

*CERTIORARI, ITS USES AND DESIGN.*

From time immemorial the certiorari has been understood to be a prerogative writ, issuing out of the Crown side of the Court, to remove all such proceedings of justices of the peace, and other subordinate tribunals or persons, as evince a judicial complexion, to the end that the Court may enquire into and be *certified* of their origin, or of the action which had marked their inception, progress or final consummation.

The effectiveness of the writ as the medium for bringing into play the supervisory faculty of the Court is not confined to a scrutiny of matters pertaining to the administration of justice. Its instrumentality may, with equal right, be sought to elucidate the tenor and impugn the correctness of transactions of a vast body of officials—individual and corporate—discharging civil functions merely.

Whilst occupied with this aspect of its purview, it should be observed that the writ, so far as our own country is concerned, has been shorn of its supremacy in the case of by-laws and resolutions of municipal councils, by force of the specific enactment in that behalf of the Municipal Act to which we have long had to conform. The province of this ancient safeguard against error and abuse in the exercise of power by functionaries of the class just denoted, no less than by conservators of the peace (leaving out of the reckoning altogether the particular instance cited), cannot, it is feared, be hopefully predicated, nor can its range be accurately gauged.

The propriety of recourse to its agency for the impeaching, in a summary manner, of, *e.g.*, a resolution of License Commissioners, was, if not expressly repudiated, by no means feebly disputed in *McGill v. License Commissioners of Brantford*, 21 O. R. 665, a judgment that tends greatly to disturb the impression borrowed from old-world learning of the universality of the writ's corrective power over inferior bodies.

Returning to the theory of the purport and scope of the certiorari, it is not difficult to detect a settled resolve in the bench, for generations back, to esteem and uphold it as a creation designed, above all things, to incalculably subserve the