

impose the punishment of hard labor in addition to imprisonment was not properly before them, nor was its decision necessary for the disposal of the appeal; yet their Lordships give their opinion upon it."

*The Legal News* has a somewhat different objection. After quoting the language of Hagarty, C. J. (*ante*) it proceeds as follows:—"It is as difficult to accept such generalities as to contradict them. In order to deal with them it is necessary first to determine their precise meaning. It may safely be assumed that what is meant is, that in interpreting a statute of the nature of the B. N. A. Act the courts should specially refrain from generalizing its terms. We contend, with all due deference, that *this is a fundamental error*; the true principle being that the whole scope of the Act has to be constantly kept in view so as to co-ordinate the powers of both governments."

The latter objection is founded upon a misconception of the meaning of the words criticized, and the former upon a misconception of the case itself. The words mean no more than this, that when one point on the statute is raised the judges should not decide other points, and with this meaning they are unobjectionable. But it is said that although the Privy Council tried to observe this simple rule it was unable to do so. This strikes one as improbable. Surely if their Lordships made a real and conscientious effort to refrain from deciding a point the chances are that they would accomplish their purpose. The *C. L. T.* however says they made a total failure of it and have given judgment upon a point they had no right to meddle with. Let us see. For committing a breach of a by-law of the License Commissioners the defendant was condemned "to be imprisoned in the common gaol of the said City of Toronto and County of York, and there be kept at *hard labor* for the space of fifteen days unless &c." A rule *nisi* was obtained to quash this conviction upon various specified grounds, but the objection that the Legislature had no power to impose imprisonment with hard labor was not taken in the rule. The point was however taken upon the argument before the Privy Council.