

PRIVY COUNCIL.

LONDON, December 15, 1883.

Before LORD FITZGERALD, SIR BARNES PEACOCK,
SIR ROBERT P. COLLIER, SIR RICHARD COUCH,
SIR ARTHUR HOBHOUSE.

HODGE, Appellant, & THE QUEEN, Respondent.

Federal and Local Jurisdiction—Liquor License Act of 1877 [Ontario]—Delegation of powers to License Commissioners—Hard labor.

1. *The powers conferred by "the Liquor License Act of 1877" [Ontario] are, correctly interpreted, to make regulations in the nature of police or municipal regulations of a merely local character for the good government of taverns, &c., licensed for the sale of liquors by retail, and such as are calculated to preserve, in the municipality, peace and public decency, and repress drunkenness and disorderly and riotous conduct. As such they do not interfere with the general regulation of trade and commerce which belongs to the Dominion Parliament, and do not conflict with the provisions of the Canada Temperance Act.*
2. *The legislature of Ontario, in committing certain regulations to license commissioners retains its powers intact, and can, whenever it pleases, destroy the agency it has created and set up another, or take the matter directly into its own hands.*
3. *The "imposition of punishment by imprisonment for enforcing any law," in the B. N. A. Act, includes the power to impose its usual accompaniment "hard labor," and the Provincial legislature having authority to impose imprisonment, with or without hard labor, had also power to delegate similar authority to the municipal body created by it, called the License Commissioners.*

PER CURIAM. The appellant, Archibald Hodge, the proprietor of a tavern known as the St. James' Hotel, in the city of Toronto, and who on the 7th of May, 1881, was the holder of a license for the retail of spirituous liquors in his tavern, and also licensed to keep a billiard saloon, was summoned before the police magistrate of Toronto for a breach of the resolutions of the License Commissioners of Toronto, and was convicted on evidence sufficient to sustain the conviction

if the magistrate had authority in law to make it.

The conviction is as follows, viz:—

"CONVICTION.

"Canada: Province of Ontario, County of York, City of Toronto, to wit:—

"Be it remembered, that on the 19th day of May, in the year of our Lord one thousand eight hundred and eighty-one, at the city of Toronto, in the County of York, Archibald G. Hodge, of the said city, is convicted before me, George Taylor Denison, Esquire, Police Magistrate in and for the said city of Toronto, for that he, the said Archibald G. Hodge, being a person who, after the passing of the Resolution hereinafter mentioned, received, and who, at the time of the committing of the offence hereinafter mentioned, held a license under the Liquor License Act, for and in respect of the tavern known as the St. James' Hotel, situate on York-street, within the city of Toronto, on the seventh day of May in the aforesaid year, at the said city of Toronto, did unlawfully permit, allow, and suffer a billiard table to be used, and a game of billiards to be played thereon in the said tavern, during the time prohibited by the Liquor License Act for the sale of liquor therein, to wit, after the hour of seven o'clock at night on the said seventh day of May, being Saturday, against the form of the Resolution of the License Commissioners for the city of Toronto for regulating taverns and shops, passed on the 25th day of April, in the year aforesaid, in such case made and provided.

"Thomas Dexter, of said city, License Inspector of the city of Toronto, being the complainant.

"And I adjudge the said Archibald G. Hodge, for his said offence, to forfeit and pay the sum of twenty dollars, to be paid and applied according to law; and also to pay to the said Thomas Dexter the sum of two dollars and eighty-five cents for his costs in this behalf; and if the said several sums be not paid forthwith, then I order that the same be levied by distress and sale of goods and chattels of the said Archibald G. Hodge; and in default of sufficient distress, I adjudge the said Archibald G. Hodge to be imprisoned in the common gaol of the said city of Toronto and County of York, and there