

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 Section 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 twenty dollars or fifteen 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, muni-