. But it is nevertheless indisputably true.

When a statute gives jurisdiction to a court it is accomplished with some attempt at accurate limitation; but in the distribution of legislative powers among legislative bodies schedules of "classes of subjects" or headings of jurisdiction are the only practicable means of giving expression to the intention of Parliament. Let us for a moment take the words as expressing a precise limitation and not as a heading of jurisdiction—let us in other words assume that the words are applied to a court and not a Legislature. The Legislature, in this view can only impose punishment by fine, penalty or imprisonment. It cannot for the same offence impose a fine *and* imprisonment. *M. S. v. Vick* 1 Har. & J. 427; *State v. Kearney* 1 Hawks. 53; *Wilde v. Commonwealth* 2 Met. 408. The Legislature may impose imprisonment but it cannot compel the prisoner to pay the costs. It can impose a fine but it cannot award distress or process of any kind for non-payment. These considerations show at once that the words must be taken as headings of jurisdiction, and "Imprisonment" when used as a heading must include that which is usually incident to it, otherwise the Legislatures are without powers which beyond question it was intended they should possess.

But we imagine our contemporaries still clinging to the word *imprisonment* and telling us that we want to add "with or without hard labor" to it. It is certainly possible that the Imperial Parliament in passing the B. N. A. Act may have determined that the Provincial Legislatures should not have power to award or inflict hard labor upon any of Her Majesty's subjects, and our friends will urge that to do this it was only necessary not to bestow the power, and it was not necessary to enact that the power should not exist. We will grant the point for the sake of the argument which follows. The Provincial Legislatures are empowered by the