

created before or after the one in question. That the intention of the legislature must govern, and to this intention, a literal construction of any statute must yield; and to discover the true meaning of the statute, it is the duty of the court to consider other statutes, made *in pari materia*, whether they are repealed or unrepealed. *Church v. Crocker*, 3 Mass. 21; *Holbrook v. Holbrook*, 1 Pick. (Mass.) 254. These principles are not denied, and in the application of them the counsel for the Commonwealth insists that the Act under which sentence was passed, authorized the court to imprison the defendant in the penitentiary or county jail; that by that Act, for the establishment of penitentiaries, labor is made part of the sentence of every person confined therein; and that it is an important branch of the penitentiary system; that the courts have power to sentence the defendant to imprisonment in the penitentiary, and that labor would have been necessarily a part of the punishment; that although the legislature do not in the Act expressly authorize a sentence to labor, yet it may be inferred that it was so intended, in consequence of authority being given to imprison a defendant in the penitentiary; that it being established that labor was a part of every sentence to the penitentiary, it necessarily followed that a sentence to imprisonment in the county prison, under the act of assembly, would authorize a sentence to labor, because it must be inferred that it was the intention of the legislature to make the punishment the same, whether the confinement was undergone in the county prison or the penitentiary. This is a strict summary of the argument in favour of the Commonwealth, in which I agree there is much force; yet we think it would be attended with risk to yield to such nice speculations, as to the intention of the legislature, in a criminal case. It is better to confine ourselves to the act, which must be our guide in inflicting the punishment, which is fine and imprisonment without labor; the latter being an addition not warranted by statute. The late venerated Chief Justice never ventured to sentence a convict without having the Act inflicting the punishment before him, and his sentence was, as near as could be, in the words

of the Act—an example worthy of imitation, and, if strictly observed, would save the court some trouble, besides contributing to a more satisfactory administration of justice. But what is an unanswerable argument against the view taken on behalf of the Commonwealth, is that in some counties of the State, labor is not a part of the punishment, and the consequence would be, unless we adhere to the punishment inflicted by the Act itself, that the same offence would be differently punished in different parts of the State. This, surely, the legislature did not intend, as it is of some consequence the law should be uniform. We cannot, at any rate, infer such to be their intention, unless their meaning is so clearly expressed as to lead us necessarily to such a construction. If a prisoner sentenced to fine and imprisonment, who is put to hard labor, will have a right to complain, is a question not now before us, and it will be time enough for us to decide it when it arises."

This ruling applies without qualification to the facts presented in the case immediately before us.

NOTES OF CASES.

COUR DU BANC DE LA REINE.

EN APPEL.

QUÉBEC, 7 mai 1884.

DORION, C.J., RAMSAY, TESSIER, CROSS et
BABY, JJ.

CHOQUETTE (déf. en Cour inférieure) appelant,
et HÉBERT (dem. en Cour inférieure) in-
timé.

L'Acte Electoral Fédéral—Dépôt.

Jugé: Que lorsque dans une action pénale d'après l'acte électoral fédéral tel qu'amendé par 46 Vict. ch. 4, s. 1, un demandeur par une seule et même action demande le recouvrement de plusieurs pénalités ou amendes, il doit faire, avec son précepte, un dépôt de \$50 pour chacune des dites pénalités dont il demande le recouvrement.

Les faits de la cause sont ceux-ci: M. Hébert, notaire de Montmagny, avait intenté contre M. Choquette, avocat et candidat aux dernières élections fédérales pour le comté de Montmagny, une action au montant de