

police regulations in relation to licensed houses, and interfering with liberty of action to the extent only that was necessary to prevent disorder and the abuses of liquor licenses. But it was contended that the Provincial Legislature had no power to impose imprisonment or hard labour for breach of newly created rules or by-laws, and could confer no authority to do so. The argument was principally directed against hard labour. It is not unworthy of observation that this point, as to the power to impose hard labour, was not raised on the rule nisi for the *certiorari*, nor is it to be found amongst the reasons against the appeal to the Appellate Court in Ontario.

It seems to have been either overlooked or advisedly omitted.

If, as their Lordships have decided, the subjects of legislation come within the powers of the Provincial Legislature, then No. 15 of Sec. 92 of the British North America Act, which provides for "the imposition of punishment by fine, penalty, or imprisonment, for enforcing any law of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section," is applicable to the case before us, and is not in conflict with No. 27 of Section 91; under these very general terms, "the imposition of punishment by imprisonment for enforcing any law," it seems to their Lordships that there is imported an authority to add to the confinement or restraint in prison that which is generally incident to it—"hard labour"; in other words, that "imprisonment" there means restraint by confinement in a prison, with or without its usual accompaniment, "hard labour."

The Provincial Legislature having thus the authority to impose imprisonment, with or without hard labour, had also power to delegate similar authority to the municipal body which it created, called the License Commissioners.

It is said, however, that the Legislature did not delegate such powers to the License Commissioners, and that therefore the resolution imposing hard labour is void for excess. It seems to their Lordships that this objection is not well founded.

In the first place, by Sec. 5 of the Liquor License Act, the Commissioners may impose penalties. Whether the word "penalty" is well adapted to include imprisonment may be questioned, but in this Act it is so used, for Sec. 52 imposes on offenders against the provisions of Sec. 43 a penalty of 20 dollars or 15 days' imprisonment, and for a fourth offence a penalty of imprisonment with hard labour only. "Penalty" here seems to be used in its wider sense as equivalent to punishment. It is observable that in Sec. 59, where recovery of penalties is dealt with, the Act speaks of "penalties in money." But,

supposing that the "penalty" is to be confined to pecuniary penalties, those penalties may, by Sec. 70, be recovered and enforced in the manner, and to the extent, that by-laws of municipal councils may be enforced under the authority of the Municipal Act. The word "recover" is an apt word for pecuniary remedies, and the word "enforce" for remedies against the person.

Turning to the Municipal Act, we find that, by sec. 454, municipal councils may pass by-laws for inflicting reasonable fines and penalties for the breach of any by-laws, and for inflicting reasonable punishment by imprisonment, with or without hard labor, for the breach of any by-laws in case the fine cannot be recovered. By secs. 400 to 402 it is provided that fines and penalties may be recovered and enforced by summary conviction before a justice of the peace, and that where the prosecution is for an offence against a municipal by-law the justice may award the whole or such part of the penalty or punishment imposed by the by-law as he thinks fit; and that, if there is no distress found out of which a pecuniary penalty can be levied, the justice may commit the offender to prison for the term, or some part thereof, specified in the by-law. If these by-laws are to be enforced at all by fine or imprisonment, it is necessary that they should specify some amount of fine and some term of imprisonment.

The Liquor License Act then gives to the Commissioners either power to impose a penalty against the person directly, or power to impose a money penalty, which, when imposed, may be enforced according to secs. 454 and 400-2 of the Municipal Act. In either case, the Municipal Act must be read to find the manner of enforcing the penalty, and the extent to which it may be enforced. The most reasonable way of construing statutes so framed is to read into the later one the passages of the former which are referred to. So reading these two statutes, the Commissioners have the same power of enforcing the penalties they impose as the Councils have of enforcing their by-laws, whether they can impose penalties against the person directly, or only indirectly as the means of enforcing money penalties. In either case, their resolution must, in order to give the magistrate jurisdiction, specify the amount of punishment. In either case, their resolution now under discussion is altogether within the powers conferred on them.

Their Lordships do not think it necessary or useful to advert to some minor points of discussion, and are, on the whole, of opinion that the decision of the Court of Appeal of Ontario should be affirmed, and this appeal dismissed, with costs, and will so humbly advise Her Majesty.

Judgment affirmed.